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TUESDAY, OCTOBER 11, 1977

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Documents normally scheduled on a day that will be a Federal holiday will be published the next work day following the holiday.

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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.

[3410-02]

Title 7—Agriculture

CHAPTER I—AGRICULTURAL MARKETING SERVICE (STANDARDS, INSPECTIONS, MARKETING PRACTICES),[1] DEPARTMENT OF AGRICULTURE

PART 26—GRAIN STANDARDS

Supervision Fees

AGENCY: Federal Grain Inspection Service (FGIS), USDA.

ACTION: Final rulemaking.

SUMMARY: This action revokes the regulations governing the payment of supervision fees to the FGIS by delegated and designated agencies. The regulations were made obsolete by recently enacted legislation.

EFFECTIVE DATE: This rulemaking is effective on October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

David R. Galliart (Program Operations), USDA, FGIS, 14th and Independence Avenue SW., South Agriculture Buliding, Room 1628, Washington, D.C. 20250 (202-447-9164).

SUPPLEMENTARY INFORMATION: The U.S. Grain Standards Act of 1976 (Pub. L. 94-582), when enacted, required the payment of supervision fees by delegated and designated agencies. The fees were for use in financing the FGIS cost of supervising the inspection and weighing activities performed by the agencies. The regulations (7 CFR Part 26) implementing the supervision fee requirements generally became effective February 1, 1977 (42 FR 1019-1022).

In May 1977, supplemental funds were appropriated by the Congress for use in financing the FGIS cost of supervising the inspection and weighing activities performed by delegated and designated agencies during fiscal year 1977. In appropriating the funds, the Congress directed the FGIS to forego the charging or collection of fees from the agencies for supervision costs for the entire fiscal year 1977. In September 1977, the Act was amended to delete the supervision fee requirements and to authorize the appropriation of funds for use in financing the FGIS cost of supervising the inspection and weighing activities performed by delegated and designated agencies.

As a result of the appropriation of the supplemental funds by the Congress for fiscal year 1977, and the deletion by the Congress of the supervision fee requirements, the Part 26 regulations with respect to the payment of supervision fees by delegated and designated agencies were made obsolete and no longer applicable. Therefore, good cause is found for making the following amendments of the Part 26 regulations effective on October 11, 1977.

RULEMAKING

Pursuant to the authority in section 16 of the United States Grain Standards Act (7 U.S.C. 87e, as amended by Pub. L. 94-582 (90 Stat. 2884)), the following Part 26 regulations (7 CFR Part 26) are hereby revoked:

1. Section 26.71(b) in its entirety.
2. Section 26.73(d)(3) in its entirety.
3. The following sentence in § 26.73(e): "Bills for fees assessed to delegated State agencies, designated official agencies, and other agencies or persons under § 26.71(b), will be issued as provided in § 26.71(b)(5)."
4. The following parenthetical phrase in § 26.73(f): "(except those under paragraph (d)(3))."
5. The following wording in § 26.73(1): "or the fee assessed against any delegated State agency or any designated official agency or other agency or person under § 26.71(b)."

Dated: September 30, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-29683 Filed 10-7-77;8:45 am]

[1] Includes matters within the responsibility of the Federal Grain Inspection Service.

[3410-02]

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

[Valencia Orange Reg. 575, Amdt 1]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Amendment to Final Rule.

SUMMARY: This amendment increases the quantity of California-Arizona Valencia oranges that may be shipped to fresh market during the weekly regulation period September 30 to October 6, 1977. The amendment recognizes that demand for Valencia oranges has improved, since the regulation was issued. This action will increase the supply of oranges available to consumers.

DATES: Weekly regulation period September 30-October 6, 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 Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and upon the basis of recommendations and information submitted by the Valencia Orange Administrative Committee, established under the marketing agreement and order, and other available information, it is found that the limitation of handling of Valencia oranges as provided in this amendment will tend to effectuate the declared policy of the act.

(2) Demand in the Valencia orange markets has improved since the regulation was issued. Amendment of the regulation is necessary to permit orange handlers to ship a larger quantity of Valencia oranges to market to supply the increased demand. The amendment will increase the quantity permitted to be shipped, in the interest of producers and consumers.

(3) It is further found that it is impracticable and is contrary to the public interest to give preliminary notice, engage in public rulemaking procedure, and postpone the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because the time intervening between the date when information became available upon which this amendment is based and the time when this amendment must become effective in order to effectuate the declared policy of the act is insufficient, and this amendment relieves restrictions on the handling of Valencia oranges.

(a) *Order, as amended.* The provisions in paragraph (a)(1) (i), and (ii) of § 908.875 Valencia Orange Regulation 575 (42 FR 51603) are hereby amended to read as follows:

§ 908.875 Valencia Orange Regulation 575.

* * * * *

(a) * * * (1)

(i) District 1: Unlimited;
(ii) District 2: Unlimited.

* * * * *

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

Dated: October 4, 1977.

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

[FR Doc.77-29633 Filed 10-7-77;8:45 am]

[3410-02]

PART 910—LEMONS GROWN IN CALIFORNIA AND ARIZONA

Expenses and Rate of Assessment

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation authorizes expenses and a rate of assessment for the 1977–78 fiscal period, to be collected from handlers to support activities of the Lemon Administrative Committee which locally administers the Federal marketing order covering lemons grown in California and Arizona.

EFFECTIVE DATES: August 1, 1977, through July 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: On September 9, 1977, notice was published in the FEDERAL REGISTER (42 FR 45334) inviting written comments not later than September 24, 1977, on proposed expenses and rate of assessment, under Marketing Order No. 910, as amended (7 CFR Part 910), regulating the handling of lemons grown in California and Arizona. None was received. This program is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

After consideration of all relevant matter presented, including the proposals in the notice, it is found that:

§ 910.215 Expenses and rate of assessment.

(a) Expenses that are reasonable and likely to be incurred by the Lemon Administrative Committee during the period August 1, 1977, through July 31, 1978, will amount to $396,000.

(b) The rate of assessment for said period payable by each handler in accordance with § 910.41 is fixed at $0.033 per carton of lemons.

It is further found that good cause exists for not postponing the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) as the order requires that the rate of assessment for a fiscal period shall apply to all assessable lemons handled from the beginning of the period.

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

Dated: October 5, 1977.

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

[FR Doc.77-29722 Filed 10-7-77;8:45 am]

[3410-02]

PART 989—RAISINS PRODUCED FROM GRAPES GROWN IN CALIFORNIA

Addition of Australia to the List of Countries To Which Reserve Tonnage Raisins May Be Exported

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes Australia eligible for sales of reserve tonnage raisins under the Federal marketing order for California raisins. This would provide raisin handlers with another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and could facilitate exports of California raisins. The rule was recommended by the Raisin Administrative Committee.

EFFECTIVE DATE: November 14, 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, telephone 202–447–3545.

SUPPLEMENTARY INFORMATION: The September 15, 1977, issue of the FEDERAL REGISTER contained a notice of proposed rulemaking to revise the list of countries to which raisin handlers may sell reserve raisins to permit sales to Australia (42 FR 46320). This list is contained in § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201–989.231). The Subpart is operative pursuant to the marketing agreement, as amended, and Order No. 989, as amended (7 CFR Part 989; 42 FR 37200), regulating the handling of raisins produced from grapes grown in California (hereinafter referred to collectively as the "order"). The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

The notice afforded interested persons an opportunity to submit written data, views, or arguments on the proposal. None were received.

Currently, all countries outside of the Western Hemisphere except Australia are eligible outlets for reserve raisins. The Western Hemisphere is defined to exclude Greenland. Rather than preparing a list containing hundreds of countries, the countries are specified by hemisphere. Section 989.67(c) of the order requires the Committee to review the list of countries annually and recommend changes as conditions warrant. It recommended that Australia be made eligible for sales of reserve raisins to provide raisin handlers another available export outlet for reserve raisins, additional flexibility in selling such raisins overseas, and to facilitate exports of California raisins.

After consideration of all relevant matter presented, including that in the notice, the recommendation of the Committee, and other available information, it is found that to revise the list of countries to which sales of reserve raisins may be made as hereinafter set forth, will tend to effectuate the declared policy of the act.

Accordingly, § 989.221 of Subpart—Supplementary Regulations (7 CFR 989.201–989.231) is revised to read as follows:

§ 989.221 Countries to which sale in export to reserve raisins may be made by handlers.

The countries to which sale in export of reserve raisins may be made by handlers shall be all of those countries outside of the Western Hemisphere. For purposes of this section "Western Hemisphere" means the area east of the international dateline and west of 30 degrees W. longitude but excluding all of Greenland. All of the countries covered by this section to which sale in export of reserve raisins may be made shall be deemed listed in this section for the purposes of § 989.67(c).

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

Dated: October 5, 1977.

CHARLES R. BRADER,
Deputy Director, Fruit and Vegetable Division.

[FR Doc.77-29721 Filed 10-7-77;8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 17064; Amdt. 39-3055]

PART 39—AIRWORTHINESS DIRECTIVES

Rolls Royce Dart Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspections for cracking and replacement, if necessary, of flame tube bridge suspensions on Rolls Royce Dart Engines. The amendment was prompted

by reports of serious engine failures due to overheating and failure of the high pressure turbine disc caused by loss of flame tube suspension and subsequent burner stem failure.

DATES: Effective, November 11, 1977. Compliance schedule, as prescribed in the body of the AD.

ADDRESSES: The applicable service bulletin may be obtained from Rolls Royce, Ltd., P.O. Box 31, Derby DE 2 8BJ, England.

A copy of the service bulletin is contained in the Rules Docket, Rm. 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

D. C. Jacobsen, Chief, Aircraft Certification Staff, AEU-100, Europe, Africa, and Middle East Region, Federal Aviation Administration, c/o American Embassy, Brussels, Belgium, Tel. 513.38.30.

SUPPLEMENTARY INFORMATION: A notice proposing to amend Part 39 of the Federal Aviation Regulations to require inspections for cracking and replacement, if necessary, of flame tube bridge suspensions on Rolls Royce Dart Engines was published in the FEDERAL REGISTER at 42 FR 39398 on August 4, 1977. The proposal was prompted by reports of serious engine failures due to overheating and failure of the high pressure turbine disc caused by loss of flame tube suspension and subsequent burner stem failure.

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

The principal authors of this document are R. E. Follensbee, Western Region, R. F. Nugent and F. H. Kelley, Flight Standards Service, and R. Lane, Office of the Chief Counsel.

ADOPTION OF AMENDMENT

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

ROLLS ROYCE AERO, LTD. Applies to Dart Engines Series 527, 528, 529, 531, 532, 533, 534, 535, 536, 550, 542-4, 542-10, and 543-10 that have modified 1425 incorporated and are installed on, but not necessarily limited to, Nihon YS-11, Convair 600 and 640, Handley Page Herald, Fokker F27, Fairchild F27, Grumman Gulfstream I, and Hawker Sideley 748 series aircraft.

Compliance is required as indicated.

To prevent overheating and failure of high pressure turbine discs, accomplish the following:

(a) Within the netx 500 hours engine time in service after the effective date of this AD and thereafter at intervals not to exceed 1500 hours engine time in service, inspect the flame tube bridge pieces for cracking of the support legs in accordance with the instructions contained in paragraph 4.C of Rolls Royce Dart Service Bulletin Da 72-420, dated October 1975 (hereinafter referred to as the Bulletin), or an equivalent approved by the Chief, Aircraft Certification Staff, Europe, Africa, and Middle East Region, FAA c/o American Embassy, APO New York, NY 09667 (hereinafter referred to as FAA-approved equivalent).

(b) If, during an inspection required by this AD, flame tube bridge piece cracking is detected, replace the affected part with a serviceable part before further flight (except that the aircraft may be flown in accordance with FAR 21.197 and 21.199 to a base where the work can be performed), and continue to inspect in accordance with either paragraphs (c) or (d) of this AD, as applicable.

(c) If, during an inspection required by paragraph (a) of this AD, flame tube bridge piece leg cracking is found, establish a repetitive inspection interval for all engines in the fleet in accordance with paragraph 4.A.(3)(b) of the Bulletin or an FAA-approved equivalent and continue to inspect the fleet in accordance with paragraph (a) of this AD within the fleet repetitive inspection interval established under this paragraph.

(d) If, during a repetitive inspection conducted in accordance with this paragraph or paragraph (c) of this AD, a cracked bridge piece leg of any flame tube in the fleet is found, establish a further reduced repetitive inspection interval for all engines in the fleet in accordance with paragraph 4.B.(3) of the Bulletin or an FAA-approved equivalent and continue to inspect the fleet in accordance with paragraph (a) of this AD within the fleet repetitive inspection interval established under this paragraph.

This amendment becomes effective November 11, 1977.

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

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 Washington, D.C., on September 29, 1977.

J. A. FERRARESE,
Acting Director,
Flight Standards Service.

[FR Doc.77-29712 Filed 10-7-77;8:45 am]

[4910-13]

[Docket No. 77-EA-55; Amdt. 39-3051]

PART 39—AIRWORTHINESS DIRECTIVES

AVCO Lycoming Engines

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final Rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) applicable to AVCO Lycoming O-320-H type engines. It requires an inspection and replacement where necessary of rocker arms, tappets and cam lobes. It also requires the installation of new oversize rocker arm retaining studs. The amendment is needed to preclude engine damage and stoppage.

EFFECTIVE DATE: October 12, 1977. Compliance is required within 50 hours of service.

ADDRESSES: AVCO Lycoming Service Bulletins may be obtained from the manufacturer at AVCO Lycoming Division, Williamsport, Pa. 17701. A copy of each service bulletin is contained in the docket at the Office of Regional Counsel, FAA Eastern Region, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

E. Manzi, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430; telephone 212-995-2894.

SUPPLEMENTARY INFORMATION: There have been reports of engine problems resulting from loose rocker arm retaining studs and spalling of hydraulic tappets on AVCO Lycoming O-320 type aircraft engines. These problems have resulted in engine failures and forced landings. Since this condition is likely to exist or develop in other aircraft engines of similar type design, an airworthiness directive is being issued which will require an inspection and replacement where necessary of rocker arms, tappets and cam lobes. It also requires the installation of new oversize rocker arm restraining studs. Since a situation exists which requires the expeditious adoption of this rule, notice or public procedure hereon are impractical and good cause exists for making the amendment effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are E. Manzi, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by adding the following new airworthiness directive as follows:

AVCO Lycoming Applies to O-320-H series engines, Serial Numbers 101-76 thru 2182-76

Compliance required within the next 50 hours in service after the effective date of this AD, unless previously accomplished.

To prevent hazards in flight associated with loose rocker arm retaining nuts and failure of the hydraulic tappets, accomplish the following:

(a) Remove all rocker box covers, rocker arms, fulcrums, spacer washers, and push rods.

(b) Inspect the fulcrum seating surface in the rocker arm for wear steps in excess of .003 inches. Replace all parts found to have such indications.

(c) Remove all rocker arm retaining studs P/N 31-16 from cylinder head and install new oversize rocker arm retaining studs in accordance with the instruction in paragraph 3 of Lycoming Service Bulletin No. 412, dated July 8, 1977, or FAA-approved equivalent.

(d) On engine Serial Numbers 101-76 thru 1976-76, remove the shroud tube springs, shroud tubes, and hydraulic tappets.

(e) Inspect the face of the tappets and the cam lobes for spalling, chipping, or loss of metal. Replace all parts found to have such indications. (AVCO Lycoming Service Bulletin No. 413 refers to this subject)

(f Equivalent methods of compliance may be approved by the Chief, Engineering & Manufacturing Branch, FAA Eastern Region.

(g) Upon submission of substantiating data by an owner or operator through an FAA Maintenance Inspector, the Chief, Engineering & Manufacturing Branch, FAA Eastern Region, may adjust the compliance time specified in this A.D.

Effective date: This amendment is effective October 12, 1977.

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

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

Issued in Jamaica, N.Y., on September 28, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-29713 Filed 10-7-77;8:45 am]

[4910-13]

[Docket No. 77-EA-62; Amdt. 39-3052]

PART 39—AIRWORTHINESS DIRECTIVES

Piper Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule (AD) amends AD 77-09-09 applicable to Piper PA-11, PA-12, PA-14, PA-16, PA-18, PA-20, and PA-22 type airplanes. It has been determined that Piper J-3, J-4, and J-5 type airplanes may also have the defective venting system as well as the PA-16 which had been inadvertently omitted. Therefore, the AD is being amended to include additional types.

EFFECTIVE DATE: October 12, 1977.

ADDRESSES: Piper Service Bulletins may be acquired from the manufacturer at Piper Aircraft Corp., 820 East Bald Eagle Street, Lock Haven, Pa. 17745. A copy of the service bulletin is contained in the docket in the Office of Regional Counsel, FAA, Eastern Region, Jamaica, N.Y.

FOR FURTHER INFORMATION CONTACT:

F. Covelli, Propulsion Section, AEA-214, Engineering and Manufacturing Branch, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telphone 212-995-2894.

SUPPLEMENTARY INFORMATION: There had been reports of inadequate fuel flow in certain Piper airplanes which was attributable to faulty venting in the fuel tank cap. AD 77-09-09 was issued to correct that deficiency. In the interim, it has been determined that additional Piper airplanes may be subject to the same problem and thus are being added to the AD. In view of the effect on air safety, notice and public procedure hereon are impractical and good cause exists for making the rule (AD) effective in less than 30 days.

DRAFTING INFORMATION

The principal authors of this document are F. Covelli, Flight Standards Division, and Thomas C. Halloran, Esq., Office of the Regional Counsel.

It has been determined that the expected impact of the proposed regulation is so minimal that the proposal does not warrant an evaluation.

ADOPTION OF THE AMENDMENT

Accordingly, and pursuant to the authority delegated to me by the Administrator, Section 39.13 of the Federal Aviation Regulations (14 CFR 39.13) is amended, by amending AD 77-09-09, as follows:

Revise applicability paragraph to read:

Piper—Applies to all series J-3, J-4, J-5, PA-11, PA-12, PA-14, PA-16, PA-18, PA-20, and PA-22 type aircraft.

Effective date: This amendment is effective October 12, 1977.

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

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

Issued in Jamaica, N.Y., on September 12, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77-29714 Filed 10-7-77;8:45 am]

[4910-13]

[Docket No. 77-SO-47]

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

Redesignation of Control Zone, Greenville, Miss.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the Federal Aviation Regulations by increasing Greenville, Mississippi, control zone operating hours from 0700 to 2200 hours local time to 0600 to 2200 hours local time. This is necessary to accommodate IFR operations at Greenville International Airport.

EFFECTIVE DATE: 0901 G.m.t., December 1, 1977.

ADDRESS: Federal Aviation Administration, Chief, Air Traffic Division, P.O. Box 20636, Atlanta, Ga. 30320.

FOR FURTHER INFORMATION CONTACT:

William F. Herring, Airspace and Procedures Branch, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320, telephone 404-763-7947.

SUPPLEMENTARY INFORMATION: The U.S. Air Force has developed a long term schedule for IFR training flights to be conducted at Greenville International Airport, Greenville, Mississippi, to begin at 0600 hours local time. Therefore, it is necessary to increase the effective hours of the control zone to accommodate the increased volume of IFR operations. Since this alteration is minor in nature, notice and public procedure hereon are not considered necessary.

DRAFTING INFORMATION

The principal authors of this document are William F. Herring, Airspace and Procedures Branch, Air Traffic Division, and Eddie L. Thomas, Office of Regional Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Part 71 of the Federal Aviation Regulations (14 CFR 71) is amended, effective 0901 GMT, December 1, 1977, as hereinafter set forth.

In Subpart F, § 71.171 (42 FR 355), the Greenville, Mississippi, control zone is amended as follows:

"* * * effective from 0700 to 2200 hours * * *" is deleted and "* * * effective from 0600 to 2200 hours * * *" is substituted therefore.

(Sec. 307(a) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1348(a)) and Sec. 6(c) of the 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 East Point, Georgia, on September 29, 1977.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc.77-29710 Filed 10-7-77;8:45 am]

[4910-13]

[Airspace Docket No. 76-AL-15]

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

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of Colored Federal Airways, Reporting Points and Jet Routes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: These amendments realign three colored Federal Airways and one jet route in the area of the Aleutian Island/Alaskan Peninsula. Also reporting points are designated or rescinded as required because of the route realignments. The U.S. Air Force is decommissioning seven of its air navigation aids upon which those routes are designated. These actions substitute navigation aids which permit the continuation of route structures in the same general area.

EFFECTIVE DATE: December 1, 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 September 1, 1977, the FAA published for comment a proposal to alter several airways, reporting points and a jet route in Alaska (42 FR 43990). Interested persons were invited to participate in the rule making proceeding by submitting written comments on the proposal to the FAA. No comments were received.

THE RULE

These amendments to Parts 71 and 75 of the Federal Aviation Regulations (FARs) will accomplish the following:

1. Realign a segment of Green 8 airway between Shemya and Kachemak, Alaska.

2. Realign a segment of Green 11 airway between Cold Bay, Alaska, and Port Heiden, Alaska.

3. Realign a segment of Red 99 airway between King Salmon, Alaska, and Kachemak, Alaska.

4. Add Dutch Harbor NDB as an Alaskan Low Altitude Reporting Point and as an Alaskan High Altitude Reporting Point.

5. Delete DEPTH, Big Mountain NDB, and Nikolski NDB low altitude reporting points and Nikolski NDB high altitude reporting point.

6. Realign a segment of Jet Route No. 115 between Adak and Cold Bay, Alaska.

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, Parts 71 and 75 of the Federal Aviation Regulations (14 CFR Parts 71 and 75) as republished (42 FR 301 and 706) are amended, effective December 1, 1977, as follows:

§ 71.103 [Amended]

1. In § 71.103 (42 FR 305) G-8 is amended to read as follows:

G-8 From Shemya, Alaska, NDB, 20 AGL Akak, Alaska, NDB; 20 AGL Dutch Harbor, Alaska, NDB; 20 AGL INT Dutch Harbor NDB 043° and Cold Bay, Alaska, NDB 253° bearings; 20 AGL Cold Bay NDB; King Salmon, Alaska, NDB; INT King Salmon NDB 055° and Kachemak, Alaska, 263° bearings; Kachemak NDB; Wildwood, Alaska, NDB; INT Wildwood NDB 034° and Campbell Lake, Alaska, NDB 254° bearings; Campbell Lake NDB; INT Campbell Lake NDB 032° and Skwentna, Alaska, NDB 111° bearings; Glenallen, Alaska, NDB; INT Glenallen NDB 052° and Nabesna, Alaska, NDB 252° bearings; Nabesna NDB.

2. In § 71.103 (42 FR 305) G-11 is amended to read as follows:

G-11 From Cold Bay, Alaska, NDB via INT Cold Bay NDB 041° and Port Heiden, Alaska, NDB 246° bearings, 20 AGL Port Heiden NDB; 73 miles 85 MSL, 101 miles 65 MSL, 37 miles 20 AGL, to Woody Island, Alaska, NDB.

§ 71.107 [Amended]

3. In § 71.107 (42 FR 306) R-99 is amended to read as follows:

R-99 From King Salmon, Alaska, NDB via Iliamna, Alaska, NDB; to Kachemak, Alaska, NDB.

§ 71.211 [Amended]

4. In § 71.211 (42 FR 638):

"Dutch Harbor, Alaska, NDB" is added. "Big Mountain, Alaska, NDB" is deleted. "DEPTH:" title and text is deleted. "Nikolski, Alaska, NDB" is deleted.

§ 71.213 [Amended]

5. In § 71.213 (42 FR 640):

"Dutch Harbor, Alaska, NDB" is added, also "Nikolski, Alaska, NDB" is deleted.

§ 75.100 [Amended]

6. In § 75.100 (42 FR 707):

Jet Route No. 115 "Nikolski, Alaska, NDB;" is deleted and "Dutch Harbor, Alaska, NDB;" is substituted therefor.

(Secs. 307(a), 313(a) and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); 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 September 29, 1977.

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

[FR Doc.77-29509 Filed 10-7-77;8:45 am]

[4910-13]

[Docket No. 15379; Amdt. 73-4]

PART 73—SPECIAL USE AIRSPACE

Restricted Area Utilization Reports

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment reduces the scope and amount of information that a using agency of a restricted area must include in its annual utilization report. By eliminating the need to compile and report information that is not routinely needed by the FAA for its evaluation, this amendment will reduce the burden on using agencies in complying with the reporting requirement.

DATES: Effective date, December 11, 1977. Initial compliance required for the report covering the period ending September 30, 1977.

ADDRESSES: Director, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

John Watterson, Airspace Regulations Branch, ACT-230, Airspace and Air Traffic Rules Division, Air Traffic Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8525.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is to reduce the scope and amount of information included in the report of utilization required annually from the using agency of each restricted area designated in that part.

HISTORY

This amendment is based upon a notice of proposed rulemaking (Notice No. 76-2) published in the FEDERAL REGISTER on February 19, 1976 (41 FR 7516). Interested persons have been afforded the opportunity to participate in the making of this amendment, and due consideration has been given to all relevant matter presented.

THE RULE

Section 73.19 of Part 73 requires each using agency to report to the FAA once a year, in duplicate, information on the utilization of each restricted area for which it is the using agency. The data required in the annual report assists the FAA in determining whether the type and amount of hazardous activity contained therein justifies the continued designation of the restricted area. The data currently required in the report is detailed and very extensive, and certain items such as geographical locations usually remain the same from year to year. It appeared that certain items of required information could be eliminated from the annual report, including the annual submission of a chart showing all details of firing patterns, bomb runs and impact areas if there is no change of activities, locations or altitudes, detailed data on the hours and altitudes used, type of equipment, and time schedules. All of this information may be obtained by further inquiry if a question arises after examining the annual report required under paragraphs (a) and (b) of

§ 73.19, as amended below. Paragraph (c) has been added to clarify the proposed requirement for supplementary reports.

Additionally, under § 73.19(a) a four-month period is allowed for preparation of the report between the end of the period covered by the report and the final date of receipt of the report in Washington, D.C., by the Director, Air Traffic Service. Considering the additional time needed for sending the report back to the region for review and recommendation, the data may be out of date when a final judgment is made whether to continue or alter the designation. Accordingly, the notice proposed that one copy of the report be submitted to the appropriate regional office, and the other copy sent to the Director, Air Traffic Service to eliminate the time required to send a copy of the report to the region, and back to the Director in Washington, D.C., with comments or recommendations. Six comments were received in response to the notice, and all supported adoption of the amendment, as proposed.

DRAFTING INFORMATION

The principal authors of this document are John Watterson, Air Traffic Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) is amended, effective December 11, 1977 to read as follows:

Subpart B—Restricted Areas

§ 73.19 Reports by using agency.

(a) Each using agency shall prepare a report on the use of each restricted area assigned thereto during any part of the preceding 12-month period ended September 30, and transmit it by the following January 31 of each year to the Chief, Air Traffic Division in the regional office of the Federal Aviation Administration having jurisdiction over the area in which the restricted area is located, with a copy to the Director, Air Traffic Service, Federal Aviation Administration, Washington, D.C. 20591.

(b) In the report under this section the using agency shall:

(1) State the name and number of the restricted area as published in this part, and the period covered by the report.

(2) State the activities (including average daily number of operations if appropriate) conducted in the area, and any other pertinent information concerning current and future electronic monitoring devices.

(3) State the number of hours daily, the days of the week, and the number of weeks during the year that the area was used.

(4) For restricted areas having a joint-use designation, also state the number of hours daily, the days of the week, and the number of weeks during the year that the restricted area was released to the controlling agency for public use.

(5) State the mean sea level altitudes or flight levels (whichever is appropriate) used in aircraft operations and the maximum and average ordinate of surface firing (expressed in feet, mean sea level altitude) used on a daily, weekly, and yearly basis.

(6) Include a chart of the area (of optional scale and design) depicting, if used, aircraft operating areas, flight patterns, ordnance delivery areas, surface firing points, and target, fan, and impact areas. After once submitting an appropriate chart, subsequent annual charts are not required unless there is a change in the area, activity or altitude (or flight levels) used, which might alter the depiction of the activities originally reported. If no change is to be submitted, a statement indicating "no change" shall be included in the report.

(7) Include any other information not otherwise required under this part which is considered pertinent to activities carried on in the restricted area.

(c) If it is determined that the information submitted under paragraph (b) of this section is not sufficient to evaluate the nature and extent of the use of a restricted area, the FAA may request the using agency to submit supplementary reports. Within 60 days after receiving a request for additional information, the using agency shall submit such information as the Director of the Air Traffic Service considers appropriate. Supplementary reports must be sent to the FAA officials designated in paragraph (a) of this section.

(Secs. 307 and 313(a), Federal Aviation Act of 1958 (49 U.S.C. §§ 1348 and 1354(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 action requiring the 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 October 3, 1977.

LANGHORNE BOND,
Administrator.

[FR Doc.77-29711 Filed 10-7-77;8:45 am]

[6320-01]

CHAPTER II—CIVIL AERONAUTICS BOARD

SUBCHAPTER E—ORGANIZATION REGULATIONS

[Reg. OR-122, Amdt. 64]

PART 385—DELEGATIONS AND REVIEW OF ACTION UNDER DELEGATION; NONHEARING MATTERS

Delegation of Authority to the Director, Bureau of Operating Rights, To Act Upon Certain Interaffiliate Transactions Filed With the Board

AGENCY: Civil Aeronautics Board.

ACTION: Final rule.

SUMMARY: This rule delegates to the Director, Bureau of Operating Rights, a,uthority to act upon specified transaction agreements filed with the Board pursuant to the Air Carrier Reorganization Investigation. The Board has initiated this rule since acting on routine agreements places an undue administrative burden on the Board and its staff.

DATES: Effective: September 30, 1977. Adopted: September 30, 1977.

FOR FURTHER INFORMATION CONTACT:

Simon J. Eilenberg, Rules Division, Office of the General Counsel, Civil Aeronautics Board, 1825 Connecticut Avenue, NW., Washington, D.C. 20428, (202-673-5442).

SUPPLEMENTARY INFORMATION: In the Air Carrier Reorganization Investigation (ACRI), the Board adopted a Regulatory Plan in order to monitor specified intercompany transactions with, or affecting, the air carrier, among affiliates of each of three parent air carrier companies, Brantiff Airways, Inc., The Flying Tiger Line Inc., and United Air Lines, Inc.[1] The Regulatory Plan stated that these carriers shall not engage in certain intercompany transactions except in accordance with the Transaction Agreement on file with the Board, which has not been disapproved in whole, or in part, by the Board. The Transaction Agreement itself may be amended by the carrier provided the amendment is filed with the Board thirty days prior to its effective date, and is not disapproved or deferred within that thirty-day period.

In accordance with the ACRI decision, the three air carriers have filed approximately 255 transaction agreements between March 13, 1976, and March 1, 1977, all of which have been submitted for our direct consideration. A large majority of the agreements concerned routine, uncomplicated intercompany arrangements which have little or no substantive impact on the air carrier. Examples of such routine agreements included Joint Use of Employee Time, Joint Use of Assets and Facilities, and Leases of Property and Equipment.[2]

The volume of this type of transaction agreement, including revisions and renewals, when processed for our direct attention, places an unnecessary administrative burden on the Board staff, as well as on the Board itself. Much of this burden could be relieved by delegating authority to the Director, Bureau of Operating Rights, to act on these routine agreements, and to submit to the Board only those agreements of a substantial nature which warrant our direct consideration. Examples of agreements which would be submitted for our attention include those involving Tax Allocations, Loans and Advances, and Corporate Reorganizations and Acquisitions. This delegation would both alleviate the administrative problem as well as maintain the overview objective of the ACRI decision.

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[1] Orders 75-10-65/66, served October 17, 1975, as amended by Order 75-12-51, dated December 11, 1975, and by Order 76-1-121, dated January 30, 1976.

[2] See, ACRI, supra, Appendix A, Regulatory Plan.

Since this amendment is of an administrative nature, affecting a rule of agency organization and procedure, the Board finds that notice and public procedures are unnecessary, and that the rule may become effective immediately.

Accordingly, the Board hereby amends Part 385 of its Organization Regulations (14 CFR Part 385) as follows:

Amend § 385.13 by adding a new paragraph, "(kk)", to read as follows:

§ 385.13 Delegation to the Director, Bureau of Operating Rights.

* * * * *

(kk) With respect to interaffiliate transactions with or affecting the air carrier, and revisions, refilings, renewals or amendments, which have been filed pursuant to a Board order permitting such intercompany transactions unless after such filing, an order is issued disapproving or deferring action in whole or in part with respect to such filing, within a period of thirty days:

(1) By inaction permit such intercompany transaction to become effective thirty days after such filing;

(2) Issue orders disapproving in whole or in part such intercompany transaction;

(3) Issue orders deferring in whole or in part such intercompany transaction; and

(4) For good cause shown, waive the thirty-day effectiveness date of such interaffiliate transaction: *Provided, however,* That such waiver does not extend beyond the filing date of the intercompany transaction: *And provided, further,* That this authority shall not extend to interaffiliate transactions which involve dividends, loans and advances, tax allocations, and corporate reorganizations or acquisitions.

(Sec. 204(a), Federal Aviation Act of 1958, as amended, 72 Stat. 743; (49 U.S.C. 1324). Reorganization Plan No. 3 of 1961, 75 Stat. 837, 26 FR 5989; (49 U.S.C. 1324 (note)).)

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29723 Filed 10-7-77;8:45 am]

[4810-22]

Title 19—Customs Duties

CHAPTER I—UNITED STATES CUSTOMS SERVICE, DEPARTMENT OF THE TREASURY

[T.D. 77-249]

PART 159—LIQUIDATION OF DUTIES

Chains and Parts Thereof, of Cast Iron or Steel From Italy

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Imposition of Countervailing Duties and Suspension of Liquidation.

SUMMARY: This notice is to inform the public that it has been determined that the Government of Italy has given benefits which constitute bounties or grants within the meaning of the Countervailing Duty Law upon the manufacture, production or exportation of chains and parts thereof, of cast iron, iron or steel. Consequently, a countervailing duty in the amount of these benefits will be set in addition to duties normally due on shipments of this merchandise. Information recently supplied by the principal Italian exporter of this product to the U.S. indicates that they may not receive bounty or grant. Pending verification of this situation, the liquidation of all entries of chains and parts thereof covered by this order shall be suspended.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Mr. Donald W. Eiss, Economist, U.S. Treasury Department, Office of Tariff Affairs, 15th Street and Pennsylvania Ave. NW., Washington, D.C. 20220 (202-566-8256).

SUPPLEMENTARY INFORMATION: On April 13, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 19410). The notice stated that it preliminarily had been determined that benefits conferred by the Government of Italy upon the manufacture, production or exportation of chains and parts thereof, of cast iron, iron or steel, including terminal and connecting links, hooks, rollers, pivots and plates, constitute the payment of a bounty or grant within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303) referred to in this notice as "the Act").

These chains and parts are provided for in the Tariff Schedules of the United States under item numbers 652.24, 652.27, 652.30, 652.33, and 652.35.

The notice stated that these benefits have been conferred by reason of certain tax rebates under Italian Law 639.

The program involves the rebate calculated to cover customs duties, indirect taxes and a number of stamp taxes assessed on the manufacture of certain steel products, including the subject chain.

Certain portions of the Italian Law 639 rebates, which are the subject of this investigation, have been determined in previous proceedings under the Act to constitute bounties or grants within the meaning of the Act.

The preliminary notice provided interested parties 30 days from the date of publication to submit relevant data, views, or arguments, in writing, with respect to the preliminary determination.

After consideration of all information received, and on the basis of information received since the preliminary determination, it is hereby determined that bounties or grants are being paid or bestowed, directly or indirectly, on exports of certain chains and parts thereof from Italy within the meaning of section 303 of the Act.

However the principal exporter of the subject merchandise to the U.S. has informed the Treasury that although they receive rebates under Law 639, they pay customs duties and indirect taxes which are not rebated upon export in amounts greater than the 639 rebate and which offset that rebate. Further investigation will be required to investigate the validity of this manufacturer's submission.

Accordingly, notice is hereby given that chains and parts thereof, of cast iron, iron or steel, including terminal and connecting links, hooks, rollers, pivots and plates, covered under TSUS numbers 652.24, 652.27, 652.30, 652.33, 652.35, which are imported directly or indirectly from Italy, if entered, or withdrawn from warehouse, for consumption on or after October 11, 1977, will be subject to payment of countervailing duties equal to the net amount of any bounty or grant determined or estimated to have been paid or bestowed.

In accordance with section 303 of the Act, until further notice the net amount of such bounties or grants has been estimated and declared to be 15 lire per kilo.

Effective on October 11, 1977, and until further notice, upon the entry for consumption or withdrawal from warehouse for consumption of such dutiable chains and parts thereof, covered under TSUS numbers 652.24, 652.27, 652.30, 652.33, 652.35, imported directly or indirectly from Italy, which benefit from these bounties or grants, there shall be collected, in addition to any other duties estimated or determined to be due, countervailing duties in the amount ascertained in accordance with the above declaration.

The liquidation of all entries for consumption or withdrawals from warehouse for consumption of such dutiable chain of iron or steel and parts thereof imported directly or indirectly from Italy which benefit from these bounties or grants and are subject to the order shall be suspended pending further declaration of the net amount of the bounties or grants paid. The estimated countervailing duty shall be required at the time of entry for consumption or withdrawal from warehouse for consumption.

Any merchandise subject to the terms of this order shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be credited or bestowed, directly or indirectly, upon the manufacture, production or exportation of such chains or parts thereof from Italy.

The table in § 159.47(f) of the Customs Regulations (19 CFR 159.47(f)), is amended by inserting after the last entry from Italy the words "Certain chains and parts thereof" in the column this Treasury Decision in the column headed "Commodity," the number of this Treasury Decision in the column headed "Treasury Decision," and the words "Bounty declared—Rate" in the column headed "Action."

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provisions of Treasury Department Order No. 165, Revised November 2, 1954 and § 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as

they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

ROBERT H. MUNDHEIM,
General Counsel of the Treasury.

OCTOBER 4, 1977.

[FR Doc.77-24661 Filed 10-7-77;8:45 am]

[4110-03]

Title 21—Food and Drugs

CHAPTER I—FOOD AND DRUG ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

SUBCHAPTER A—GENERAL

[Docket No. 77C-0126]

PART 73—LISTING OF COLOR ADDITIVES EXEMPT FROM CERTIFICATION

PART 81—GENERAL SPECIFICATIONS AND GENERAL RESTRICTIONS FOR PROVISIONAL COLOR ADDITIVES FOR USE IN FOODS, DRUGS, AND COSMETICS

Annatto; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document confirms the effective date of August 19, 1977, of a regulation concerning the use of annatto in coloring externally applied drugs and in coloring cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye.

DATE: Effective date confirmed: August 19, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerad L. McCowin, Bureau of Foods (HFF-334), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-472-5740).

SUPPLEMENTARY INFORMATION: A regulation published in the FEDERAL REGISTER of July 19, 1977 (42 FR 36993) amended § 73.1030 (21 CFR 73.1030) and added new § 73.2030 (21 CFR 73.2030) to Subparts B and C, respectively, of Part 73 (21 CFR Part 73) to provide for the safe use of annatto in coloring externally applied drugs and in coloring cosmetics generally, including those drugs and cosmetics intended for use in the area of the eye. The regulation also amended § 81.1 (g) (21 CFR 81.1(g)) by deleting annatto from the provisionally listed colors.

Under the Federal Food, Drug, and Cosmetic Act (sec. 706 (b), (c), and (d), 74 Stat. 399-403 (21 U.S.C. 376 (b), (c), and (d))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), notice is given that no objections or requests for hearing were filed in response to the regulation of July 19, 1977. Accordingly, the amendments promulgated thereby became effective on August 19, 1977.

Dated: October 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-29616 Filed 10-7-77;8:45 am]

[4110-03]

SUBCHAPTER D—DRUGS FOR HUMAN USE

[Docket No. 77N-0263]

PART 330—OVER-THE-COUNTER (OTC) HUMAN DRUGS WHICH ARE GENERALLY RECOGNIZED AS SAFE AND EFFECTIVE AND NOT MISBRANDED

Amendment of Comment Period

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This rule amends the regulations to extend the time within which interested persons may submit comments on proposed monographs for OTC drug products. Because of the length of most such documents, the present provision for a 60-day comment period is usually not adequate; therefore, the agency is providing for a 90-day comment period.

DATES: Effective November 10, 1977; comments on or before November 10, 1977.

FOR FURTHER INFORMATION CONTACT:

William E. Gilbertson, Bureau of Drugs (HFD-510), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-4960).

SUPPLEMENTARY INFORMATION: The OTC drug review regulations in § 330.10(a)(6) (21 CFR 330.10(a)(6)) provide that, after publication of a proposed monograph, interested persons have 60 days within which to file written comments. Because of the voluminous and detailed data appearing in these reports, however, the 60-day comment period has proven to be an unreasonably short time for many persons. Accordingly, the Commissioner of Food and Drugs is extending the comment period on such documents to 90 days.

In consideration of the foregoing, the Commissioner finds for good cause that notice and public procedure is unnecessary because the modification effected by this rule is minor and noncontroversial, and public comment on it is therefore unlikely to be received. Interested persons may, on or before the effective date, file with the Hearing Clerk, Food and Drug Administration, Room 4-65, 5600 Fishers Lane, Rockville, Md. 20857, four copies of written comments, identified with the docket number found in brackets in the heading of this document. Comments received may be seen in the office of the Hearing Clerk between the hours of 9 a.m. and 4 p.m., Monday through Friday. Any changes in this regulation justified by such comments will be the subject of a further amendment.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a))) and under authority delegated to the Commissioner (21 CFR 5.1), § 330.10 Procedures for classifying OTC drugs as generally recognized as safe and effective and not misbranded, and for establishing monographs is amended in paragraph (a)(6)(iv) in the third sentence of the undesignated paragraph and in paragraph (a)(10)(i) in the first sentence by changing "60" to "90."

Effective date. This amendment shall be effective November 10, 1977.

(Sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)))

Dated: October 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-29615 Filed 10-7-77;8:45 am]

[4110-03]

SUBCHAPTER E—ANIMAL DRUGS, FEEDS, AND RELATED PRODUCTS

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Tetracycline Phosphate Complex and Sodium Novobiocin Capsules

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a supplemental new animal drug application filed by the Upjohn Co., providing revised labeling for a combination new drug used to treat certain upper respiratory tract infections in dogs.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV-114), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3420).

SUPPLEMENTARY INFORMATION: In In accordance with section 512(i) of the act (21 U.S.C. 360b(i)), Part 546 is amended to reflect approval of a supplemental new animal drug application (NADA 65-099V) filed by the Upjohn Co., Kalamazoo, Mich. 49001.

The original application, approved prior to the Animal Drug Amendments of 1968, was the subject of a National Academy of Science/National Research Council Drug Efficacy Review (NAS/NRC DESI 107NV), published in the FEDERAL REGISTER of August 12, 1970 (35 FR 12791). The Academy evaluated this

product as probably not effective for treating bacterial infections in dogs and cats in that each disease claim was not properly qualified as to a specific pathogen, that substantial evidence was not presented to establish that each active ingredient contributes to the total effect, and that the recommended dosage regimen was not properly supported by substantial evidence of safety and efficacy. The firm responded by presenting evidence based upon adequate and well-controlled studies to support the revised conditions of use that were deemed to be effective by the Academy and the Food and Drug Administration.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, between 9 a.m. and 4 p.m., Monday through Friday, except Federal Holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 546 is amended by adding new § 546.180g to read as follows:

§ 546.180g Tetracycline phosphate complex and sodium novobiocin capsules.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* The product is a gelatin capsule containing tetracycline phosphate complex and sodium novobiocin with or without one or more suitable and harmless lubricants and fillers. Each capsule contains the equivalent activity of 60 milligrams of tetracycline hydrochloride and 60 milligrams of novobiocin. Its potency is satisfactory if it is not less than 90 percent and not more than 120 percent of the labeled amount of tetracycline hydrochloride and novobiocin. Its loss on drying is not more than 9.0 percent. The tetracycline phosphate complex used conforms to the standards prescribed by § 446.82(a)(1) of this chapter. The sodium novobiocin used conforms to the standards prescribed by § 455.51(a) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) *Results of tests and assays on:* (a) The tetracycline phosphate complex used in making the batch for potency, safety, moisture, pH, absorptivity, crystallinity, and identity.

(b) The sodium novobiocin used in making the batch for potency, safety, loss on drying, pH, residue on ignition, specific rotation, crystallinity, and identity.

(c) The batch for tetracycline hydrochloride content, novobiocin content, and loss on drying.

(ii) *Samples required:* (a) The tetracycline phosphate complex and sodium novobiocin used in making the batch: 10 packages each, each containing approximately 500 milligrams.

(b) The batch: A minimum of 80 capsules.

(b) *Tests and methods of assay.*—(1) *Potency.*—(i) *Tetracycline content.* Proceed as directed in § 436.106 of this chapter, except use test organism J in lieu of organism A and prepare the sample as follows: Place a representative number of capsules in a high-speed glass blender jar with sufficient 0.1 *N* hydrochloric acid to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(ii) *Novobiocin content.* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of capsules in a high-speed blender jar containing 1.0 milliliter of polysorbate 80 and sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), to obtain a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 0.5 microgram of novobiocin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(c) *Conditions of marketing.*—(1) *Specifications.* Meets the requirements of paragraph (a) of this section.

(2) *Sponsor.* No. 000009 in § 510.600(c) of this chapter.

(3) *Special considerations.* The quantities of antibiotics refer to the activity of the antibiotic master standards.

(4) *Conditions of use.* It is used orally in dogs as follows:

(i) *Amount.* 10 milligrams of each per pound of body weight (1 capsule for each 6 pounds) every 12 hours.

(ii) *Indications for use.* It is used in treatment of acute or chronic canine respiratory infections such as tonsillitis, bronchitis, and tracheobronchitis when caused by pathogens susceptible to tetracycline and/or novobiocin, such as *Staphylococcus* spp. and *Escherichia coli.*

(iii) *Limitations.* Treatment should be continued for at least 48 hours after the temperature has returned to normal and all evidence of infection has disappeared. As with all antibiotics, appropriate in vitro culturing and susceptibility tests of samples taken before treatment should be conducted. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. October 11, 1977.

(Sec. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i), (n)).)

Dated: September 30, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-29741 Filed 10-7-77;8:45 am]

[4110–03]

PART 546—TETRACYCLINE ANTIBIOTIC DRUGS FOR ANIMAL USE

Tetracycline Hydrochloride and Sodium Novobiocin Tablets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The animal drug regulations are amended to reflect approval of a new animal drug application filed by the Upjohn Co., for use of a combination new drug used for treating certain upper respiratory infections in dogs.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert A. Baldwin, Bureau of Veterinary Medicine (HFV–114), Food and Drug Administration, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3420).

SUPPLEMENTARY INFORMATION: In accordance with section 512(i) of the act (21 U.S.C. 360b(i)), Part 546 of the regulations is amended to reflect approval of a new animal drug application (NADA 55–076V) filed by the Upjohn Co., Kalamazoo, Mich. 49001.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of the safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC–20), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i) and (n))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 546 is amended by adding new § 546.180h to read as follows:

§ 546.180h Tetracycline hydrochloride and sodium novobiocin tablets.

(a) *Requirements for certification.*—(1) *Standards of identity, strength, quality, and purity.* The product is a tablet containing tetracycline hydrochloride and sodium novobiocin with one or more suitable binders, fillers, lubricants, expanders, and coloring agents. Each tablet

contains the equivalent activity of 60 milligrams of tetracycline hydrochloride and 60 milligrams of novobiocin. Its potency is satisfactory if it is not less than 90 percent and not more than 125 percent of the labeled amount of tetracycline hydrochloride and novobiocin. Its loss on drying is not more than 6.0 percent. The tablets disintegrate within 60 minutes. The tetracycline hydrochloride used conforms to the standards of § 446.81a(a)(1) of this chapter, except for § 446.81a(a)(1) (ii), (iv), and (v). The sodium novobiocin used conforms to the standards prescribed by § 455.51(a)(1) of this chapter.

(2) *Labeling.* It shall be labeled in accordance with the requirements of paragraph (c) of this section and § 510.55 of this chapter.

(3) *Requests for certification; samples.* In addition to complying with the requirements of § 514.50 of this chapter, each such request shall contain:

(i) *Results of tests and assays on:* (*a*) The tetracycline hydrochloride used in making the batch for potency, safety, loss on drying, pH, absorptivity, and intensity;

(*b*) The sodium novobiocin used in making the batch for potency, safety, loss on drying, pH, residue on ignition, specific rotation, crystallinity, and identity.

(*c*) The batch for tetracycline hydrochloride content, novobiocin content, loss on drying, and disintegration time.

(ii) *Samples required:* (*a*) The tetracycline hydrochloride and sodium novobiocin used in making the tablets: 10 packages each, each containing approximately 500 milligrams.

(*b*) The batch: A minimum of 80 tablets.

(b) *Tests and methods of assay.*—(1) *Potency* (i) *Tetracycline content:* Proceed as directed in § 436.106 of this chapter, except use test organism J in lieu of organism A and prepare the sample as follows: Place a representative number of tablets in a high-speed glass blender jar with sufficient 0.1 *N* HCl to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with sterile distilled water to the reference concentration of 0.24 microgram of tetracycline hydrochloride per milliliter (estimated).

(ii) *Novobiocin content:* Proceed as directed in § 436.105 of this chapter, preparing the sample for assay as follows: Place a representative number of tablets in a high-speed glass blender jar with 1.0 milliliter of polysorbate 80 and sufficient 0.1 *M* potassium phosphate buffer, pH 8.0 (solution 3), to give a stock solution of convenient concentration. Blend 3 to 5 minutes. Further dilute an aliquot of the stock solution with 10 percent potassium phosphate buffer, pH 6.0 (solution 6), to the reference concentration of 0.5 microgram of novobiocin per milliliter (estimated).

(2) *Loss on drying.* Proceed as directed in § 436.200(b) of this chapter.

(3) *Disintegration time.* Proceed as directed in § 436.212 of this chapter, using the procedure described in paragraph (e)(1) of that section.

(c) *Conditions of marketing*—(1) *Specifications.* Meets the requirements of paragraph (a) of this section.

(2) *Sponsor.* No. 000009 in § 510.600(c) of this chapter.

(3) *Special considerations.* The quantities of antibiotic refer to the activity of the antibiotic master standards.

(4) *Conditions of use.* It is used orally in dogs as follows:

(i) *Amount.* Ten milligrams of each per pound of body weight (1 tablet for each 6 pounds) every 12 hours.

(ii) *Indications for use.* It is used in the treatment of acute or chronic canine respiratory infections such as tonsilitis, bronchitis, and tracheobronchitis when caused by pathogens susceptible to tetracycline and/or novobiocin, such as *Staphylococcus* spp. and *Escherichia coli.*

(iii) *Limitations.* Treatment should be continued for at least 48 hours after the temperature has returned to normal and all evidence of infection has disappeared. As with all antibiotics, appropriate in vitro culturing and susceptibility tests of samples taken before treatment should be conducted. Federal law restricts this drug to use by or on the order of a licensed veterinarian.

Effective date. October 11, 1977.

(Secs. 512 (i) and (n), 82 Stat. 347 (21 U.S.C. 360b (i) and (n)).)

Dated: September 30, 1977.

C. D. VAN HOUWELING,
Director, Bureau of Veterinary Medicine.

[FR Doc.77-29743 Filed 10-7-77;8:45 am]

[4110-03]

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

Tylosin

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document approves safe and effective use of tylosin premix for subsequent manufacture of complete feed to be fed to swine for increased rate of weight gain and improved feed efficiency. Feed Specialties Co. filed an application for this use. The Commissioner of Food and Drugs is amending the animal drug regulations to reflect this approval.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Jack C. Taylor, Bureau of Veterinary Medicine (HFV-136), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-5247).

SUPPLEMENTARY INFORMATION: Feed Specialties Co., 1877 NE. 58th Ave., Des Moines, Iowa 50313, filed a supplemental new animal drug application (97-289V) to provide for safe and effective use of a 4 grams of tylosin (as tylosin phosphate) per pound premix.

In accordance with the freedom of information regulations and § 514.11(e)(2)(ii) of the animal drug regulations (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application is released publicly. The summary is available for public examination at the office of the Hearing Clerk (HFC-20), Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857, from 9 a.m. to 4 p.m., Monday through Friday, except on Federal holidays.

Therefore, under the Federal Food, Drug, and Cosmetic Act (sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i))) and under authority delegated to the Commissioner (21 CFR 5.1) § 558.625 is amended by revising paragraph (b)(11) to read as follows:

§ 558.625 Tylosin.

* * * * *

(b) * * *

(11) To 017274: 4, 8, and 10 grams per pound; paragraph (f)(1)(vi)(*a*) of this section.

* * * * *

Effective date. This regulation becomes effective on October 11, 1977.

(Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b (i)).)

Dated: October 3, 1977.

FRED J. KINGMA,
Acting Director, Bureau of Veterinary Medicine.

[FR Doc.77-29742 Filed 10-7-77;8:45 am]

[4510-27]

Title 29—Labor

Subtitle A—Office of the Secretary of Labor

PART 5—LABOR STANDARDS PROVISIONS APPLICABLE TO CONTRACTS COVERING FEDERALLY FINANCED AND ASSISTED CONSTRUCTION (ALSO LABOR STANDARDS PROVISIONS APPLICABLE TO NONCONSTRUCTION CONTRACTS SUBJECT TO THE CONTRACT WORK HOURS AND SAFETY STANDARDS ACT)

AGENCY: Department of Labor.

ACTION: Final procedural rule.

SUMMARY: With the change in the fiscal year to October 1 through September 30, the periods covered by the semiannual enforcement reports are changed to October 1 through March 31 and April 1 through September 30. The reported material, with this change, will then continue to be submitted on a fiscal year basis, increasing its utility.

EFFECTIVE DATES: October 7, 1977.

FOR FURTHER INFORMATION CONTACT:

Dorothy Come, Director, Division of Government Contract Regulations, Wage and Hour Division, Room S-3518, 200 Constitution Avenue NW.,

Washington, D.C. 20210, telephone 202-523-7541.

SUPPLEMENTARY STATEMENT: Section 5.7(b) of Part 5 requires submission of semiannual reports by agencies concerning their enforcement activities. These reports covered July 1 through December 31 and January 1 through June 30, thus coinciding with the Federal fiscal year, i.e., July 1 through June 30. With the change of the fiscal year to October 1 to September 30, it was advantageous to change the semiannual reports to coincide with the new fiscal year.

All Government Contracting Agencies of the Federal Government and the District of Columbia were notified by DB Memorandum No. 126 dated October 20, 1976, of the above change, and agencies were requested to submit a short report covering July 1 through September 30, 1976, in order that reports could be received without interruption.

The present document changes § 5.7 (b) of Part 5 so that it conforms to the DB Memorandum No. 126 of October 20, 1976.

As agencies have been complying with DB Memorandum No. 126, this does not result in a change in procedure, but conforms Part 5 to current practice.

This document was prepared under the direction and control of Dorothy Come, Director, Division of Government Contract Regulations, Wage and Hour Division, Room S-3518, 200 Constitution Avenue NW., Washington, D.C. 20210, telephone 202-523-7541.

Part 5 is amended as set forth below. Section 5.7 is amended as follows:

§ 5.7 Reports to the Secretary of Labor.

* * * * *

(b) *Semi-annual enforcement reports.* To assist the Secretary in fulfilling his responsibilities under Reorganization Plan No. 14 of 1950, Federal agencies shall furnish to the Secretary by April 30 and October 31 of each calendar year semi-annual reports on compliance with and enforcement of the labor standards provisions of the Davis-Bacon Act and its related acts covering the periods of October 1 through March 31 and April 1 through September 30, respectively. Such reports shall be prepared in the manner prescribed in circular memoranda of the Secretary.

* * * * *

Signed at Washington, D.C., on this 30th day of September, 1977.

XAVIER M. VELA,
Administrator,
Wage and Hour Division.

[FR Doc.77-29586 Filed 10-7-77;8:45 am]

[4810-25]

Title 31—Money and Finance: Treasury

CHAPTER II—FISCAL SERVICE, DEPARTMENT OF THE TREASURY

PART 214—DEPOSITARIES FOR FEDERAL TAXES

Federal Reserve Banks as Federal Tax Depositaries

AGENCY: Fiscal Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule prescribes amendments affecting the form of payment of a Federal tax deposit being made at a Federal Reserve Bank or Branch. These amendments are intended to increase the efficiency of that segment of the Federal Tax Deposit System. These amendments do not affect regulations governing the deposit of Federal taxes at authorized commercial bank depositaries.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Kilcoyne, Assistant Fiscal Assistant Secretary (Banking), Office of the Secretary, U.S. Treasury Department, Washington, D.C. 20220 (202-566-2553).

SUPPLEMENTARY INFORMATION: On July 29, 1977, the Fiscal Service published in the FEDERAL REGISTER (42 FR 38602) for comment the proposed amendments to 31 CFR Part 214. A number of telephone inquiries were received in response to the proposal requesting clarification as to whether the proposed amendments affect deposits of Federal taxes made at authorized commercial bank depositaries. The proposed amendments affect only the regulations governing the deposit of Federal taxes at Federal Reserve Banks and Branches, and accordingly, do not affect deposits of Federal taxes at authorized commercial banks.

In addition, two written replies were received. One reply provided comments which are not relevant to the proposal and suggested regulatory changes concerning tax due dates which are not within the authority of the Fiscal Service. That reply will be forwarded to the appropriate office for further consideration. The second response enumerated a number of points, several of which are not relevant to the changes in the rules. Three of the points are relevant and warrant comment. The three comments and the Fiscal Service responses are as follows:

1. *Comment.* The proposed amendments would, in effect, penalize a tax depositor for electing to deposit his tax payment with a Federal Reserve Bank. Any rule finally adopted should not discriminate against such use in favor of the primary use of commercial banks. The treatment accorded each should be equal.

Response. The Fiscal Service does not agree that it would be inappropriate to treat the two segments of the system differently if such treatment was necessary to ensure the system accomplishes its overall purposes. The system accomplishes two major purposes: It permits the Federal Government to insulate the nation's monetary system from the impact of Treasury's highly irregular daily cash flows, and it provides a simple and efficient collection system for approximately 70 percent of the Federal Government's gross annual revenues. The system, by design, accomplishes the abovementioned purposes most efficiently and effectively when tax depositors make their tax deposits, payable under the system, with authorized commercial banks depositaries as compared to Federal Reserve Banks and Branches. The preferred method of deposit is with the tax depositor's commercial bank, if that bank is an authorized depositary.

It should be noted, however, that the amended rules place a tax depositor making a tax deposit at a Federal Reserve Bank or Branch on an almost equivalent basis with a tax depositor making a tax deposit at an authorized commercial bank depositary. In our opinion, the amended rules do not have an unfavorable impact on a tax depositor making a deposit at a Federal Reserve Bank or Branch as compared to a tax depositor making a deposit at an authorized commercial bank depositary.

2. *Comment.* The proposed rulemaking would mitigate against the use of Federal Reserve Banks or Branches by creating such uncertainties concerning the timeliness of deposits that a taxpayer who elected such use would be exposed to certain penalties as a direct result of circumstances of mailing and/or collection over which he has little or no control.

Response. The Fiscal Service does not agree with this comment. Currently regulations require that a tax deposit made at a Federal Reserve Bank or Branch be dated with the date on which the tax deposit is received by the Bank or Branch. This date serves as the standard for determining the timeliness of the tax payment. Under the amended rules, if a tax deposit, in the correct form, is mailed by the taxpayer and is received and dated by the Federal Reserve Bank or Branch after the prescribed due date, the provisions of 26 U.S.C. 7502 apply. These provisions provide that such a tax deposit is considered timely if mailed by the tax depositor on or before the second day before the prescribed due date. (The provisions of 26 U.S.C. 7502 also apply when deposits are mailed to authorized commercial bank depositaries. Such deposits are not affected by these amended rules.) Accordingly, the amendments are consistent with past procedures and do not expose the tax depositor to penalties as a direct result of circumstances of mailing. The exception to the foregoing is when a taxpayer does not follow the prescribed procedures for making a tax deposit with a Federal Reserve Bank or Branch. An example would be when the tax deposit is not in the prescribed form of payment. Under such circumstances, the tax payment will be processed by the receiving Federal Reserve Bank or Branch rather than returned to the depositor and will be dated as paid based upon the date when the proceeds of the accompanying payment instrument are collected by the receiving Federal Reserve Bank and Branch.

3. *Comment.* Since employers are noncompensated collectors of vast amounts of payroll taxes for Treasury, unreasonable restrictions should not be placed on them. Also, with governmental reporting requirements increasing and becoming more complex almost daily, this is no time to add additional burdens. The use of Federal Reserve Banks or Branches

has served a reasonable purpose and should not be discontinued.

Response. The regulations governing the deposit of Federal taxes at authorized commercial banks and Federal Reserve Banks and Branches are not intended to provide a means for offsetting costs incurred by tax depositors in the collection and deposit of such tax payments. Since the Congress, in passing the statutes requiring the collection of payroll taxes, made no specific provision for compensation, the Fiscal Service believes that if compensation were due, such compensation should be provided through Congressional authorization. The Fiscal Service agrees that Federal Reserve Banks and Branches have provided a useful purpose in the collection of taxes. The proposed changes are not intended to discontinue their usefulness as part of that system. The proposed amendments provide for greater uniformity of deposit regulations and increase the efficiency of collecting tax deposits through Federal Reserve Banks and Branches.

After consideration of all comments received, it is our opinion that no comments were presented which warrant changes in the proposed rules as published. Accordingly, 31 CFR Part 214 is amended as follows:

§ 214.2 [Amended]

1. By adding the definition for an "immediate credit item" to § 214.2 to read as follows: "Immediate credit item" means a check or other payment instrument for which immediate credit is given in accordance with the check collection schedule of the receiving Federal Reserve Bank or Branch.

* * * * *

2. By revising paragraphs (b), (b)(1), and (b)(3) of § 214.6 to read as follows:

§ 214.6 Handling of deposits of Federal taxes.

(b) *Deposits with Federal Reserve Banks.* When handling Federal tax deposits, a Federal Reserve Bank, through any of its offices, shall comply with the following requirements:

(1) A Federal Reserve Bank shall accept a tax deposit directly from a taxpayer when such tax deposit is:

(i) Mailed or delivered by a taxpayer located within that Bank's territorial boundaries and,

(ii) In the form of cash, a check drawn to the order of that Bank and considered to be an immediate credit item by that Bank, a postal money order drawn to the order of that Bank, or Treasury Bills, as authorized in Part 309 of this chapter, covering an amount to be deposited as Federal taxes and,

(iii) Accompanied by a Federal tax deposit form on which the amount of the tax deposit has been properly entered in the space provided.

* * * * *

(3) When a deposit of Federal taxes is made in accordance with the requirements of paragraphs (b) (1) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form accepted directly from a taxpayer, a stamp impression reflecting the name of the Bank and the date on which the tax deposit was received by the Bank so that the timeliness of the Federal tax payment can be determined. However, if such a deposit is mailed to a Bank, it is subject to the "Timely mailing treated as timely filing and paying" clause of section 7502 of the Internal Revenue Code (26 U.S.C. 7502).

3. By adding a new paragraph (b)(4) to § 214.6 to read as follows:

§ 214.6 Handling of deposits of Federal taxes.

* * * * *

(b) * * *

(4) When a deposit of Federal taxes is not in accordance with the requirements governing form of payment set forth in paragraph (b)(1) of this section, a Bank shall place in the space provided on the face of each Federal tax deposit form a stamp impression reflecting the name of the Bank and the date on which the proceeds of the accompanying payment instrument are collected by the Bank. This date shall be used for the purpose of determining the timeliness of the Federal tax payment.

Dated: October 3, 1977.

DAVID MOSSO,
Fiscal Assistant Secretary.

[FR Doc.77-29735 Filed 10-7-77;8:45 am]

[8320-01]

Title 38—Pensions, Bonuses, and Veterans' Relief

CHAPTER I—VETERANS ADMINISTRATION

PART 17—MEDICAL

Grants for Exchange of Medical Information

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: These amendments apply standards for obtaining consistency and uniformity among Federal agencies in the administration of grants. The amendments incorporate requirements of the Office of Management and Budget. In addition organizational titles have been updated, the title of the subcommittee has been changed to the Subcommittee on Academic Affairs, and minor editorial changes have been made to reflect agency policy of using precise terms denoting gender.

EFFECTIVE DATE: October 3, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert B. Shamaskin, Deputy Director, Learning Resources Service (142A), Office of Academic Affairs, 810 Vermont Ave., NW., Washington, D.C. 20420, (202-389-3811).

SUPPLEMENTARY INFORMATION: On page 39409 of the FEDERAL REGISTER of August 4, 1977, there was published a notice of proposed regulatory development to amend Part 17 relating to grants for exchange of medical information. These regulations incorporate requirements of Office of Management and Budget Circular A-110.

Interested persons were given 30 days in which to submit comments, suggestions or objections regarding the proposed regulations. No written comments have been received and the proposed regulations are hereby adopted without change and are set forth below.

NOTE: The Veterans 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.

Approved: October 3, 1977.

MAX CLELAND,
Administrator.

1. Sections 17.261 and 17.262 are revised to read as follows:

§ 17.261 The Subcommittee on Academic Affairs.

There is established within the Special Medical Advisory Group authorized under the provisions of 38 U.S.C. 4112(a) a Subcommittee on Academic Affairs, and the Subcommittee shall advise the Administrator, through the Chief Medical Director, in matters pertinent to achieving the objectives of programs for exchange of medical information. The Subcommittee shall review each application for a grant and prepare a written report setting forth recommendations as to the final action to be taken on the application.

§ 17.262 Ex Officio Member of Subcommittee.

The Assistant Chief Medical Director for Academic Affairs shall be an ex officio member of the Subcommittee on Academic Affairs.

2. In § 17.266, paragraph (e) is revised to read as follows:

§ 17.266 Applications.

Each application for a grant shall be submitted to the Chief Medical Director on such forms as shall be prescribed and shall include the following evidence, assurances, and supporting documents:

* * * * *

(e) *To include assurance records will be kept.* Each application shall include sufficient assurances that the applicant shall keep records which fully disclose the amount and disposition of the proceeds of the grant, the total cost of the project or undertaking in connection with which the grant is made or used, the portion of the costs supplied by non-Federal sources, and such other records as will facilitate an effective audit. All such records shall be retained by the applicant (grantee) for a period of 3 years after the submission of the final expenditure report, or if litigation, claim or audit is started before the expiration of the 3-

year period, the records shall be retained until all litigation, claims or audit findings involving the records have been resolved, and

* * * * *

3. In § 17.270, the introductory portion preceding paragraph (a) and paragraph (a) are revised to read as follows:

§ 17.270 Awards procedures.

Applications for grants for planning or implementing agreements for the exchange of medical information or information facilities shall be reviewed by the Chief Medical Director or designee. If it is determined approval of the grant is warranted, recommendations to that effect shall be made to the Administrator in writing and shall be accompanied by the following:

(a) The recommendation for approval shall be accompanied by the written recommendation of the Subcommittee on Academic Affairs, and

* * * * *

4. Sections 17.281 and 17.285 are revised to read as follows:

§ 17.281 Authority to approve applications discretionary.

Notwithstanding any recommendation by the Subcommittee on Academic Affairs of the Special Medical Advisory Group, or any recommendation by the Chief Medical Director or designee, the final determination on any application for a grant rests solely with the Administrator.

§ 17.285 Suspension and termination procedures.

Termination of a grant means the cancellation of Veterans Administration sponsorship, in whole or in part, under an agreement at any time prior to the date of completion. Suspension of a grant is an action by the Veterans Administration which temporarily suspends Veterans Administration sponsorship under the grant pending corrective action by the grantee or pending a decision to terminate the grant by the Veterans Administration.

(a) *Posttermination appeal.* The following procedures are applicable for reviewing postaward disputes which may arise in the administration of or carrying out of the Exchange of Medical Information Grant Program.

(1) *Reviewable decisions.* The Veterans Administration reserves the right to terminate any grant in whole or in part at any time before the date of completion, whenever it determines that the grantee has failed to comply with conditions of the agreement, or otherwise failed to comply with any law, regulation, assurance, term, or condition applicable to the grant.

(2) *Notice.* The Veterans Administration shall promptly notify the grantee in writing of the determination. The notice shall set forth the reason for the determination in sufficient detail to enable the grantee to respond, and shall inform the grantee of his or her opportunity for review by the Assistant Chief Medical Director as provided in this section.

(3) *Request for appeal.* A grantee with respect to whom a determination described in paragraph (a)(1) of this section has been made, and who desires review, may file with the Assistant Chief Medical Director for Academic Affairs an application for review of such determination. The grantee's application for review must be post-marked no later than 30 days after the postmarked date of notification provided pursuant to paragraph (a)(2) of this section.

(4) *Contents of request.* The application for review must clearly identify the question or questions in dispute, contain a full statement of the grantee's position in respect to such question or questions, and provide pertinent facts and reasons in support of his or her position. The Assistant Chief Medical Director for Academic Affairs will promptly send a copy of the grantee's application to the Veterans Administration official responsible for the determination which is to be reviewed.

(5) *Effect of submission.* When an application for review has been filed no action may be taken by the Veterans Administration pursuant to such determination until such application has been disposed of, except that the filing of the application shall not affect the authority which the constituent agency may have to suspend the system under a grant during proceedings under this section or otherwise to withhold or defer payments under the grant.

(6) *Consideration of request.* When an application for review has been filed with the Assistant Chief Medical Director for Academic Affairs, and it has been determined that the application meets the requirements stated in this paragraph, all background material of the issues shall be reviewed. If the application does not meet the requirements, the grantee shall be notified of the deficiencies.

(7) *Presentation of case.* If the Assistant Chief Medical Director for Academic Affairs believes there is no dispute as to material fact, the resolution of which would be materially assisted by oral testimony, both parties shall be notified of the issues to be considered, and take steps to afford both parties the opportunity for presenting their cases, at the option of the Assistant Chief Medical Director for Academic Affairs, in whole or in part in writing, or in an informal conference. Where it is concluded that oral testimony is required to resolve a dispute over a material fact, both parties shall be afforded an opportunity to present and cross-examine witnesses at a hearing.

8. *Decision.* After both parties have presented their cases, the Assistant Chief Medical Director for Academic Affairs shall prepare an initial written decision which shall include findings of fact and conclusions based thereon. Copies of the decision shall be mailed promptly to each of the parties together with a notice informing them of their right to appeal the decision of the Administrator, or to the officer or employee to whom the Administrator has delegated such authority, by submitting written comments thereon within a specified reasonable time.

(9) *Final decision.* Upon filing comments with the Administrator, or designated officer or employee, the review of the initial decision shall be conducted on the basis of the decision, the hearing record, if any, and written comments submitted by both parties. The decision shall be final.

(10) *Participation by a party.* Either party may participate in person, or by counsel pursuant to the procedures set forth in this section.

(b) *Termination for convenience.* The Veterans Administration or the grantee may terminate a grant in whole or in part when both parties agree that the continuation of the project would not produce beneficial results commensurate with the further expenditure of funds. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The grantee shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. The Veterans Administration shall allow full credit to the grantee for the Veterans Administration share of the noncancellable obligations, properly incurred by the grantee prior to termination.

(c) *Suspension procedures.* When a grantee has failed to comply with the terms of the grant agreement and conditions or standards, the Veterans Administration may, on reasonable notice to the grantee, suspend the grant and withhold further payments, prohibit the grantee from incurring additional obligations of funds, pending corrective action by the grantee, or make a decision to terminate as described in paragraph (a) of this section. The Veterans Administration shall allow all necessary and proper costs that the grantee could not reasonably avoid during the period of suspension provided that they meet the provisions of the applicable Federal cost principles.

§ 17.286 [Revoked]

5. Section 17.286 is revoked.

6. Sections 17.287 and 17.290 are revised to read as follows:

§ 17.287 Recoupments and releases.

In any case where the Veterans Administration's or a grantee's obligations under an exchange of information agreement implemented by grant funds are terminated, or where grant-financed equipment or facilities cease to be used for the purposes for which grant support was given, or when grant-financed property is transferred, the grantee shall return the proportionate value of such equipment or facility as was financed by the grant. When it is determined the Veterans Administration's equitable interest is greater than proportionate value, then a claim in such greater amount shall be asserted. If it is determined an amount less than proportion-

ate value or less than the Veterans Administration's equitable interest should be recouped, or that the Veterans Administration should execute any releases, then a proposal concerning such a settlement or releases complete with explanations and justifications shall be submitted to the Assistant Chief Medical Director for Academic Affairs for a final determination.

§ 17.290 Payments.

Payments of grant funds are made to grantees through a letter-of-credit, an advance by Treasury check, or a reimbursement by Treasury check, as appropriate. A letter-of-credit is an instrument certified by an authorized official of the Veterans Administration which authorizes the grantee to draw funds when needed from the Treasury, through a Federal Reserve bank and the grantee's commercial bank and shall be used by the Veterans Administration where all the following conditions exist: (a) When there is or will be a continuing relationship between the grantee and the Veterans Administration for at least a 12-month period and the total amount of advance payments expected to be received within that period is $250,000, or more; (b) when the grantee has established or demonstrated the willingness and ability to maintain procedures that will minimize the time elapsing between the transfer of funds and their disbursement by the grantee; and (c) when the grantee's financial management meets the standards for fund control and accountability. An advance by Treasury check is a payment made to a grantee upon its request before outlays are made by the grantee, or through use of predetermined payment schedules and shall be used by the Veterans Administration when the grantee meets all of the above requirements of this section except that advances will be less than $250,000, or for a period less than 12 months. Reimbursement by Treasury check is a payment made to a grantee upon request for reimbursement from the grantee and shall be the preferred method when the grantee does not meet the requirements of paragraphs (b) and (c) of this section. This method may be used on any construction agreement, or if the major portion of the program is accomplished through private market financing or Federal loans, and the Federal assistance constitutes a minor portion of the program. When the reimbursement method is used, the Veterans Administration shall make payment within 30 days after receipt of the billing, unless billing is improper. Unless otherwise required by law, payments shall not be withheld for proper charges at any time during the grant period unless a grantee has failed to comply with the program objectives, award conditions, or Federal reporting requirements; or the grantee is indebted.

[FR Doc.77-29670 Filed 10-7-77;8:45 am]

[4310-03]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY OF THE INTERIOR

PART 31—GRANTS AND ALLOCATIONS FOR RECREATION AND CONSERVATION USE OF ABANDONED RAILROAD RIGHTS-OF-WAY

AGENCY: Bureau of Outdoor Recreation, Interior.

ACTION: Interim regulations.

SUMMARY: This document prescribes policies and procedures for administering the funding of projects for the recreation and conservation use of abandoned railroad rights-of-way under the Railroad Revitalization and Regulatory Reform Act of 1976. These regulations will furnish applicants, grantees, and the public with an explicit statement of grant award and administration requirements.

DATES: These interim regulations are effective on October 11, 1977. However, interested parties are encouraged to submit written comments, views, or data concerning these regulations by December 15, 1977.

ADDRESSES: Comments should be sent to the Director, Bureau of Outdoor Recreation, 18th and C Streets NW., Washington D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Rowland T. Bowers, Division of State Programs, Bureau of Outdoor Recreation, Washington, D.C. 20240 (202-343-7801).

SUPPLEMENTARY INFORMATION: Title VIII, section 809(b) (2) and (3) of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210, 90 Stat. 145) provides that the Secretary of the Interior shall provide financial, educational, and technical assistance to local, State, and Federal governmental entities for programs involving the conversion of abandoned railroad rights-of-way to recreational and conservational uses. Such assistance shall include the making of grants to State and local governmental entities to enable them to plan, acquire, and develop recreational and conservational facilities on abandoned railroad rights-of-way and the allocating of funds to other Federal programs concerned with recreation or conservation in order to enable abandoned railroad rights-of-way to be included in or made into national parks, national trails, national recreation areas, wildlife refuges, or other national areas dedicated to recreational or conservational uses.

The primary author of this document is Mr. Rowland T. Bowers, Division of State Programs, Bureau of Outdoor Recreation, Washington, D.C. 20240 (202-343-7801).

The Bureau of Outdoor Recreation has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: October 5, 1977.

BOB HERBST,
Assistant Secretary of the Interior.

In accordance with the foregoing, a new Part 31 is added to 43 CFR Subtitle A to read as follows:

Sec.
31.1 Purpose.
31.2 Definitions.
31.3 Applicability and authority.
31.4 Scope.
31.5 Eligible projects.
31.6 Application procedures.
31.7 Project selection and funding procedures.
31.8 Project selection criteria.
31.9 Project costs (State and local projects).
31.10 Matching share.
31.11 Project performance.
31.12 Standards for grantee financial management systems.
31.13 Performance reports.
31.14 Project inspections.
31.15 Financial reporting requirements and reimbursements.
31.16 Retention and custodial requirements for records.
31.17 Project termination and settlement procedures.
31.18 Retention and use.

AUTHORITY: Sec. 809(b) (2) and (3), 90 Stat. 145, Pub. L. 94-210.

§ 31.1 Purpose.

The purpose of these guidelines is to prescribe policies and procedures for administering the funding of projects involving the conversion of abandoned railroad rights-of-way to recreation and conservation uses. Because of the limited funding available, it is the Bureau of Outdoor Recreation's intent to select a few projects which effectively demonstrate the conversion of abandoned railroad rights-of-way for recreation and conservation purposes in a timely manner.

§ 31.2 Definitions.

(a) *Abandoned Railroad Rights-of-Way.* An abandoned railroad right-of-way is the real property used for or formerly used for the operation of railroad trains by a common carrier railroad, upon which the railroad company has, or will cease operations and sell, or otherwise dispose of the company's interest in the real property.

(b) *Project Applicant.* Federal, State, or local governmental agencies.

§ 31.3 Applicability and authority.

The policies and procedures contained herein are applicable to the making of grants to State and local governments and to the making of allocations to Federal agencies under the provisions of Title VIII, section 809(b) (2) and (3)

of the Railroad Revitalization and Regulatory Reform Act of 1976 (Pub. L. 94-210) (90 Stat. 145). The Secretary of the Interior in consultation with the Secretary of Transportation is responsible for providing financial assistance in accordance with section 809(b) (2) and (3). The Secretary of the Interior's responsibility has been delegated to the Bureau of Outdoor Recreation.

§ 31.4 Scope.

(a) Funding assistance authorized by section 809(b)(2) shall be provided to State and local governmental entities to enable them to acquire and develop abandoned railroad rights-of-way for recreation and conservation purposes and to plan for such acquisition and development. As provided for by law, grants shall be made for not more than 90 percent of the cost of the particular project for which funds are sought.

(b) Allocations authorized by section 809(b)(3) shall be made to Federal agencies to enable them to acquire abandoned railroad rights-of-way. Such allocations shall be made for an amount up to the price paid to the owner of the real property proposed for acquisition plus expenses incidental to acquisition such as title work, surveys, appraisals and relocation.

§ 31.5 Eligible projects.

(a) Abandoned railroad projects will be for recreation and/or conservation purposes including the acquisition of the rights-of-way involved and will be sponsored by a project applicant who has authority to carry out public recreation or conservation programs. Eligible project elements for State and local governmental entities may include:

(1) The acquisition of fee or less than fee interests including long term leases of not less than 25 years and easements which will secure for the project applicant the right to develop and use the property for public recreation and/or conservation purposes.

(2) The development of facilities which are necessary for making rights-of-way usable for public recreation and conservation purposes.

(b) Allocations made to Federal agencies will be made for the acquisition of lands or interests in lands, including incidental acquisition expenses, located in existing areas where such acquisition is authorized by law and the land is usable for public recreation and conservation purposes.

(c) Abandoned railroad rights-of-way projects proposed by State and local governmental entities and Federal agencies shall be in accordance with the State comprehensive outdoor recreation plan for the State in which the project is located.

§ 31.6 Application procedures.

State and local units of government applying for grants under this program will comply with the regulations, policies, guidelines, and requirements of OMB Circular No. A-95 (Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects), Federal Management Circulars 74-4 (Cost Principles Applicable to Grants and Contracts with State and Local Governments) and OMB Circular No. A-102 (Uniform Administrative Requirements for Grants-in-Aid to State and local governments).

(a) *Preapplications.* A preapplication will be used to initially screen and select those projects for which a final application may be submitted for assistance. The preapplication will include:

(1) A Standard Form 424 (may be obtained from applicable Regional Offices of the Bureau of Outdoor Recreation).

(2) A map showing the location of the property to be acquired and/or developed and its relation to surrounding land uses including other recreation/conservation resources.

(3) A program narrative statement.

(i) Where acquisition is involved the number of acres and real property interest to be acquired. Attach a copy of the abandonment notice.

(ii) The type of recreational/conservation use planned for the project site including the type of development to be included in the project (if a site plan is available it should be submitted).

(iii) A statement indicating separately the estimated acquisition and development costs.

(iv) A time schedule for completing the acquisition and development.

(v) A brief discussion of how the project embodies the selection criteria outlined in section 31.8.

(4) Indicate any known problems that will occur in obtaining clear title to the right-of-way.

(5) Because of the limited funds available applicants are encouraged to provide an alternative plan indicating a viable segment of the overall project which could possibly be funded at a lower amount in lieu of the complete project.

(b) *Applications.* For those State and local projects selected the applicant shall submit the standard application provided for in Attachment M of OMB Circular A-102. An application package developed for this program will be available from the Bureau of Outdoor Recreation Regional Offices. The following application requirements will apply (information submitted with the preapplication will not be required again):

(1) *A-95 Clearinghouse Review.* The applicant will obtain and include in the application, State and areawide clearinghouse comments in accordance with OMB Circular A-95.

(2) *National Environmental Policy Act of 1969 (Pub. L. 91-190).* The Bureau of Outdoor Recreation will review the environmental information developed by the Interstate Commerce Commission relative to the abandonment to determine if additional information is required to adequately assess the environmental impact of the project and determine the need for an environmental impact statement. Where necessary the applicant will provide additional information from which the Bureau can assess the environmental impact. The format for such information will be provided by the Bureau.

(3) *National Historic Preservation Act of 1969 and Executive Order 11593.* The applicant shall provide the State's Historic Preservation Officer with a copy of the project proposal and allow him 30 days in which to comment on the effect of the proposed project. Such comments will indicate whether the project will have any effect on a site in, or eligible for nomination to the National Register of Historic Places. The comments of the SHPO will be included with the application.

(4) *Flood Disaster Protection Act of 1973 (Pub. L. 93-234).* Applicants will be required to purchase flood insurance for acquisition or development of insurable improvements located in a flood plain area identified by the Secretary of Housing and Urban Development as an area which has special flood hazards.

(5) *Corps of Engineers Permits Requirements.* For development projects requiring a Corps of Engineers permit under Section 10 of the Rivers and Harbors Act of 1899 and/or Section 404 of the Federal Water Pollution Control Act of 1972, applicants will include evidence in the application that action has been initiated to obtain such permit.

(6) *Section 7 of the Endangered Species Act of 1973.* The applicant, through the submission of environmental information, and in consultation with the Bureau of Outdoor Recreation Regional Office will indicate any known project conflict with section 7 of the Endangered Species Act of 1973.

(7) *Plans and Maps.* Each application will include copies of State, county, or city maps showing the geographic location of the project and its relation to surrounding land uses including other recreation/conservation resources. Where development is included in the project, a site plan of the proposed improvements will be provided along with a breakdown of the estimated development costs. For the acquisition, the application will include a schedule listing the parcels to be acquired, estimated linear mileage and acreage of each, the estimated value of each parcel and the estimated date of acquisition.

(8) In addition to the narrative required by Part IV of the standard application, the following information will be provided:

(i) The type of recreation/conservation activity intended for the project site.

(ii) The time schedule for completing the project and plans for operation and maintenance; and

(iii) A brief discussion of how the project embodies the selection criteria outlined in section 31.8.

(c) *Content of the Proposal by Federal Agencies.* Each proposal should include the following minimum information (preapplication not required):

(1) Identification and description of the property proposed for acquisition.

(2) A statement indicating the recreational and/or conservation use planned for the acquired rights-of-way and the relationship of such use to land now administered by the Federal agency proposing acquisition.

(3) A map showing the location of the property in relation to land now administered by the Federal agency proposing acquisition.

(4) The real property interest proposed for acquisition.

(5) An environmental assessment of the acquisition and subsequent development, if proposed.

(6) A citation of the statutory or other authority under which the land would be acquired and a discussion of how the proposed acquisition is in accord with the authority for acquisition.

(7) The funds being requested for the project including a summary of the estimated cost of the land and costs incidental to acquisition.

(8) A discussion of how acquisition of the rights-of-way and subsequent development embodies the selection criteria outlined in section 31.8.

(d) *Preapplication.* (1) Projects sponsored by State, local, or Federal applicants shall be submitted to the appropriate Bureau of Outdoor Recreation Regional Office.

(2) Projects will be considered for funding on a quarterly basis until available funds have been obligated to approved projects. The first project submission quarter will begin with the first of the fiscal year. Funds not utilized in one quarter will be available for the next. Once all funds have been obligated, projects will not be accepted until additional appropriations become available.

§ 31.7 Project selection and funding procedures.

(a) The Bureau of Outdoor Recreation Regional Office will review all preapplications and Federal proposals to insure application completeness and eligibility. A copy of eligible preapplications or Federal proposals and supporting information and data will be submitted to the Washington Office of BOR for final review and selection. An information copy of each project preapplication and proposal will be submitted to the State Liaison Officer designated to coordinate Land and Water Conservation Fund activities.

(b) The Washington Office of the Bureau of Outdoor Recreation will evaluate all projects submitted by the Regional Offices. Final selection of projects to be funded shall be by the Director of the Bureau of Outdoor Recreation.

(c) State and local projects selected for funding will be approved and funds obligated by the appropriate Bureau of Outdoor Recreation Regional Director. Funds will not be obligated until the Bureau has met with the applicant to discuss the terms, conditions, and procedures required by the grant.

(d) Federal agency sponsored projects will be funded by transfer of funds from the Bureau of Outdoor Recreation to the sponsoring agency up to the amount of the project cost as shown in the agency's approved application.

§ 31.8 Project selection criteria.

Those projects which best meet the following criteria will be selected to receive assistance:

(a) Projects which have cleared abandonment procedures and for which sufficient control and tenure of land can be assured, in order that the project can be accomplished shortly after project approval.

(b) Projects which are located or originate in Standard Metropolitan Statistical Areas.

(c) The degree to which the project results in a facility which demonstrates maximum beneficial public use of the property acquired. (For example, the diversity of recreation/conservation opportunities provided.)

(d) The ease of accessibility to large numbers of potential users.

(e) The effectiveness of the project in enhancing existing Federal, State, or local recreation/conservation resources. (For example, the ability of the project to tie together existing recreation/conservation resources.)

(f) Whether use of the right-of-way for recreation/conservation purposes has been identified in existing State, Federal, or local plans.

(g) The degree to which the project advances new ideas in recreation/conservation use and promotes nonmotorized forms of transportation such as commuting by bicycle.

(h) The recreation/conservation potential of the environment traversed by the right-of-way.

(i) The energy conservation potential of using the right-of-way for recreation and/or commuting.

(j) The urgency of the acquisition as reflected by the plans of the owner of record to sell the property to persons other than the project sponsor.

(k) The degree to which Federal, State or local land use controls will protect the recreation and conservation values of the right-of-way from encroachment by conflicting uses of surrounding land.

(l) State and local projects involving the development of abandoned railroad rights-of-way which do not include the acquisition of the rights-of-way will be given lower funding priority than projects involving both acquisition and development.

§ 31.9 Project costs (state and local projects).

To be eligible, acquisition and development costs must be incurred after the date of project approval and during the project period. The project period will be indicated in the project application. Waivers will be granted to proceed with the acquisition prior to project approval if the applicant can show there is a need for immediate action.

Development costs are first incurred at the start of actual physical work on the project site. Acquisition costs are incurred on the date when the applicant makes full payment or accepts the deed or other appropriate conveyance. Project-related planning costs outlined in subparagraph 31.9(a)(3), may be incurred prior to project approval. The date from which they were incurred must be indicated in the project application.

(a) The types of project costs that are eligible for funding under this program are:

(1) Acquisition costs will be assisted on the basis of the price paid or the appraised fair market value, whichever is less. Costs incurred pursuant to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, appraisal costs and other reasonable incidental costs associated with the acquisition.

(2) Construction costs associated with developing the right-of-way for recreation use.

(3) Project-related planning required for the acquisition, development and use of the abandoned rights-of-way including master planning, the preparation of development plans and specifications and surveys.

(4) Legal costs, audit costs, inspection fees, and project administration costs.

(b) Cost overruns will not be eligible for reimbursement. This means that no additional funding will be extended once a project is approved. Any cost overrun incurred on a project must be funded by the grantee.

(c) Principles and standards for determining costs applicable to State and local grants are found in Federal Management Circular 74-4 and Part 670 of the Bureau of Outdoor Recreation Manual.

§ 31.10 Matching share.

The State or local applicant's matching share may consist of cash, or in-kind contributions consistent with guidelines set forth in Attachment F of OMB Circular A-102.

§ 31.11 Project performance.

The State or local applicant shall be responsible for insuring the project is carried through to stages of completion acceptable to the Bureau of Outdoor Recreation with reasonable promptness. Financial assistance may be terminated upon determination by the Bureau of Outdoor Recreation that satisfactory progress has not been maintained.

(a) *Acquisition Procedures.* All acquisition must conform to the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, as set forth in the Bureau of Outdoor Recreation Manual, Part 645. Real property must be appraised before the initiation of negotiations, and the property owner given a statement of just compensation for his property. In no event can the amount established as just compensation for his property. In no ket value established by the approved appraisal.

(1) *Appraisals.* The State or local applicant should secure at least one appraisal of the appropriate type by a qualified professional appraiser for each parcel to be acquired. Standards for ap-

praisals shall be consistent with the current Uniform Appraisal Standards for Federal Land Acquisition, published by the Land Acquisition Conference and as set forth in Bureau of Outdoor Recreation Manual, paragraph 675.2.5.

(2) *Appraisal Review.* The appraisal will be reviewed and approved by a qualified staff or fee appraiser prior to the initiation of negotiations. The Bureau reserves the right to review all appraisal documentation prior to or after the acquisition.

(3) *Record Retention.* All documentation supporting the acquisition of land and improvements, or interests therein, must be kept available for examination by duly authorized representatives of the Bureau, the Department of the Interior and the General Accounting Office. All such records shall be retained and be available for inspection for a period of three years after final payment by the Federal Government.

(b) *Development Procedures.* Development work may be accomplished by contract or by force account. Allowable construction costs cover all necessary construction activities, from site preparation to completion of the facility.

(1) *Construction by Force Account.* Labor costs charged to a project for force account work will be based on payrolls documented and approved in accordance with generally accepted accounting practices of the State or local agency. Payrolls must be supported by time and attendance or equivalent records for individual employees. Salaries and wages of employee chargeable to more than one cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort. Costs for equipment owned by the participant may be charged against the project based on an equipment use rate developed by the participant in accordance with guidelines provided by the Bureau of Outdoor Recreation. Other costs such as material costs will be charged to a project as outlined in OMB Circular A-102 and the Bureau of Outdoor Recreation Manual, Part 670.

(2) *Construction by Contract.* (i) *Bids and Awards.* Competitive open bidding shall be required for contracts in excess of $10,000 in accordance with Attachment O of OMB Circular A-102.

(ii) *Equal Employment Opportunity.* All construction contracts awarded by recipients and their contractors, or subgrantees having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity" as supplemented in Department of Labor Regulations (41 CFR, Part 60). Equal employment contract compliance requirements for "Hometown" or "Imposed" Plan areas will be followed.

(iii) The State or local applicant will comply with all other procurement standards set forth in Attachment O of OMB Circular A-102.

(3) *Construction Planning Services.* The applicant is responsible for:

(i) Providing all engineering services necessary for all design and construction of Fund-assisted projects.

(ii) Providing an internal technical review of all construction plans and specifications.

(iii) Insuring that construction plans and specifications meet applicable health and safety standards of the State.

(iv) The Bureau reserves the right to require the submission of plans and specifications for any development project prior to project approval.

(v) All construction plans, specifications, contracts, and change orders shall be retained by the participant for a period of three years after final payment on a project is made by the Bureau, or for a longer period of time if so requested by the Bureau.

(4) All facilities developed will be designed to comply with the "American Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by the Physically Handicapped" Number A117.1-1961, as modified (41 CFR 101-17.703). The applicant will be responsible for conducting inspections to insure compliance with these specifications by the contractor.

§ 31.12 Standards for grantee financial management systems.

The grantees' Financial Management Systems shall meet the minimum standards set forth in OMB Circular A-102, Attachment G.

§ 31.13 Performance reports.

Performance reports shall be submitted quarterly for all active pojects. The performance reports shall biefly present the following:

(a) The status of the work required under the project scope.

(b) Other pertinent information including, when appropriate, time schedule delays and other similar problems encountered and their expected impact on the project, etc.

§ 31.14 Project inspections.

All State and local projects will receive a final inspection by the Bureau. Final inspections will be conducted prior to final payment of Federal funds. Progress inspections will be conducted as deemed necessary by the Bureau. Preapproval inspections will also be conducted prior to project selection at the discretion of the appropriate Bureau Regional Office.

§ 31.15 Financial reporting requirements and reimbursements.

Payments to applicants will either be by reimbursement by Treasury check or advance by Treasury check.

(a) *Reimbursement by Treasury Check.* The Outlay Report and Request for Reimbursement (OMB Circular A-102, Attachment H) is the standard form to be used for requesting reimbursement for acquisition and development. Requests for reimbursement shall be submitted by "the grantee" not more frequently than monthly. The requests for reimbursement shall be submitted by the grantee in an original and three copies to the appropriate Regional Office. The Regions will forward to the Division of Budget and Finance in Washington, D.C., the original and two copies.

(b) *Advance by Treasury Check.* The Request for Advance or Reimbursement (OMB Circular A-102, Attachment H) is the standard form for all requests for advance. An advance by Treasury check is a payment made by Treasury check to a grantee upon its request, or through the use of a predetermined payment schedule. Advances shall be limited to the minimum amounts needed and shall be timed to be in accord with only the actual cash requirements of the grantee in carrying out the purpose of the approved project. Advances shall be limited to one month's cash requirements. The request for advance shall be submitted by the grantee in an original and three copies to the appropriate Regional Office. The Region will forward to the Division of Budget and Finance in Washington, D.C., the original and two copies.

Grantees must submit an "Outlay Report and Request for Reimbursement for Construction Programs" monthly showing expenditures made the previous month from the funds advanced.

Upon Bureau acceptance of the expenditures involved, these reports shall be used as the basis for liquidating obligations, reducing the advance account, and making charges to the appropriate cost account.

(c) *Report of Federal Cash Transactions (OMB Circular A-102, Attachment H).* When funds are advanced with Treasury checks, the grantee shall submit a report to monitor the cash advance. Grantees shall submit the original and three copies no later than 15 working days following the end of each quarter.

§ 31.16 Retention and custodial requirements for records.

(a) Financial records, supporting documents, statistical records, and other records pertinent to a grant program shall be retained for a period of three years after final payment. The records shall be retained beyond the three-year period if audit findings have not been resolved.

(b) The Secretary of the Interior and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the State and local governments and their subgrantees which are pertinent to a specific project for the purpose of making audit, examinations, excerpts, and transcripts.

§ 31.17 Project termination and settlement procedures.

Project Termination and Settlement Procedures will be in accord with Bureau of Outdoor Recreation Manual, Chapter 675.8.

§ 31.18 Retention and use.

Property acquired or developed by State and local governments with section 809(b) assistance will be available to the general public and retained for recreation/conservation use. The acquiring agency will cause to have placed in the

legal title to the property a restriction which precludes its conversion to other than public recreation/conservation use without the consent of the Secretary of the Interior.

The Secretary shall not permit conversion to any use that would preclude future reactivation of rail transportation on such right-of-way.

[FR Doc.77-29630 Filed 10-7-77;8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND REGULATED ACTIVITIES

[Docket No. 76-40; General Order No. 38]

PART 531—PUBLISHING, FILING AND POSTING OF TARIFFS IN DOMESTIC OFFSHORE COMMERCE

AGENCY: Federal Maritime Commission.

ACTION: Adoption of final rules.

SUMMARY: Part 531 has been substantially revised, updated and renumbered. Most changes were for the purpose of clarifying existing Commission practices, but several new requirements and procedures have been added. The major changes include: specific regulations for through intermodal transportation; a requirement that tariffs be published on standard sized paper in loose-leaf, rather than bound form; a requirement that carriers promulgate 15 "minimum" tariff rules and publish them in a specific sequence; a requirement that tariff matter filed with the Commission be simultaneously served upon tariff subscribers; a requirement that special permission applications be filed upon five days notice except in extraordinary circumstances); specific procedures for the filing of project rates; additional definitions to govern certain terms commonly appearing in tariffs (especially terms which affect intermodal transportation); and more detailed procedures governing the "adoption" of another carrier's tariff.

EFFECTIVE DATE: January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, 1100 L Street NW., Washington, D.C. 20573 (202-523-5725).

SUPPLEMENTARY INFORMATION: This proceeding was commenced by a Notice of Proposed Rulemaking (Notice) inviting comments on a proposal to revise, update and republish the Commission's domestic tariff regulations which included amendments adding to and significantly altering existing tariff filing requirements (41 FR 32899, August 6, 1976). Comments were received from Mr. L. A. Parish; the Institute of International Container Lessors (IICL); Matson Navigation Company (Matson); the Military Sealift Command (MSC); Household Good's Carriers' Bureau (HGCB); Puerto Rico Maritime Shipping Authority (PRMSA); Sea-Land Service, Inc. (Sea-Land); the Commission's Bureau of Hearing Counsel (Hearing Counsel); and Trailer Marine Transport Corporation (TMT).[1] Reply Comments were submitted by Matson, IICL, HGCB, and MSC.

A total of 53 sections or subsections were objected to in the initial round of comments, but Hearing Counsel proposed modifications to the original proposal which eliminated the stated objections to 29 of the challenged provisions. These reconciliatory Hearing Counsel proposals have been employed in the final regulations. The remaining controverted points, identified by the section numbers designated in the original proposal, are discussed below.

A central purpose in proposing the Part 531 amendments was to eliminate tariff practices which are overly complex or of marginal utility in light of modern transportation conditions. Steamship tariffs and the Commission's regulations alike should be readily understandable to all persons seeking transportation by sea and not just to established tariff publication specialists. Further revisions may well be required before this goal is reached, but we have striven today to adopt rules which are both thoroughly and clearly stated. Most of the original section numbers were reordered in the version of the rules which has been adopted (final version). This renumbering was undertaken as a clarifying measure and not to substantively change the regulations. Similarly, the final version contains a number of editorial changes intended to simplify or clarify language employed in the original proposal and not to alter its meaning.

1. *Section 531.0.* Scope and Exemptions. The Notice defined the Commission's interstate commerce jurisdiction in such a way as to omit the Alaska and Hawaii trades. Matson and Hearing Counsel both recognized this omission, but were unable to agree upon the wording of a substitute version. We have essentially separated original section 531.0 into two different sections.[2] The final version of section 531.0 is considerably shorter than the original proposal and states that Part 531 applies to all transportation (including through intermodal transportation) offered by common carriers subject to the Shipping Act and defines these "domestic offshore carriers" in non-statutory terms.[3] Through transportation to Alaska and Hawaii offered under tariffs on file exclusively with the Interstate Commerce Commission (ICC) pursuant to 49 U.S.C. 36(c), 905(b) or 1018 has been included as an exemption in final section 531.1, thereby eliminating a second Matson objection.

2. *Section 531.1.* Definitions. Mr. Parish objected to the absence of a specific statement restricting the application of the proposed definitions to "this regulation only," but neglected to explain why such a disclaimer was necessary. Although these definitions are not intended to limit the activities of domestic offshore carriers outside of the tariff promulgation sphere, neither does the Commission intend for them to be applied restrictively. Accordingly, final section 531.2 states that the definitions are to be used in interpreting tariffs filed pursuant to Part 531 as well as to the Part 531 regulations themselves.

3. *Section 531.1(m) and Section 531.14.* Intermodal Transportation. Sea-Land states that the Commission lacks jurisdiction over through routes formed in conjunction with carriers other than the "common carriers by water" mentioned in Intercoastal Shipping Act section 2. TMT contends that the Commission has authority to "accept intermodal joint rates" between FMC regulated domestic offshore carriers and carriers regulated by other agencies. The latter view must prevail in domestic offshore commerce just as it has in foreign commerce, see *Commonwealth of Pennsylvania* v. *Interstate Commerce Commission*, —— F. 2d ——, D.C. Cir. No. 76-1558, June 20, 1977, 16 SRR 195, and the final rules require the filing of through intermodal tariffs (final section 531.8).[4] The acceptance of such tariffs and the regulation of practices clearly ancillary to the all water transportation of domestic offshore carriers does not represent an attempt to assert substantive authority over inland activities within the exclusive jurisdiction of the ICC or the Civil Aeronautics Board (CAB). The Commission's responsibilities to prevent unfair and unreasonable rates and practices pursuant to Shipping Act sections 16 First and 18(a) and Intercoastal Shipping Act sections, 2, 3, and 4, is sufficient to support the requirement that domestic offshore carriers file their entire through rate with the FMC as well as their port-to-port rates when they provide through transportation to the public. Shipping Act section 33 does not prohibit the Commission from obtaining tariff information which is also submitted to the ICC. *Alabama Great Southern Railroad Company* v. *Federal Maritime Commission*, 379 F. 2d 100 (D.C. Cir. 1967); we do not intend to "concurrently regulate" the inland rates and practices of participating overland carriers.

4. *Section 531.1(t) and Section 531.5 (m).* Filing of Project Rates. The proposed rules permitted the filing (without special permission) of project rates which met certain specifications. Governmental and charitable shipments were not included within the definition of "project rates," however, and MSC objected to this exclusion. Matson stated that project rates should be banned in principle because they allegedly result in the "subsidization" of project shippers. The final rule has been modified to include major, one time only, governmental and charitable construction or relief projects otherwise eligible for project rates under the standards of final section 531.6(m).[5] Matson's fear that project rates will unfairly subsidize project shippers is unwarranted inasmuch as the rule requires each such rate to be accompanied by a showing that the rate covers all of the carriers' variable costs and makes more than a *de minimis* contribution to fixed expenses.[6]

See footnotes at end of article.

5. *Section 531.1(u)*. Proportional Rates. The proposed rule defined "proportional rates" as those which are "predicated on a prior or subsequent movement." Matson proposed that the definition be limited to rates for cargo "moving beyond the carrier's own line" without indicating why such a limitation was necessary or desirable. Final section 531.1(p) contains essentially the same definition as the original proposal, but has been modified for the sake of clarity.

6. *Section 531.1(v)*. Definition of Substituted Service. The proposed definition limited the use of "substituted service" to the occasional use of other carriers or other modes of transportation necessitated by unexpected operating exigencies. Matson claimed that this limitation is inconsistent with present industry practices and suggested an amendment allowing "substitute service" to be offered on a regular basis. We have rejected Matson's proposal. It is our intention to alter industry practices in this regard. Regular arrangements for serving a locality indirectly on a single bill of lading by substituting the facilities of another carrier must be treated as joint through transportation (whether intermodal or not), and not as the through service of a single carrier.

7. *Section 531.1(z) 531.1(aa)*. Definitions of Through Rate and Through Route. Matson objected to the original proposal's failure to state that certain joint through rates in the Alaska and Hawaii trades are exclusively regulated by the ICC. Our revisions to the Scope and Exemptions sections (final sections 531.0 and 531.1) specifically mention 49 U.S.C. 316(c) and further reference is unnecessary. We have, however, deleted the requirement that a through route be offered under a single through bill of lading in response to Mr. Parish's observations on that point. Otherwise, final sections 531.1 (v) and (w) reflect our original proposal despite considerable modifications of an editorial nature. Final section 531.1(w) defines "through route" as an offering of a single domestic offshore carrier, two or more FMC regulated water carriers, or a domestic offshore carrier and one or more other carriers. Whether a "through rate" is formed by combining local or proportional rates is, by itself, irrelevant for tariff purposes, and requirements relating to such combinations have been deleted from final section 531.1(v).

8. *Section 531.1(bb)*. Definition of Transshipment. Mr. Parish contended that the original proposal should expressly disclaim any applicability to cargo transfers between commonly controlled carriers. Such an exclusion was intended and should have been evident from the proposed definition which spoke in terms of cargo transfers between "different common carriers by water." We have, however, modified the original proposal in a manner which narrows this exclusion in some respects. The final rule defines "transshipment" as the physical transfer of cargo from a vessel operating domestic offshore carrier to any other carrier (section 531.1 (x)) and the definition of "carrier" has been modified to indicate that commonly owned or controlled carriers operating in different transportation modes shall be considered separate carriers for tariff filing purposes (section 531.1(c)). We have also provided that ICC regulated Part III carriage shall be considered a different "mode" of transportation than domestic offshore water carriage for tariff filing purposes (section 531.1(u)). These regulations are intended to key the Commission's through intermodal tariff rules to the ICC's interpretation of "transshipment" under section 302(i)(3)(B) of the Interstate Commerce Act,[7] where the term has critical jurisdictional significance. See generally *Sacramento-Yolo Port District*, 341 I.C.C. 105, 111–113 (1972).

9. *Section 531.1(l)*. Definition of Cargo Interchange. The proposed definition of "interchange" has been deleted from the final rules because the term was not employed in the regulations and because part of the original definition was incorporated into the final definition of "transshipment." It is assumed, however, that "interchange" will be employed in tariffs to describe cargo transfers which are not "transshipments" (i.e., transfers between vessels of the same carrier or transfers between non-FMC regulated carriers).

10. *Section 531.1(m)*. Definition of Port. The proposed subsection defined a port as "a place where actual water transportation subject to the Shipping Act commences or terminates as to any particular movement of cargo." Matson commented that the terms "commence" or "terminate" could be construed as omitting the situation where an ocean going vessel transships its cargo during through transportation. In order to eliminate any confusion on this point, we have made modifications incorporating Matson's suggestion as well as editorial changes of our own. The final definition (section 531.1(m)) now specifically states that ocean carriage can originate or terminate by "transshipment" as well as by other methods. In the case of non-vessel operating carriers, it is assumed that "actual ocean carriage" begins when the cargo is tendered to the underlying vessel operating carrier.

11. *Section 531.2*(b). Series Designation for Government Tariffs. Matson argued that the repeal of former section 6 of the Intercoastal Shipping Act (Pub. L. 93–487, October 26, 1974) effectively prohibits the publication of tariffs exclusively for government cargo in domestic offshore commerce. This position is clearly erroneous. Section 6 dealt only with the level of government rates. Carriers may, but are not required to, continue offering rates for U.S. Government cargoes provided that any discounts or other privileges provided are reasonable and cost justified under accepted Shipping Act standards.

12. *Section 531.2*(c). Thirty Days Notice of Effective Date. Matson opposed the proposed elimination of two existing Part 531 regulations which permitted carriers the option of "posting" (filing) tariffs 45 days prior to their effective date and thereby obtaining a longer period to respond to protests pursuant to section 502.67(b) and at least two days notice of any rate suspensions imposed by the Commission. We have adopted the original proposal with editorial changes. Final section 531.3(f) requires tariff filings to provide a minimum of 30 days notice. Carriers are free to file tariffs which furnish a greater period of notice if they wish, but the procedures employed to protest tariffs (section 502.67 (a)) shall remain the same in each instance. Uniform procedures for protesting tariffs allow for greater efficiency in the Commission's administration of Intercoastal Act section 3 and should eliminate a present source of confusion to shippers and carriers alike.

On several occasions shippers have failed to observe the special "25 days before effective date" deadline for filing protests now specified for "posting date" tariffs.

13. *Section 531.2(d) and (3)*. Service of Tariff Filings on Tariff Subscribers. PRMSA claims it is unreasonable that PRMSA be required to mail tariff matter to its "large number" of tariff subscribers on or before the time it submits its filing with the Commission. PRMSA further states that a simultaneous service requirement could delay its rate changes for as long as three days while it is preparing subscriber mailings. No other carrier objected to the simultaneous service requirement, and Sea-Land specifically stated that it had no objection to it. Final section 531.3(h) incorporates the original proposal. Although some carriers may find it necessary to begin planning their tariff filings somewhat earlier than they do now, there is no reason to believe such advance planning will cause inefficiencies or hardships as a general rule. Simultaneous service will, however, maximize the notice period provided to tariff subscribers and facilitate their participation in the ratemaking process. Should a situation arise where simultaneous service would result in a significant hardship to a carrier, relief can be readily obtained through the special permission process (final section 531.18).

14. *Section 531.2(g)*. Tariff Filing Receipts. Matson claimed that the Commission should pay the postage for mailing carriers a receipted copy of their tariff filing transmittal letters because the government enjoys a franking privilege. Final section 531.3(j) incorporates the original proposal—receipts will be provided only to carriers which furnish a stamped self-addressed envelope. The Commission does not have a franking privilege and pays the regular rates of the U.S. Postal Service. Moreover, the primary purpose for requiring carrier provided envelopes is to free the Commission's relatively small staff to work on more substantive matters than the typing of envelopes to receipt what frequently exceeds 100 different tariff filings per week.

15. *Section 531.2(m)(3)*. Tariffs Must Be "Posted" 30 Days Prior to Their Effective Date. HGCB argues that the

See footnotes at end of document.

practice of posting tariffs in advance of their effective date, i.e., making them available for public inspection, would confuse the public, cause delays in effectuating rate changes, and generally impose an unnecessary burden upon carriers. Final section 531.3(o)(3) incorporates the original proposal. Although an express posting requirement was not present in the Commission's previous domestic tariff rules, Intercoastal Shipping Act section 2 unmistakenly requires 30 days advance posting, and HGCB has not provided us with detailed or compelling reasons why an exemption from this statutory requirement should be granted. Posting is the only practical method for non-tariff subscribers to obtain the advance notice of tariff changes which is integral to the statutory scheme of carrier initiated rates reflected in the Shipping Act. A well informed shipping public will generally advance the purposes of the Shipping Act and assist the Commission in accomplishing its regulatory duties. Modifications were made in the final rule in response to HGCB's comments, however. These modifications more clearly indicate that "posting" refers to the maintenance of complete and up-to-date tariffs for public inspection during ordinary business hours, and require tariff material which is filed, but not yet effective, to be maintained in a manner which indicates its prospective nature. Carriers are also required to provide members of the public with sufficient access to informed carrier personnel to permit interested persons to accurately ascertain the carrier's present and proposed rates as expressly set forth in the applicable tariff or tariffs.

16. *Section 531.3(a)*. Uniform Tariff Format. HGCB opposed the proposal to change the size of tariff pages from 8 by 11 inches to 8½ by 11 inches and the standard format from bound to loose-leaf because HGCB wishes to avoid the expense of republishing its present tariff. Final section 531.4(a) adopts the original proposal. HGCB represents an extreme minority view in tariff filing matters. Its bound tariff (FMC–1) has rarely been modified since its initial submission in 1949, because HGCB's members essentially offer through transportation service between interior points, and accomplish rate changes by altering their overland charges—charges which are exempt from ICC regulation pursuant to 49 U.S.C. 1002(b)(2). For the Commission's staff and for most carriers and shippers, the use of standard sized paper and a loose-leaf format minimizes difficulties in printing, circulating and maintaining tariff material in an accurate, up-to-date and useful manner. To the extent that HGCB can demonstrate good cause for the waiver of the new format requirements, relief is freely available via the special permission process articulated in final section 531.18. Section 531.19 contemplates that special permission to file bound tariffs will be granted in some instances, and prescribes standards to be followed in such tariffs. Final section 531.19(b) has been altered in response to another HGCB comment to specifically provide that "saddle stitching" is an acceptable method of fastening bound tariffs.

17. *Section 531.4(b)(3)*. Street Address of Freight Receiving and Disbursing Stations. Mr. Parish and HGCB disfavored the proposal that tariffs list the street addresses of all freight receiving or disbursing stations employed by the filing carrier. Mr. Parish perceived this requirement as an attempt by the Commission to restrict carriers to the use of specific pier facilities, while HGCB complained that its 54 member carriers employ a large number of such stations and HGCB would be required to frequently amend its tariff to reflect changes in these facilities. Final sections 531.5(b)(3) and (4) incorporate the original proposal with modifications which more clearly indicate that the purpose of the rule is not to require carriers to use a particular facility within a port district, but only to provide shippers with the actual street address of any freight stations which are used. To the extent HGCB can demonstrate that it would be unreasonable to require them to furnish the street addresses of the freight stations employed by their individual members, they may obtain special permission to file tariffs which omit such information.

18. *Section 531.4(b)(7)(ii)*. Effective Date of Rate Changes for Through Intermodal Transportation. Matson claimed the original proposal was unduly vague in its use of the terms "intermodal shipment" and "originating carrier." Final section 531.5(b)(8)(ii) modifies the proposed rule so that it applies to all joint through routes (but not single carrier transportation featuring pickup and delivery service), while retaining the essential requirement that shippers be charged the rate in effect on the day the first (or initiating) carrier takes possession of the cargo.

19. *Section 531.4(b)(7)(xv)*. Container Description Rule. IICL argued for a longer, more precise definition of "container" and claimed that the proposed rule should expressly permit carriers to employ conversion tables which assess proportionately higher rates for the use of nonstandard sized containers. Matson wanted the proposed definitions deleted, or, alternatively, that the definition of "container" be modified to include boxes "with or without wheels"—apparently to accommodate specific provisions in Matson's present tariff. Final section 531.5(b)(7)(xv) has been revised to more clearly state that its intended objective is only to require an adequate description of all equipment used as basis for assessing rates. The rules does not require the use of any particular type of equipment. We find no specific fault with IICL's proposed definition of "container" from a substantive viewpoint, but it is overly complex for our present purpose. The final rule distinguishes "containers" from "trailers" in a simple fashion. Carriers are then required to described each type of container or trailer for which they chose to make rates available. Final section 531.5(b)(7)(xv) does not forbid the use of conversion tables which discriminate against nonstandard equipment. However, any deviations from uniform treatment will be closely scrutinized by the Commission to assure that the discriminatory charges are justified by cost differences or other legitimate transportation considerations.

20. *Section 531.5(e)*. Options as to Applicable Rates Forbidden. MSC found the proposed rule confusing as applied to commodities which may move under either government or civilian cargo classifications, and sought assurances that certain "options" presently available to military cargo which are under investigation in FMC Docket No. 75–20 will continue to be permitted under the new Part 531 regulations. Final section 531.6(a) contains a simplified version of the original proposal which is not intended to directly address the validity of shipper "options" such as the choice between a genuine "FAK" rate or a specific commodity rate. The final rule merely forbids the filing of rates which are clearly duplicative, conflicting or ambiguous. The possibility that a tariff allows a given commodity to qualify (upon meeting expressly stated conditions for carriage) for more than one rate when the different rates in question reflect bona fide differences in transportation conditions is not grounds for rejection or cancellation.

21. *Section 531.8(g)(6)*. Notarization of Special Permission Applications. PRMSA objected to the original proposal because Puerto Rican law allows only attorneys to be notary publics and, PRMSA claims, attorneys charge too much for notarial services. MSC suggested that formal attestation be replaced with a signed "unsworn declaration under penalty of perjury" pursuant to recently enacted Pub. L. 94–550, 28 U.S.C. 1746. Final section 531.18(e)(3) incorporates MSC's suggestion.

22. *Section 531.9(a)*. Collections or Absorptions of Terminal Charges. Matson contended that the proposed regulation was unclear and unworkable to the extent it required the "dollar amounts" of collections or absorptions to be stated in the carrier's tariff, primarily because the exact amounts involved often vary from day to day. Final section 531.9 has been modified and reorganized to eliminate the features complained of by Matson. The final rule requires a full description of all terminal services provided as part of a tariffed transportation service, whether charged for separately or included in the line haul rate. Dollar amounts must be stated only when the carrier collects a separate charge for services it performs itself (or through agents) or offers shippers a terminal allowance in lieu of performing specified services—i.e., when the carrier can control the dollar amounts involved. When a third party (not the carrier or its agents) performs terminal services which are charged against the cargo, the tariff must advise the shipper of this fact, but may refer to a terminal tariff or other governing publication for an exact statement of the charges in question.

See footnotes at end of document.

23. *Section 531.14(d)(1).* Publication of Exact Rate Divisions Received For Through Intermodal Transportation. TMT claimed that the rate divisions received by participating carriers do not interest through route shippers, and the public availability of such information would only aggravate local shippers who pay higher rates for local transportation between the same points. The ICC permits joint through route carriers to file rate divisions on a confidential basis and TMT suggests that the Commission adopt the same policy. Final section 531.8(a)(5) contains the original proposal, modified by editorial changes and by the addition of a requirement that "charges" applicable to the through transportation in question also be broken out on a port-to-port basis. This Commission has always required public disclosure of through route rate divisions (although not always in tariff form) and has found that public reaction to such divisions is valuable in assessing the fairness and usefulness of the through rate. No valid reason occurs to us for deviating from this practice in the case of through intermodal transportation, especially since it involves rate divisions subject to the regulatory jurisdiction of different administrative agencies.

24. *Section 531.1(s).* Definition of Tariff Posting. No comments were received concerning the original proposal, but modifications were made which limit the applicability of "post" to the maintenance of tariffs for public inspection, thereby more clearly distinguishing the term from "filing" which is the submission of tariff matter to the Commission.

25. *Section 531.16(a)(2).* Seasonal Transportation. No comments were received concerning the original proposal, but subparagraph (a)(2) has been deleted to more clearly indicate that tariffs which are filed without an express reference to their seasonal nature are subject to rejection.

26. *Sections 531.17(c) (3) and (4); section 531.17(d).* Arrangement of Tariffs in an Index of Tariffs. No comments were received concerning the original proposal, but modifications were made in final section 531.16(c) to simplify the proposed requirements. The final rule now requires Tariff Indices to be arranged by type of tariff, listed in the order of their FMC series and number designations. Paragraph (d) was modified to require Tariff Indices to be amended within 30 days after any change in the information contained therein, rather than by the periodic reissuance of the Index.

Therefore, pursuant to section 4 of the Administrative Procedure Act (5 U.S.C. 553); sections 15, 16, 18(a), 21, and 43 of the Shipping Act, 1916 (46 U.S.C. 814–815, 817(a), 820, and 841a); and sections 2, 3, and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844–845a), *It is ordered,* That the Commission's Domestic Commerce Tariff Rules (46 CFR Part 531) are amended as set forth in the attached Appendix; and

It is further ordered, That the aforesaid amendments shall take effect on January 1, 1978, provided that General Accounting Office clearance pursuant to 44 U.S.C. 3512 is obtained prior to that date. New or reissued tariffs tendered for filing on or after January 1, 1978 shall be fully subject to the new regulations. Tariff amendments submitted on or after the effective date will, however, continue to be accepted in the same format as the tariff being amended until January 1, 1979. By the latter date, all tariff material employed by carriers engaged in domestic offshore commerce shall conform to the requirements of revised Part 531. Tariffs on file at that time which do not meet these requirements shall be cancelled; and

It is further ordered, That the aforesaid amendments to Part 531 be designated as General Order 38; and

It is further ordered, That the exemption from the Shipping and Intercoastal Shipping Acts granted to Foss Launch & Tug Co., Foss Alaska Line, Inc., Puget Sound Tug & Barge Co., and Alaska Barge & Transport, Inc., through December 31, 1978 (41 FR 6070, Feb. 11, 1976) shall not be affected by the adoption of the aforesaid amendments; and

It is further ordered, That existing grants of special permission excusing compliance with domestic commerce tariff filing requirements shall continue according to their original terms until further action of the Commission; and

It is further ordered, That the "Motion to Accept Late Filed Comments" of Trailer Marine Transport Corporation is denied.

By Order of the Commission.

FRANCIS C. HURNEY,
Secretary.

46 CFR Part 531 is revised to read as follows:

Sec.

531.0 Scope.
531.1 Exemptions.
531.2 Definitions.
531.3 Filing of tariffs; general.
531.4 Form and preparation of tariffs.
531.5 Contents of tariffs.
531.6 Statement of rates and charges.
531.7 [Reserved].
531.8 Tariffs containing provisions for through intermodal transportation.
531.9 Terminal rules, charges and allowances.
531.10 Amendments to tariffs.
531.11 Supplements to tariffs.
531.12 Cancellation of tariffs.
531.13 Suspension of tariff matter.
531.14 Governing tariffs.
531.15 Tariffs applicable to seasonal transportation service.
531.16 Index of tariffs.
531.17 Transfer of operations, transfer of control, and changes in carrier name.
531.18 Applications for special permission.
531.19 Special rules for bound tariffs filed pursuant to special permission authority.

AUTHORITY: Sections 15, 16, 18(a) and 43 of the Shipping Act, 1916 (46 U.S.C. 814–815, 817(a) and 841a); Sections 2, 3 and 4 of the Intercoastal Shipping Act, 1933 (46 U.S.C. 844–845a).

§ 531.0 Scope.

These regulations govern the publication, filing, and posting of tariffs for the transportation of property or passengers performed by common carriers by water in interstate commerce which are subject to the Shipping Act, 1916, as amended, including through transportation offered in conjunction with one or more common carriers not subject to said Shipping Act. Common carriers subject to the Shipping Act are those vessel operating and nonvessel operating carriers providing transportation by water between: (a) Any of the 48 contiguous states or the District of Columbia and Alaska or Hawaii; (b) any state or the District of Columbia and any territory, commonwealth, possession or district (excluding the District of Columbia); (c) Alaska and Hawaii; (d) any territory, commonwealth, possession or district (excluding the District of Columbia) and any other such territory, commonwealth, possession, or district; and (e) places in the same district, territory, commonwealth or possession (excluding the District of Columbia); and which are not solely engaged in transportation subject to 49 U.S.C. 316(c), 49 U.S.C. 905(b), or 49 U.S.C. 1018.

§ 531.1 Exemptions.

The following services are exempt from the tariff filing requirements of the Act and the rules of this Part:

(a) Transportation subject to 49 U.S.C. 316(c), 49 U.S.C. 905(b), or 49 U.S.C. 1018;

(b) Round trip passenger excursion voyages;

(c) Transportation by vessels with a cargo carrying capacity of 100 tons or less, or with an indicated horsepower of 100 or less; *Provided,* That such vessels: (1) Are not employed by or under the common control or management of a domestic offshore carrier which operates vessels in excess of these limits; (2) are not operated as part of a through route with another domestic offshore carrier; and (3) are not performing lighterage services in connection with or on behalf of another domestic offshore carrier;

(d) Transportation of passengers, commercial buses carrying passengers, personal vehicles and personal effects by vessels operated by the State of Alaska between Seattle, Washington, and ports in Southeastern Alaska; *Provided,* That said personal vehicles and personal effects are not transported for the purpose of sale, lease, or other commercial activities;

(e) Transportation between the continental United States and Puerto Rico of bulk liquid cargoes in quantities of not less than 200,000 gallons per shipment (i.e., a single shipper to a single consignee); such shipments are carried in tank vessels designed exclusively for bulk liquid cargoes and certified under regulations approved by the Coast Guard pursuant to 46 U.S.C. 391(a).

See footnotes at end of article.

§ 531.2 Definitions.

The following shall apply to the regulations of this Part and to all tariffs filed pursuant to them:

(a) *Amendment.* Any change, alteration, correction or modification of an existing tariff, including tariff supplements.

(b) *Act.* The Shipping Act, 1916, as amended (including the Intercoastal Shipping Act, 1933, and the Transportation Act of 1940).

(c) *Carrier.* Any common carrier in interstate commerce. Commonly owned or controlled carriers operating in different transportation modes shall be considered separate carriers for purposes of this Part (see § 531.2(u)).

(d) *Class Rates.* Transportation rates applied to specific groups or classes of commodities which are established in accordance with a governing commodity classification scheme.

(e) *Classification.* A publication (not a rate tariff) establishing a scheme for grouping or classifying commodities and for applying an accompanying class rate tariff (or a section of a tariff containing class rates) to the various commodity classes established.

(f) *Commission.* The Federal Maritime Commission.

(g) *Commodity Rates.* Transportation rates applied to commodities specifically named or described in the tariff in which the rates are published.

(h) *Domestic Offshore Carrier.* A common carrier by water in interstate commerce as defined by section 1 of the Act.

(i) *File, Filed, Filing (of Tariff Matter).* The actual receipt by the Federal Maritime Commission at its offices in Washington, D.C., during regular business hours.

(j) *Joint Rates.* Rates agreed upon by two or more carriers for transportation jointly offered over all or part of the routes of each participating carrier.

(k) *Local Rates.* Rates for transportation between two points over the route of a single carrier, the application of which is not contingent upon a prior or subsequent movement of the cargo or passengers carried.

(l) *Person.* Includes individuals, firms, partnerships, associations, companies, corporations, joint stock associations, trustees, receivers, agents, assignees and personal representatives.

(m) *Port.* A place at which a domestic offshore carrier originates or terminates (by transshipment or otherwise) its actual ocean carriage of property or passengers as to any particular transportation movement.

(n) *Post, Posted, Posting (Of Tariff Matter).* The maintenance of a complete, up-to-date tariff at local and general offices of the carriers party to the tariff under conditions assuring its availability for inspection by members of the public.

(o) *Project Rates.* Rates applicable to the transportation of materials and equipment to be employed in the construction or one-time development of a named facility used for a major governmental, charitable, manufacturing, resource exploitation, public utility, or public utility, or public service purpose, and also including disaster relief projects. Such construction or development must be undertaken by either the shipper or consignee named on the bill of lading and none of the materials or equipment covered shall be transported for the purpose of resale or other commercial distribution.

(p) *Proportional Rates.* Transportation rates conditioned upon a prior or subsequent movement of the cargo or passengers carried.

(p) *Round Trip Excursion Voyage.* A single voyage which originates and terminates at the same port, does not permanently disembark passengers at any intermediate port, and does not call at any port outside of the United States, its territories, commonwealths, districts or possessions.

(r) *Substituted Service.* The occasional use of transportation facilities different from those which the publishing carrier normally and regularly offers to the public; those instances where transportation is performed by someone other than the publishing carrier due to unexpected operating exigencies. The offering or performing of a regular service by means of overland or air transportation over part of the publishing carrier's route, or by using a waterborne service not under the operational control of the publishing carrier, is an arrangement for through transportation and may not be described as substituted service.

(s) *Tariff.* A written document containing all existing and proposed rates, fares, charges, classifications, rules, regulations and practices governing the transportation of passengers or property all or a segment of which is performed by a domestic offshore carrier (includes rate tariffs, governing tariffs, and all current amendments thereto).

(t) *Tariff Matter, Tariff Material, Tariff Publication.* A tariff or any portion thereof tendered for filing with the Commission pursuant to this Part.

(u) *Through Intermodal Transportation.* Transportation at joint rates over a through route by two or more carriers, at least one of which is, and one of which is not, a domestic offshore carrier. Through transportation entirely by water may be intermodal transportation for purposes of this Part when one or more participating carrier is subject to rate regulation pursuant to Part III of the Interstate Commerce Act. 49 U.S.C. 901, et seq.

(v) *Through Rate.* A total charge for transportation from origin to destination. It may be a local rate, a joint rate, or a combination of separately established rates.

(w) *Through Route.* Continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by (1) a single domestic offshore carrier offering service between port terminal areas; (2) two or more domestic offshore carriers; or (3) one or more domestic offshore carriers in connection with one or more other carriers.

(x) *Transshipment.* The physical transfer of cargo from one carrier to another in the course of a through route where at least one of the exchanging carriers is a vessel operating domestic offshore carrier.

§ 531.3 Filing of tariffs; general.

(a) Every domestic offshore carrier shall file with the Commission and keep open to public inspection tariffs showing its actual rates, fares and charges for or in connection with transportation between all points on its own route, and all points on any through route established in conjunction with other carriers. Such tariffs shall plainly show the places between which freight or passengers will be carried and shall contain any classification of freight and passenger accommodations affecting or determining the rates applicable to such transportation and shall state separately each terminal or other charge, privilege, or facility granted or allowed to shippers or passengers and any rules or regulations which in anywise change, affect, or determine any part of the total rates, fares or changes assessed or the value of service rendered to consignors, consignees or passengers.

(b) Tariff matter tendered for filing which fails to comply with the Act, the rules of this Part, or an order of the Commission is subject to rejection. The Commission also may at any time direct the reissuance or cancellation of tariff matter which does not conform to the Act or the rules of this Part.

(c) Tariffs may be filed only by a responsible official of or a tariff agent appointed by a domestic offshore carrier participating in the transportation offered therein. When a tariff agent is employed, a delegation of authority from each participating domestic offshore carrier must either be on file with the Commission or submitted with the tariff matter tendered for filing.

(1) Delegations of tariff filing authority shall be written on the letterhead and signed by a responsible official of the carrier on whose behalf the agent is to act. Such letters of appointment shall state that a tariff agent has been appointed as of a particular date, identify the agent by name and business address, indicate whether and under what circumstances any other person is authorized to serve as an alternate agent, and specifically set forth the agent's powers and duties to act for the carrier in tariff matters. Only one alternate agent may be appointed.

(2) More than one delegation of authority covering any one tariff is prohibited; *Provided*, That governing tariffs filed pursuant to § 531.14 of this Part may be the subject of separate delegations. Submission of a subsequent delegation of authority covering a tariff, governing tariff or group of tariffs shall automatically revoke any earlier delegation as to that tariff or tariffs on the day the subsequent delegation is filed, as

See footnotes at end of article.

evidence by the Commission's receipt notation.

(3) A delegation of authority to tariff agent may be revoked in whole or in part by filing a letter of revocation which clearly identifies the delegation of authority and the particular powers and duties being revoked, said letter of revocation to be in the same format as the letter appointing the agent.

(d) Tariffs filed under this Part shall be numbered consecutively, with a carrier's initial filing in any particular series being designated No. 1. Freight, passenger, and government tariffs shall be numbered in separate series. Freight tariffs shall be designated as Tariff FMC-F No. ——; passenger tariffs shall be designated as Tariff FMC-P No. ——; tariffs governing government cargo or passengers shall be designated as Tariff FMC-G No. ——; and tariff indices shall be designated FMC-I No. ——.

(1) Tariff submissions which are not so numbered may be accepted for filing on an occasional basis if accompanied by a letter clearly explaining the purpose and need for the deviation.

(e) Tariff matter may only be filed during the regular business hours of the Commission's Washington, D.C. office, as provided in § 502.2 of the Commission's Rules.

(f) Unless otherwise provided by the Act, the Commission or the rules of this Part, all tariff matter tendered for filing (including the tariffs of carriers entering a trade for the first time), shall bear an effective date which permits at least 30 days notice of the filing.

(1) The 30 day notice period between filing date and effective date shall commence at 12:01 a.m. of the day of filing, as evidenced by the Commission's receipt notation; the tariff may take effect at 12:01 a.m. of the 31st day.

(g) Except as otherwise provided, tariff matter shall be transmitted to the Commission in duplicate, with both copies contained in a single package or envelope and with all postage or other delivery charges prepaid.

(h) Tariff matter tendered for filing shall be transmitted to each subscriber to the publishing carrier's tariff by first-class mail, not later than the time the tendered material is transmitted to the Commission.

(i) Copies of individual tariff publications or regular subscriptions to an entire tariff filed pursuant to this Part shall be promptly made available to any person requesting the same in writing. Subscriptions to a given tariff shall include all special permission requests which pertain to that tariff. Except as otherwise provided by the rules of this Part, carriers may assess a reasonable charge for tariff copies and tariff subscriptions, i.e., not greater than the full cost of reproduction and delivery of the materials in question.

(2) The governor of any state, commonwealth or territory served by a domestic offshore carrier may request a carrier in writing to furnish a designated governmental official or office no more than two (2) copies of any tariff matter filed by the carrier which pertains to trades affecting the state, commonwealth or territory in question. Upon receipt of such a request, the carrier shall promptly provide the designated official or office with the requested copies of its existing tariff(s) and add the official or office to its list of tariff subscribers. No charge shall be made for this service, but such officials and officers shall be treated in the same fashion as paid subscribers in all other respects and are considered tariff subscribers for purposes of this Part.

(j) Tariff matter tendered for filing must be accompanied by a letter of transmittal not to exceed 8½ inches by 11 inches in size, which shall:

(A) Fully identify the filing party (i.e., the publishing carrier or its tariff agent) including its name, business address and business telephone;

(B) Fully identify each tariff publication tendered, including the following information in tabular form: Carrier Name, Tariff No., Revision/Page/Supplement No.;

(C) Describe the specific effect of each tariff change implemented by each tariff publication listed in subparagraph (2), above;

(D) Include or attach such certifications as are required by Part 512 of the Commission's Rules;

(E) Certify compliance with the requirements of section 531.3(h); and

(F) Include or attach a delegation of authority from the publishing carrier(s) appointing the tariff filing agent (applicable only if the filing party is a tariff agent and an appropriate delegation of authority is not already on file).

(j) Letters of transmittal shall be tendered in duplicate. One copy will be receipted and returned to the filing party, provided that a self-addressed, stamped envelope is enclosed for that purpose.

(k) No domestic offshore carrier may publish any tariff matter which duplicates or conflicts with any other tariff or tariff provision to which said carrier is a party.

(l) Tariff matter which fails to meet the requirements of the Act, the rules of this Part, or an order of the Commission may be rejected after filing. The filing party shall be notified in writing of the reason for the rejection and one copy of the rejected material will be returned to it.

(1) Rejected tariff material is void and its use is unlawful. The revision number or, in the case of an entire tariff, the series number, of a rejected tariff publication shall not be used again, nor shall the rejected publication be referenced in any subsequent tariff publication as being, or having been, cancelled, amended, or withdrawn. Tariff matter tendered in place of rejected material must bear the notation:

Issued in lieu of (*identify the rejected material*) rejected by the Federal Maritime Commission.

and must cancel any prior publication which the rejected material was originally intended to cancel.

(m) Acceptance of tariff matter does not establish the legality of the rates and practices described therein. The mere filing of a tariff does not excuse the publishing carrier from the obligations of the Act or the Commission's Rules, regardless of whether these obligations preceded or followed the acceptance of the tariff in question.

(n) Tariff matter filed with the Commission shall not be surrendered to or withdrawn by the publishing carrier.

(o) Domestic offshore carriers shall maintain their tariffs in a complete, accessible and usable form and shall keep them available for inspection by any member of the public during ordinary business hours.

(1) There shall be posted at each facility at which a domestic offshore carrier receives freight or passengers for transportation, or at which it employs a general or sales agent, a copy of all of that carrier's tariffs governing transportation to and from the facility in question.

(2) There shall be posted at the principal place of business of a domestic offshore carrier all of the tariffs under which that carrier offers transportation service subject to this Part.

(3) Tariff publications shall be posted a minimum of 30 days prior to their effective date unless otherwise provided for by the Act, the Commission, or the rules of this Part. Amendments (including supplements) which have been filed, but are not yet effective, shall be posted in a fashion which clearly identifies their prospective nature and shall not physically replace existing tariff matter until said amendments reach their effective date. The maintenance of a presently effective tariff in one binder and all filed, but not yet effective, tariff matter affecting that tariff in a second "proposed tariff changes" binder is recommended. Persons requesting to inspect a carrier's tariffs shall, upon reasonable notice, be provided sufficient instruction or assistance to allow them to ascertain both the present and proposed rates and practices of the carrier.

(p) Only tariffs of persons engaged in common carriage by water shall be filed. Tariffs shall not contain terms such as "Taken by Special Agreement or Arrangement only," "Subject to Carrier's Option of Acceptance," or "Carried at Cargo Owner's Risk," which (unless accompanied by sufficient qualifying language explaining a more limited interpretation) are clearly inconsistent with the legal responsibilities of a common carrier towards the shipping public.

(1) Tariff publications shall not contain rules purporting to limit their liability in a manner not authorized by law;

(2) The tariffs and delegations of authority of a carrier which ceases operations in a trade for more than 30 days (other than seasonal discontinuances as provided by § 531.15 of this Part) shall be cancelled within 60 days after the cessation of operations.

§ 531.4 Form and preparation of tariffs.

(a) Tariffs shall be published in loose-leaf form. Pages shall be 8½ by 11 inches

See footnotes at end of article.

in size, and plainly and legibly printed, mimeographed, planographed or otherwise durably reproduced on paper equivalent to, or better than, offset book paper, Sub. 100. Pages shall be printed on one side only, using not less than 8-point bold or full face type except that 6-point type may be used for reference marks, explanations, column headings, or bills of lading. Original typewritten or proof sheets shall not be used for filing or posting.

(b) Tariff matter tendered for filing or used for posting shall not contain erasures or original alterations of any nature.

(c) A margin, without any printing or tariff matter thereon, of not less than three-quarters of an inch is required on the top, bottom, and binding edges of all tariff pages. A similar blank margin of not less than ¼ of an inch is required on the nonbinding edge of all pages.

(d) Tariff matter containing rates will be arranged in an orderly columnar fashion with vertical ruling separating columns of rates, rate bases, and commodity/item descriptions. Horizontal groupings will be done in a manner which clearly defines the rates, terms, conditions, etc., applicable to a given commodity or item, with no more than six horizontal lines of type without a page-wide break or horizontal ruling. Exhibit I following this section demonstrates the required format.

(e) The first page of every tariff shall be the Title Page (see Exhibit II following section 531.5), and all pages subsequent to the Title Page shall be consecutively numbered beginning with Page 1. The first edition of a page shall be designated as "Original Page No. ____" with subsequent revisions to be designated as "(*Show Revision No.*) Revised Page No. ____." Revisions of individual pages are to be published in a numerically consecutive order. Departures from such consecutive ordering may be accepted for filing on an occasional basis if accompanied by a letter clearly explaining the purpose and need for the deviation.

(f) Each tariff page shall be identified by printing the publishing carrier's name and the applicable FMC tariff designation at the top of the page.

(g) The page number, revision number and effective date of each page shall be printed in the upper right-hand corner of the page.

EXHIBIT I

3/4"

1. TONALOTTA FREIGHT, INC. Tariff FMC-F No. 5	Orig/Rev	Page
	1st Revised	22
	Cancels	Page
	Original	22
BETWEEN: United States Pacific Coast and Hawaii Ports of Call AND: Pago Pago, American Samoa	Effective Date	
	January 31, 1977	
	Corr. No.	105

SECTION 7 - COMMODITY RATES - IN CENTS

3/4" ← (EXAMPLE ONE - "PAGE WIDE BREAK")

ARTICLES	Per Cu. Ft.	Per CWT	ITEM NO.
Adhesives, NOS: Viz: Adhesive Cement or Paste	151	348	75
Advertising Matter, NOS	140	358	77
Agricultural Implements or Parts thereof,	160	383	78
Alkane, in bulk: Minimum 1,000 lbs or 40,000 cu. ft.	175	400	80
Aluminum Articles, NOS	153	360	81
Aluminum Articles, Viz: Billets, Ingots or Pigs	169	326	82
Aluminum Articles, Viz: Plate or Sheet	109	297	83
Aluminum Articles, Viz: Cups, Trays or Pots	109	...	84
etc...			

(EXAMPLE TWO - "HORIZONTAL RULING")

Adhesives, NOS: Viz: Adhesive Cement or Paste	151	348	75
Advertising Matter, NOS	140	358	77
Agricultural Implements or Parts thereof	160	383	78
Alkane, in bulk: Minimum 1,000 lbs or 40,000 cu. ft.	175	400	80
Aluminum Articles, NOS	153	360	81
Aluminum Articles, Viz: Billets, Ingots or Pigs	169	326	82
Aluminum Articles, Viz: Plate or Sheet	109	297	83
Aluminum Articles, Viz: Cups, Trays or Pots	109	...	84
etc...			

For Explanation of Abbreviations and Reference Marks, See Page 10

3/4"

| See footnotes at end of article.

§ 531.5 Contents of tariffs.

(a) The Title Page of every tariff shall contain the following information (Exhibit II following this section illustrates the required format):

(1) The operating name of the publishing carrier (or group of carriers) followed by an annotation identifying it as either a nonvessel operating common carrier (NVOCC) or a vessel operating common carrier (VOCC).

(2) The FMC file number of all section 15 agreements pertaining to the transportation service offered.

(3) The tariff series and number assigned pursuant to § 531.3(d).

(4) A designation of any tariffs cancelled by the instant tariff (see § 531.12 (a)). Cancellation designations shall be printed immediately under the assigned tariff number unless there are so many cancellations as to make this impractical. In such case, the designations of cancelled tariffs shall be shown on an interior page which is referenced on the Title Page in the position where the cancellation designations would otherwise appear.

(5) All ports or points from, to, or between which transportation is offered, or a reference to the interior page where a list of such ports or points can be found. Cities, towns or communities are to be listed, not street addresses.

(6) A description of each type service offered, e.g., direct (no change of vessel), transshipment.

(7) A description of each type of rate offered, *i.e.*, local, proportional, joint, through, class, commodity, or combinations thereof.

(8) Identification of any governing tariffs or reference to an internal tariff page containing this information (see § 531.14).

(9) (i) An effective date. When a revised Title Page is submitted, the effective date of the original Title Page shall also be shown.

(ii) An expiration notice (when applicable). If the tariff contains provisions which expire at a specific time, the expiration date shall be shown in the tariff items to which it applies and the existence of such an expiration date shall be indicated on the Title Page with a reference to the affected tariff item.

(10) The name, title and mailing address of the filing party.

(11) The operating name of all carriers participating in the tariff and the full address of their principal place of business, or a reference to an internal tariff page containing this information.

(12) A list of all supplements currently applicable to the tariff (see § 531.11).

(b) The body of the tariff shall contain, in the exact order named below, the following information:

(1) A table of contents and a complete index showing the location of all information necessary to accurately determine the complete rates, fares and charges applicable to the services offered by the tariff. Such index will list all such subjects of information alphabetically and show the item or rule number as well as the page number where they can be found.

(2) An alphabetically arranged list of carriers participating in the tariff by operating name. The full legal name (when different from the operating name) and the full address of its principal place of business shall also be shown for each participating carrier. The FMC numbers of all approved section 15 agreements applicable to the transportation offered shall appear after the name of each carrier party to the agreement.

(3) A list of the ports or points from, to, or between which service shall be provided.

(4) The full street address of a receiving/disbursing freight station(s) at which cargo is or may be tendered/claimed by shippers using the service.

(5) A single, complete, alphabetically arranged index of all commodities for which rates are published, showing the page or item number where each rate can be found. A commodity index may be omitted where commodity rates are published in an alphabetical arrangement and the descriptions employed are sufficiently specific as to require no further breakdown besides that required to delineate different minimums or valuations.

(6) A full explanation of any symbols, reference marks, or abbreviations employed. The following standard symbols and explanations are required for the purposes indicated:

(i) ↓ to denote reductions;
(ii) ◇ to denote increases;
(iii) △ to denote changes resulting in neither increases nor reductions in rates or charges;
(iv) ● to denote no change in rate;
(v) □ to denote reissued matter; and
(vi) ⊕ to denote deletions.

These symbols shall not be used for any other purpose nor shall any other symbol be used for the above purposes.

(7) An alphabetical list of other tariff publications which govern the service being offered in any manner (see section 531.14), including their series and number designations.

(8) The rules and regulations affecting the transportation being offered. Specific rules shall be published to govern at least the following matters:

(i) Application of rates. A clear and definite statement of all services provided to shippers as being included in the published rates.

(ii) Effective date. A clear and definite statement of the time at which tariff changes become applicable to any particular shipment. In the case of joint rates (including those for through intermodal transportation), the rate applicable to any particular cargo movement shall be that rate which is in effect on the day the initiating carrier takes possession of the shipment.

(iii) Heavy lift practices and charges.

(iv) Extra length practices and charges.

(v) Minimum bill of lading charges.

(vi) Payment of freight charges. A clear and definite statement of the terms of payment for transportation services rendered, e.g., C.O.D., prepaid only. If credit is extended, the rule must describe the credit terms offered and the conditions under which credit will be extended.

(vii) Bills of lading. A specimen copy of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement between carrier and shipper shall be provided, unless a governing bill of lading tariff has been filed pursuant to section 531.14 of this Part. Such shipping contracts shall indicate that they are subject to the terms and conditions of the carrier's Federal Maritime Commission tariffs and shall not contain provisions which are more stringent than, or otherwise conflict with, the terms of such tariffs.

(viii) Freight forwarder compensation. A statement of the exact rate or rates, if any, to be paid independent ocean freight forwarders (see also § 510.24(f) of the Commission's Rules).

(ix) Application of surcharges and arbitraries. A clear and definite statement of the method by which surcharges, arbitraries, or other similar charges are to be applied. E.g., in aggregate, by compounding.

(x) Minimum quantity rates (alternation of rates). When two or more rates are applicable to the same commodity, depending upon the quantities shipped, there shall be a tariff rule stating:

When two or more freight rates are named for the carriage of goods of the same description, and the application is dependent upon the quantity of the goods shipped, the charges assessed against the smaller shipment shall not exceed those for any larger quantity.

(xi) Ad valorem rates. When an ad valorem rate is published, the exact method of computing the charge and the additional liability, if any, assumed by the carrier in consideration thereof shall be specified.

(xii) Transshipment service. When transshipment service is offered pursuant to agreements subject to section 15 of the Act, any tariff provisions required by the agreement itself or by Part 524 of the Commission's Rules shall be stated.

(xiii) Hazardous cargo. When rates for explosive, inflammable, corrosive or other dangerous materials are published (or the published rate tariff does not specifically prohibit carriage of such materials), rules governing their carriage shall be clearly stated unless a governing rules tariff has been filed pursuant to § 531.14 of this Part.

(xiv) Automobile measurement. When rates for automobiles are published (or the published rate tariff does not specifically prohibit carriage of automobiles), the basis for applying these rates must be stated in terms of either weight or measurement, but not both. One of the following rules (i.e., (A) or (B)) must be employed in their entirety:

(A) Automobiles shall be rated by measure. The cubic measurement for the five most recent model years will be those prescribed by the manufacturer of the particular make and model as shown on pages _____ to _____ herein (Alternatively, the carrier may state "as shown in Federal Maritime Commission Publication No. 1, 'Automobile Manufacturers' Measurements'.")

(1) Automobiles whose measurements are not shown above, shall be individually measured by the carrier. This fact shall be noted on the bill of lading.

(2) Automobiles which, because of additional accessories or equipment, vary in dimensions from the standard measurements shown above, shall be individually measured by the carrier. This fact shall be noted on the bill of lading along with the actual variation (in cubic feet) from the standard measurements.

(B) Automobiles shall be rated by weight. Each vehicle tendered for shipment shall be individually weighed on the carrier's scale. Where the carrier does not possess weighing facilities, the shipper shall have the vehicle weighed by a certified weighmaster and furnish the weighmaster's signed statement to the carrier.

(xv) Container description. When rates or charges for containerized or trailerized cargo are based upon the use of a standard size, type, or capacity container/trailer, or upon the use of specifically identified container/trailers, then the tariff shall:

(A) State the exact size, type, capacity and identity of the container/trailer upon which said rates are based; and

(B) Include a conversion formula or table which readily adjusts the rates or charges applicable to standard container/trailers to those applicable to other container/trailers which might be provided by shippers or consignees or by the carrier itself; *Provided*, that no conversion formula or table need be included when a tariff expressly precludes carrier and shipper/consignee alike from using nonstandard container/trailers. If referenced by the applicable tariff rule, this information may be set forth in a rate item or in a governing tariff filed pursuant to section 531.14 of this Part.

(C) For purposes of this subdivision, "container" shall mean a demountable freight carrying unit transported on ocean going vessels without wheels attached; "trailer" shall mean a wheeled vehicle, on or in which freight can be carried, transported by ocean going vessels without removing its wheels; "capacity" shall mean the maximum cargo measure or weight available to a shipper using a given container/trailer; and "identity" shall mean the specific serial number(s) or code marking(s) affixed to the container/trailers of a given carrier.

(9) Additional tariff rules shall immediately follow the mandatory rules and shall be numbered consecutively beginning with Rule No. 16.

(i) Special rules affecting particular items, rates or charges shall be expressly referenced in the item, rate or charge affected.

(10) Exceptions to classifications, rules, rates or charges shall be enumerated in the tariff to which they apply. Exceptions to particular items, rates, rules or charges must be set forth within each item, rate, rule or charge affected. General tariff exceptions may be published in a separate rule entitled "Exceptions to the Application of this Tariff."

See footnotes at end of article.

EXHIBIT II

[531.4(c)] [531.5(a)(9)(i)]	Original Title Page Effective Date: July 26, 1960
[531.5(a)(3)]	FMC-F No. 5 CANCELS FMC-F No. 4
[531.5(a)(4)]	
	I. IOVALLOTTA FREIGHT, INC.*
[531.5(a)(1)]	Vessel Operating Common Carrier Tariff
[531.5(a)(7)]	Local and Proportional Commodity Rates
	Between
[531.5(a)(5)]	U.S. Pacific Coast and Hawaii Ports of Call as stated on page 4 herein and Pago Pago, American Samoa
	via
[531.5(a)(6)]	Transshipment at Guam
[531.5(a)(8)]	Governing Tariff: Rules Tariff FMC-F No. 2
[531.5(a)(2)]	Applicable Agreements: DC-XX; DC-XIX
[531.5(a)(12)]	Applicable Supplements: Supplements 1, 3 & 6 contain all changes.
[531.5(a)(11)]	Participating Carriers: See Page No. 3 herein
[531.5(a)(10)]	I. Gottapen, Traffic Mgr. P.O. Box XVIX Northlan, New York 22222
[531.5(a)(9)(ii)]	Expiration Notice: The following contain expiration dates: Supplement No. 6, Item No. 10

§ 531.6 Statement of rates and charges.

(a) All rates and charges shall be stated in a systematic and straight forward manner. Rates, charges, rules, regulations or classifications shall not be duplicative, conflicting or otherwise ambiguous when compared with items in the same tariff or in any other tariff to which the publishing carrier is a party.

(b) The correct application of rates shall be clearly and definitely stated in terms of an established unit of freight (e.g., per 100 pounds, ton of 2,000 pounds, ton of 2,240 pounds, cubic foot).

(c) Rates stated as "per barrel" or "per package" shall define the exact type, size, and capacity of the package unit entitled to the stated rate. Clearly worded rules for correctly determining the weights or measurements of such package units shall be included in the tariff.

(d) Rates which vary with the manner in which cargo is packed or delivered for shipment (e.g., loose, crated, palletized) shall include a clear statement governing their application.

(e) Rates published on a "weight or measurement" basis shall state whether the basis producing the greater or the lesser revenue to the carrier shall apply.

(f) Commodity rates shall displace any class rates which would otherwise be applicable. Commodity rates must be specific and shall not apply by implication, or otherwise, to analogous articles.

(g) Commodities and generic commodity groups on which rates are stated shall be listed alphabetically. When item numbers are published alongside commodities in the index, the item number shall be shown with the appropriate commodity wherever else the commodity appears in the tariff.

(h) A commodity item may establish rates for several articles without naming them; *Provided*, That it references an item or rule in the same tariff (or a governing classification filed pursuant to § 531.14 of this Part) which does name the affected commodities.

(i) Rates for or to designated ports may be established by applying an arbitrary or differential charge based upon the rate applicable to a specified "base port;" *Provided*, That any such arbitrary or differential is clearly defined and is referenced in the rate item affected.

(j) Commodity rates subject to minimum quantity requirements shall include a clear statement of such requirements in the commodity item description to which they apply.

(k) Rates for the transportation of different, separately rated articles in mixed lots where no specific mixture of articles is required ("mixed shipment") shall be established by a general tariff rule which clearly defines such rates and the basis for their application.

(l) Rates for the transportation of different, separately rated articles in specified proportions as a single generic commodity (not mixed shipments) shall be established by a general tariff rule which clearly describes the mixture of articles required.

(1) Such rule shall require that the composition of the qualifying shipment be shown on the face of the bill of lading governing the movement; *Provided*, That if the shipment contains a greater number of different commodities than is required to qualify for the generic rate, the bill of lading description need show the shipment's composition only to the extent necessary to so qualify.

(m) Tariffs purporting to establish project rates shall:

(1) Include an exact description of the project which demonstrates that it is entitled to be designated a "project rate" within the meaning of § 531.1(o) of this Part:

(2) Include a list of the commodities to be transported under the project rate;

(3) Include a statement of the exact date upon which the project rate will expire;

(4) Include a statement that only proprietary materials actually employed in the project are eligible for the project rate and provide for the use of a bill of lading clause on all project rate cargo which states that: "All materials included in this bill of lading are of a wholly proprietary nature and shall not be resold or otherwise commercially distributed at destination."

(5) Be accompanied by a separate economic justification demonstrating that the project rate will cover the carrier's variable costs and contribute to its fixed expenses; and

(6) Be accompanied by a separate certificate of service reciting the names of all domestic offshore carriers with FMC tariffs for transportation between the project rate ports (if no such carriers exist, then a statement is required to that effect) and stating that said carriers

have been simultaneously mailed a copy of the tariff filing (exclusive of economic justification).

(n) Proportional rates must be accompanied by a clear statement of the circumstances under which, and the points between which, they shall apply. When no such statement is provided, a proportional rate shall be available in connection with any other rate to or from the proportional rate point in question.

(o) Tariffs published subject to a governing classification shall not state rates as a percentage of a base rate, but shall publish a specific rate for each class or percentage thereof for which service is proposed.

§ 531.7 [Reserved]

§ 531.8 Tariffs containing provisions for through intermodal transportation.

(a) In addition to the other rules of this Part, tariffs containing rates, charges, rules or regulations for through intermodal transportation shall:

(1) Contain a Title Page stating that the tariff pertains to through intermodal transportation.

(2) List, either on the Title Page or on an interior page referenced on the Title Page, all ports or points to, from and between which the rates apply and the ports through which cargo originating or terminating in such places shall move. Ports or points served shall be described by the name of the city or town which commonly identifies the actual area where freight or passengers are picked up or delivered.

(3) Describe the mode of transportation provided by each participating carrier, i.e., highway, railroad, air, water (FMC), and water (non-FMC).

(4) Contain a rule setting forth the liability and responsibility of each participating carrier, together with a specimen of the bill of lading or other contract of affreightment governing the intermodal service offered.

(5) State all through intermodal rates together with the port-to-port proportion rate collected by the domestic offshore carrier for ocean transportation. The port-to-port proportional rate may be shown in either:

(i) A column adjacent to the column containing the applicable through rate; or

(ii) Directly under the commodity description or the through rate.

(6) Separately state all charges collected by the domestic offshore carrier.

(b) When through intermodal rates are constructed by combining domestic offshore rates with inland rates published in effective Interstate Commerce Commission (ICC) or Civil Aeronautics Board (CAB) tariffs, copies of the actual ICC or CAB tariff material may be incorporated into the required FMC tariff as a separate informational tariff section.

(1) The tariff format requirements of this Part shall not apply to ICC and CAB tariff material tendered as a section of a through intermodal tariff; *Provided*, That each page thereof is clearly marked to indicate that it is for informational purposes only and that the pages also bear the tariff series and number designations of the FMC tariff to which they belong. Whenever the ICC or CAB tariff being incorporated is amended, cancelled or otherwise altered, the corresponding informational sections of the FMC tariff shall be simultaneously and identically altered.

(c) A memorandum of every agreement or arrangement between a domestic offshore carrier and any other carrier establishing through intermodal transportation, but not subject to prior approval pursuant to section 15 of the Act, shall be filed concurrently with the filing of any through intermodal transportation tariffs based upon such agreement or arrangement.

§ 531.9 Terminal rules, charges and allowances.

(a) All terminal privileges, facilities or services (hereinafter jointly referred to as "terminal services" for purposes of this section) provided to shippers, consignees or passengers shall be fully and completely described in the carrier's tariff, regardless of whether such services result in charges separately assessed and collected as additions to the carrier's basic transportation rate or are simply included within the basic transportation rate without differentiation.

(b) When additional charges are assessed for terminal services provided by the carrier or its agents, the carrier's tariff shall contain an appropriate provision separately stating the exact amount of such charges.

(c) When terminal services are performed or made available by a third party (not the carrier or its agents), and charges for such services are assessed against the account of the cargo or passenger, the carrier's tariff shall contain an appropriate provision advising cargo interests/passengers of this fact. This provision shall describe the terms and conditions under which such services will be made available and performed, and specify how and by whom all applicable charges will be collected. References to an appropriate terminal tariff or other governing publication shall be sufficient to satisfy the requirements of this paragraph.

(d) When allowances or discounts are paid or otherwise made available to shippers, consignees or passengers in lieu of furnishing a terminal service, the carrier's tariff shall contain an appropriate provision separately stating and fully describing all such allowances or discounts. The exact amount of the allowances or discounts and the terms and conditions under which they are paid shall be included in the required tariff provision.

§ 531.10 Amendments to tariffs.

(a) All changes, additions, or deletions from a tariff shall be known as amendments and shall be filed in the manner prescribed by this section unless otherwise provided by the Commission or the Rules of this Part.

(b) Amendments establishing new or initial rates, or changing rates, charges, rules, or other tariff provisions, shall be filed and posted at least 30 days prior to their effective date; *Provided*, That:

(1) Amendments extending actual service to additional ports at rates or fares already in effect for similar service at the ports being added may take effect on the same day they are filed and posted;

(2) Amendments adopting a tariff pursuant to section 531.17 of this Part may take effect on the same day they are filed and posted;

(3) Amendments completely cancelling a tariff pursuant to § 531.12(a)(2) of this Part due to a cessation of all service by the publishing carrier between the ports or points listed in the cancelled tariff, may take effect on the same day they are filed and posted;

(4) Amendments changing only the name or address of the filing party may be filed and posted on not less than one day's notice;

(5) Amendments in terminal rates, charges and provisions over which the carrier has no control may be filed and posted on not less than ten days' notice; *Provided*, That the filing occurs within 30 days after the changed terminal practice is actually implemented by the controlling party. Such amendments shall be accompanied by a justification statement fully describing the underlying action of a third party not subject to the carrier's control which makes a short notice tariff change necessary.

(i) If based upon a change in the rates of a terminal operator, the name, series, and number designation, page number, item number and the effective date of the operator's terminal tariff shall be cited.

(6) Carriers may file and post on not less than one day's notice, amendments establishing additional terminal facilities for loading or discharging cargo at ports or harbors already served; *Provided*, That the rates to be charged at such facilities are the same as those currently applicable to comparable facilities of the carrier at the same port or harbor.

(7) Amendments announcing seasonal discontinuance or restoration of service may be filed and posted on not less than ten days' notice. Such amendments shall contain a brief statement announcing the date of discontinuance/restoration and may include no other tariff matter.

(c) Amendments shall be made by reprinting the entire page upon which the changed tariff matter will be found. Amended pages shall be designated, in the upper right-hand corner, as revised pages and shall cancel the preceding edition of the same page; i.e.,

1st revised page 10 cancels original page 10.

(d) Amendments to existing tariff provisions shall be indicated by the use of the symbols specified in § 531.5(b)(5) of this Part:

(1) When the same change is made in all, or substantially all, the rates or fares in an entire tariff (or in those printed on a single tariff page), the nature of the change may be indicated in

See footnotes at end of article.

boldface type at the top of the Title Page (or individual tariff page) in substantially the following form: "All rates or fares in this tariff (or supplement or on this page) are increases (reductions), except as otherwise indicated."

(2) When amendments deleting existing tariff matter alter the amount paid by the shipper/consignee, the effect of this change shall be indicated as required by § 531.5(b)(5) (i) and (ii) of this Part. In addition, the amendment shall state the provisions, if any, still applicable to the tariff matter affected by the deletion.

(3) When deleted tariff material is republished on a different page, the page from which it is deleted shall contain a specific reference to the page on which the relocated provisions can be found.

(e) Amendments effective upon lesser notice periods than those provided by paragraph (b) of this section (i.e., after receipt of special permission authority granted by the Commission), shall contain the notation required by § 531.18(i) of this Part.

(f) If amendments require the addition of pages at the end of a tariff, such pages shall be numbered consecutively with the last existing tariff page and shall be designated as "Original Page___ (insert next following page number)."

§ 531.11 Supplements to tariffs.

(a) A supplement is a particular type of tariff amendment which may be filed to accomplish the following tariff changes only:

(1) General rate changes applicable to all, or substantially all, commodities listed in the tariff;

(2) Transfers of operations or changes in carrier control or name pursuant to § 531.17 of this Part;

(3) Implementation of a Commission suspension order pursuant to § 531.13(b) of this Part;

(4) Changes in effective dates affecting an entire tariff;

(5) Cancellations of either an entire tariff or previous supplements to a tariff; partial cancellations of any type are not to be filed as supplements.

(b) No more than one active supplement affecting any given tariff item shall be permitted at any given time; e.g., only one general rate increase supplement may be on file at any one time.

(c) Tariffs shall contain no more than four active supplements.

(d) Supplements shall contain either a list of participating carriers which conforms with section 531.5(b)(2) of this Part or a statement that the participating carriers are "as shown in the tariff" or "as shown in tariff amended as follows."

(e) Tariff matter brought forward without change from one supplement to another shall be designated "reissued" and shall show the original effective date and the number of the supplement from which it was reissued.

(f) Supplements shall be numbered consecutively with the first to be issued designated number one; e.g., Supplement No. 1 to FMC-F No. 3.

See footnotes at end of article.

(g) The first page of every supplement shall:

(1) Contain the operating name of the publishing carrier as shown on the Title Page of the tariff being amended;

(2) Set out, in the upper right-hand corner and in the following order:

(i) the number of the supplement;

(ii) the series and number of the tariff being amended;

(iii) a statement (if applicable) that the supplement cancels a previous supplement or an entire tariff;

(iv) a statement indicating the numbers of all supplements currently in effect.

E.g., Supplement No. 5 to FMC-F No. 3 cancels Supplement No. 2 FMC-F No. 3. Supplement Nos. 3, 4, and 5 contain all changes.

(3) Publish, in the upper right-hand corner, an effective date which conforms with § 531.10(b) of this Part.

(h) The issuance of a supplement shall require the revision of the Title Page of the tariff being amended (see § 531.5(a)(12)).

(i) Supplements containing more than one page shall be consecutively numbered (with the first page being page number one), shall be bound firmly at the left-hand edge, and may be printed on both sides of the page.

§ 531.12 Cancellation of tariffs.

(a) An entire tariff may be cancelled by:

(1) The issuance of a similar tariff to take its place which contains a cancellation notice printed on the Title Page in accordance with § 531.5(a)(4) of this Part;

(2) The issuance of a consecutively numbered supplement which contains a cancellation notice printed on its first page in accordance with § 531.11(h)(2)(iii) of this Part.

(b) Cancellation of an entire tariff automatically cancels all amendments or supplements thereto. Cancellation by supplement is permitted even if the tariff being cancelled contains the maximum number of active supplements allowed by § 531.11(d)(1).

(c) A cancelling publication shall state the tariff(s) applicable to those services, if any, offered under the cancelled tariff which will continue to be offered by the participating carrier(s) and state where these continued services may be found in such tariff(s). If cancellation changes the rates or charges for any continued services, each change shall be indicated on the cancelling publication by the uniform symbols of § 531.5(b)(5) (i-iii) of this Part.

§ 531.13 Suspension of tariff matter.

(a) The Commission may suspend from use any rate, fare, charge, classification, regulation, or practice for a period of up to four months beyond the time it would otherwise have lawfully taken effect;

(b) Upon receipt of an order suspending a tariff publication in whole or in part, the carrier shall immediately post and file a supplement which:

(1) bears an effective date coinciding with that of the applicable suspension order;

(2) contains a notice which specifically indicates the suspended portion(s) of the publication;

(3) contains a notice which specifically states any tariff provisions which remain effective in lieu of the suspended provisions;

(4) reproduces those portions of the order directed by the Commission to be so published, or, in the absence of such direction, reproduces the suspension order in its entirety.

(c) Neither suspended matter nor matter continued in effect as a result of a suspension, may be amended, deleted or withdrawn except by order or special permission of the Commission; *Provided, however*, That a tariff affected by a suspension order may be amended during the suspension period if the amendment does not affect the suspended materials.

(1) All post suspension amendments shall be accompanied by a notation immediately following the cancellation notation (see §§ 531.10(c) and 531.11(h)(iii) which states: "* * * except portions under suspension in Docket No. _____."

(d) If, prior to receiving a suspension order, a carrier files an amendment reissuing, deleting, cancelling or amending any tariff matter named in a subsequent suspension order, the suspension supplement required by paragraph (b) of this section shall specifically cancel from such intervening amendment the reissued, deleted, cancelled or amended material in question.

(e) Should the Commission vacate a suspension order earlier than the date to which the subject tariff publication was originally suspended, the filing carrier may file a vacating supplement stating the date upon which the previously suspended tariff matter will take effect.

(1) Vacating supplements, unless otherwise provided by the Commission, may take effect on one day's notice. Should a carrier elect not to publish a vacating supplement, the suspended provisions will take effect on the date to which they were originally suspended.

(2) Should an order suspending a tariff in its entirety be vacated, the vacating supplement shall contain no tariff material other than the notice of vacating.

(f) Should the Commission subsequenlty cancel all or any part of a previously suspended tariff publication, the publishing carrier shall effectuate the cancellation by filing upon not less than one day's notice (or such other period as the Commission may specify), a supplement or revised page stating the date upon which such suspended matter was ordered cancelled.

(g) If suspended tariff matter is not cancelled prior to its effective date, it shall take effect automatically and the tariff matter which was continued in effect during the suspension period shall be cancelled automatically.

(h) Suspension, vacating and cancellation supplements issued pursuant to

this section may be issued without regard to the requirements of § 531.11(d)(1) of this Part.

§ 531.14 Governing tariffs.

(a) When it is impractical to include governing rules (e.g., bills of lading/contracts of affreightment, classifications of freight, equipment registers, hazardous cargo rules and similar lengthy tariff matter) in a single rate tariff, these may be separately published and filed as one or more rules tariffs.

(1) Governing tariffs may be used only when expressly referenced by name and series/number designation in the governed tariff of rates or fares as prescribed by §§ 531.5(a)(8) and 531.5(b)(6) of this Part.

(b) Governing tariffs shall conform with all applicable provisions of § 531.5 of this Part.

(c) A rule or regulation affecting freight rates or passenger fares may appear in only one governing tariff.

(d) A governing tariff containing a clasification of commodities shall list all commodities in an orderly manner and a specific rating must be shown in connection with each commodity description employed. Rules applying to the classification must precede the list of commodities and shall be separately numbered. Such a classification is valid only in connetcion with and to the extent expressly provided for in the rate tariff(s) it governs.

§ 531.15 Tariffs applicable to seasonal transportation service.

Tariffs naming rates, fares or rules applicable to all water routes which are closed to navigation during part of a year shall:

(a) Either: (1) Expressly provide for their own expiration at the close of the navigation season; or

(2) Provide for a discontinuance/restoration of service by the publication, either on the Title Page or by an internal rule referenced on the Title Page, of provisions governing such seasonal discontinuance/restoration.

(b) Publish provisions governing the handling of shipments which may arrive at the publishing carrier's facilities after the date service is discontinued.

§ 531.16 Index of tariffs.

(a) Carriers participating in five or more active tariffs, either published in their own names or otherwise, shall publish, post and file an index of such tariffs designated as FMC–I No. _____. No notice period is required for tariff indices; they may take effect upon filing.

(b) The Title Page of an Index of Tariffs shall follow the requirements of § 531.5 of this Part, except that it shall not contain the material required by § 531.5(a) (5), (6), (7), (9), and (11)—scope, statement of service, statement of rate types, effective or expiration date, and list of participating carriers. In addition, the Title Page shall bear the following notation:

See footnotes at end of article.

This index contains a list of tariff publications in effect on (show publication date).

(c) The body of an Index of Tariffs shall list the following types of tariffs, as applicable, in the following order: specific commodities tariffs; general commodities tariffs; class tariffs; passenger tariffs; rules tariffs; miscellaneous tariffs.

(d) Each tariff listed in an Index of Tariffs shall be accompanied by the following information, as applicable, arranged in a columnar manner: FMC series and number designation; operating name of publishing carrier; type of service and type of rates offered; and ports or points from, to and between which the tariff applies.

(1) Tariffs of each type named in paragraph (c) of this section shall be arranged in numerical order by FMC series and number designation.

(e) Indices shall be revised to reflect tariff changes within 30 days from the effective date of the addition or cancellation involved, either by filing and posting a supplement or by filing and posting a reissued index.

(1) Supplements to an Index of Tariffs shall be numbered consecutively, shall be arranged in the same order as the index, and shall show additions, modifications and cancellations by reference to the page and item numbers of the changed entries. Each new supplement shall bear the following notation on its Title Page:

Supplement Nos. ____ and ____ contain changes in effect on date hereof, or which have been filed to become effective at a later date as shown within.

§ 531.17 Transfer of operations, transfer of control and changes in carrier name.

(a) Whenever a carrier performing an ongoing service pursuant to duly posted and filed tariffs either: sells its common carrier operations to another person; transfers working control of its business to another person; or changes its operating or legal name, the person legally entitled to control the ongoing common carrier operation (the "adopting carrier") shall simultaneously file:

(1) A one-page adoption notice numbered in the adopting carrier's FMC series, which states:

FMC–F (or –P or –G) No. ____

(operating name of adopting carrier)

Adoption Notice

The _____
(operating name of adopting carrier)
hereby adopts, ratifies, and makes its own, in every respect and as if the same had been originally filed and posted by it, all freight (*or passenger, rules or other*) tariffs, notices, divisions, authorities, delegations of authority, or other instruments whatsoever, including supplements or amendments thereto, filed with the Federal Maritime Commission by, or heretofore adopted by, the _____
(operating name of the carrier previously performing the adopted service)
prior to _____
(effective date of change in operating control).

Issued by (Issuing Official as per § 531.3(d) of this Part).

Effective Date (see § 531.10(b)(2)).

(2) A consecutively numbered, revised Title Page to each tariff being adopted, which contains the following statement:

Effective _____, this
(insert date)
tariff became the tariff of _____
_____
(insert operating name of adopting carrier)
pursuant to its adoption notice published in its Tariff FMC– _____
(insert series and number designation).

(i) such revised Title pages shall be accompanied by a letter of concurrence from an appropriate officer (not a tariff agent) of the previous carrier, stating the full details of the transaction necessitating the adoption, and the previous carrier's concurrence therein.

(b) Tariffs adopted under this section shall be cancelled in their entirety within 90 days and shall not be supplemented or amended subsequent to adoption other than to accomplish said cancellation.

(1) The adopting carrier shall publish replacement tariffs under its own operating name and bearing its own consecutive FMC series and number designation to be effective the date following the last effective day of the cancelled tariff. The new tariff shall provide 30 days notice of its effective date (see § 531.3(f)), and shall also cancel the adoption notice filed pursuant to paragraph (a) of this section.

(c) Tariffs naming participating carriers shall be amended within 90 days whenever any participating carrier transfers its operations, transfers control of its business, or changes its name, and the adopting carrier continues to participate in the service. The amendment shall delete all references to the adopted carrier (or old name) and substitute references to the adopting carrier (or new name) in their place. Similarly, all delegations of authority adopted by a new carrier (or affected by a name change) shall be replaced within 90 days by new delegations of authority issued by and numbered in the series of the new carrier.

(1) Such amendments shall provide 30 days notice of their effective date (see § 531.3(f)).

(d) Should a carrier enter receivership, or otherwise come under the control of a trustee, the notices, cancellations and tariffs required by paragraphs (a) and (b) of this section shall be filed in the FMC series of the previous carrier by the receiver or trustee appointed. When the receivership/trusteeship is terminated, the successor to the ongoing common carrier operations (if any) shall also publish all notices, cancellations and tariffs required by paragraphs (a) and (b).

(e) Adoption of only part of the service extended under a given rate tariff is forbidden. When less than an entire existing operation is transferred to a successor carrier (or new carrier name), all current tariffs must be cancelled or otherwise amended and the successor carrier must file and post its own

tariff(s) upon the 30 days notice required for any new service (see § 531.3 (f)).

§ 531.18 Applications for special permission.

(a) Upon a showing of good cause, the Commission may permit rate changes or the issuance of new or initial rates to take effect on short notice, and otherwise waive the requirements of this Part.

(1) Special permission requests for authority to correct typographical errors must specify the error involved, include a full statement of the attending circumstances, and be presented with reasonable promptness after issuance of the defective tariff publication.

(2) Other special permission requests shall state the specific rules from which relief is requested, the special circumstances requiring relief, and the beneficial results to be obtained from the requested waiver.

(b) Special permission authority shall not be granted to:

(1) allow a carrier to change rates or other tariff provisions on less than full notice for the purpose of meeting competition, where the competitor in question altered its rates/provisions on full notice.

(2) modify a formal order of the Commission; such modifications may be accomplished only by petitioning the Commission.

(c) Authority granted by special permission must be used in its entirety and only in the manner set forth in such special permission.

(d) Special permission authority must be applied for by the same person that filed the tariff publication for which special permission is sought.

(e) In addition to the information required by subparagraph (a) of this section, an application for special permission shall contain:

(1) An exact copy of the tariff matter the applicant proposes to file, clearly designated as an exhibit to the application, but otherwise in the form required by the rules of this Part. If the proposed amendment consists of rate changes, all points of origin and destination must be stated in the application if not otherwise included in the exhibit.

(i) Tariff series and number designations (including supplements, if applicable) and all cancellations which would be made must be shown.

(2) The names of carriers known to maintain provisions competitive to those for which the applicant seeks relief and a certification signed by the filing party that all such carriers have been served with a copy of the special permission application. Service by first class mail, postagt prepaid, correctly addressed to the intended receipient's principal place of business, and posted no later than the date of filing, is acceptable where personal service is impractical.

(3) The entire application shall be signed and its accuracy sworn to by the filing party at a place within the United States, its commonwealths, territories, or possessions, pursuant to 28 U.S.C. 1746 (Pub. L. 94-550). Immediately following the text of the application and immediately preceding the signature of the filing party, there shall appear the statement:

I declare under penalty of perjury that the foregoing is true and correct. Executed at _____ on _____
(insert place of execution) (insert date of execution).

(f) Special permission applications (including attachments) thereto shall be filed in duplicate.

(g) Special permission applications shall be filed in substantially complete form at least five working days prior to the effective date of the proposed tariff filing; *Provided*, That petitions for waiver of this requirement may be granted if they are sworn to in the manner of subparagraph (e)(3) of this section and demonstrate that a genuine emergency justifying a shorter notice period exists.

(h) The Commission may, upon the application of interested persons, or upon its own motion, establish or rescind special permission authorities as it sees fit.

(i) Tariff publications filed pursuant to a grant of special permission shall publish the following notation at the bottom of each page of such publication (at the bottom of the first page only in the case of supplements):

Published under authority of Federal Maritime Commission Special Permission No. _____.

§ 531.19 Special rules for bound tariffs filed pursuant to special permission authority.

(a) Such bound tariffs as may be permitted to be filed by special permission are subject to these rules in addition to those other rules in the Part which govern tariff filing generally.

(b) All pages of bound tariffs shall be firmly and permanently fastened together on the left edge by an appropriate binding method. The simple insertion of one or two staples in the binding edge shall not suffice to meet this requirement, but the binding process known as saddle stitching is acceptable.

(c) Section 531.4(a) of this Part is waived to the extent it requires bound tariff pages to be printed on only one side.

(d) Section 531.4(g) of the Part is waived to the extent it requires an effective date to be published on pages other than the title page of a bound tariff.

(e) Section 531.5(a) and Section 531.11 of this Part are waived to the extent they require the title page of a bound tariff to reflect all supplements either issued or in effect.

(f) Supplements shall be the only method of amending bound tariffs. In addition to the requirements of section 531.11, the following shall apply to bound tariff supplements:

(1) They shall refer specifically to the page and item designation of the tariff/supplement item to be amended;

(2) Amendments to a numbered or otherwise designated item must publish the amended item in its entirety;

(3) Amendments to items shall bear the same designation as the item being amended, with a consecutive letter suffix, and shall show the cancellation of the prior item edition, e.g., Item 10-A cancels Item 10; Item 10-B cancels Item 10-A, etc.

FOOTNOTES

[1] TMT's Comments were filed over 30 days late and were accompanied by a "Motion for Leave to File" which failed to state reasonable grounds for waiving the filing deadline as required by section 502.102 of the Commission's Rules. Accordingly, TMT's motion will be denied and only its Reply Comments considered by the Commission.

[2] Certain items initially appearing in section 531.0 which pertained to the substantive content of tariffs were placed in final section 531.3(p).

[3] To more clearly distinguish interstate commerce subject to the Shipping Act from interstate commerce subject to the Interstate Commerce Act, the Commission has adopted the term "domestic offshore commerce" to refer to the former. See final section 531.2(h).

[4] Appropriate editorial changes were made in final section 531.8 to conform it to the modified definition of "through intermodal transportation" contained in final section 531.2(u). See also Items 8 and 10, *infra*.

[5] Not all government or charity shipments fall within this relatively narrow category.

[6] Final section 531.6(m)(5) states that a project rate must *contribute to* the carrier's fixed expenses, but does not prescribe on exact percentage or standard for measuring this contribution. Proposed rates will be examined on a case-by-case basis to determine if a genuine, commercially realistic contribution is being made.

[7] 49 U.S.C. 902(i)(3)(B).

[FR Doc.77-29591 Filed 10-7-77;8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-675]

Part 0—COMMISSION ORGANIZATION

Designating and Establishing the New Compliance and Litigation Task Force of the Common Carrier Bureau

AGENCY: Federal Communications Commission.

ACTION: Amendment of rules.

SUMMARY: The purpose of this amendment is to change the rules to reflect the establishment of the Compliance and Litigation Task Force within the Common Carrier Bureau.

EFFECTIVE DATE: October 18, 1977.

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

FOR FURTHER INFORMATION CONTACT:

H. Walker Feaster, III, Office of Executive Director, 632-7513.

SUPPLEMENTARY INFORMATION:

Adopted: September 15, 1977.

Released: October 7, 1977.

Order. In the matter of amendment of Part 0 Subpart A of the Commission's Rules and Regulations concerning Orga-

nization of the Commission and the Common Carrier Bureau.

1. On September 15, 1977, the Commission approved the establishment of the Compliance and Litigation Task Force within the Common Carrier Bureau to coordinate the review of major tariff filings, and cost of service studies filed pursuant to recent Commission ratemaking decisions. These filings and studies are of such a precedential nature and complexity that it appears appropriate to establish a separate organizational unit reporting directly to the Bureau Chief.

2. This Order is issued to designate and establish the new Compliance and Litigation Task Force.

3. Because this amendment relates to internal Commission organization and practice, the prior notice and effective date provisions of section 4 of the Administrative Procedure Act, 5 U.S.C., 533 do not apply.

4. Authority for the amendment adopted herein is contained in sections 4(i) and 5(b) of the Communications Act as amended.

5. *Accordingly, it is ordered*, That effective October 18, 1977, Part 0 of the Commission's rules and regulations is amended as set forth below.

(Secs. 4, 5, 303, 48 Stat., as amended, 1066, 1068, 1082; (47 U.S.C. 154, 155, 303).)

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

1. In § 0.92, paragraph (i) is added to read as follows:

§ 0.92 Units in the Bureau.

* * * * *

(i) Compliance and Litigation Task Force.

2. In § 0.101 the headnote and text are amended to read as follows:

§ 0.101 Compliance and Litigation Task Force.

Responsible for coordinating the review of major tariffs filed pursuant to the direction and guidelines established in:

Docket No. 18128—Private Line Services.
Docket No. 19129—Message Telecommunications Services (MTS).
Docket No. 19989—Wide Area Telecommunications Services (WATS).
Docket No. 20097—Regulatory Policies Concerning Resale and Shared Use of Common Carrier Services and Facilities.
Docket No. 20288—Dataphone Digital Service (DDS).

Other tariff filings assigned to it by the Chief, Common Carrier Bureau. Members of the Task Force also serve as the nucleus of, or as a special separated trial staff in the event any issues are designated for hearing. The Compliance and Litigation Task Force will:

(a) Coordinate the review of new and revised tariff schedules filed pursuant to Commission direction and guidelines to determine whether the charges, practices, classifications, and regulations contained therein are lawful, just, reasonable, and not unduly discriminatory.

(b) Recommend appropriate action on tariffs including acceptance, rejection or suspension, or designation for hearing.

(c) Define issues, conduct preliminary fact-finding studies, and prepare necessary orders.

(d) Serve as the nucleus of, or as separated trial staff for issues designated for hearing.

(1) Prepare cases for trial, including pre-trial discovery procedures such as interrogatories, depositions and motions to produce.

(2) Arrange for staff or contractor studies where necessary in connection with trial work on questions regarding rates, rate bases, rate levels and structures, investment costs and expenses, cost of service studies, rates of return and carrier regulations concerning terms and conditions of service.

(3) Examine witnesses during hearings; prepare proposed findings and conclusions; and prepare exceptions to initial or recommended decisions and briefs.

(4) Participate in oral arguments before appellate bodies within the Commission.

(e) Coordinate with other organizational units within the Bureau in interpreting and implementing the Docket No. 18128 and other relevant Commission decisions previously noted.

3. A new § 0.102 is added to read as follows:

§ 0.102 Field Offices.

Common Carrier Bureau field offices are located in Room 1309-X, 90 Church Street, New York, N.Y. 10007; and Room 546, 210 Twelfth Street, St. Louis, Mo. 63101.

[FR Doc.77-29703 Filed 10-7-77;8:45 am]

[6712-01]

PART 17—CONSTRUCTION, MARKING AND LIGHTING OF ANTENNA STRUCTURES

Editorial Amendments Adopting Metric System of Measurements

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This Order amends the Commission's rules by converting the customary English units of measurement to the International System of Units (SI) as contained in the Metric Conversion Act of 1975 (Pub. L. 94-168). No actual measurements are being changed at this time, however, and the English values will continue to govern until such time as new metric values may be established. Other minor or editorial changes in keeping with the conversion to the metric system are included in this Order.

EFFECTIVE DATE: October 17, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Joseph G. Thomas, Antenna Survey Branch, Telephone 202-632-7521.

Adopted: September 30, 1977.

Released: October 6, 1977.

Order. In the matter of amendment of Part 17 rules and regulations to adopt Metric System of Measurements and make other editorial changes.

1. The Amendments herein are in accord with the Commission's announced program, adopted July 28, 1976, for converting to the International System of Units (SI) as contained in the Metric Conversion Act of 1975 (Pub. L. 94-168). Metric units of measurement will replace the customary English units as the primary measurement system.

2. The metric equivalents are being added to Part 17 rules and regulations to inaugurate the eventual conversion to the full metric system. No actual measurements are being changed at this time, however, and the English values in parenthesis will continue to govern until such time as new metric values are established.

3. To some extent, all subparts of Part 17 are affected by the amendment, and since Part 17 is being extensively revised in this respect, other minor or editorial changes in keeping with the conversion to the metric system are included. The required intensities to be attained by red obstruction lights for example, are expressed in candelas—to insure their visibility to aircraft under prescribed meteorological minimums.

4. Finally, relief is being afforded those licensees employing dual obstruction lighting (red for nighttime and white for daytime) by enabling the use of the omnidirectional antenna obstruction light in both the red and white modes.

5. For the reasons set forth above, we conclude that the adoption of these amendments will serve the public interest. Prior notice and effective date provisions of the Administrative and Judicial Review Act (5 U.S.C. 553) are not applicable. Therefore, It is ordered, That pursuant to sections 4(i) and 303(q) of the Communications Act of 1934, as amended and § 0.231 of the Commission's rules. Part 17 of the Commission's rules and regulations is amended effective October 17, 1977, as set forth below.

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

FEDERAL COMMUNICATIONS COMMISSION,
R. D. LICHTWARDT,
Executive Director.

Part 17 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

§ 17.4 [Amended]

1. In § 17.4(f) change "20 feet" in lines 2 and 3 to "6.10 meters (20 feet)".

§ 17.7 [Amended]

2. In § 17.7(a) change "200 feet" to "0.96 meters (200 feet)".

In § 17.7(b)(1) change "20,000 feet" to "6.10 kilometers (20,000 feet)" in line

1, and "3,200 feet" to "0.98 kilometers (3,200 feet)" in line 4.

In § 17.7(b)(2) change "10,000 feet" to "3.05 kilometers (10,000 feet)" in line 1, and "3,200 feet" to "0.98 kilometers (3,200 feet)" in line 4.

In § 17.7(b)(3) change "5,000 feet" to "1.52 kilometers (5,000 feet)" in line 1.

§ 17.10 [Amended]

3. In § 17.10 the headnote and the introductory statement are each amended by changing "1,000 feet" to "304.80 meters (1,000 feet)".

§ 17.14 [Amended]

4. In § 17.14(b) change "20 feet" to "6.10 meters (20 feet)".

§ 17.21 [Amended]

5. In § 17.21(a) change "200 feet" to "60.96 meters (200 feet)".

§ 17.23 [Amended]

6. In § 17.23 change "100 feet" and "1½ feet" to "30.48 meters (100 feet)" and "0.46 meters (1.5 feet)" respectively.

§ 17.24 [Amended]

7. In § 17.24, the headnote and introductory statement are each amended by changing "150 feet" to "45.72 meters (150 feet)".

In § 17.24(a), a new sentence is inserted after the first sentence reading as follows:

* * * * *

(a) * * * The intensity of each lamp shall not be less than 32.5 candelas. * * *

Also, in § 17.24(a), the last sentence is amended to read as follows:

* * * * *

(a) * * * When a light sensitive device is used, it shall be adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertifical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.25 [Amended]

8. In § 17.25 the headnote is amended by changing "150 feet" to "45.72 meters (150 feet)" and "300 feet" to "91.44 meters (300 feet)".

In § 17.25(a) change "150 feet" to 45.72 meters (150 feet)", and "200 feet" to "60.96 meters (200 feet)" in lines 2 and 4, and change "300 feet" to "91.44 meters (300 feet)" in line 5.

In § 17.25(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6, and insert a new sentence after the first sentence, reading as follows:

(a)(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red).

In § 17.25(a)(2) a new sentence is inserted after the first sentence reading as follows:

(a) * * *

(2) * * * The intensity of each lamp shall not be less than 32.5 candelas. * * *

Section 17.25(a)(3) is amended to read as follows:

(a) * * *

(3) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.26 [Amended]

9. In § 17.26, in the headnote and in Paragraph 17.26(a), "300 feet" is changed to "91.44 meters (300 feet)" and "450 feet" is changed to "137.16 meters (450 feet)".

In § 17.26(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red). * * *

In § 17.26(a)(2) insert after the first sentence, a new sentence reading:

(a) * * *

(2) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.26(a)(3) is amended to read as follows:

(a) * * *

(3) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.27 [Amended]

10. In § 17.27, in the headnote and in Paragraph 17.27(a), "450 feet" is changed to "137.16 meters (450 feet)" and "600 feet" is changed to "182.88 meters (600 feet)".

In § 17.27(a)(1), change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading as follows:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red). * * *

Section 17.27(a)(3) is amended by adding a second sentence reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas. * * *

* * * * *

Section 17.27(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.28 [Amended]

11. In § 17.28, in the headnote and in § 17.28(a), "600 feet" is changed to "182.88 meters (600 feet)" and "750 feet" is changed to "228.60 meters (750 feet)".

In § 17.28(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red).

* * * * *

Section 17.28(a)(3) is amended by adding a second sentence reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

* * * * *

Section 17.28(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 367.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.29 [Amended]

12. In § 17.29, in the headnote and in § 17.29(a), "750 feet" is changed to "228.60 meters (750 feet)" and "900 feet" is changed to "274.32 meters (900 feet)".

In § 17.29(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red).

* * * * *

Section 17.29(a)(3) is amended by adding a second sentence reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.29(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.30 [Amended]

13. In § 17.30, in the headnote and in § 17.30(a), "900 feet" is changed to "274.32 meters (900 feet)" and "1,050 feet" is changed to "320.04 meters (1,050 feet)".

In § 17.30(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red). * * *

Section 17.30(a)(3) is amended by deleting the last word "structure" and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.30(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.31 [Amended]

14. In § 17.31, in the headnote and in Paragraph 17.31(a), "1,050 feet" is changed to "320.04 meters (1,050 feet)" and "1,200 feet" is changed to "365.76 meters (1,200 feet)".

In § 17.31(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning insensity shall not be less than 2,000 candelas (in red).

Section 17.31(a)(3) is amended by deleting the last word, "structure", and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.31(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.32 [Amended]

15. In § 17.32, in the headnote and in § 17.32(a), "1,200 feet" is changed to "356.76 meters (1,200 feet)" and "1,350 feet" is changed to "411.48 meters (1,350 feet)."

In § 17.32(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red).* * *

Section 17.32(a)(3) is amended by adding a second sentence reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.32(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.33 [Amended]

16. In § 17.33, in the headnote and in § 17.33(a), "1,350 feet" is changed to "411.48 meters (1,350 feet)" and "1,500 feet" is changed to "457.20 meters (1,500 feet)".

In § 17.33(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red).* * *

Section 17.33(a)(3) is amended by adding a second sentence reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.33(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of 376.74 lux (35 fc) and turned off when the north sky illuminance level on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.34 [Amended]

17. In § 17.34, in the headnote and in § 17.34(a), "1,500 feet" is changed to "457.20 meters (1,500 feet)" and "1,650 feet" is changed to "502.92 meters (1,650 feet)".

In § 17.34(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red).* * *

Section 17.34(a)(3) is amended by deleting the last word "structure" and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.34(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.35 [Amended]

18. In § 17.35, in the headnote and in § 17.35(a), "1,650 feet" is changed to "502.92 meters (1,650 feet)" and "1,800 feet" is changed to "548.64 meters (1,800 feet)".

In § 17.35(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red). * * *

Section 17.35(a)(3) is amended by deleting the last word, "structure", and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.35(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level not less than 367.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.36 [Amended]

19. In §17.36, in the headnote and in § 17.35(a), "1,800 feet" is changed to "548.64 meters (1,800 feet)" and "1,950 feet" is changed to "594.36 meters (1,950 feet)".

In § 17.36(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red). * * *

Section 17.36(a)(3) is amended by deleting the last word, "structure" and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

Section 17.36(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 376 64 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level of not less than 624.31 lux (58 fc).

§ 17.37 [Amended]

20. In § 17.37, in the headnote and in Paragraph 17.37(a), "1,950 feet" is

changed to "594.36 meters (1,950 feet)" and "2,100 feet" is changed to "460.08 meters (2,100 feet)".

In § 17.37(a)(1) change "20 feet" to "6.10 meters (20 feet)" in line 6 and insert, after the first sentence, a new sentence reading:

(a) * * *

(1) * * * The steady burning intensity shall not be less than 2,000 candelas (in red). * * *

Section 17.37(a)(3) is amended by deleting the last word, "structure" and replacing with "tower at each level."—ending the sentence. A second sentence is added reading:

(a) * * *

(3) * * * The intensity of each lamp shall not be less than 32.5 candelas.

* * * * *

Section 17.37(a)(4) is amended to read as follows:

(a) * * *

(4) All lights shall burn continuously or shall be controlled by a light sensitive device adjusted so that the lights will be turned on when the north sky illuminance on a vertical surface falls to a level of not less than 367.74 lux (35 fc) and turned off when the north sky illuminance on a vertical surface rises to a level or not less than 624.31 lux (58 fc).

§ 17.38 [Amended]

21. In § 17.38, in the headnote and in the single paragraph which follows, "2,100 feet" is changed to "640.08 meters (2,100 feet)".

22. In the Sub-Title preceding § 17.39 and in the "Note" immediately following, the word "white" is inserted between the words "high intensity" and "obstruction lighting" in the sub-title and in line 2 of the *Note*. The final sentence of the *Note* is rewritten and a new paragraph added reading as follows:

NOTE.—A white capacitor discharge omnidirectional light is mounted on or adjacent to the appurtenance, if more than 6.10 meters (20 feet), to complement the lighting system.

Where a dual lighting system is employed, i.e., high intensity white obstruction lighting during daylight and red obstruction lighting at night, the omnidirectional high intensity light, if equipped with an aviation red color filter for nighttime illumination, may be used in lieu of the 300 mm top beacon specified in § 17.24(a) and subparagraph (a)(1) in §§ 17.25 through 17.37.

§ 17.39 [Amended]

22. In § 17.39 the headnote and the introductory statement are amended by changing "300 feet" to "91.44 meters (300 feet)".

In § 17.39(b) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and 10.

In § 17.39(c)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.39(c)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17,40 [Amended]

In § 17.40 the headnote and the introductory statement are amended by changing "300 feet" to "91.44 meters (300 feet)" and "600 feet" to "182.88 meters (600 feet)".

In § 17.40(c) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and 10.

In § 17.40(d)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.40(d)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17.41 [Amended]

24. In § 17.41 the headnote and the introductory statement are amended by changing "600 feet" to "182.88 meters (600 feet)" and "1,000 feet" to "304.80 meters (1,000 feet)".

In § 17.41(c) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and 10.

In § 17.41(d)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.41(d)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "31.53 lux (2 fc)" respectively

§ 17.42 [Amended]

In § 17.42 the headnote and the introductory statement are amended by changing "1,000 feet" to "304.80 meters (1,000 feet)".

In § 17.42(b) change "1,000 feet" and "1,400 feet" in line 6 to "304.80 meters (1,000 feet)" and "426.72 meters (1,400 feet)" respectively, and in line 7 change "400 feet" to "121.92 meters (400 feet)".

In § 17.42(c) change "20 feet" to "6.10 meters (20 feet)" where it appears in lines 2 and in line 10.

In § 17.42(d)(1) change "60 footcandles" and "30 footcandles" to "645.84 lux (60 fc)" and "322.92 lux (30 fc)" respectively.

In § 17.42(d)(2) change "5 footcandles" and "2 footcandles" to "53.82 lux (5 fc)" and "21.53 lux (2 fc)" respectively.

§ 17.45 [Amended]

26. In § 17.45, the word "red" is inserted between the words "which" and "obstruction" in line 2. A new sentence is inserted after the word "structure" in the first sentence to read as follows:

* * * The intensity of each lamp shall not be less than 32.5 candelas. * * *

Also, in § 17.45, the last sentence is amended to read as follows:

* * * If practical, the permanent obstruction lights may be installed and operated at each required level as construction progresses.

27. Section 17.54 is amended, with the exception of the headnote, to read as follows:

§ 17.54 Rated lamp voltage.

To insure the necessary lumen output by obstruction lights, the rated voltage of incandescent lamps used shall correspond to be within 3 percent higher than the voltage across the lamp socket during the normal hours of operation.

[FR Doc.77-29702 Filed 10-7-77;8:45 am]

[6712-01]

PART 73—RADIO BROADCAST SERVICES

Providing Revised Period for Construction of Subscription Television Stations

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Section 73.642(c) of the Commission's rules is amended to specify 18 instead of 8 months as the time period within which holders of subscription television authorizations must complete construction of their transmitting facilities. This change was inadvertently omitted when the Commission amended § 1.598 of the rules to provide an 18 instead of 8 month time period within which construction of a new television broadcast station must be completed.

EFFECTIVE DATE: October 12, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Freda Lippert Thyden, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Order. In the matter of amendment of § 73.642(c) of the Commission's rules to provide a revised period for construction of subscription television stations.

Adopted: September 23, 1977.

Released: September 30, 1977.

1. Under consideration here is that part of § 73.642(c) of the Commission's rules which provides that "holders of subscription television authorizations shall complete construction of subscription television ("STV") transmitting facilities within a period of 8 months after issuance of the authorization unless otherwise determined by the Commission upon proper showing in any particular case."

2. In 1970, the Commission in a *Report and Order*, 23 F.C.C. 2d 274, amended its rules to specify in § 1.598 new construction periods for various classes of broadcast stations. At that time, the period for construction of a new television station was lengthened from 8 to 18 months. In 1974, this rule was revised to clearly state that the time allowed for completion of construction applies not only to new construction but to changes in existing stations as well (FCC 74-653). Another § 73.642(c), governed the period for constructing STV facilities. When the other time periods

were changed, however, the Commission inadvertently failed to amend the then recently enacted § 73.642(c) of the Commission's rules to provide the same 18-month time period for construction of STV facilities. By implication, if it were a new station that was designed for an STV operation, the 18-month period from § 1.598 applied. However, such would not be the case if it were an existing station that was establishing STV facilities. It was not the Commission's intention to make such a distinction, nor had it done so in regard to other kinds of television construction. In order to correct this disparity, we are herein amending § 73.642(c) to conform with § 1.598 of the rules.[1]

3. Since the Commission has already considered the reasons for and against extending the time period for construction of television stations in Docket No. 18763, in which § 1.598 was amended, it is unnecessary to issue a notice of proposed rule making to cover what essentially would be the same material again. See the Administrative Procedure provisions of section 553(b)(3)(B) of Title 5 of the U.S. Code.

4. Because we believe that the new time period provided by amending § 73.642(c) should and will minimize the number of requests for extensions of time to construct STV transmitting facilities, as it has for other types of stations, we are deleting, as unnecessary, the provision in that sub-section to the effect that extensions may be had on proper showings in particular cases. As with other types of authorizations, such extension requests are governed by § 1.534 of the rules.

5. In accordance with the foregoing: *It is ordered*, That effective October 12, 1977, § 73.642(c) of the Commission's rules and regulations is amended to read as set forth below. Authority for the action proposed herein is set out in Sections 4(i), 5(d)(1), 303(r) and 319 of the Communications Act of 1934, as amended and Section 553(b)(3)(B) of Title 5 of the U.S. Code.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

In § 73.642 paragraph (c) is amended to read as follows:

§ 73.642 Licensing policies.

* * * * *

(c) Holders of subscription television authorizations shall complete construction of subscription television transmitting facilities within a period of 18 months after issuance of the authorization. The holder of a subscription television authorization shall file a report in the ninth month after the grant of the authorization setting forth the progress made toward building the subscription television facility. During the process of construction of the subscription television facilities, the holder of the authorization, after notifying the Commission and the Engineer in Charge of the radio district in which the station is located, may, without further authority of the Commission, conduct equipment tests for the purposes of such adjustments and measurements as may be necessary to assure compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations. The Commission may notify the holder of the authorization not to conduct tests if such tests appear to be contrary to the public interest, convenience, and necessity. Upon completion of the construction, the holder of the authorization shall submit a detailed showing that compliance with the terms of the authorization, the technical provisions of the application therefor, and the rules and regulations has been achieved. No subscription television operation shall commence until requirements of this paragraph have been fulfilled and operation has been specifically authorized by the Commission.

* * * * *

[FR Doc.77-29601 Filed 10-7-77;8:45 am]

[1] As with other 18-month permits, a report must be filed during the 9th month after the date of the grant of the STV authorization setting forth the status of construction.

[6712-01]

PART 91—INDUSTRIAL RADIO SERVICES

Designating 489.6625 MHz as a New Starting Point for Assigning Frequencies in Business Radio Service in the Houston, Texas, Metropolitan Area in the 470–512 MHz

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: The Fifth Report and Order in Docket 18261 provided for designating new starting points for frequency assignments as channels become filled in certain cities. This Order designates 489.6625 MHz as the new starting point for frequency assignments in the Business Radio Service at Houston.

EFFECTIVE DATE: October 17, 1977.

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

FOR FURTHER INFORMATION CONTACT:

A. C. King, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, 202-632-6497.

Adopted: September 30, 1977.

Released: October 3, 1977.

Order. In the matter of the designation of 489.6625 MHz as a new starting point for assigning frequencies in the Business Radio Service in the Houston, Texas, metropolitan area in the 470–512 MHz band.

1. In the Fifth Report and Order in Docket 18261 the Commission provided a flexible frequency assignment plan for the 470–512 MHz band frequencies available in Dallas and Houston, Texas, and in Miami, Florida. "Land Mobile/UHF-TV Sharing Plan," 48 FCC 2d 360 (1974). In Paragraph 12 of that Report and Order, the Commission said, "* * * since all of the frequencies are to be available in all eligible radio services, the frequencies in which the first assignments are to be made do not necessarily set out the boundaries for frequency availability in a particular radio service. A new starting frequency may be assigned by the staff for any of the various groups when the frequencies available to it in sequence are exhausted. Also, should any group fail to use its assigned frequency, that base line may be moved." "Land Mobile/UHF-TV Sharing Plan," supra, at p. 364.

2. The frequencies available in sequence in the Business Radio Service in Houston in the 470–512 MHz band are now occupied and are substantially loaded. Therefore, in accordance with Paragraph 12 of the Report and Order in Docket 18261, an additional starting point is being established. That starting frequency will be 489.6625 MHz. Assignments will be made sequentially in ascending and descending order from this frequency until all available contiguous channels are occupied.

3. This action is taken pursuant to the authority contained in Section 4(i) of the Communications Act of 1934, as amended, and to authority delegated by the Commission in the "Fifth Report and Order" in Docket 18261 previously cited. The amendment to § 91.114(f)(3) is for conformity with substantive matters which were previously decided in the "Fifth Report and Order" and which are being implemented herein. Therefore, compliance with the prior notice requirements prescribed by 5 U.S.C. 553 is unnecessary.

4. *Accordingly, it is ordered*, That effective October 17, 1977, § 91.114(f)(3) of the Commission's rules is amended as shown below.

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

VERNON A. SPRING,
Acting Chief, Safety and Special Radio Services Bureau.

Part 91 of Chapter I of Title 47 of the Code of Federal Regulations is amended as follows:

Section 91.114(f)(3) is amended to read:

§ 91.114 Frequencies in the band 470–512 MHz.

* * * * *

(f) * * *

(3) Base station frequencies for the Business Radio Service will be assigned serially beginning at 472.3625 MHz for Miami, 484.3625 MHz for Dallas, and 489.6625 MHz and 498.3625 MHz for Houston and progressing, a channel at a time, upward and downward from those points. Mobile station frequencies are 3 MHz higher than the corresponding base station frequencies. Normally, each channel shall be substantially filled before the next channel will be assigned.

* * * * *

[FR Doc.77-29705 Filed 10-7-77;8:45 am]

[7035-01]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER A—GENERAL RULES AND REGULATIONS

[Service Order No. 1280]

PART 1033—CAR SERVICE

Substitution of Hopper Cars for Covered Hopper Cars or Boxcars

AGENCY: Interstate Commerce Commission.

ACTION: Emergency order (Service Order No. 1280).

SUMMARY: There is a shortage of covered hopper cars for shipments of grain and soybeans and their products. Supplies of open hopper cars can be made available to shippers willing to substitute those cars for covered hoppers or for boxcars. However, in some instances, the rates are applicable only to shipments loaded into covered hopper cars or boxcars. Service Order No. 1280 authorizes railroads, subject to the consent of the shipper, to substitute open hopper cars for covered hopper cars or boxcars ordered for shipments of these commodities.

DATES: Effective 12:01 a.m., October 4, 1977. Expires 11:59 p.m., November 30, 1977.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: The Order is printed in full below.

At a Session of the Interstate Commerce Commission, Railroad Service Board, held in Washington, D.C., on the 4th day of October, 1977.

There is an acute shortage of covered hopper cars and boxcars for transporting shipments of grain, grain screenings, soybeans, or grain products in certain sections of the country. Some carriers have adequate supplies of open hopper cars. Use of these cars for transporting grain, grain screenings, soybeans or grain products is precluded by certain tariff provisions requiring the use of covered hopper cars or boxcars, thus curtailing shipments of grain, grain screenings, soybeans, or grain products and creating great economic loss. In the opinion of the Commission, present regulations and practices with respect to the use, supply, control, movement, and distribution of covered hopper cars and boxcars are ineffective, and an emergency exists requiring immediate action to promote car service in the interest of the public and the commerce of the people. Accordingly, the Commission finds that notice and public procedure are impracticable and contrary to the public interest, and that good cause exists for making this order effective upon less than thirty days' notice.

It is ordered, That:

§ 1033.1280 Substitution of Hopper Cars for Covered Hopper Cars or Boxcars.

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

(1) *Substitution of Cars*—Subject to the concurrence of the shipper, the carrier may substitute open hopper cars for shipments of grain, grain screenings, soybeans, or grain products, whether from the point of origin or from an intermediate in-transit point, regardless of tariff provisions requiring the use of covered hoppers or boxcars.

(2) *Minimum Weights*—The minimum weights per shipment of grain, grain screenings, soybeans, or grain products transported in open hopper cars substituted for covered hopper cars or boxcars shall be the minimum weights specified in the tariffs for shipments made in covered hopper cars or boxcars regardless of the number of open hopper cars required to be used to secure the minimum weight.

(3) In shipping grain, grain screenings, soybeans, or grain products in open hopper cars in lieu of covered hopper cars or boxcars as provided herein, the shipper shall be deemed to have acknowledged the terms and conditions of the contract of carriage embodied in the bill of lading that the carrier shall not be liable for injury, loss, or damage to the lading resulting from a defect or vice in such property.

(4) Bills of lading covering movements authorized by this order shall contain a notation that shipment is moving under authority of Service Order No. 1280.

(5) The term "open hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C.-R.E.R. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "HFA", "HK", "HM", "HMA", "HT", or "HTA".

(6) The term "covered hopper cars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "LO".

(7) The term "boxcars" means all cars listed in the Official Railway Equipment Register, I.C.C. No. 404, issued by W. J. Trezise, or successive issues thereof, as having mechanical designations "XM", or "XMI".

(b) *Rules and regulations suspended.* The operation of tariffs or other rules and regulations, insofar as they conflict with the provisions of this order, is hereby suspended.

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

(d) *Effective date.* This order shall become effective at 12:01 a.m., October 5, 1977.

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

(49 U.S.C. 1 (12), (15), (16) and 17(2).)

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

By the Commission, Railroad Service Board, members Joel E. Burns, Robert S. Turkington and John R. Michael.

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

[FR Doc.77-29720 Filed 10-7-77;8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to hunting of Valentine 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 17, 1977 through December 31, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201; Telephone: 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.32 Special regulations; big game; for individual wildlife refuge areas.

Public hunting of deer on Valentine National Wildlife Refuge, Nebr., is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State regulations covering the hunting of deer.

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.

SEPTEMBER 14, 1977.

ROBERT M. ELLIS,
Refuge Manager.

[FR Doc.77-29667 Filed 10-7-77;8:45 am]

[4310-55]

PART 32—HUNTING

Opening of Valentine National Wildlife Refuge, Nebr., to Hunting

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to hunting of Valentine 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: Cock Pheasant: November 5, 1977 through December 31, 1977. Grouse: September 17, 1977 through October 16, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert M. Ellis, Fort Niobrara National Wildlife Refuge, Hidden Timber Route, Valentine, Nebr. 69201; Telephone: 402-376-3789.

SUPPLEMENTARY INFORMATION:

§ 32.22 Special regulations; upland game; for individual wildlife refuge areas.

Public hunting of pheasant and grouse on Valentine National Wildlife Refuge, Nebr., is permitted during the regular State seasons except on areas designated by signs as closed. This open area is shown on maps available at refuge headquarters and from the Regional Director, U.S. Fish and Wildlife Service, 10597 West Sixth Avenue, Lakewood, Colo. 80215. Hunting shall be in accordance with all State regulations covering the hunting of pheasant and grouse.

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.

ROBERT M. ELLIS,
Refuge Manager.

SEPTEMBER 14, 1977.

[FR Doc.77-29668 Filed 10-7-77;8:45 am]

[3410-37]

Title 9—Animals and Animal Products

CHAPTER III—FOOD SAFETY AND QUALITY SERVICE (MEAT AND POULTRY PRODUCTS INSPECTION), DEPARTMENT OF AGRICULTURE

Rate Increase for Inspection Service

AGENCY: Food Safety and Quality Service.

ACTION: Final rule.

SUMMARY: The rates for overtime inspection, identification, certification, or laboratory service rendered to operators of official meat or poultry establishments, importers, or exporters by the Food Safety and Quality Service, Meat and Poultry Inspection Program, are changed to reflect the recent Federal pay raise.

EFFECTIVE DATE: October 9, 1977.

FOR FURTHER INFORMATION CONTACT:

June P. Blair, Acting Director, Finance Division, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, D.C. (202-447-6653).

Pursuant to the statutory authorities cited below, the fees relating to overtime and holiday inspection, identification, certification, or laboratory service rendered to operators of official meat or poultry establishments, importers, or exporters by the Food Safety and Quality Service, Meat and Poultry Inspection Program, are hereby amended to reflect increase in Federal employees' salaries authorized by the Federal Pay Comparability Act of 1970, and Executive Order 12010, dated September 28, 1977, to a level that will more adequately cover the cost of the service provided.

Accordingly, the Meat and Poultry Inspection Regulations in 9 CFR are amended as set forth below:

1. The rate for overtime or holiday inspection, identification, or certification service rendered, as the case may be in accordance with the provisions of this chapter, is changed from $13.20 per hour to $14.12 per hour in §§ 307.5(a), 351.8, and 381.38(a).

PART 350—SPECIAL SERVICES RELATING TO MEAT AND OTHER PRODUCTS

2. Section 350.7(c) is amended to read as follows:

§ 350.7 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $14.12 per hour for base time, $14.12 per hour for overtime including Saturdays, Sundays, and holidays, and $21.32 per hour for laboratory service, to cover the costs of the service and shall be charged for the time required to render such service. Where appropriate, this time will include but will not be limited to the time required for the travel of the inspector or inspectors in connection therewith during the regularly scheduled administrative workweek.

* * * * *

PART 351—CERTIFICATION OF TECHNICAL ANIMAL FATS FOR EXPORT

3. Section 351.9(a) is amended to read as follows:

§ 351.9 Charges for examinations.

(a) The hourly fees to be charged and collected by the Administrator shall be $14.12 per hour for examinations, as provided for in § 351.14, and $21.32 per hour for any laboratory service required to determine the eligibility of any technical animal fat for certification under the regulations in this part. Such fees shall be charged for the time required to render such service, including, but not limited to, the time required for the travel of the inspector or inspectors in connection therewith.

* * * * *

PART 354—VOLUNTARY INSPECTION OF RABBITS AND EDIBLE PRODUCTS THEREOF

4. Section 354.101 (b) and (c) are amended to read as follows:

§ 354.101 On a fee basis.

* * * * *

(b) The charges for inspection service will be based on the time required to perform such services. The hourly rate shall be $14.12 for base time and $14.12 for overtime or holiday work.

(c) Charges for any laboratory analysis or laboratory examination of rabbits under this part related to the inspection service shall be $21.32 per hour.

PART 362—VOLUNTARY POULTRY INSPECTION REGULATIONS

5. Section 362.5(c) is amended to read as follows:

§ 362.5 Fees and charges.

* * * * *

(c) The fees to be charged and collected for service under the regulations in this part shall be at the rate of $14.12 per hour for base time, $14.12 per hour for overtime including Saturdays, Sundays, and holidays, and $21.32 per hour for laboratory service to cover the costs of the service and shall be charged for the time required to render such service, including but not limited to the time required for the travel of the inspector or inspectors in connection therewith during the regulatory scheduled administrative workweek.

* * * * *

It has been determined that in order to cover these increased costs of the services, the hourly fees charged in connection with the performance of the services must be increased as soon as

practicable as provided herein. The need for the increase and the amount thereof are dependent upon facts within the knowledge of the Food Safety and Quality Service. Therefore, under 5 U.S.C. 553, it is found that notice and other public procedure with respect to these amendments are impracticable and unnecessary and good cause is found for making these amendments effective less than 30 days after publication in the FEDERAL REGISTER.

NOTE.—The Food Safety and Quality Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Done at Washington, D.C., on October 7, 1977.

ROBERT ANGELOTTI,
Administrator, Food Safety and Quality Service.

[FR Doc.77-29850 Filed 10-7-77;11:20 am]

[6820-14]

Title 41—Public Contracts and Property Management

CHAPTER 105—GENERAL SERVICES ADMINISTRATION

PART 105-63—PRESERVATION AND PROTECTION OF AND ACCESS TO THE PRESIDENTIAL HISTORIC MATERIALS OF THE NIXON ADMINISTRATION

Subpart 105-63.3—Access to Materials by Former President Nixon, Federal Agencies, and for Use in Any Judicial Proceeding

SPECIAL ACCESS REGULATIONS

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: This amendment to the Nixon materials Special Access Regulations clarifies which officials within Federal agencies or departments in the executive branch may request access to the Nixon materials on behalf of that agency or department. The intent of this rule is to limit the number of officials who may request access, thereby assisting the Administrator of General Services in determining whether requests are for a lawful Government use and are necessary for the conduct of ongoing Government business.

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Donald P. Young, Assistant General Counsel, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405 (202-566-1460).

SUPPLEMENTARY INFORMATION: On August 12, 1977, the General Services Administration issued revised regulations (42 FR 40858) which in part pertained to special access to the Presidential historical materials of the Nixon Administration in accordance with sections 102 and 103 of Title I of the Presidential Recordings and Materials Preservation Act (Pub. L. 93-526). Revised § 105-63.302 pertained to access by Federal agencies or departments in the executive branch. The purpose of this amendment is to limit the number of executive branch officials who may request access to the Nixon materials in accordance with that section. Limiting the number of officials who may request access will assist the Administrator of General Services in determining that requests are for a lawful Government use and are necessary for the conduct of ongoing Government business.

Accordingly, the General Services Administration hereby revises § 105-63.302 to read as follows:

§ 105-63.302 Access by Federal agencies.

In accordance with the provisions of Subpart 105-63.2, any Federal agency or department in the executive branch shall have access for lawful Government use to the Presidential historical materials in the custody and control of the Administrator to the extent necessary for ongoing Government business. The Administrator will only consider written requests from heads or agencies or departments, deputy heads of agencies or departments, or heads of major organizational components or functions within agencies or departments.

(Sec. 205(c), 63 Stat. 390; 40 U.S.C. 486(c); Secs. 103 and 104 of Pub. L. 93-526; 88 Stat. 1695; 44 U.S.C. 2107 note.)

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

Dated: October 7, 1977.

JOEL W. SOLOMON,
Administrator of General Services Administration.

[FR Doc.77-29918 Filed 10-7-77;3:38 pm]

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.

[3410-30]

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

[7 CFR Part 220]

FORMULATED GRAIN-FRUIT PRODUCTS

Extension of Public Comment Period

AGENCY: Food and Nutrition Service, USDA.

ACTION: Extension of public comment period.

SUMMARY: This notice extends the public comment period regarding the proposed withdrawal of authorization for the use of a class of products referred to as "formulated grain-fruit products" in the School Breakfast Program.

DATES: The close of comment date announced in 42 FR 40911 (August 12, 1977), was September 26, 1977. The revised date is October 11, 1977.

ADDRESS: Comments may be addressed to the Director, Child Nutrition Division, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT:

Grace L. Ostenso, Nutrition and Technical Services Staff, Food and Nutrition Service, United States Department of Agriculture, Washington, D.C. 20250 (202-447-9081).

SUPPLEMENTARY INFORMATION: On March 27, 1974 (39 FR 11249) the Food and Nutrition Service published regulations authorizing the use of formulated grain-fruit products which were believed to provide a nutritious, convenient alternatives breakfast pattern when served with milk.

The Department published a proposed rule, 42 FR 40911, on August 12, 1977, which would delete the authorization for use of these products. The Department has received requests from interested parties to extend the comment period beyond September 26. It is the Department's policy to maximize public participation in the rulemaking process. Therefore, it is considered in the public interest to extend the comment period to October 11, 1977.

Dated: October 6, 1977.

CAROL TUCKER FOREMAN,
Assistant Secretary.

[FR Doc.77-29792 Filed 10-7-77;8:45 am]

[3410-02]

Agricultural Marketing Service

[7 CFR Part 1049]

[Docket No. AO-319-A28]

MILK IN THE INDIANA MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision would amend the order based on industry proposals considered at a public hearing on July 26, 1977. The proposed amendments would add four Michigan counties to the marketing area and make a limited change in the classification of milk. The amendments are needed to reflect changed marketing conditions and to insure orderly marketing in the area.

FOR FURTHER INFORMATION CONTACT:

Irving E. Sutin, Marketing Specialist, Dairy Division, Agricultural Marketing Service, U.S. Department of Agriculture, Washington, D.C. 20250 (202-447-4829).

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding: Notice of Hearing—Issued June 22, 1977; published June 29, 1977 (42 FR 33040). Recommended Decision—Issued September 6, 1977; published September 9, 1977 (42 FR 45335).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Indiana marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at Indianapolis, Indiana on July 26, 1977, pursuant to notice thereof issued on June 22, 1977 (42 FR 33040).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Deputy Administrator, Program Operations, on September 6, 1977, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein.

The material issues on the record relate to:

1. Expansion of the marketing area; and
2. Classifying the shrinkage of nonfat milk solids used in modifying fluid milk products.

FINDINGS AND CONCLUSIONS

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

1. *Expansion of the marketing area.* The Indiana marketing area, now comprised of 64 Indiana counties, should be expanded to include the four Michigan counties of Berrien, Branch, Cass, and St. Joseph. About three-quarters of the route disposition in each of the four counties is from eight Indiana order pool plants. The remaining route disposition in the four counties is from five Southern Michigan order pool plants and from a plant regulated under the Chicago order.

The handling of milk in the enlarged marketing area is in the current of interstate commerce and directly burdens, obstructs or affects interstate commerce in milk and its products.

The four-county area, which is in southwestern Michigan, borders on the northern boundary of the present Indiana marketing area. Two of the four counties, St. Joseph and Branch, are bounded on the north by Kalamazoo and Calhoun Counties, respectively, which counties are in the southwestern corner of the Southern Michigan order marketing area. The 1970 census population of the four counties is 292,000. For each county the population is: Berrien, 164,000; Branch, 38,000; Cass, 43,000; and St. Joseph, 47,000.

Expansion of the marketing area, which was proposed by McDonald Dairy Cooperative Association, was favored by the major cooperatives in the Indiana market. There was no opposition to the proposal.

McDonald operates a pool distributing plant in Benton Harbor (in Berrien County) Mich. The route disposition from that plant in the four Michigan counties proposed to be added to the marketing area is greater than from any other plant. In May 1977 about 27 percent of the Benton Harbor plant's route disposition was in the Indiana marketing area and about 23 percent in the Southern Michigan marketing area. The remaining route disposition from the plant was in a presently unregulated five-county area—four proposed counties and Van

Buren County, Mich., which attaches to the northern boundary of Berrien and Cass counties.

Although the Benton Harbor plant has been qualifying each month for pooling under both the Indiana and Southern Michigan orders, it has been pooled continuously under the Indiana order. This is because its route disposition each month in the Indiana marketing area has been greater than in the Southern Michigan marketing area. However, in some recent months the total route disposition in the Southern Michigan marketing area has been close to that in the Indiana marketing area.

For May 1977 it appeared that the Benton Harbor plant's route disposition in the Southern Michigan marketing area was greater than in the Indiana marketing area. Only after an audit was made by the market administrator was it determined that the route disposition from the plant was greater in the Indiana marketing area than in the Southern Michigan area.

The McDonald spokesman stated that unless the four counties are included in the marketing area, and the Benton Harbor plant's distribution therein becomes route disposition in the mareking area, regulation of the plant could shift back and forth between the Indiana and Southern Michigan orders. This is because in some months the plant's route disposition in the present Indiana marketing area could be less than in the Southern Michigan marketing area, which would result in the Benton Harbor plant being regulated for the month under the Southern Michigan order.

Including the four proposed counties in the Indiana marketing area will result in the Benton Harbor plant having substantially more sales each month in the foreseeable future in the Indiana marketing area than in the Southern Michigan marketing area. This would remove any uncertainty regarding the order under which the plant would be regulated.

The Indiana order provides for a "takeout-payback" fall production incentive plan that withholds 20 cents per hundredweight from the payments otherwise due producers for their deliveries in April–July. This money is distributed to producers on the basis of their production in the payback months of September–December. Under the Southern Michigan order, producers are paid on a base-excess plan throughout the year. The base on which each producer is paid is determined by his deliveries in the preceding August–December. If regulation of a plant shifted back and forth between orders, the producers involved could lose the benefits of the producer payment plan in the order under which their milk was usually pooled without obtaining the comparable benefits realized by producers regularly associated with the other order. Without the inclusion of the proposed four counties in the Indiana marketing area, producers supplying the Benton Harbor plant could find themselves in such a situation.

Including in the Indiana marketing area the proposed four counties, wherein Indiana order handlers are the principal distributors, will contribute to market stability. Particularly, it would serve as a safeguard against disruptive marketing conditions and the inequities among producers that would result if regulation of the plant they supplied shifted back and forth between the Indiana and Southern Michigan orders.

The provisions of the existing order as herein proposed to be amended are equally appropriate for the expanded marketing area.

2. *Classifying the shrinkage of nonfat milk solids used in modifying fluid milk products.* When fluid milk products are modified by adding nonfat milk solids (i.e., nonfat dry milk, condensed skim milk, or similar products), shrinkage in Class III up to two percent of the fluid equivalent of the quantity of nonfat milk solids added should be allowed.

Fluid milk products modified by the addition of nonfat milk solids, commonly called fortified products, represent a significant Class I disposition of handlers. Such a modified product must be accounted for under the order as Class I in a quantity equal to the weight of an equal volume of the same unmodified product. The small increase in volume due to the addition of the nonfat milk solids is accounted for when the modified product is disposed of as Class I. The remainder of the fluid equivalent of nonfat milk solids added but not represented by a volume increase in the modified product is classified as Class III.

The market administrator's laboratory tests the modified milk products of a handler to determine their total nonfat milk solids content. From that total he subtracts the nonfat milk solids content of milk utilized by the handler in making the modified milk products to determine the quantity of solids added.

The quantity of nonfat milk solids determined by the market administrator to have been added to the modified product is the basis for computing the fluid equivalent of the nonfat milk solids to be accounted for and classified.

The handler who proposed the change adopted in this decision complained that the order makes no allowance for the loss of nonfat dry milk solids used in fortification. He testified that, in addition to the loss incurred in processing fluid milk products, losses result from spillage and from nonfat dry milk sticking to the bags in which it is received at the plant.

Some disappearance of nonfat milk solids may be due to a lack of detailed records for each batch of fluid milk products fortified with added nonfat milk solids. For example, when more of a fortified fluid milk product is made than is needed for packaging on a particular day, the excess would be diverted for use in another product at the plant. It may not always be practicable for a handler to maintain a complete and accurate record of the nonfat milk products from each batch of a fortified product so diverted.

When the amount of nonfat milk solids in modified fluid milk products is determined by the market administrator's laboratory testing, a reasonable basis exists for computing a shrinkage allowance for nonfat milk solids used in the fortification process. A Class III shrinkage allowance of not more than two percent of the fluid equivalent of the quantity of nonfat milk solids so used, which is adopted in this decision, is appropriate for this purpose. This is the same rate of Class III shrinkage allowance applicable to milk received from producers.

The loss of nonfat milk solids associated with the fortifying process should be treated separately from the shrinkage allowances applied to receipts of fluid milk products. The shrinkage allowance in this case should be a part of the classification procedure of the specific modified fluid milk product disposed of.

The present classification provisions specify how much of the fluid equivalent of the nonfat milk solids in a fortified product may be classified in Class III. The shrinkage allowance provided herein would be a quantity of Class III milk in addition to the quantity now calculated under the present provision.

Any disappearance of nonfat milk solids in excess of the two percent limit would enter into the total plant accounting for receipts and disposition under the present order provisions applicable to shrinkage.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. The briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth are supplementary and in addition to the findings and determinations previously made in connection with the issuance of the aforesaid order and of the previously issued amendments thereto; and all of said previous findings and determinations are hereby ratified and affirmed, except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which

affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held;

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreement and the order as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products; and

(e) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85 of the aforesaid tentative marketing agreement and the order as proposed to be amended.

Rulings on Exceptions

No exceptions were filed.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Indiana marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the Federal Register. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be amended by the attached order which is published with this decision.

Determination of Producer Approval and Representative Period

July 1977 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the Indiana marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

Signed at Washington, D.C., on October 4, 1977.

Robert H. Meyer,
Assistant Secretary for Marketing Services.

Order[1] Amending the Order, Regulating the Handling of Milk in the Indiana Marketing Area

Findings and Determinations

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Indiana marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record therof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest;

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classses of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held;

(4) All milk and milk products handled by handlers, as defined in the order as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its producers; and

(5) It is hereby found that the necessary expense of the market administrator for the maintenance and functioning of such agency will require the payment by each handler, as his pro rata share of such expense, 4 cents per hundredweight or such lesser amount as the Secretary may prescribe, with respect to milk specified in § 1049.85.

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the Indiana marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Deputy Administrator, Program Operations, on September 6, 1977, and published in the Federal Register on September 9, 1977 (42 FR 45335) shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Section 1049.2 is revised as follows:

§ 1049.2 Indiana marketing area.

"Indiana marketing area" (hereinafter referred to as the "marketing area") means all of the territory within the boundaries of the following counties, including territory wholly or partly within such boundaries occupied by Government (municipal, State, or Federal) reservations, installations, institutions, or other similar establishments:

(a) In Indiana, the counties of:

Adams	La Porte
Allen	Lawrence
Bartholomew	Madison
Blackford	Marion
Boone	Marshall
Brown	Miami
Cass	Monroe
Clay	Montgomery
Clinton	Morgan
Decatur	Noble
De Kalb	Owen
Delaware	Parke
Elkhart	Porter
Fayette	Putnam
Fountain	Randolph
Franklin	Ripley
Fulton	Rush
Grant	St. Joseph
Hamilton	Shelby
Hancock	Starke
Hendricks	Steuben
Henry	Switzerland
Howard	Tippecanoe
Huntington	Tipton
Jackson	Union
Jay	Vermillion
Jefferson	Vigo
Jennings	Wabash
Johnson	Warren
Kosciusko	Wayne
Lagrange	Wells
Lake	Whitley

(b) In Michigan, the counties of:

Berrien	Cass
Branch	St. Joseph

2. In § 1049.40, paragraph (c)(6) is revised as follows:

§ 1049.40 Classes of utilization.

* * * * *

(c) * * *

(6) In skim milk in any modified fluid milk product that is in excess of the quantity of skim milk in such product that was included within the fluid milk product definition pursuant to § 1049.15, plus the fluid equivalent of loss of nonfat

milk solids occurring in the process of modification in any case where determination of the quantity of added nonfat milk solids disposed of in such products is based upon laboratory analysis by the market administrator, such loss allowable pursuant to this subparagraph not to exceed two percent of the fluid equivalent of the quantity of added nonfat milk solids so determined to be added; and

* * * * *

[FR Doc.77-29728 Filed 10-7-77;8:45 am]

[3410-34]

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[9 CFR Part 92]

IMPORTATION OF ANIMALS

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: This document proposes to amend the animal import regulations to delete optional pre-entry diagnostic screening tests for equine piroplasmosis, to clarify in-bond transit requirements for animals from Canada and add provisions to the regulations whereby animals of United States origin may transit Canada and re-enter the United States without meeting certain importation requirements. The intended effect of these actions is to reduce unnecessary time and expense associated with the importation of animals.

DATE: Comments on or before November 10, 1977.

ADDRESS: Written comments to Deputy Administrator, USDA, APHIS, VS, Room 821, Federal Building, 6505 Belcrest Rd., Hyattsville, Md. 20782.

FOR FURTHER INFORMATION CONTACT:

Dr. D. E. Herrick, USDA, APHIS, VS, Room 815, Federal Building, Hyattsville, Md. 20782, (301-436-8170).

SUPPLEMENTARY INFORMATION: A negative test for equine piroplasmosis has been required as a prerequisite for importation of horses into the United States since October 1970. Since availability of antigen for testing and laboratory capability required to conduct the tests were limited to the United States at that time, the Department made available optional pre-entry diagnostic screening tests whereby blood from horses intended for importation into the United States could be tested and their equine piroplasmosis disease status determined prior to their departure from their country of origin. This was done to eliminate to the extent possible the refusal of entry of horses which were found to be reactors to the equine piroplasmosis test upon arrival in the United States and the expense and inconvenience to importers associated therewith.

The method of preparing equine piroplasmosis antigen has now been made available to laboratories in other countries and the Department has trained laboratory technicians from several countries including France, Great Britain, Chile, and Argentina in procedures necessary to produce the required antigen and to conduct the equine piroplasmosis test. It has now been determined that there is no longer a need for the Department to conduct courtesy screening tests, at Department expense, on horses prior to their shipment to the United States and the provision for providing such tests would be deleted from the regulations.

The proposal would also permit animals of United States origin to transit Canada under specified conditions and return to the United States through a different land border port without a Canadian health or test certificate when accompanied by a copy of the United States export health certificate properly issued and endorsed. In view of the health measures which the Canadian government has employed to control and eradicate communicable diseases of animals, these changes will not endanger the health of the animals in the United States. These changes will, on the other hand, conserve time and expense with respect to re-entry of animals from Canada.

The proposed docket would also specify that a permit is required for in-bond shipments of animals from Canada which are transiting the United States for immediate export. This is proposed for the purposes of clarification and for the purpose of conforming the provisions of § 92.25 with those of § 92.2(d).

Notice is hereby given in accordance with the administrative procedure provisions in 5 U.S.C. 553, that, pursuant to section 2 of the Act of February 2, 1903, as amended; and sections 2, 3, 4, and 11 of the Act of July 2, 1962 (21 U.S.C. 111, 134a, 134b, 134c, and 134f), the Animal and Plant Health Inspection Service is considering amending Part 92, Title 9, Code of Federal Regulations in the following respects:

§ 92.11 [Amended]

1. In § 92.11(d), the last two sentences would be deleted.

2. In § 92.25, paragraph (a) would be redesignated as (a)(1), a new paragraph (2) would be added and redesignated paragraph (a)(1) would be amended to read:

§ 92.25 Special provisions.

(a) In-bond shipments from Canada. (1) Cattle, sheep, goats, swine, horses, and poultry and birds from Canada transported in-bond through the United States for immediate export shall be inspected at the border port of entry and, when accompanied by an import permit obtained under § 92.4 of this Part and all conditions therein are observed, shall be allowed entry and shall be otherwise handled as provided in paragraph (d) of § 92.2. Animals not accompanied by a permit shall meet the requirements of this Part in the same manner as animals destined for importation into the United States, except that the Deputy Administrator, Veterinary Services, may permit their inspection at some other point when he finds that such action will not increase the risk that communicable diseases of livestock and poultry will be disseminated to the livestock or poultry of the United States.

(2) *In-transit shipments through Canada.* Animals (including poultry) originating in the United States and transported directly through Canada may re-enter the United States without Canadian health or test certificates when accompanied by copies of the United States export health certificates properly issued and endorsed in accordance with regulations in Part 91 of this chapter; *Provided that,* to qualify for entry, the date, time, port of entry, and signature of the Canadian Port Veterinarian that inspected the animals for entry into Canada shall be recorded on the United States health certificate that accompanies the animals. In all cases it shall be determined by the veterinary inspector at the United States port of entry that the animals are the identical animals covered by said certificate.

* * * * *

§ 92.34 [Amended]

3. In § 92.34(c), the last two sentences would be deleted.

All written submissions made pursuant to this notice will be made available for public inspection at the Federal Building, 6505 Belcrest Road, Room 821, Hyattsville, Md., during regular hours of business (8:00 a.m. to 4:30 p.m., Monday to Friday, except holidays) in a manner convenient to the public business (7 CFR 1.27(b)).

Comments submitted should bear a reference to the date and page number of this issue in the FEDERAL REGISTER.

Done at Washington, D.C., this 5th day of October 1977.

NOTE.—The Animal and Plant Health Inspection Service has determined that this document does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

NORVAN L. MEYER,
Acting Deputy Administrator, Veterinary Services.

[FR Doc.77-29724 Filed 10-7-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

[12 CFR Part 202]

[Reg. B; Docket No. R-0117]

EQUAL CREDIT OPPORTUNITY

Proposed Definition of Adverse Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Proposed rule.

SUMMARY: In response to requests for clarification of the definition of adverse action, the Board proposes to amend

that definition. A number of creditors and two government agencies have raised the question of whether some or all point of sale or loan refusals or failures to authorize an extension of credit that would not exceed the account limit are adverse action and therefore require notice to the customer. The Board is seeking public comment in order to determine what regulatory course best implements the Equal Credit Opportunity Act.

DATE: Comments must be received on or before November 15, 1977.

ADDRESS: Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551. All comments should refer to Docket No. R–0117.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Manager, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202–452–3946).

SUPPLEMENTARY INFORMATION: The Equal Credit Opportunity Act and Regulation B require that notification be given to an applicant when adverse action occurs. Section 202.2(c) of Regulation B provides that adverse action occurs in three instances. First, it occurs when there is a refusal to grant credit in substantially the amount or on substantially the terms requested by an applicant, unless the applicant uses or expressly accepts the amount or terms that the creditor offers.

Second, adverse action occurs if there is a termination of an account or an unfavorable change in its terms that does not affect all or a substantial portion of a classification of the creditor's accounts. Third, it occurs when there is a refusal to increase the amount of credit available to an applicant who has requested the increase in accordance with the creditor's procedures for that type of credit.

The regulation specifically excludes five events from the definition of adverse action, including a creditor's refusal to extend credit at point of sale or loan because the credit requested would exceed a previously established credit limit on the account. Therefore, no notice of adverse action need be given when the use of a credit card would exceed the limit on the account. However, the Act and regulation are not explicit as to whether adverse action occurs and, thus, whether notice must be given, when the attempted use would not exceed the credit limit on the account.

In response to requests for clarification of this ambiguity, an official staff interpretation of § 202.2(c) was issued (EC–0008, 42 FR 21605, April 28, 1977). The interpretation states that a creditor's refusal or failure to authorize the use of an open-end account when such use would not exceed the account limit does not constitute adverse action and, therefore, does not require that the applicant be notified of the reasons for the refusal. The staff of the Federal Trade Commission and the Justice Department have asked for reconsideration of this interpretation.

The Board proposes to amend § 202.2 (c) in order to resolve this ambiguity in the definition of adverse action. Board staff's official interpration, EC–0008, remains in effect in the interim.

Two proposals are offered for comment. Proposal A would amend § 202.2(c) to provide that a refusal or failure to authorize the use of an account at a point of sale or loan is not adverse action unless such refusal or failure: (1) Occurs in connection with a request to increase the credit limit on the account in accordance with the procedures established by the creditor, (2) is a termination of the account, or (3) is an unfavorable change in the terms of an account that does not affect all or a substantial portion of a classification of a creditor's accounts. In addition, the term "application" would be substituted for "applicant" in subsection (1)(i) of the current definition, and language would be inserted to emphasize that § 202.2(c)(2) takes precedence over § 202.2(c)(1). The effect of adopting this proposal would be that all point of sale or loan refusals or failures to authorize use of an account are not adverse action, except in the three cases described immediately above.

Proposal B, on the other hand, would amend § 202.2(c)(2) to provide that a refusal or failure to authorize the use of an account at point of sale or loan would not be adverse action if occasioned by the customer's failure to present a credit card or required identification, the customer's presentation of an expired credit card, or the fact that the authorization center was closed or known to the merchant to be malfunctioning. All other point-of-sale refusals of credit would be adverse action requiring notice. The effect of adopting proposal B would be to limit the events that would not require a notice to those specifically exempted. Notices would still be required, for example, when an applicant presents a card reported lost or stolen, when an applicant attempts to use an account on which that applicant has disclaimed responsibility, or when the equipment at point of sale is malfunctioning. Similarly, a notice would be necessary if the use of the card did not fit into the applicant's previous pattern of card use or if the use of the card exceeded the credit limit for cash advances, for a particular kind of purchase, or for a geographic area. These are generally considered security control mechanisms.

To aid in consideration of this proposed rulemaking by the Board, interested persons are invited to submit relevant data, comments, or analyses. Any such information should be submitted in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than November 15, 1977. All material submitted should include the Docket No. R–0117. Such information will be made available for inspection and copying upon request except as provided in § 261.6(a) of the Board's rules regarding availability of information (12 CFR 261.6(a)).

The following proposed amendments are published pursuant to the Board's authority under section 703(a) of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)).

PROPOSAL A

§ 202.2 Definitions and rules of construction.

* * * * *

(c) *Adverse action.* (1) For the purpose of notification of action taken, statement of reasons for denial, and record retention, the term means:

(i) A refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor offers to grant credit other than in substantially the amount or on substantially the terms requested by the applicant and the applicant uses or expressly accepts the credit offered; or

* * * * *

(2) The term does not include:

* * * * *

(iii) A refusal or failure to authorize the use of an account at a point of sale or loan, except when the refusal is caused by a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a classification of the creditor's accounts or when the refusal results in the denial of an application to increase the amount of credit available under the account; or

* * * * *

(3) When a particular action falls within the definitions of both paragraphs (c)(1) and (c)(2) of this section, the provisions of paragraph (c)(2) of this section control.

PROPOSAL B

§ 202.2 Definitions and rules of construction.

* * * * *

(c) Adverse action. * * *

(2) The term does not include:

* * * * *

(vi) A refusal to extend credit because an applicant fails to present a credit card or presents an expired credit card; or

(vii) A refusal to extend credit because an applicant fails to present the required identification; or

(viii) A refusal to extend credit because the credit card issuer's authorization center is closed or known to the merchant to be malfunctioning.

* * * * *

By order of the Board of Governors, effective September 28, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-29629 Filed 10-7-77;8:45 am]

[4910–13]

DEPARTMENT OF TRANSPORTATION

[14 CFR Part 71]

[Airspace Docket No. 77–EA–76]

PROPOSED ALTERATION OF TRANSITION AREA, ELMIRA, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to alter the Elmira, N.Y., Transition Area, over Chemung County Airport, Elmira, N.Y. The extension based on the 237° VOR radial will be widened and lengthened. This results from the development of a revised VOR runway 6 approach procedure.

DATES: Comments must be received on or before November 10, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace & Procedures Branch, AEA–530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, Telephone (212) 995–3391. The docket may be examined at the following location: FAA, Office of the Regional Counsel, AEA–7, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430.

COMMENTS INVITED

Interested parties 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, Eastern Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430. All communications received on or before November 10, 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 Chief, Airspace & Procedures Branch, AEA–530, Eastern Region, Federal Aviation Administration, Federal Building, Jamaica, N.Y. 11430, or by calling (212) 995–3391.

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 alter the transition area over Chemung County Airport, Elmira, New York. The area will be altered by increasing the width of the 237° VOR radial extension from 2 to 4.5 miles each side of the radial, and increasing the length from 8 to approximately 11.5 miles. The designation of the navigational aid is changed from VOR to VORTAC.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Office of the Regional Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

1. Amend Section 71.181 of Part 71 of the Federal Aviation Regulations so as to amend the description of the Elmira, N.Y., 700-foot floor transition area by deleting "within 2 miles each side of the Elmira VOR 237° radial extending SW from the 12-mile radius area for 8 miles SW of the VOR" and by inserting, "within 4.5 miles each side of the Elmira VORTAC 237° radial, extending from the 12-mile radius area to 11.5 miles SW of the VORTAC", in lieu thereof.

(Section 307(a) of the Federal Aviation Act of 1958 (72 Stat. 749; 49 U.S.C. 1348(a)) and of Section 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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 Jamaica, N.Y., on September 27, 1977.

WILLIAM E. MORGAN,
Director, Eastern Region.

[FR Doc.77–29715 Filed 10–7–77;8:45 am]

[6355–01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1302]

EXTREMELY FLAMMABLE CONTACT ADHESIVES

Extension of Time for Rulemaking

AGENCY: Consumer Product Safety Commission.

ACTION: Extension of time for promulgation of rule.

SUMMARY: The purpose of this notice is to extend from September 12, 1977, until December 12, 1977, the period in which the Consumer Product Safety Commission must publish in the FEDERAL REGISTER a consumer product safety rule to declare that certain extremely flammable contact adhesives are banned hazardous products under section 8 of the Consumer Product Safety Act(CPSA) (15 U.S.C. 2057) or to withdraw the rule proposed on July 13, 1977.

DATES: The deadline for publishing the rule is extended to December 12, 1977.

ADDRESSES: Nonapplicable.

FOR FURTHER INFORMATION CONTACT:

Phillip Bechtel, Office of the General Counsel, 202–634–7770.

SUPPLEMENTARY INFORMATION:

The purpose of this notice is to extend from September 12, 1977, until December 12, 1977, the period in which the Consumer Product Safety Commission must publish in the FEDERAL REGISTER a consumer product safety rule to declare that certain extremely flammable contact adhesive are banned hazardous products under section 8 of the Consumer Product Safety Act (CPSA) (15 U.S.C. 2057) or to withdraw the rule proposed on July 13, 1977.

Based on information gathered by the Commission staff and information contained in a petition (HP 76–9) filed by Barbara Peters on March 12, 1976, the Commission preliminarily determined that extremely flambable contact adhesives and similar products in containers of more than one-half pint are being and will be distributed in commerce and present an unreasonable risk of burn injury from explosive vapor ignition and flashback fire. The Commission also preliminarily determined that no feasible standard under the CPSA would adequately protect the public from the unreasonable risk of injury associated with the product. On July 13, 1977, the Commission proposed a ban under the CPSA of this product (42 FR 35984). The FEDERAL REGISTER notice proposing the ban invited interested persons to submit, on or before September 12, 1977, written comments regarding the proposal. The FEDERAL REGISTER notice also invited interested persons to make an oral presentation concerning the proposal at a proceeding that was conducted August 29, 1977.

The Commission has received approximately twenty-five written comments concerning the proposed ban as well as eight oral presentations concerning the proposal. Many of these comments and presentations concern technical issues that must be reviewed by the Commission staff. Since the comment period expired recently, the Commission staff will require additional time to analyze these comments and brief the Commission.

Accordingly, pursuant to § 9(a)(1) of the CPSA (15 U.S.C. 2058(a)(1)) the period of time in which the Commission must publish a consumer product safety rule declaring that certain extremely

flammable contact adhesives are banned hazardous products or withdraw the rule proposed on July 13, 1977, is extended to December 12, 1977. This period may be further extended for good cause by notice published in the FEDERAL REGISTER.

Dated: October 3, 1977.

SADYE E. DUNN,
Deputy Secretary,
Consumer Product Safety Commission.

[FR Doc.77-29592 Filed 10-7-77;8:45 am]

[6351-01]

COMMODITY FUTURES TRADING COMMISSION

[17 CFR Parts 1, 166]

PROTECTION OF COMMODITY CUSTOMERS

Standards of Conduct for Commodity Trading Professionals; Public Hearing

AGENCY: Commodity Futures Trading Commission.

ACTION: Public hearing.

SUMMARY: The Commodity Futures Trading Commission will hold a public hearing on Wednesday, October 19, 1977, to receive oral comments on its Customer Protection Rules.

DATE: 10 a.m., October 19, 1977.

ADDRESS: Dirksen Building, Room 204-A, 219 South Dearborn Street, Chicago, Ill.

FOR FURTHER INFORMATION CONTACT:

Marcia Carlson, Commodity Futures Trading Commission, 233 South Wacker Drive, Chicago, Ill. (312-353-9018).

SUPPLEMENTARY INFORMATION: The Commission's proposed Customer Protection Rules were published in the FEDERAL REGISTER on September 6, 1977 (42 FR 44742). Persons wishing to appear at this hearing should notify Ms. Carlson by Friday, October 14, 1977.

Issued in Washington, D.C., on October 5, 1977, by the Commission.

WILLIAM T. BAGLEY,
Chairman, Commodity
Futures Trading Commission.

[FR Doc.77-29636 Filed 10-7-77;8:45 am]

[1505-01]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

[21 CFR Parts 16, 20, 860]

[Docket No. 77N-0155]

MEDICAL DEVICES

Classification Procedures

Correction

In FR Doc. 77-26388, appearing at page 46028 in the issue of Tuesday, September 13, 1977, make the following changes.

1. On page 46033, second column, the number "515(b)" should be inserted between the fourth and fifth lines of the first full paragraph.

2. On page 46034, second column, the fourth line of the second paragraph should read "90 Stat. 540-559, 564-574 (21 U.S.C. 360c)".

3. On page 46036, third column, the word "age" should be inserted between the second and third complete words in line three of § 860.7(f)(1)(ii)(c).

4. On page 46037, first column, the third word in the fifth line of § 860.7(f)(1)(iv)(*d*) should read, "or".

[1505-01]

[21 CFR Part 299]

[Docket No. 77N-0155]

DRUGS; OFFICIAL NAMES

Proposed Amendment of Designation of Official Names

Correction

In FR Doc. 77-26572, appearing at page 45938 in the issue of Tuesday, September 13, 1977, an indented line should be added above the first column on page 45940, reading, "Interested persons may, on or before".

[4110-03]

[21 CFR Part 700]

[Docket No. 77N-0105]

PRESERVATION OF COSMETICS COMING IN CONTACT WITH THE EYE

Intent to Propose Regulations and Request for Information

AGENCY: Food and Drug Administration (FDA).

ACTION: Notice of intent to propose regulations.

SUMMARY: This document announces the agency's intention to propose regulations regarding microbial preservation of cosmetics that may come in contact with the eye under intended or customary conditions of use. The Commissioner of Food and Drugs is inviting the submission of comments and information concerning microbiological testing methods and standards of performance suitable to assure that such cosmetics do not become contaminated with microorganisms during manufacturing, subsequent storage and/or use by consumers.

DATES: Comments by December 12, 1977.

ADDRESSES: Written comments, data, or information to the Hearing Clerk (HFC-20), Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857.

FOR FURTHER INFORMATION CONTACT:

Heinz J. Eiermann, Bureau of Foods (HFF-440), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, D.C. 20204 (202-245-1530).

SUPPLEMENTARY INFORMATION: FDA has received several reports of corneal ulceration associated with the use of cosmetic mascaras containing pathogenic microorganisms. These reports illustrate the importance of having adequate preservatives in mascaras and other eye contact cosmetics to reduce the risk of microbial contamination and eye injury. Mascaras can become contaminated with various microorganisms when the consumer uses the product and re-inserts the applicator wand into the container after application of the mascara to the eye lashes. The re-insertion of the applicator wand into the mascara is part of the intended or customary conditions of use of the products. Without an adequate preservative system, microorganisms introduced into the mascara with the applicator wand can survive and multiply inside the container. When the mascara is used again, if the microorganisms on the applicator wand come into contact with a scratched or damaged cornea, the eye may become infected. The healthy cornea is a formidable barrier against microbial insults. However, a cornea scratched inadvertently with a mascara wand, fingernail, contact lens, or otherwise damaged by chemical or physical trauma may readily become infected with microorganisms.

The reported incidents all involve mascaras in which the microorganism *Pseudomonas aeruginosa* has been found. *Pseudomonas aeruginosa* is an ubiquitous bacterium that may be present on the skin as a transient microorganism. It may readily grow in a cosmetic unless the cosmetic contains a preservative adequate to prevent contamination. *Pseudomonas aeruginosa* infections, if not recognized and treated immediately, can cause corneal ulceration that leads to partial or total blindness in the injured eye. Thus, particular attention should be given to the microorganism *Pseudomonas aeruginosa* in developing an adequate preservative system for all cosmetics that may come in contact with the eye during intended or customary conditions of use.

The Commissioner believes that the preservative systems used in mascara and other eye-contact products should be adequate not only to prevent the further growth of microorganisms introduced during use but also to reduce significantly the number of microorganisms introduced during use. The Commissioner expects to promulgate all-inclusive regulations delineating good manufacturing practice for cosmetics at some point, and he intends to propose regulations regarding microbial preservation of cosmetics coming in contact with the eye as a first step. The proposal will include not only a requirement for preservation sufficient to protect a cosmetic

against likely contamination during manufacture, processing, packing or holding, but also the requirement that a cosmetic be adequately preserved to withstand contamination under intended or customary conditions of use. The contemplated rulemaking will consider all the applicable legal requirements governing inadequately preserved eye-area cosmetics.

The Commissioner invites interested persons to submit comments, data, or other information regarding the contemplated rule. Of particular interest are data or other information on microbiological testing methods and performance standards which can be adopted as laboratory testing procedures for the determination that a preservation system is effective under customary manufacturing and use conditions. Any recommended performance standard should be supported and validated by actual experiences under customary conditions of use to assure meaningful correlation between laboratory tests and preservation effectiveness under customary use conditions.

The Commissioner also advises that he considers inadequately preserved cosmetics to be in violation of the act. Under section 601 of the act, a cosmetic is considered adulterated if it is prepared under conditions whereby it may have been rendered injurious to health, as well as if it bears any poisonous or deleterious substance that may render it injurious to users under the conditions of use. Furthermore, under sections 201(n), 601, and 602 of the act and 21 CFR 740.10, the label must bear any warning statements that are necessary or appropriate to prevent a health hazard that may be associated with the product. Manufacturers and distributors should be advised that FDA intends to take whatever regulatory action is necessary to remove from the market any cosmetic that poses an unreasonable risk of injury because of inadequate preservation to withstand contamination under customary conditions of use. FDA does not intend to await the completion of the rule making proceeding announced in this notice of intent before taking needed regulatory action.

Any comments or scientific data relating to the requested information should be forwarded on or before December 12, 1977, to the Hearing Clerk, Food and Drug Administration, Rm. 4-65, 5600 Fishers Lane, Rockville, Md. 20857. Received comments may be seen in the above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Dated: October 3, 1977.

JOSEPH P. HILE,
Associate Commissioner for Compliance.

[FR Doc.77-29614 Filed 10-7-77;8:45 am]

[4710-01]

DEPARTMENT OF STATE

[22 CFR Part 51]

[Docket No. SD-134]

PASSPORTS

Denial of Passports

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: The Department of State is proposing new regulations under Pub. L. 95-45 to provide assistance to U.S. nationals incarcerated abroad to whom private funds are not available and who need emergency medical treatment and certain other dietary assistance on a short-term basis. This assistance will be provided on a normally reimbursable base whereby prisoners will execute notes promising to repay the loan(s) through the account of the Treasurer of the United States and agree not to be furnished passports for travel, except for direct return to the United States, until repayment of the loan(s).

DATES: Comments must be received on or before November 10, 1977.

ADDRESS: Send comments to the Director, Office of Special Consular Services, Room 1803, Bureau of Consular Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

James L. Ward, 202-632-7871.

SUPPLEMENTARY INFORMATION: The Secretary's authority to limit the issuance or extension of passports, § 51.70, Title 22, Code of Federal Regulations, provides in part, that persons who have not repaid a loan received from the United States to effectuate their return from a foreign country in the course of travel abroad, may be refused passports. Similarly, persons who have received assistance from the United States under Pub. L. 95-45 dated June 15, 1977, Assistance for Americans Incarcerated Abroad, who have executed promissory notes to repay their loans in full may be refused passports, except for direct return to the United States.

It is therefore proposed to amend the Department's passport regulations by adding a new subparagraph (6) under § 51.70(a) to read as follows:

§ 51.70 Denial of passports.

(a) A passport, except for direct return to the United States, shall not be issued in any case in which:

* * * * *

(6) The applicant has not repaid a loan received from the United States as prescribed under § 71.10 and § 71.11 of this Chapter.

* * * * *

(Sec. 1, 44 Stat. 887; sec. 4, 63 Stat. 111, as amended (22 U.S.C. 211a, 2658, 2670); E.O. 11295, 36 FR 10603; 3 CFR 1966-1970 Comp., page 507; Pub. L. 95-45 (91 Stat. 221)).

For the Secretary of State.

ROBERT T. HENNEMEYER,
Acting Assistant Secretary for Consular Affairs.

OCTOBER 5, 1977.

[FR Doc.77-29740 Filed 10-7-77;8:45 am]

[4710-01]

[22 CFR Part 71]

[Docket No. SD-135]

PROTECTION AND WELFARE OF CITIZENS AND THEIR PROPERTY

Emergency Medical/Dietary Assistance for U.S. Nationals Incarcerated Abroad

AGENCY: Department of State.

ACTION: Proposed rule.

SUMMARY: This document contains proposed regulations under Pub. L. 95-45 relating to emergency medical/dietary and other assistance for U.S. nationals incarcerated abroad who are otherwise unable to obtain such services. The regulation will enable prisoners to receive appropriate emergency medical treatment and care, when required, in order to sustain an acceptable standard of life while they are imprisoned and private funds are unavailable. The regulations also establish procedures for providing the assistance on a reimbursable basis to the extent possible.

DATES: Comments must be received on or before November 10, 1977.

ADDRESS: Send comments to the Director, Office of Special Consular Services, Room 1803, Bureau of Consular Affairs, Department of State, 2201 C Street NW., Washington, D.C. 20520.

FOR FURTHER INFORMATION CONTACT:

James L. Ward, 202-632-7871.

SUPPLEMENTARY INFORMATION: Under Pub. L. 95-45, dated June 15, 1977, the Department is authorized to provide U.S. nationals incarcerated abroad with medical/dietary and other emergency assistance, on a reimbursable basis if private funds are not otherwise available to do so.

There are U.S. nationals incarcerated abroad who, as a result of their incarceration, cannot secure the minimum medical treatment or diet necessary to sustain an acceptable standard of life. This rule will enable these prisoners to receive appropriate medical care and other emergency services when required through the Department's consular officers at Foreign Service posts.

The assistance includes: (1) Providing emergency medical treatment of prisoners; (2) providing full feeding on p

short-term basis for prisoners in holding jails or similar detention, where meals are not furnished by the incarcerating authorities; and (3) providing dietary supplements to prisoners whose diets do not provide the minimum requirements necessary to sustain adequate health while incarcerated. Provisions (1) and (2) will require efforts to obtain the necessary funds from private sources to be undertaken first; if private funds are not available, these services will be provided on a reimbursable basis and the prisoners will be required to execute appropriate promissory notes for repayment of the money expended. Provision (3) does not require reimbursement.

Accordingly, it is proposed to amend Part 71 and 22 CFR by designating the heading General Activities as Subpart A and adding a new Subpart B to read as follows:

Subpart B—Emergency Medical/Dietary Assistance for U.S. Nationals Incarcerated Abroad

Sec.
71.10 Emergency medical assistance.
71.11 Short-term full diet program.
71.12 Dietary supplements.

AUTHORITY: Sec. 4, 63 Stat. 111, as amended (22 U.S.C. 2658, 2670); Pub. L. 95-45 (91 Stat. 221).

Subpart B—Emergency Medical/Dietary Assistance for U.S. Nationals Incarcerated Abroad

§ 71.10 Emergency medical assistance.

(a) *Eligibility criteria.* A U.S. national incarcerated abroad is considered eligible to receive funded medical treatment under the following general criteria:

(1) Adequate treatment cannot or will not be provided by prison authorities or the host government;

(2) All reasonable attempts to obtain private resources (prisoner's family, friends, etc.) have failed, or such resources do not exist;

(3) There are medical indications that the emergency medical assistance is necessary to prevent, or attempt to prevent, the death of the prisoners, or failure to provide the service will cause permanent disablement.

(b) *Services covered.* Funds, once approved, may be expended for:

(1) Medical examination, when required;

(2) Emergency treatment;

(3) Non-elective surgery;

(4) Medications and related medical supplies and equipment required on a routine basis to sustain life;

(5) Preventive or protective medications and medical supplies and equipment (vaccinations, innoculations, etc.) required to combat epidemic conditions (general or intramural);

(6) Childbirth attendance, including necessary medical care of newborn children; and

(7) Within the consular district, transportation for the U.S. national and attendant(s) designated by incarcerating officials between the place of incarceration and the place(s) of treatment.

(c) *Consular responsibility.* As soon as the consular officer is aware that a U.S. national prisoner in the consular district faces a medical crisis, the officer should take the following actions, setting forth the order of priority based on an evaluation of the facts received:

(1) Make every effort to contact the ill or injured prisoner as soon as possible;

(2) Take steps to obtain a professional medical diagnosis and prognosis of the ill or injured prisoner;

(3) Determine as accurately as possible the estimated costs of recommended treatment or surgery;

(4) Obtain the names and addresses of family or friends who might serve as a source of private funds for medical services, and attempt to obtain the necessary funds:

(5) Request the prisoner to execute a promissory note, since funds expended by the Department to cover medical services normally are on a reimbursable basis; and

(6) Submit the above information, along with recommendations and evaluations, to the Department for approval and authorization.

(d) *Emergency expenditure authorization.* When a medical emergency prohibits the delay inherent in contacting the Department and receiving authority to expend funds, the consular officer can expend up to an amount to be established by the Department without prior Departmental approval if:

(1) Symptoms determine eligibility for emergency medical treatment; or

(2) An immediate medical examination is warranted in order to verify the alleged abuse of a U.S. national prisoner by arresting or confining authorities; or

(3) Immediate emergency medical treatment or surgery is necessary to prevent death or permanent disablement, and there is insufficient time to explore private funds or obtain Department approval; and

(4) A promissory note already has been executed by the prisoner, or if the circumstances warrant, by the consular officer without recourse.

§ 71.11 Short-term full diet program.

(a) *Eligibility criteria.* A prisoner is considered eligible for the short-term full diet program under the following general criteria:

(1) The prisoner is to be or has been held in excess of one day in a holding jail or other facility;

(2) Incarcerating officials do not provide the prisoner food, and food is not available from any other sources, including private funding from family or friends; and

(3) If the funds exceed an amount to be established by the Department, the prisoner signs a promissory note for funds expended, since the assistance is on a normally reimbursable basis.

(b) *Consular responsibility.* As soon as the consular officer is aware that a U.S. national is incarcerated in a facility wherein food is not routinely provided, the consular officer should:

(1) Contact the prisoner in accordance with existing procedures;

(2) Determine the normal cost of basic diet and best method of effecting payment;

(3) Attempt to secure funds from private sources such as family or friends;

(4) Because funds expended by the Department to cover the short-term full diet program normally are on a reimbursabel basis, have the prisoner execute a promissory note; and

(5) Contact the Department, providing the above information, for approval and authorization.

(c) *Emergency expenditure authorization.* Since an immediate need for a short-term full diet program often prohibits the delay inherent in contacting the Department and receiving authority to expend funds, the consular officer can expend up to an amount to be established by the Department without prior Departmental approval if the prisoner's case meets the criteria established in § 71.11(a). Expenditures above the predetermined limit must receive the prior approval of the Department.

§ 71.12 Dietary supplements.

(a) *Eligibility criteria.* A prisoner is considered eligible for the dietary supplement program under the following general criteria:

(1) An evaluation by a private physician, prison doctor, or other host country medical authority reveals that the prison diet does not meet the minimum requirements to sustain adequate health; or

(2) If the evaluation in subparagraph (1) of this paragraph is not available, an evaluation by either a regional medical officer or Departmental medical officer reveals that the prison diet does not provide the minimum requirements to sustain adequate health.

(b) *Consular responsibility.* (1) When the consular officer is aware that the U.S. prisoner's diet does not provide the minimum requirements to sustain adequate health, the consular officer shall obtain the necessary dietary supplements and distribute them to the prisoner on a regular basis.

(2) As soon as the consular officer believes that dietary supplements are being misused, the consular officer shall suspend provision of the dietary supplements and report the incident in full to the Department.

For the Secretary of State.

ROBERT T. HENNEMEYER,
Acting Assistant Secretary for Consular Affairs.

OCTOBER 5, 1977.

[FR Doc.77-29739 Filed 10-7-77;8:45 am]

[4810-31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[27 CFR Part 4]

[Re: Notice No. 304, amended]

LABELING AND ADVERTISING OF WINE

Appellation of Origin, Grape Type Designation, etc.; Change in Duration of Hearing

AGENCY: Bureau of Alcohol, Tobacco and Firearms.

ACTION: Proposed rule; change in duration of San Francisco, California hearing.

SUMMARY: This notice changes the length of the previously scheduled public hearing to be held in San Francisco, California as published in the FEDERAL REGISTER on July 29, 1977 (42 FR 38602, FR Document 77-22010).

DATES: Submit requests to present oral testimony at the San Francisco, California hearing by October 18, 1977. Submit written comments by December 3, 1977.

ADDRESS: Submit comments and requests to testify to Director, Bureau of Alcohol, Tobacco and Firearms, Washington, D.C. 20226.

FOR FURTHER INFORMATION CONTACT:

The principal author:

D. R. Royce, Coordinator, Research and Regulations Branch, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Ave. NW., Washington, D. C. 202226, (202-566-7626).

SAN FRANCISCO HEARING

The public hearing, concerning the proposal to amend 27 CFR Part 4 with respect to "appellation of origin", "viticultural area", and "estate bottled" wine, scheduled for November 1-3, 1977 (42 FR 38602) will be held as scheduled beginning at 10 a.m. at the Sheraton Palace Hotel, 639 Market Street at New Montgomery Street, in the Comstock Room, San Francisco, Calif. 94105 on November 1, 1977.

However, due to the requests to testify received thus far, it is anticipated that the hearing can be held to two and one-half days without limiting the speaking time of any witness. Therefore, this notice is to advise that the hearing will be terminated by noon on Thursday, November 3, if possible. Persons who have requested an opportunity to present testimony are hereby advised that they should plan to testify on either November 1, 2, or by the opening of the session beginning at 10 a.m. on November 3.

Signed: October 4, 1977.

STEPHEN E. HIGGINS,
Acting Director.

[FR Doc.77-29729 Filed 10-7-77;8:45 am]

[1410-03]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77-4]

RECORDATION AND CERTIFICATION OF COIN-OPERATED PHONORECORD PLAYERS

Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed Regulation.

SUMMARY: The purpose of this notice is to inform the public that the Copyright Office of the Library of Congress is considering the adoption of a new regulation to implement section 116 of the Act for General Revision of the Copyright Law. This section prescribes conditions under which operators of coin-operated phonorecord players may obtain a compulsory license for the public performance of non-dramatic musical works. The proposed regulation establishes requirements governing applications for the compulsory license. This notice announces and invites participation in a public hearing intended to elicit comment, views, and information to assist the Copyright Office in formulating a final regulation.

DATES: The hearing will be held on October 25, 1977, commencing at 9:30 a.m. Members of the public desiring to testify should submit written requests to present testimony before October 14, 1977, to the address given below. The request should clearly identify the individual or group requesting to testify and the amount of time desired.

All witnesses are requested to provide 10 copies of a written statement of their testimony to the Office of the General Counsel at the address given below by October 19, 1977.

The record of the proceedings will be kept open until November 9, 1977, for receipt of written supplemental statements.

ADDRESSES: The hearing will be held in Room 910, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

Requests to present testimony and written statements should be addressed to:

Office of the General Counsel, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703-557-8731.

SUPPLEMENTARY INFORMATION: Section 116 of the first section of Pub. L. 94-553 (90 Stat. 2541) establishes conditions under which operators of coin-operated phonorecord players—commonly referred to as "jukeboxes"—may obtain a compulsory license for the public performance of nondramatic musical works.

A compulsory license permits the use of a copyrighted work without the consent of the copyright owner, if certain conditions are met and royalties paid. Conditions of the compulsory license for coin-operated phonorecord players are set forth in section 116(b)(1) as follows:

(A) Before or within one month after such performances are made available on a particular phonorecord player, and during the month of January in each succeeding year that such performances are made available on that particular phonorecord player, the operator shall file in the Copyright Office, in accordance with requirements that the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation, an application containing the name and address of the operator of the phonorecord player and the manufacturer and serial number or other explicit identification of the phonorecord player, and deposit with the Register of Copyrights a royalty fee for the current calendar year of $8 for that particular phonorecord player. If such performances are made available on a particular phonorecord player for the first time after July 1 of any year, the royalty fee to be deposited for the remainder of that year shall be $4.

(B) Within twenty days of receipt of an application and a royalty fee pursuant to subclause (A), the Register of Copyrights shall issue to the applicant a certificate for the phonorecord player.

(C) On or before March 1 of the year in which the certificate prescribed by subclause (B) of this clause is issued, or within ten days after the date of issue of the certificate, the operator shall affix to the particular phonorecord player, in a position where it can be readily examined by the public, the certificate, issued by the Register of Copyrights under subclause (B), of the latest application made by such operator under subclause (A) of this clause with respect to that phonorecord player.

Section 116(b)(1) thus requires the Register of Copyrights to prescribe regulations governing the compulsory license application and to develop a form of certificate to be affixed to licensed phonorecord players.

To assist the Copyright Office in formulating proposed regulations, on March 30, 1977, the Office published in the FEDERAL REGISTER (42 FR 16838) an Advance Notice of Proposed Rulemaking. In response to the advance notice twelve comments and replies were received.

A discussion of the major comments follows. In addition to these matters, and the proposed regulation in general, testimony is specifically invited on the following issue: What special provisions, if any, should the Copyright Office make in its regulations covering applications to be submitted and certificates to be issued for systems embodying multiple "wall

boxes" operating from a remote master unit?

1. What Information Should Be In The Application?

Section 116(b)(1)(A) of the Act requires that the application include the name and address of the operator, and the manufacturer and serial number or other explicit identification of the coin-operated phonorecord player.

Comments suggested that the application also include a list of the selections available on the player, charge per play, capacity of the player and the location of establishments in which the players are located. Each of these elements had been required in earlier versions of copyright revision bills, but none are maintained in the Act. Accordingly these elements are not generally required by the proposed regulation. (However, we do propose to require the capacity and charge per play for players having no serial number.)

Other comments suggested that the application include the address of the manufacturer, the name of the record distributor, and the name and address of phonorecord player lessee. These suggestions have not been adopted in the proposed regulation. The address of the manufacturer will generally be readily available. The need for identification of the record distributor is not apparent. The need for including the name and address of the phonorecord player lessee, if different from the operator, is also doubtful since the lessor would probably be making the required payment.

We have proposed that the application include the legal name of the operator, together with any relevant fictitious or assumed name, the full address of the operator's place of business, the manufacturer's name, and the serial number or certain explicit identification of players having no serial number. As suggested in one comment, we have proposed that the "address" of the operator include the number and street name or rural route of the operator's place of business. The use of a post office box will not be sufficient.

One comment suggested that we assign a unique number to each player instead of the manufacturer and serial number; however, since the latter information is required by the statute, we have not adopted this suggestion. Another comment urged the Copyright Office to assign a unique license number in order to set up a renewal system similar to state automobile licenses. The Copyright Office does plan to establish a reminder system for renewals of licenses.[1] This system would not require use of an assigned unique number, and if we were to assign such a number when it is not required for the reminder system it would only add to our operating costs and diminish the royalties payable to copyright owners.

[1] Of course, the reminder system will not relieve operators of their statutory obligation to make annual applications for compulsory license.

For players having no serial number the proposed regulation sets out certain other elements of identification. These pertain to the model designation and capacity of the player, the type of sound system employed, and the charge per play.

One comment suggested that the application should be sworn to in compliance with federal law. However, consistent with our plans with respect to other applications to be filed in the Copyright Office, we plan to reproduce section 116(d) of the Act on the application. This section prescribes criminal penalties for false representations in the application and may be sufficient for the purpose.

2. May A Single Application Cover Multiple Players Owned or Controlled by a Particular Operator?

In response to a question raised in the Advance Notice of Proposed Rulemaking, one comment suggested that a separate application be filed for each player owned or controlled by a particular operator. However, other comments agreed that a single application could be used for multiple players. In order to minimize paperwork for both the Copyright Office and the operators and to gain efficiency in our administration of the regulation, we have proposed to accept single applications for multiple players owned or controlled by a particular operator, assuming that all identifying information for each player is given and that the appropriate aggregate fee is paid.

3. Should Replacement Certificates Be Provided, and if so, at What Charge?

In accordance with a general consensus among the comments, we have proposed that replacement certificates will be supplied upon receipt of specified affidavits attesting to the loss or destruction of the original certificate and payment of an appropriate fee. There was disagreement among the comments as to the fee to be charged. We do not believe we can impose an additional $8 license fee for replacement certificates under section 116. Instead, our proposal establishes a $4 fee under section 708(11) of the Act for the service of providing replacements.

4. What Provisions, if Any, Should be Made for the Sale or Transfer of a Licensed Phonorecord Player during the License Period?

One comment suggested that every sale or transfer of ownership of a player should require a new application and issuance of a certificate. Another comment argued that the compulsory license should be freely transferable, subject only to due notice to the Copyright Office of changes in ownership. A third suggestion was that transfers should be handled like assignments of copyrights and made subject of recordation. Our proposed regulation does not adopt any of these proposals. The compulsory license under section 116 of the Act attaches to "particular phonorecord players" section 116(b)(1)(A) and (C)). Also, section 116(e)(2) of the statute indicates that the "operator" who obtains the license may be a person other than the owner of the player. Since sales or transfers affect the ownership of the player, and not the player itself, our proposal does not require any action to be taken upon the sale or transfer of a player during the license period.

5. Miscellaneous Comments

The following matters pertain to internal Office practices and questions of format which will no be prescribed by regulation.

(a) Our plans call for the certificate issued by the Copyright Office to be a colored adhesive label, and the application to be computer codable. Since the purpose of the certificate is to show that a particular phonorecord player has been licensed, the certificate will contain all of the identifying information given on the application for the particular player.

(b) Comments suggested that the Copyright Office compile a catalog of all the information on the applications and make applications and certificates available for public inspection. Completed applications will be available for public inspection after processing. Since the certificates will be printed from punch cards or tapes, copies of the certificates will not be available. We are considering the possibility of providing, for a fee, cataloged information compiled from applications.

We propose to amend Part 201 of 37 CFR Chapter II by adding a new § 201.16 to read as follows:

§ 201.16 Recordation and Certification of Coin-Operated Phonorecord Players.

(a) *General.* This regulation prescribes the procedures to be followed by operators of coin-operated phonorecord players who wish to obtain a compulsory license for the public performance of nondramatic musical works, and by the Copyright Office in issuing certificates, under section 116 of title 17 of the United States Code as amended by Pub. L. 94-553. The terms "operator" and "coin-operated phonorecord player" have the meanings given to them by paragraph (e) of that section.

(b) *Form and content of applications.* (1) Each application for a compulsory license under this section shall be on a form prescribed by the Copyright Office and shall contain the following information:

(i) The legal name of the operator, together with any fictitious or assumed name used by the operator for the purpose of conducting the business relating to the coin-operated phonorecord player for which the application is made.

(ii) The full address of the operator's place of business, including a specific number and street name or rural route. A post office box number or similar designation will not be accepted.

(iii) The name or a specified designation of the manufacturer of the coin-

operated phonorecord player for which the application is made.

(iv) The serial number of the coin-operated phonorecord player for which the application is made. If a serial number does not appear on that player, all the information required by paragraph (b)(2) of this section shall be given.

(v) The name, address and telephone number of an individual who may be contacted by the Copyright Office for further information about the application.

(vi) The signature of the operator or the duly authorized agent of the operator. If a business entity is identified as the operator, the signature should be that of an officer if the entity is a corporation or of a partner if the entity is a partnership.

(2) If a serial number is not present on the coin-operated phonorecord player for which the application is made, the application shall also contain the following information for that player:

(i) Its model number;

(ii) Its model year and name, if known;

(iii) Whether the sound system employed in the player is nonaural, stereophonic, quadriphonic, or other;

(iv) The maximum number of phonorecords it is capable of holding; and

(v) The charge to the public for each play.

(3) Each application shall be accompanied by the fee prescribed by statute in the form of a certified check, cashier's check or money order.

(4) A single application may be submitted for multiple players owned or controlled by a particular operator if all the identifying information is given for each player and the proper aggregate fee is submitted for all players covered by the application.

(c) *Certificate.* (1) After receipt of the prescribed form and fee, the Copyright Office will issue a certificate containing the information set forth in paragraphs (b)(1)(i) through (iv) and (b)(2) of this section, together with the date of issuance of the certificate and the date of expiration of the license.

(2) In the case of the loss or destruction of a certificate issued for a particular coin-operated phonorecord player, a replacement certificate may be obtained upon submission of a fee of $4, in the form of a certified check, cashiers check or money order, and an affidavit under the official seal of any officer authorized to administer oaths within the United States, or a statement in accordance with section 1746 of title 28 of the United States Code, made and signed by an operator or agent in accordance with paragraph (b)(1)(vi) of this section. The affidavit or statement shall describe the circumstances of the loss or destruction and give all the information required by paragraphs (b)(1)(i) through (v) and (b)(2) of this section pertaining to the player for which a replacement certificate is desired.

(d) *Sale or transfers.* The sale or transfer of a coin-operated phonorecord player during a period for which the certificate has been issued will not require a new application.

(17 U.S.C. 107; and under the following sections of Title 17 of the U.S. Code as amended by Pub. L. 94-553: 116; 702; 708(11).)

Dated: September 30, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN
Librarian of Congress.

[FR Doc.77-29693 Filed 10-7-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 180]

[PP5F1628 and 5F1629/P52 (FRL 802-5)]

PESTICIDE PROGRAMS

Pesticide Chemicals in or on Raw Agricultural Commodities; Proposed Tolerances for the Pesticide Chemical 4-Amino-6-(1,1-dimethylethyl)- 3 -(methylthio)-1,2, 4-triazin-5(4H)-one

AGENCY: Office of Pesticide Programs, Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: This notice proposes to establish tolerances for residues of the herbicide 4-amino-6-(1,1-dimethylethyl) - 3 - (methylthio) - 1,2,4 - triazin - 5 (4*H*) -one. The proposal was submitted by the Mobay Chemical Corporation. This proposed rule would establish maximum permissible levels for residues of the subject herbicide on various raw agricultural commodities.

DATE: Comments must be received on or before November 10, 1977.

ADDRESS COMMENTS TO: Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, Environmental Protection Agency, Room 401, East Tower, 401 M St. SW., Washington D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert Taylor, Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, Environmental Protection Agency (202-426-2632).

SUPPLEMENTARY INFORMATION: On June 18, 1975, notice was given (40 FR 48680) that Mobay Chemical Corp., P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120, had filed a petition (PP 5F1628) with the EPA. This petition proposed to amend 40 CFR 180.332 by establishing tolerances for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl) - 3 - (methylthio) -1,2,3-triazin-5(4*H*) -one and its triazinone metabolites in or on the raw agricultural commodities alfalfa, grass, and sainfoin hay at 7 ppm; green alfalfa, grass, and sainfoin at 2 ppm; wheat straw at 0.2 ppm; asparagus and wheat grain at 0.05 ppm and by increasing the tolerances for residues in meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep from 0.2 to 0.7 ppm.

Also on June 18, 1975, notice was given (40 FR 48680) that Mobay Chemical Corp., had filed a petition (PP 5F1629) with the EPA proposing to amend 40 CFR 180.332 by establishing tolerances for combined residues of the subject pesticide and its triazinone metabolites in or on the raw agricultural commodities fresh corn including sweet corn (kernels plus cob with husk removed) and corn grain at 0.05 ppm and corn fodder and forage at 0.1 ppm. Subsequently, Mobay amended the petition by proposing that the established tolerance of 0.01 ppm in milk be increased to 0.05 ppm.

Because these amendments to the petitions might result in increased human exposure to the pesticide, the requests are being issued as a proposed rulemaking notice pursuant to 40 CFR 180.32. No comments were received in response to these notices of filing.

The scientific data submitted in the petitions and other relevant material have been evaluated, and it has been determined that the proposed tolerances will protect the public health. The main scientific considerations in the Agency's determination were that the metabolism of the subject pesticide in plants and animals is adequately understood, and so there is no need for additional characterization of water soluble and extractable residues found in plants and animals. The available toxicity data on the pesticide satisfy the lifetime-feeding, reproduction, teratogenicity, and mutagenicity requirements of the Agency. The demonstrated no-effect level would support an acceptable daily intake (ADI) in man (based on rat-feeding studies) of 0.15 mg/kg of body weight/day. An adequate enforcement method (gas chromatographic technique with electron capture detector) for the tolerances is available.

The manufacturer has submitted analytical data which demonstrate that no detectable levels (less than 0.1 ppm) of the postulated nitrossamines of this herbicide are present in the finished formulation.

Tolerances have previously been established for the pesticide in or on potatoes at 0.6 ppm; meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep at 0.2 ppm; sugarcane and soybeans at 0.1 ppm; and eggs and milk at 0.1 ppm. The established tolerance for residues in eggs is adequate to cover secondary residues resulting from the proposed uses and the tolerances established by amending 40 CFR 180.332 will be adequate to cover residues that would result in milk and the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep as delineated in 40 CFR 180.6(a)(1).

It has been determined that the pesticide is useful for the purpose for which the tolerances are sought. Therefore it is proposed that the tolerances be established as set forth below.

Any person who has registered, or submitted an application for the registration of a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act which contains any of the ingredients listed herein, may request, on or before November 10, 1977, that this rulemaking proposal be referred to an advisory committee in accordance with section 408(e) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on the proposed regulation. Three copies of the comments should be submitted to facilitate the work of the Agency and of others interested in inspecting them. The comments must bear a notation indicating both the subject and the petition document control number, "PP5F1628 & 5F1629/P52". All written comments filed in response to this notice of proposed rulemaking will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: October 13, 1977.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

(Section 408(d)(2) of the Federal Food, Drug, and Cosmetic Act [21 U.S.C. 34a(d)(2)])

It is proposed that Part 180, Subpart C, § 180.332 be amended by (a) alphabetically inserting tolerances of 7 ppm on alfalfa, grass, and sainfoin hay; 2 ppm on green alfalfa, grass, and sainfoin; 0.2 ppm on wheat straw; 0.1 ppm on corn fodder and forage; and 0.05 ppm on asparagus, fresh corn including sweet corn (kernels plus cob with husk removed), corn grain, and wheat grain, (b) increasing the established tolerances of 0.2 ppm in the meat, fat, and meat byproducts of cattle, goats, hogs, horses, poultry, and sheep to 0.7 ppm and 0.01 ppm in milk to 0.05 ppm, and (c) revising the section in its entirety to editorially restructure the section into an alphabetized columnar listing to read as follows.

§ 180.332 4-Amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4,-triazin-5(4*H*)-one; tolerances for residues.

Tolerances are established for combined residues of the herbicide 4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-6(4*H*)-one and its triazinone metabolites in or on the following raw agricultural commodities:

Commodity:	*Parts per million*
Alfalfa, green	2
Alfalfa, hay	7
Asparagus	.05
Cattle, fat	.7
Cattle, mbyp	.7
Cattle, meat	.7
Corn, fodder	.1
Corn, forage	.1
Corn, fresh (inc. sweet K+CWHR)	.05
Corn, grain (inc. popcorn)	.05
Eggs	.01
Goats, fat	.7
Goats, mbyp	.7
Goats, meat	.7
Grass	2
Grass, hay	7
Hogs, fat	.7
Hogs, mbyp	.7
Hogs, meat	.7
Horses, fat	.7
Horses, mbyp	.7
Horses, meat	.7
Milk	.05
Potatoes	.6
Poultry, fat	.7
Poultry, mbyp	.7
Poultry, meat	.7
Sainfoin	2
Sainfoin, hay	7
Sheep, fat	.7
Sheep, mbyp	.7
Sheep, meat	.7
Soybeans	.1
Sugarcane	.1
Wheat, grain	.05
Wheat, straw	.2

* * * * *

[FR Doc.77-29726 Filed 10-7-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[Docket No. 21383; RM-2814]

FM BROADCAST STATION IN CAMP LEJEUNE, N.C.

Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments to the Notice of Proposed Rule Making concerning the proposed assignment of a Class C FM channel to Camp Lejeune, N.C., or in the alternative, assignment of a Class A FM channel to Cherry Point, North Carolina. Petitioner states that the additional time is needed so that it can prepare an adequate response to the economic and engineering aspects of the questions raised in the Notice.

DATES: Comments must be filed on or before November 16, 1977, and reply comments must be filed on or before December 7, 1977.

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

FOR FURTHER INFORMATION CONTACT:

Mildred B. Nesterak, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

ORDER EXTENDING TIME FOR FILING COMMENTS AND REPLY COMMENTS

Adopted: October 4, 1977.

Released: October 4, 1977.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations (Camp Lejeune, N.C.), Docket No. 21383, RM-2814.

1. On August 30, 1977, the Commission adopted a Notice of Proposed Rule Making, 42 FR 45002, concerning the above captioned proceeding. The dates for filing comments and reply comments are October 17 and November 7, 1977, respectively.

2. On September 19, 1977, Beasley Broadcast Group of Jacksonville, Inc., licensee of Stations WJNC and WRCM (FM), Jacksonville, N.C., by counsel, filed a request seeking an extension of time for filing comments to and including November 16, 1977. Counsel states that the complexities of the issues presented in the Notice, particularly in regard to its economic and engineering aspects, as well as the press of business in other proceedings before the Commission, prevents its meeting the current filing date. He adds that the additional time will enable him to adequately respond to the questions raised in the Notice.

3. Francon, Incorporated, proponent in this proceeding, interposes no objection to the granting of the requested extension.

4. We are of the view that the public interest would be served by this extension so that Beasley Broadcast Group of Jacksonville, Inc., may file any information which may be helpful to the Commission in resolving the issues before it. Because of this extension in the date for filing comments, a postponement in the deadline for reply comments is also required. *Accordingly, it is ordered*, That the time for filing comments and reply comments in Docket 21383, RM-2814, is extended to and including November 16, and December 7, 1977, respectively.

5. This action is taken pursuant to authority found in sections 4(i), 5(d)(1), and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

FEDERAL COMMUNICATIONS COMMISSION,
WALLACE E. JOHNSON,
Chief, Broadcast Bureau.

[FR Doc.77-29704 Filed 10-7-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1004]

[Ex Parte No. 55 (Sub-No. 27)]

DUAL OPERATIONS OF MOTOR CARRIERS

Proposed Implementation of Proposal No. 18 Regarding the Handling of Motor Carrier Applications

AGENCY: Interstate Commerce Commission.

ACTION: Proposed rulemaking.

SUMMARY: This notice proposes to implement the recommendations of ICC proposal No. 18 (Dual Operations) in the report of the Commission's Staff Task Force on improving motor carrier entry control, dated July 6, 1977, regarding handling of motor carrier applications

which, if granted, will result in dual operations as both a common and a contract carrier. It is anticipated that the decision in this proceeding will approve future dual operations. Guidelines would be established by which dual operations may be brought in issue in a specific case.

DATES: Written comments should be filed with the Commission on or before December 12, 1977.

ADDRESSES: Send comments to Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423; Phone: 202–275–7292.

SUPPLEMENTARY INFORMATION: Section 210 of the Interstate Commerce Act requires that dual operations be approved as a condition to any new grant of authority to a carrier, or affiliated carriers holding both common and contract carrer rights. Approval may be granted if dual operations satisfy the standard of consistency with the public interest and the national transportation policy. Heretofore, evaluation of compliance with the requirements of section 210 has been on a case-by-case basis. As motor carrier operations continue to expand and diversify reflecting growth and technological changes in the economy, applications to operate contemporaneously in both the common and contract mode have increased dramatically. To facilitate disposition of these cases and improve agency resource allocation, recommendation No. 18 of the Staff Task Force report proposes that in a proceeding analogous to a prospective licensing rulemaking, the Commission enter a general finding that the holding of dual authority satisfies the standard of section 210 absent a specific showing that abuses are likely to result. Also, it advocates submission of legislation ultimately repealing the considered statutory provision in light of the availability of sanctions set forth in section 218(b) of the Act.

The hypothesis on which the above recommendation rests is that instances of rate discrimination or other abuses traceable to the holding of dual authority are virtually nonexistent. If no practical or legal impediments are shown to exist, it is anticipated that the decision in this proceeding will prospectively approve dual operations as has been proposed. Concurrently, guidelines would be established by which the propriety of dual operations may be brought in issue in a specific case. To insure the viability of the general finding of consistency with the public interest the proposed guidelines impose affirmative burdens on any party advocating disapproval of dual operations.

DATES: Written comments should be filed with the Commission on or before December 12, 1977. Comments are requested from interested parties concerning the question of whether discrimination or preference is likely where dual operations exist under current economic and regulatory conditions. These comments should also address the issue of whether alternate means exist to dispose of dual operations proposals more expeditiously, and they may include suggesttd rules regarding the type of showing required to compel an assessment of dual operations in a specific proceeding.

Section 210 of the Act provides in pertinent part that:

> Unless, for good cause shown, the Commission shall find, or shall have found, that both a certificate and permit may be so held consistently with the public interest and the national transportation policy * * * (1) no person * * * shall hold a certificate * * *, if such person, * * * holds a permit as a contract carrier authorizing operation for the transportation of property by motor vehicle over the same route or within the same territory; and (2) no person, * * *, shall hold a permit * * *, if such person holds a certificate * * * for the transportation of property * * * over the same route or within the same territory (49 U.S.C. 310, August 9, 1935, amended September 18, 1940).

Decisions of the Commission interpreting this section of the Act have, until recently, taken an increasingly strict view of when dual operations may be approved. Results, however, have not been uniform even in relatively similar factual settings, and much time and energy has been devoted to an often highly theoretical analysis of whether unlawful or undesirable practices could be indulged in if dual operations approval were to be granted. Since such efforts are unrelated to the evaluation of the issue of public need in application proceedings, the public interest should be greatly advanced by our reducing the amount of resources devoted to disposing of such peripheral matters. It is axiomatic that any regulation adopted in this proceeding must be consistent with the requirements of the Act and carry out its objectives. Accordingly, brief consideration is warranted at this point of the meaning and purpose of section 210, as they are currently understood.

Historical Development of Standards Relating to Disposition of Dual Operations Proposals

It is well established that at the time of the adoption of the Motor Carrier Act of 1935, its supporters were not favorably disposed to concurrent motor carrier operations as both a common and contract carrier. Their concern was that such operations would enable the exercise of preference, discrimination, and other undesirable practices. An earlier bill from which the Act was ultimately derived even went so far as to prohibit dual operations entirely. There is no legislative history which would indicate that the drafters considered the adoption of the language appearing above, which allows the Commission to approve dual operations on making certain findings, to be a significant departure from their original proposal.

Provisions of section 210 have remained relatively unchanged since their enactment (the only major change has been the bringing of common control within the scope of this rule in 1940); however, the Commission's approach to evaluating applications subject to its terms has varied through the years. In the initial stages of motor carrier regulation the Commission demonstrated considerable leniency in approving dual operations, basing such findings solely on disparity of commodities and territories, if present. After 1940, however, this agency became concerned that the relationship of the parties involved could give rise to opportunities for the exercise of preference or discrimination regardless of other factors in a case. This trend began with the entry of the decision in *Canada Common Carrier Application*, 26 M.C.C. 563 (1940), wherein it was concluded that the "mere possibility" that improper practices could occur was enough to warrant disapproval of dual operations. Thereafter service proposals were frequently disapproved not only where dual service could clearly be provided for the same shipper, but even where there was only a remote chance that the same person would be served as both common and contract carrier. Ultimately, in *Zern-Purchase-Nettles*, 57 M.C.C. 627 (1951), possible overlapping service for merely the same consignee was found a sufficient ground on which to base a determination that dual operations would not be in the public interest.

The adoption of the standard in the *Canada* case did not result in the denial of all subsequently filed applications seeking to engage in dual service. Frequently, where a remote chance of dual service was found, it was possible to restrict the scope of the involved common carrier service, or to limit the involved contract carrier application, to satisfy whatever objections may have existed with regard to an outright grant of the service proposal in question. Also, in certain specified classes of cases, such as those involving proposals to transport cash letter, or to perform small parcel service, dual operations were approved even though under existing standards and precedent such operations would have been considered not in the public interest. On the whole, though, the trend became established to disapprove operations as both a common and contract carrier in as many situations as possible, and on the most theoretical of bases.

The "mere possibility" approach to analysis of applications subject to section 210 was followed with relative consistency until the entry of the decision in *Delaware Express Co.* v. *Milford Express, Inc.*, 119 M.C.C. 499 (1973) (*Delaware I*). In this proceeding it was found

that under the circumstances presented, no reasonable likelihood existed that dual operations by commonly controlled carriers to the same consignees would violate the considered statutory provision or be contrary to the public interest. Subsequently, in a report on reconsideration in the same case, printed at 126 M.C.C. 462 (1977) (*Delaware II*), Division I rejected the "mere potential or opportunity" standard as overly restrictive. It then ruled that where there does not exist a "realistic possibility" of discrimination as a result of a grant of dual operating authority, such operations should be found consistent with the public interest and the national transportation policy. The subsequent evaluation of facts in *Delaware II* fairly supports the conclusion that in only rare instances of so-called consignee overlap will dual operations approval be withheld. See also *Cargo Contract Carrier Corp. Ext.—Bananas*, 126 M.C.C. 874, 876–880 (1977), and *Wayne Daniel Truck, Inc.—Ext.—Candy*, 128 M.C.C. 1, 9–10 (1977).

After the second *Delaware* decision, Division I in *Charter Exp., Inc., Ext.—Truck and Trailer Parts*, 126 M.C.C. 671 (1977), adopted the position that a more realistic evaluation of facts is necessary in all proceedings which could result in multimodal motor carrier operations. Factors or criteria alluded to in *Delaware II* were found suitable for appraisal of applications seeking dual operations approval, and the prior, speculative approach to resolution of the considered issue was substantially rejected. Since these decisions are of recent vintage, it is not possible to state with any certainty their effect on dual operations. Because of the emphasis on reasonable analysis and concern for real world effects, it is anticipated that approval will be granted with somewhat greater frequency than before.

Purpose and Need For Present Rulemaking

If a rule such as the Staff Task Force contemplates were adopted, disapproval of dual operations should occur only infrequently. It is recognized that such liberalization would be contrary to views held at the time the Motor Carrier Act was adopted. This is not felt to be an impediment to implementation of the considered proposal, however, for several reasons. The first is that when Congress revised section 210 in 1940 to extend it to common control situations, no other efforts were made to tighten its provisions, even though dual operations were being routinely approved at that time. An even more significant consideration is the fact that in 1940, present section 218(b) was added to the Act, affording the Commission disciplinary power with respect to the rates and practices of contract carriers. This grant of regulatory power should have obviated the concern of the drafters of the Act that rebates and concessions could be offered by a contract carrier as a means of inducing use of its common carrier service. If abuses of dual operations grants were to occur, the latter cited statutory section, and others prohibiting unlawful practices by common carriers remain available to enable the Commission to bring about their termination and protect the public interest. A side benefit would be a reduction in reliance on the entry control mechanism to ensure lawful, fair and competitive rate practices.

The proposal would eliminate in most instances the need to address the issue of dual operations in individual proceedings, which remains necessary even under the *Charter—Delaware II* line of decisions. Because of the startling increase in motor carrier application filings during 1977, we believe any suggestion to reduce the time for handling cases warrants investigation, not only to ease the burden on the agency's staff, but more importantly because more responsive regulatory action will result.

Comments Requested

Comments are requested from interested parties concerning the question of whether discrimination or preference is likely where dual operations exist under current economic and regulatory conditions. These comments should also address the issue of whether alternate means exist to dispose of dual operations proposals more expeditiously, and they may include suggested rules regarding the type of showing required to compel an assessment of dual operations in a specific proceeding.

Accordingly, the Commission proposes to add to part 1004 of the Code of Federal Regulations a new § 1004.3, as follows:

§ 1004.3 [Added]

(a) Where an application for motor common or contract carrier authority will result in dual operations as defined in section 210 of the Interstate Commerce Act, a finding will be entered that "in accordance with the decision in Ex Parte No. 55 (Sub-No. 27) dual operations may be performed by applicant (and its affiliate) consistent with the public interest and the national transportation policy." Consideration will not otherwise be afforded the dual operations issue in any particular proceeding unless a party introduces facts indicating a reasonable likelihood that rate preferences will be extended or that discrimination will be practiced or solicited. To satisfy this requirement it will not be sufficient for a party advocating litigation of the lawfulness of dual operations to merely establish that dual service may or will be provided for the same shipper or consignee.

(b) Where the question of whether dual operations would be consistent with the public interest and national transportation policy is raised in a specific proceeding, the party raising the issue should address the following relevant factors: (1) Identification of shippers to be served as both a common and contract carrier, (2) the relationships of the involved commodities, (3) the realities of economic control of the shippers over the carriers, (4) the economic leverage which any potential consignors or consignees would have on the carriers, (5) the actual incentive which the involved carrier or carriers would have to engage in discriminatory behavior, and (6) the actual product distribution patterns of the traffic inolved.

(c) Any grant of authority enabling dual operations by an applicant (or by an applicant and its affiliate) will include a condition expressly reserving to the Commission the right to impose such terms, conditions, or limitations in the future as it may find necessary to insure that the applicant's operations shall conform to section 210 of the Act.

This notice of initiation of a rulemaking is promulgated under the authority contained in 49 U.S.C. 304 and 310, and 5 U.S.C. 553 and 559, and was adopted formally at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 3d day of October, 1977.

By the Commission (Commissioner Brown did not participate).

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

[FR Doc.77-29717 Filed 10-7-77;8:45 am]

[7035-01]

[49 CFR Part 1062]

[Ex Parte No. MC-110]

SPECIAL APPLICATION PROCEDURES

Service at New Plantsites

AGENCY: Interstate Commerce Commission.

ACTION: Initiation of Rulemaking Proceedings.

SUMMARY: The Interstate Commerce Commission is initiating this rulemaking proceeding to investigate the feasibility of permitting motor carriers to serve newly opened plantsites without the necessity of going through formal application procedures presently required under the Commission's Rules of Practice. This proceeding was prompted by recommendation number 12 of the Staff Task Force report on improving motor carrier entry regulation.

DATES. Comments due on or before December 12, 1977.

ADDRESSES: Send comments to: Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423.

FOR FURTHER INFORMATION CONTACT:

Michael Erenberg, Assistant Deputy Director, Section of Operating Rights, Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, phone 202-275-7292.

SUPPLEMENTARY INFORMATION: On July 6, 1977, a specially appointed Commission Staff Task Force submitted its report to the Commission on recommendations for improving motor carrier entry regulation. One of the recommen-

dations dealt with the situation where new plantsites are opened and applications are filed by motor carriers seeking to provide transportation services from the new plantsite.

When a plantsite opens, many applications are filed by carriers seeking to provide service. Although protestants may hold paper authority to provide some or all of the needed service, they have never served the new plantsite. It is difficult to see how these protestants will be harmed by grants of operating authority to serve the new plantsite. We question the necessity of requiring applicants to apply formally for authority to serve the new plantsite when existing carriers cannot be harmed.

We suggest that a carrier (presently authorized or new entrant) could apply to serve a new plantsite during a specified period prior to or after its opening. The carrier would be required only to demonstrate its fitness, to submit a brief affidavit of shipper support, and, possibly to submit certain other basic information. Comments are requested on this or any alternative procedure.

Among the questions that should be addressed are:

(1) Is the proposal likely to lead to over-capacity at new plantsites?

(2) Should existing carriers have standing to protest?

(3) For what period of time prior to or after the opening of a "new plantsite" should these shortened procedures be operative?

(4) How would implementation of such a proposal affect existing precedents?

(5) What is meant by "new plantsite"?

(6) Is this proposal a fair and equitable one?

(7) Are there alternative implementing procedures?

PUBLIC COMMENTS INVITED

Interested persons are invited to comment on the proposal and suggest alternatives.

This document is promulgated under the authority of 49 U.S.C. 204, 206, and 207; and 5 U.S.C. 553, and was adopted at a General Session of the Interstate Commerce Commission held at its office in Washington, D.C., on the 28th day of September, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

Commissioner Stafford, dissenting: This rulemaking proceeding is premature. I would wait until the current nationwide hearings are concluded before instituting this matter. By postponing action we would have the benefit of public comment that can assist in the formulation of proposed rules. This might help to resolve at the initial level potential problems unforeseen by the circulated notice.

[FR Doc.77-29719 Filed 10-7-77;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.

[3410-02]

DEPARTMENT OF AGRICULTURE

Federal Grain Inspection Service

GRAIN STANDARDS

Georgia Grain Inspection Points

Statement of considerations. The Georgia Department of Agriculture, Atlanta, Ga., is designated to operate as an official agency in accordance with the provisions of section 7(f) of the U.S. Grain Strandards Act (7 U.S.C. 79(f)). The Georgia Department of Agriculture has been providing official inspection service for approximately 6 years at Gainesville and Valdosta, Ga.; and for approximately 10 years at Atlanta, Ga., as designated inspection points. A designated inspection point is defined as a city, town, or other location assigned under the regulations to an official inspection agency for the conduct of official inspections, and within which the official inspection agency, or one or more of its licensed inspectors, is located (7 CFR 26.1(b)(13)).

The Georgia Department of Agriculture has requested that the assignment of inspection points under its designation be amended to add Swainsboro and Bronwood, Ga., as designated inspection points in accordance with § 26.99(b) of the regulations (7 CFR 26.99(b)).

As a point of clarification, it should be noted that the U.S. Grain Standards Act (7 U.S.C. 71 et seq.), hereinafter referred to as the "Act," has been amended by Pub. L. 94-582, effective November 20, 1976, to extensively modify the official inspection system. The amended Act provides, in part, that the Administrator of the newly created Federal Grain Inspection Service (FGIS), after conducting investigations and other studies, will designate official agencies at the various interior points. In implementing these provisions, FGIS is currently in the process of reviewing the designations of all agencies or persons presently designated to provide official inspection services. The amended Act further provides that existing agencies may continue to operate without a designation under the new law until the Administrator either grants or denies such designation to them or sets a period of time for their termination, not to exceed 2 years from the effective date of the amended Act.

Accordingly, the amendment of assigned inspection points would, if approved by the Department, not alter the existing designation of the applicant as an official inspection agency which continues until the Administrator of FGIS either grants or denies an official designation under the amended Act or sets a period of time for its termination.

Other interested persons are hereby given opportunity to submit written views and comments with respect to this matter and/or to make application for designation to operate as an official agency at Swainsboro and/or Bronwood, Georgia, pursuant to the requirements set forth in the U.S. Grain Standards Act and regulations.

NOTE.—Section 7(f) of the Act (7 U.S.C. 79 (f)) generally provides that not more than one official agency shall be operative at one time for any geographic area as determined by the Administrator.

All such views, comments, or applications should be submitted in writing to the Hearing Clerk, U.S. Department of Agriculture, Washington, D.C. 20250. All materials should be in duplicate and mailed to the Hearing Clerk not later than November 10, 1977. All materials submitted pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)). Consideration will be given to the views, comments, or applications that are filed with the Hearing Clerk and to all other information available to the U.S. Department of Agriculture before final determination is made with respect to this matter.

(Sec. 7, 82 Stat. 764, as amended 90 Stat. 2870, (7 U.S.C. 79); sec. 3A, 90 Stat. 2868 (7 U.S.C. 75a).)

Done in Washington, D.C., on September 30, 1977.

L. E. BARTELT,
Administrator.

[FR Doc.77-29635 Filed 10-7-77;8:45 am]

[3410-11]

Forest Service

DESCHUTES NATIONAL FOREST ADVISORY COMMITTEE

Notice of Meeting

The Deschutes National Forest Advisory Committee will meet at Lenny's Steakhouse, North Highway 97, Bend, Oreg. 97701, at 8 p.m. on Thursday, October 27, 1977.

The subject of the meeting will be a review and discussion of the five alternative plans as proposed in the recently published Draft Environmental Statement for the Forest Land Management Plan.

The meeting will be open to the public. Persons who wish to attend should notify the Forest Supervisor or Kay Coyner at 211 NE Revere, Bend, Oreg. 97701, telephone (503) 382-6922. Written statements may be filed with the Committee before or after the meeting.

EARL E. NICHOLS,
Forest Supervisor.

SEPTEMBER 30, 1977.

[FR Doc.77-29604 Filed 10-7-77;8:45 am]

[3410-11]

UPPER CISPUS 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 Upper Cispus Planning Unit, Gifford Pinchot National Forest, Wash., USDA-FS-R6-DES (Adm)-78-1.

The environmental statement concerns a proposed land management plan for the Upper Cispus Planning Unit. The proposed action describes how the various resources of the Unit would be used and what the output for each resource is expected to be.

The draft environmental statement was transmitted to CEQ on October 3, 1977.

Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Bldg., Room 3210, 12th St. & Independence Ave. SW., Washington, D.C. 20013.
USDA, Forest Service, Pacific Northwest Region, 319 Southwest Pine Street, Portland, Oreg. 97204.
USDA, Forest Service, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

A limited number of single copies are available upon request to Forest Supervisor Robert Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660.

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 infor-

mation should be addressed to Forest Supervisor Robert D. Tokarczyk, Gifford Pinchot National Forest, 500 West 12th Street, Vancouver, Wash. 98660. Comments must be received by December 2, 1977, in order to be considered in the preparation of the final environmental statement.

JOHN A. POPPINO,
Acting Regional Environmental Coordinator, Planning, Programing and Budgeting.

October 3, 1977.

[FR Doc.77-29645 Filed 10-7-77;8:45 am]

[3410-16]

Soil Conservation Service

BAITING BROOK WATERSHED PROJECT, MASSACHUSETTS

Notice of Intent To Prepare an Environmental Impact Statement

Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969; the Council on Environmental Quality Guidelines (40 CFR Part 1500); and the Soil Conservation Service Guidelines (7 CFR Part 650); the Soil Conservation Service, U.S. Department of Agriculture, gives notice that an environmental impact statement is being prepared for the Baiting Brook Watershed project, Middlesex County, Mass.

The environmental assessment of this Federal action indicates that the project may cause local, regional, or national impacts on the environment. As a result of these findings, Dr. Benjamin Isgur, State Conservationist, has determined that the preparation and review of an environmental impact statement is needed for this project.

The project concerns a plan for watershed protection and flood prevention. The planned works of improvement include conservation land treatment supplemented by one floodwater retarding structure, 0.4 mile of channel work consisting of cleanout and enlargement in the vicinity of three highway bridges of which 0.3 mile is an ephemeral flowing stream and 0.1 mile is a perennial stream, and flood plain management measures for reducing flood damages.

A draft environmental impact statement will be prepared and circulated for review by agencies and the public. The Soil Conservation Service invites participation of agencies and individuals with expertise or interest in the preparation of the draft environmental impact statement. The draft environmental impact statement will be developed by Dr. Benjamin Isgur, State Conservationist, Soil Conservation Service, P.O. Box 848, 29 Cottage Street, Amherst, Mass. 01002.

Dated: September 29, 1977.

(Catalog of Federal Domestic Assistance Program No. 10.904, Watershed Protection and Flood Prevention Program, Pub. L. 83-566, 16 U.S.C. 1001-1008.)

JOSEPH W. HAAS,
Assistant Administrator for Water Resources, Soil Conservation Service, U.S. Department of Agriculture, Washington, D.C.

[FR Doc.77-29646 Filed 10-7-77;8:45 am]

[6820-01]

CIVIL AERONAUTICS BOARD

[Docket 30402]

BRITISH AIRTOURS LTD.

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on November 7, 1977, at 9:30 a.m. (local time) in Room 1003, Hearing Room B, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on October 4, 1977, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 4, 1977.

RICHARD V. BACKLEY,
Administrative Law Judge.

[FR Doc.77-29687 Filed 10-7-77;8:45 am]

[6820-01]

[Order 77-10-3; Dockets 31377, 31379]

BRITISH AIRWAYS

Contract Cargo Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 4th day of October 1977.

On September 6, 1977, British Airways filed with the Board a tariff,[1] effective October 6, 1977, proposing general "Contract Cargo Rates" (CCR3) in U.K.-U.S. directional markets. Under the CCR3 scheme, a shipper would enter into a contract with British Airways to tender 800,000 kilograms of cargo for a one-year term, and in certain minimum consignment sizes. CCR3 cargo enjoys steeply discounted rates, which vary on the basis of market, containerization, and day of tender. CCR3 cargo, furthermore, is carried on a space-available basis for 48 hours after tender. Should a shipper fall short of his annual cargo tender commitment, he is charged an amount equal to his shortfall times 35 pence per kilogram.

Complaints against CCR3 were filed by Seaboard World Airlines, Inc., and Pan American World Airways, Inc. Oral argument on this matter was heard by the Board on September 16, 1977. On September 23, 1977, the Board sent a draft order to the President recommending that CCR3 be suspended for one year pending investigation, but anticipating that the suspension would be vacated upon acceptance by the British Government of appropriate competitive responses from U.S. carriers. By letter dated October 3, 1977, the President approved the suspension of CCR3 only for a 90-day period, expecting that the issue of competitive responses to CCR3 would be resolved within that time.

We are therefore amending our initial order suspending and investigating CCR3 to shorten the suspension period to 90 days, as directed by the President.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404(b), 801, and 1002 (f) and (j) thereof,

It is ordered, That:

1. The suspension ordered by Order 77-10-2, October 4, 1977, shall expire on January 3, 1978; and

2. Copies of this order shall be filed with the tariffs referenced in paragraph 1 of Order 77-10-2, October 4, 1977, and be served upon British Airways, Trans World Airlines, Inc., Seaboard World Airlines, Inc., Pan American World Airways, Inc., and The Flying Tiger Line Inc.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[2]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29690 Filed 10-7-77;8:45 am]

[6820-01]

[Order 77-10-2; Docket 31377, 31379]

BRITISH AIRWAYS

Contract Cargo Rates; Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 23rd day of September, 1977.

[1] International Cargo Contract Rates Tariff No. 6, C.A.B. No. 29, John M. Sampson, Agent. Trans World Airlines, Inc. and Seaboard World Airlines, Inc., have filed matching tariffs. International Local and Joint Air Cargo Contract Rates Tariff No. CR-2, C.A.B. No. 318, Trans World Airlines, Inc.; International Cargo Contract Rates Tariff No. 3, C.A.B. No. 32, Seaboard World Airlines, Inc.

[2] All members concurred except Member West who did not participate.

On September 6, 1977, British Airways filed with the Board a tariff,[1] effective October 6, 1977, proposing general "Contract Cargo Rates" (CCR3) in U.K.-U.S. directional markets.[2] Under the CCR3 scheme, a shipper would enter into a contract with British Airways to tender 800,000 kilograms of cargo for a one-year term, and in certain minimum consignment sizes.[3] CCR3 cargo enjoys steeply discounted rates, which vary on the basis of market,[4] containerization,[5] and day of tender.[6] CCR3 cargo, furthermore, is carried on a space-available basis for 48 hours after tender. Should a shipper fall short of his annual cargo tender commitment, he is charged an amount equal to his shortfall times 35 pence per kilogram.

In support of the tariff, British Airways generally asserts that the U.K.-U.S. cargo market is characterized by excess capacity and declining traffic, such that a stimulative cargo rate is needed; that CCR3, at yields of 16–20 pence per kilogram, will be highly generative, attracting to air transport approximately 2 percent of the total U.K.-U.S. cargo traffic that now moves by surface mode, which would represent a doubling in size of the U.K.-U.S. air cargo market; that CCR3 will be so generative as to be remunerative based upon industry average noncapacity costs, even assuming 50-percent diversion from higher rated air traffic that CCR3 is not unjustly discriminatory within the intent of section 404(b) of the Federal Aviation Act of 1958, and that in any case application of section 404(b) to discrimination alleged to take place between British shippers, and practices by a British carrier with the approval of the British Government, would be a violation of comity.

Complaints against CCR3 have been filed by Seaboard World Airlines, Inc., (Seaboard) and Pan American World Airways, Inc. (Pan Am). Seaboard claims that CCR3 is uneconomic, in that the rates are "demonstrably below the costs of the most efficient freighter operator in the market"; that CCR3 will be almost totally diversionary and dilutionary, based upon Seaboard's marked traffic loss between January and June 1977, when British Airways was illegally charging contract rates in the U.K.-U.S. market; that CCR3 will at first divert air cargo traffic from Europe and then spread there, destroying the economies of Seaboard's freighter aircraft; that British Airways is seeking to drive Seaboard, the competitive spur, from the market by charging a rate below fully allocated freighter costs, which Seaboard must cover, and subsidizing its losses from passenger and government subsidy revenue; that CCR3, by driving all-cargo aircraft from the North Atlantic, will bring the availability of these aircraft for the U.S. Civil Reserve Air Fleet to an end, thereby weakening the national defense; and that CCR3 is unjustly discriminatory, citing Order 76-12-162, December 17, 1976.

Pan Am states that CCR3 is uneconomic, falling below Pan Am's 747F cost per revenue ton-mile; that British Airways' generation estimate for CCR3 is invalid, since CCR3 rates are about five times higher than surface rates; that CCR3, whatever its virtues as a market stimulus, is unnecessary in light of the "healthy pace" of recent growth of the U.K.-U.S. cargo market; and that CCR3 is unjustly discriminatory, citing Order 76-12-162.

Oral Argument on this matter was heard by the Board on September 16, 1977. The Board finds that CCR3 may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. Furthermore, the Board finds that CCR3 should be suspended pending investigation.

We do not find that the CCR3 rates are uneconomic.[7] The fact that they do not cover the fully allocated costs of "the most efficient freighter operator in the market" is not determinative in this regard. Further, there has been no showing, nor any reason to believe, that the rates do not cover the marginal costs of British Airways. The Board recognizes the need for stimulation of the U.K.-U.S. air cargo market in view of its low load factors. While the evidence on the generative effect of CCR3 rates is far from conclusive,[8] it is not unreasonable to assume that some generation will take place. We are not prepared to say that the market is as unresponsive to price reductions as Pan Am appears to contend; on this issue, the judgment of British Airways' management is entitled to a test in the marketplace. As an aside, Seaboard's contention that the U.S. Civil Reserve Air Fleet will ultimately be weakened by the effects of CCR3 is not persuasive, particularly absent a representation to this effect from the Department of Defense.

CCR3 does raise substantial questions of unjust discrimination under section 404(b) of the Federal Aviation Act of 1958. These questions are virtually identical to those which caused the Board to suspend an earlier version of British Airways' contract rates in Order 76-12-162. In essence, we found then, and find now, no considerations of value of service to the shipper or cost savings to the carrier which justify charging lower rates to a shipper who has agreed to tender an aggregate amount of cargo over a long period of time and in different markets. Furthermore, some features of CCR3 which might in and of themselves justify lower rates, i.e., the off-peak tender discount and the 48-hour space available rule, nonetheless appear clearly discriminatory as part of CCR3 because they are unjustifiably made available only to contract shippers. Nevertheless, we are aware that the unjust discrimination in question occurs in a direct sense only among British shippers, that these rates are supported by the British Government, notwithstanding their discriminatory aspects, and that no showing has been made in this case that U.S. nationals are subject to unjust discrimination from these rates. In light of these circumstances, and the fact that section 1002(f) of the Federal Aviation Act of 1958 does not command us to eliminate all rates and practices in foreign air transportation which would be unjustly discriminatory under section 404(b),[9] we would not be inclined to exercise our suspension powers in this case, were it not for the considerations described below.

We are greatly concerned that the contract feature of CCR3 would be very destructive of the effective competition, particularly from efficient wide-body freighters, which is clearly required in the North Atlantic cargo markets. The effect, if not the intent, of this contract

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[1] International Cargo Contract Rates Tariff No. 6, CAB No. 29, John M. Sampson, Agent. Trans World Airlines, Inc. and Seaboard World Airlines., Inc., have filed matching tariffs. International Local and Joint Air Cargo Contract Rates Tariff No. CR-2, CAB No. 318, Trans World Airlines, Inc.; International Cargo Contract Rates Tariff No. 3, CAB No. 32, Seaboard World Airlines, Inc.

[2] *I.e.*, Glasgow/London/Manchester to Boston / Chicago / Detroit / Miami / New York /Philadelphia/Washington.

[3] *I.e.*, 2100 kg. (Type-3 container), 1735 kg. (Type-5), 1325 kg. (Type-6), 800 kg. (Type-8), or 300 kg. (Bulk).

[4] The highest CCR3 rates are from U.K. points to Miami, while the lowest are from U.K. points to Boston.

[5] Bulk cargo consignments are charged 5-6 pence per kilogram more than containerized consignments.

[6] The off-peak period runs from 2359 GMT Sunday to 1400 GMT Wednesday. Rates during this period for comparable consignments are 5-6 pence per kilogram lower than those during the remainder of the week.

[7] In Order 76-12-162 we noted that British Airways original CCR (CCR1) proposed rates would yield from 13.5¢ to 17.56¢ per RTM. Evidence submitted in this proceeding shows that the rate levels of CCR3 are higher than CCR1 and that the average yield per RTM is 19.6¢. Another distinguishing feature is that in CCR3 British Airways has introduced a peak-off-peak concept.

[8] In this regard, the opposing carriers point to the failure of British Airways to provide detailed data relating to its experience during the time that it was illegally charging CCR1 rates (January–June 1977). While this information might have been helpful, the record indicates that a growth in traffic in the market coincided with the CCR1 offering.

[9] Under section 1002(d) of the Act, when the Board finds that a carrier in interstate or overseas air transportation is charging rates or is engaging in practices which are unjustly discriminatory then "the Board *shall* determine and prescribe" the lawful rate or practice. Under section 1002(f) of the Act, when the Board finds that a carrier in foreign air transporation is charging rates or is engaging in practices which are unjustly discriminatory then "the Board *may* alter the same to the extent necessary to correct such discrimination" (emphasis added).

rate is to preserve and expand the market share of British Airways by "locking in" large-volume shippers with long-term contracts, in return for which they receive lower rates.[9] Since the CCR3 rates of British Airways would go into effect before any matching rates filed by competitors,[11] British Airways would have a measurable head-start in locking up large portions of the market. By the time matching rates go into effect, the market share available for competitors would be very much diminished. British Airways' advantage in time is compounded by its past advocacy of contract rates, its strong national identity in Great Britain, and its admittedly extensive marketing efforts on behalf of CCR3 rates. Accordingly, the most effective response of U.S. carriers would be to offer discount rates without the contract feature. For example, wide-body freighter operator may propose high weightbreak discounts, aimed at the very largest shippers and peculiarly suited to the lift capabilities and cost advantages of wide-body freighters. The crux of the matter is that if we now let CCR3 go into effect, and the U.K. Civil Aviation Authority does not later act favorably on such non-matching competitive responses by the U.S. carriers, then under the terms of the U.S.-U.K. air services agreement we could face substantial problems in restoring competition to the market by suspending CCR3.[12] The damage to competition will have been done, and may well be irreparable. Therefore, until we know that effective, not necessarily matching, competitive responces to CCR3 by U.S. carriers will be permitted by our British counterparts, we will not let a market-closing rate such as CCR3 begin its work.

Finally, this order suspends CCR3 for the usual 365 days, pending an investigation. It is the Board's expectation, however, that the issue of U.K. acceptance of competitive responses by U.S. carriers can be resolved shortly, either through unilateral acceptance by the U.K. authorities of U.S. carrier tariffs or through intergovernmental consultations. In such event, the Board will act forthwith to vacate this suspension. If it appears that controversy over competitive tariff filings cannot be resolved expeditiously, the Board intends to move forward promptly with a formal investigation of CCR3.

Accordingly, pursuant to the Federal Aviation Act of 1958, as amended, and particularly sections 204(a), 403, 404(b), 801, and 1002 (f) and (j) thereof,

It is ordered, That: 1. An investigation be instituted to determine whether the rates, charges, and provisions on Original Title Page, and Original Pages 1 through 8 of Tariff CAB No. 29, issued by John M. Sampson, Agent; Original Title Page, and Original Pages 1 through 8 of Tariff CAB No. 318, issued by Trans World Airlines, Inc.; and Original Title Page, and Orginal Pages 1 through 8 of Tariff C.A.B. No. 32, issued by Seaboard World Airlines, Inc.; and rules, regulations, and practices affecting such rates, 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 rates and rules, regulations, or practices;

2. Pending hearing and decision by the Board, the tariff provisions specified in paragraph 1 above be suspended and their use deferred from October 6, 1977, to and including October 6, 1978, unless otherwise ordered by the Board, and that no changes may 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,[13] and shall become effective on October 4, 1977.

4. The investigation ordered herein shall be assigned for hearing before an administrative law judge of the Board at a time and place hereafter to be designated;

5. Copies of this order shall be filed with the aforesaid tariffs, and be served upon British Airways, Trans World Airlines, Inc., Seaboard World Airlines, Inc., Pan American World Airways, Inc., and the Flying Tiger Line Inc.; and

6. Except to the extent granted herein, the complaints in Dockets 31377 and 31379 be dismissed.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[14]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc.77-29689 Filed 10-7-77;8:45 am]

[9] Our evaluation of CCR3 as anticompetitive is reinforced by its very strong resemblance to discount-induced exclusive dealing arrangements prohibited under section 3 of the Clayton Act, 15 U.S.C. § 14 (1970). *See* 1 *CCH Trade Reg. Rep.* ¶¶ 2910.18, .95 (1971). CCR3 perhaps is not technically violative of that provision of the antitrust laws, since it has been held not to apply to contracts for services. *MDC Data Centers, Inc.* v. *IBM Corp.*, 342 F. Supp. 502 (E.D. Pa. 1972). Nonetheless, for example, the Board's evaluation of the competitive effect of agreements under section 412 of the Federal Aviation Act of 1958 "involves considering the *policies* of the antitrust laws rather than adjudicating specifically whether such laws are violated * * *." *Local Cartage Agreement Case*, 15 C.A.B. 850, 854 (1952) (emphasis added).

[11] Trans World Airlines has matched CCR3 and not filed a complaint against it. Seaboard has matched CCR3 "under protest" and has complained against it. Pan Am has complained, and has not matched CCR3.

[12] Seaboard has been trying to introduce such high weightbreak rates in this market since 1972, but its tariffs have been prevented from becoming effective by the United Kingdom authorities. Further, TWA's advance purchase cargo rates, which the Board accepted in April of this year, have been prevented from becoming effective by U.K. government action.

[13] This order was submitted to the President on September 23, 1977. A letter from the President on this matter was filed as a part of the original document.

[14] All members concurred.

[6820-01]

[Docket 26838]

PRIORITY RESERVED AIR FREIGHT RATE INVESTIGATION

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a hearing in the above-entitled proceeding will be held on October 25, 1977, at 10 a.m. (local time), in Room 1003, Hearing Room D, Universal North Building, 1875 Connecticut Avenue, NW., Washington, D.C., before the undersigned administrative law judge.

For information concerning the issues involved and other details in this proceeding, interested persons are referred to the prehearing conference report served on October 18, 1976, and other documents which are in the docket of this proceeding on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., October 4, 1977.

RONNIE A. YODER,
Administrative Law Judge.

[FR Doc.77-29688 Filed 10-7-77;8:45 am]

[6335-01]

STATES COMMISSION ON CIVIL RIGHTS

ILLINOIS ADVISORY COMMITTEE

Cancellation of Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission a notice previously published in the FEDERAL REGISTER Tuesday, September 27, 1977, (FR Doc. 77-28134) on page 49493 has been cancelled.

Dated at Washington, D.C., October 5, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-29637 Filed 10-7-77;8:45 am]

[6335-01]

NEW YORK ADVISORY COMMITTEE

Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that a meeting of the New York Advisory Committee (SAC) of the Commission will convene at 4:30 p.m. and will end at 7:30 p.m. on November 3, 1977, at Phelp Stokes Fund, 10 East 87th Street, New York, N.Y.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Northeastern Regional Office of the Commission, 26 Federal Plaza, Room 1639, New York, N.Y. 10007.

The purpose of this meeting is to discuss program and project recommenda-

tions to new regional advisory structure and develop plans for completion of some projects.

This meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, D.C., October 5, 1977.

JOHN I. BINKLEY,
Advisory Committee Management Officer.

[FR Doc.77-29638 Filed 10-7-77;8:45 am

[6325-01]

CIVIL SERVICE COMMISSION

OFFICE OF MANAGEMENT AND BUDGET

Notice of Revocation of Authority To Make a Noncareer Executive Assignment

Under authority of section 9.20 of Civil Service Rule IX (5 CFR 9.20), the Civil Service Commission revokes the authority of the Office of Management and Budget to fill by noncareer executive assignment in the excepted service the position of Special Assistant to the Associate Director for Management and Operations, Office of the Associate Director for Management and Operations, Executive Office of the President.

UNITED STATES CIVIL SERVICE COMMISSION,
JAMES C. SPRY,
Executive Assistant to the Commissioners.

[FR Doc.77-29707 Filed 10-7-77;8:45 am]

[3510-11]

DEPARTMENT OF COMMERCE

Bureau of the Census

SURVEY OF 1977 RECEIPTS, CAPITAL EXPENDITURES, FIXED ASSETS, PAYROLL AND OTHER OPERATING EXPENSES FOR SELECTED SERVICE INDUSTRIES

Notice of Consideration

Notice is hereby given that the Bureau of the Census is considering a proposal to repeat in 1978 the quinquennial Survey of Selected Service Industries which is conducted under title 13, United States Code, sections 131, 193, 195, 224 and 225. This survey would be conducted in order to collect data for operations in calendar year 1977 covering receipts, capital expenditures, fixed assets, payroll and other operating expenses as supplemental data for the 1977 Census of Service Industries.

Information and recommendations received by the Bureau of the Census indicate that the data will have significant application to the needs of the public and governmental agencies and are not available from public or governmental sources.

Since the data to be requested in this survey are required only for the United States as a whole, reports will be required from only a sample of selected service firms in the United States. The sample will provide, with measurable validity, statistics on the aforementioned subjects.

Such a survey, if conducted, will not begin until at least November 10, 1977.

Copies of the proposed report forms are available upon written request to the Director, Bureau of the Census, Washington, D.C. 20233.

Any written suggestions or recommendations concerning the subject matter of the proposed survey submitted to the Director of the Bureau of the Census within on or before November 10, 1977 will receive consideration.

Dated: October 5, 1977.

MANUEL D. PLOTKIN,
Director, Bureau of the Census.

[FR Doc.77-29692 Filed 10-7-77;8:45 am]

[3510-25]

Domestic and International Business Administration

STATE UNIVERSITY OF NEW YORK, DOWNSTATE MEDICAL CENTER ET AL.

Notice of Applications for Duty-Free Entry of Scientific Articles

The following are notices of the receipt of applications for duty-free entry of scientific articles pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-651; 80 Stat. 897). Interested persons may present their views with respect to the question of whether an instrument or apparatus of equivalent scientific value for the purposes for which the article is intended to be used is being manufactured in the United States. Such comments must be filed in triplicate with the Director, Special Import Programs Division, Office of Import Programs, Washington, D.C. 20230, on or before October 31, 1977.

Amended regulations issued under cited Act, (15 CFR 301) prescribe the requirements applicable to comments.

A copy of each application is on file, and may be examined during ordinary Commerce Department business hours at the Special Import Programs Division, Department of Commerce, Washington, D.C. 20230.

Docket No. 77-00354. Applicant: State University of New York, Downstate Medical Center, Department of Anatomy & Cell Biology, 450 Clarkson Avenue, Brooklyn, New York 11203. Article: JEM 100C/SEG Electron Microscope with eucentric geniometer stage and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used in conducting the following research projects:

i. The ultrastructure of membrane fusion sites during myodifferentiation.

ii. The structure and chemistry of cytofilament insertions at plasma membranes of developing skeletal and cardiac muscle, platelets, and leukocytes.

iii. The structure of newly formed intercellular junctions in embryonic cardiac muscle.

iv. The mapping of membrane antigens potentially involved in cellular recognition of various embryonic cell types.

v. The analysis of Rous sarcoma virus (RSV) attachment, entry and release in cultured, embryonic muscle.

vi. The structure of isolated contractile filaments from embryonic muscle, heart and platelets.

Most of the cell biology experiments will concentrate on various aspects of membrane structure and function. In all the projects, the objectives of the studies will be to provide structural bases for important physiological processes. In addition, the article will be used for advanced graduate study in Cell Biology 201, a laboratory course open to Ph.D. candidates in the School of Graduate Studies and to M.D. students who elect to do advanced work in cells biology. Application received by Commissioner of Customs: August 30, 1977.

Docket No. 77-00355. Applicant: The Pennsylvania State University, Department of Biology, 208 Life Sciences I, University Park, PA 16802. Article: Model M85 microdensitometer with complan and microplan objectives. Manufacturers: Vickers Instruments Inc., United Kingdom. Intended use of article: The article is intended to be used to measure samples which are being developed and to inspect the final samples themselves. Microradiographs of the samples will be made to detect other than surface features. The article will be used to measure both absorption and area, providing two parameters for each sample measured. Application received by Commissioner of Customs: August 31, 1977.

Docket No. 77-00356. Applicant: Indiana University, 1101 East 17th Street, Bloomington, Ind. 47401. Article: Complete Polarized Ion Source System. Manufacturer: ANAC, LTD., New Zealand. Intended use of Article: The article is intended to be used to provide a directed beam of spin-polarized hydrogen or deuterium ions of high intensity and high degree of polarixation which are injected in a two-stage cyclotron accelerator system for acceleration to 200 MeV and directed onto suitable targets in order to study nuclear reactions with polarized beams. The objectives to be pursued in the course of the invesigation are (a) to obtain detailed information on the spin-dependent components of the nuclear forces involved in the scattering or recation processes and (b) to determine properties of nuclear states selectively excited by the spin-polarized ion beams. The article will also be used by graduate students in physics as part of their postgraduate education and training in Ph.D. level research in nuclear physics. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00357. Applicant: Indiana University, Purchasing Department, 1101 East 17th Street, Bloomington, IN 47401. Article: Electron Microscope, Model EM 301 with Goniometer Stage and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The

article is intended to be used for the investigation of ultrastructural organization of eukaryotic gene activity. The temporal sequence involved in the assembly of ribosomal proteins during RNA transcription and ribosome biogenesis will be studied using high resolution immune electron microscopy, histochemistry and autoradiography. In addition, the article will be used to teach graduate students who are working towards their Ph.D's and M.S.'s as well as post-doctoral fellows in various programs that are conducted by the Department of Biology. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00358. Applicant: University of Kansas, 2095 Ave. A—Campus West, Lawrence, Kans. 66044. Article: Flow Microcalorimeter. Manufacturer: Techneurop Inc., Canada. Intended use of article: The article is intended to be used to study the thermodynamics of bile and micellar solution, and to determine the variation of these properties with the structure of the bile salt. The euthalpy and heat capacity of these complex micellar solutions will be measured as a function of temperature, bile salt structure and added electrolyte. These investigations are conducted to obtain a better understanding of the nature of bile salt—lecithin solutions and their role in the dissolution of lipids, cholesterol and drug substances. The article will also be used in "Undergraduate Research in Pharmaceutical Chemistry", "Doctoral Dissertation" and "Postdoctoral Research in Pharmaceutical Chemistry" to train students to do independent research. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00359. Applicant: The University of Chicago, Dept. of Pharmacol. & Physiol. Sciences, 951 East 58th Street, Chicago, Ill. 60637. Article: Electron Microscope, Model EM 201, Plate Camera and Accessories. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The article is intended to be used for fine structural studies of the brain, by a group of neurobiologists. Thin sections of the central nervous system in which particular neuronal processes have been labeled by chemical or degenerative techniques will be studied, looking especially at the contact relationships that are established by the fine neuronal processes. The article will also be used in the training of senior level undergraduate students, graduate students and post-doctoral fellows in methods and concepts of contemporary neurobiology. Application received by Commissioner of Customs: September 1, 1977.

Docket No. 77-00360. Applicant: University of Utah, University of Utah Medical Center, Salt Lake City, Utah 84132. Article: Electron Microscope, Model JEM-100S with sheet film camera and SP1 specimen position indicator and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used to examine various types of biological specimens, principally, pathological and normal tissues obtained from experimental animals from biopsy or autopsy. The article will also be used to examine delicate freeze-fracture replicas and negatively stained preparations of isolated large molecules. The various objectives to be pursued in these investigations are: (a) To determine the biological effects and hazards of internally deposited radioisotopes including plutonium and radium, (b) to better understand the normal physiology and morphology of the skeleton, particularly the adult skeleton and mineral metabolism, (c) to determine the biological events and sequences of radiation induced cancer, particularly leukemia and osteosarcomas, (d) to understand the role of the cell surface in immune recognition and escape in cancer cells, and (e) to determine membrane and junctional changes due to radiation and effect on cancer induction. Application received by Commissioner of Customs: August 31, 1977.

Docket No. 77-00361. Applicant: University of Utah, Department of Anatomy, College of Medicine 2C110, Salt Lake City, Utah 84132. Article: LKB 8800A Ultrotome III Ultramicrotome and Accessories. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for ultrathin sectioning of specimens of differing hardness during studies of cell and tissue ultrastructure. The principle courses in which the article will be used are entitled Ultrastructure and Cytochemistry which involve a study of the general principles on techniques and use of the electron microscope to study the fine structure of cells and various subcellular organelles and the employment of cytochemical staining methods to localize various enzymes. In addition, the article will be used for preparing material for demonstration to medical students. Application received by Commissioner of Customs: September 2, 1977.

Docket No. 77-00362. Applicant: The Pennsylvania State University, University Park, Pa. 16802. Article: Goniometer Stage Assembly for EM-300; PW6500/C-300 and Scanning Attachment for EM-300 and Adapter; PW6570/00C. Manufacturer: Philips Electronics Instruments NVD, The Netherlands. Intended use of article: The articles are accessories to an existing electron microscope which will allow analysis of suitably prepared thin sections of biological samples for a large array of chemical elements. Some of the tissue and cells to be studied are bone (cells and matrix), avian oviduct mucosa, intestinal mucosa, enamel organ. Cells and tissues in different stages of physiological activity will be analyzed with the EDAX system for several elements such as calcium, potassium, sodium and magnesium. In addition, the article will be used in the courses: Biophysics 585, Biological Ultrastructure and Biophysics 600. Research. Application received by Commissioner of Customs: September 2, 1977.

Docket No. 77-00364. Applicant: DH EW, National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 37, Room 2B23, Bethesda, Md. 20014. Article: LKB 8800A Ultrotome III Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tumor cells and tumor tissues following treatments with various agents (e.g. enzymes, hormones, metabolic inhibitors, etc.). Investigations will involve cyto- and histochemical studies on tumor cells and tumor tissues treated with various chemical and physical agents. The studies will include (a) localization of antigen and complement binding sites, (b) fine structure analysis of membranes, and (c) subcellular changes in the cells. The objectives pursued in the course of the investigations is to understand the alterations which take place in tumor cells following various treatments and to correlate these changes with susceptibility to immune attack. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00365. Applicant: University of Illinois, Urbana-Champaign Campus, Purchasing Division, 223 Administration Building, Urbana, Ill. 61801. Article: Scanning Transmission Electron Microscope, Model HB5 with electron energy loss spectrometer and accessories. Manufacturer: VG Microscopes Ltd., United Kingdom. Intended use of article: The article is intended to be used to aid a number of research workers in their understanding of the influence of microstructure and microchemistry, on the properties of the materials, e.g., metal-fibre composites; metals containing hydride, oxide, nitride, carbide, or other second phase precipitate; small molecular clusters of catalytic materials; sequentially deposited thin organic films; and polymers. Graduate students will use the article in conducting the various research projects. Application received by Commissioner of Customs: September 7, 1977.

Docket Number: 77-00366. Applicant: Rochester Institute of Technology, One Lomb Memorial Drive, Rochester, N.Y. 14623. Article: Phase Control Unit and DC-DC Conversion Unit. Manufacturer: University of Toronto, Canada. Intended use of article: The article is intended to be used for experiments to be conducted in the areas of high power controlled rectification and solid-state DC-DC conversion. These experiments will provide the student exposure to and on-hand experience in the area of solid-state control of high power. The courses in which the article will be used are EEEE 535 Introduction to Power Conditioning, EEEE 532 Electrical Machines and EEEE 721 Thyristor Power Control and Conditioning. Application received by Commissioner of Customs: September 8, 1977.

Docket Number: 77-00367. Applicant: University of Hawaii, High Energy Physics Group, Watanabe Hall, 2505 Correa Rd., Honolulu, Hawaii 96822. Article: Model 1 Sweepnik Optics Unit and Model 1 Sweepnik Electronics Rack and Accessories. Manufacturer: Laser-Scan Ltd., United Kingdom. Intended use of article: The article is intended to be used for bubble chamber experiments which involve bombarding the 15'

bubble chamber with multi-billion volt neutrinos produced by the highest energy accelerator in the world. The purposes of these experiments is to discover new particles, examine the properties of a class of particles called "quarks", and to understand a new and strange property possessed by certain elementary particles whimsically called "charm." Specifically, the article will be used to measure the trajectories of charged particles produced by neutrinos in the bubble chamber to an accuracy of 2 millionths of a meter on the 70 mm film. Application received by Commissioner of Customs: September 8, 1977.

Docket Number: 77-00368. Applicant: National Animal Disease Center, USDA, ARS, Bldg. No. 11, R.R. 2, Dayton Avenue, P.O. Box 70, Ames, Iowa 50010. Article: Electron Microscope, Model H-500 and Accessories. Manufacturer: Hitachi, Ltd., Japan. Intended use of article: The article is intended to be used in studies to identify the intracellular parasites, such as viruses and chlamydia, associated with economically important diseases of livestock and to determine the ultrastructure, mode of replication, and pathogenetic mechanisms of such agents. In addition, various immunologic phenomena, particularly as they relate to virus- and chlamydia-induced animal diseases, will be studied at the ultrastructural level. During the course of these studies a wide variety of specimens, such as suspensions of virus, body fluids, tissues, cell cultures, etc., will be examined. The objectives of such research are to determine the particular agents associated with infectious diseases and the way in which the agents affect tissues and cells to cause disease. This information is used, whenever possible, to control diseases by methods such as vaccination, development of resistant strains of livestock, altered husbandry, etc. Application received by Commissioner of Customs: September 9, 1977.

Docket Number: 77-00369. Applicant: University of Rochester Medical Center, 601 Elmwood Avenue, Rochester, N.Y. 14642. Article: LKB 2128 Ultrotome IV Ultramicrotome. Manufacturer: LKB Produkter AB, Sweden. Intended use of article: The article is intended to be used for studies of tissue from animal and human central nervous system. Investigations will include studies on normal human central nervous system at various developmental stages, as well as abnormal tissue from brain tumors and animals that have been exposed to methyl mercury. Experimental methods will include immunohistochemistry and autoradiography. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00370. Applicant: University of California, 3175 Miramar Road, La Jolla, Calif. 92093. Article: Electron Microscope, Model H-500-5 and Accessories. Manufacturer: Hitachi, Japan. Intended use of article: As part of ongoing extensive studies on the role of silicon in cellular metabolism the article will be used to define the composition of newly discovered silicon-containing granule in mitochondria of the diatom and animal cells which may have an important role in the processes of biological mineralization, e.g., bone formation, production of kidney calculi, etc. Another project involves the study of the nucleation and condensation behavior of refractory materials in which it is important to be able to characterize the composition, structure and morphology of these grains to compare with theoretical preditcion. A third research project involves the study of manganese oxidizing bacteria and the characterization of viruses which attach to marine bacteria. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00371. Applicant: Auburn University, 103 Textile Building, Auburn, Ala. 36830. Article: Rothschild Solid-State Tensiometer, Model No. R1192 with High-Speed Recorder, Model No. HE 16 and 100 gram Full Scale Measuring Head. Manufacturer: Rothschild, Switzerland. Intended use of article: The article is intended to be used for the study of yarn manufacturing, yarn preparatory and fabric manufacturing systems as to the effect of various parameters, including yarn tensions, on process efficiency and product quality. These studies include: (1) The effect of traveler speed in ring spinning on resultant tension and yarn properties; (2) The effect of winding speed on resultant tension, yarn package hardness and yarn properties, and (3) Generally, specific studies of this type in other yarn and fabric processes. Application received by Commissioner of Customs: September 12, 1977.

Docket Number: 77-00374. Applicant: Clark University, Department of Chemistry, Jeppson Laboratory, Worcester, Mass. 01610. Article: Nuclear Resonance Pulse Spectrometer, Model SXP 22/100. Manufacturer: Bruker, West Germany. Intended use of article: The article is intended to be used to study the following:

a. Spin dynamics in one-dimensional Heisenberg systems with ^{1}H magnetic resonance.

b. Enzyme structure and mechanism with ^{13}C and ^{19}F magnetic resonance.

c. Biosynthetic pathways with ^{2}H magnetic resonance.

d. Structure of natural products and compounds of biomedical significance with ^{1}H and ^{13}C magnetic resonance.

e. Chain dynamics in synthetic polymers with ^{1}H, ^{13}C, and ^{19}F magnetic resonance.

f. Conformational and dynamic aspects of biological macromolecules with ^{1}H, ^{13}C, and ^{19}F magnetic resonance.

g. Dynamics and shielding of small solute molecules in aqueous media wtih ^{1}H, ^{13}C ,and ^{19}F magnetic resonance.

The article will also be used in the course Chemistry 300, "Research" by students studying for a Ph.D. or M.A. Undergraduates enrolled in Chemistry 214 "Special Topics" will also be using the article. Courses on the theory of magnetic resonance complementing the actual instruction and utilization of the instrument are also taught at the graduate student level in Chemistry 361 "Molecular Structure". Application received by Commissioner of Customs: September 14, 1977.

(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.77-29603 Filed 10-7-77;8:45 am]

[3510-24]

Economic Development Administration

HILF BAG CO., INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Hilf Bag Co., Inc., 14 East 32nd Street, New York, N.Y. 10016, a producer of ladies' handbags and accessories, was accepted for filing on September 29, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-29641 Filed 10-7-77;8:45 am]

[3510-24]

J. S. ZULICK CO., INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by J. S. Zulick Co., Inc., South Warren Street, Orwigsburg, Pa. 17961, a producer of footwear for children, was accepted for filing on September 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Com-

merce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-29642 Filed 10-7-77;8:45 am]

[3510-24]

LITTLE FALLS FOOTWEAR, INC.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Little Falls Footwear, Inc., 17 Hough Street, St. Johnsville, N.Y. 13452, a producer of slippers and casual shoes for men, women and children, was accepted for filing on September 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-29639 Filed 10-7-77;8:45 am]

[3510-24]

NORWICH SHOE CO.

Petition for Determination of Eligibility To Apply for Trade Adjustment Assistance

A petition by Norwich Shoe Co., Hale Street Extension, Norwich, N.Y. 13815, a producer of footwear for men, children and infants, was accepted for filing on September 30, 1977, pursuant to Section 251 of the Trade Act of 1974 (Pub. L. 93-618) and § 315.23 of the Adjustment Assistance Regulations for Firms and Communities (13 CFR Part 315). Consequently, the U.S. Department of Commerce has initiated an investigation to determine whether increased imports into the United States of articles like or directly competitive with those produced by the firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of the petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter.

A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of October 21, 1977.

JACK W. OSBURN, Jr.,
Chief, Trade Act Certification Division, Office of Planning and Program Support.

[FR Doc.77-29640 Filed 10-7-77;8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

NORMANDEAU ASSOCIATES, INC.

Notice of Receipt Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take an endangered species of fish for scientific purposes as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543) and the National Marine Fisheries Service regulations governing endangered fish and wildlife permits (50 CFR Parts 217-222).

1. Applicant: a. Name Normandeau Associates, Inc. b. Address Nashua Road, Bedford, N.H. 03102.

2. Type of Permit: Scientific Purposes.

3. Name and Number of Animals: shortnose sturgeon (*Acipenser brevirostrum*), undetermined.

4. Type of Activities: Shortnose sturgeon incidentally captured during the course of biological sampling operations, will be identified and released.

5. Location of Activities: Shortnose sturgeon may be taken from Hampton Seabrook Estuary, New Hampshire, Piscataqua River-Great Bay System, New Hampshire/Maine, New Haven Harbor and adjacent sound waters, Connecticut, and Penobscot River, Maine.

6. Period of Activities: Until December 31, 1980.

The data collected from these occasionally captured specimens will be provided to other researchers who are conducting more extensive work on shortnose sturgeon.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven St. NW., Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Northeast Region, Federal Building, 14 Elm St., Gloucester, Mass. 01930.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 10, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

All statements and opinions contained in this application are summaries of those of the Applicant and do not necessarily reflect the views of the National Marine Fisheries Service.

Dated: October 3, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-29686 Filed 10-7-77;8:45 am]

[3510-12]

SOUTHWEST FISHERIES CENTER, NATIONAL MARINE FISHERIES SERVICE

Notice of Receipt of Application for Permit

Notice is hereby given that an Applicant has applied in due form for a Permit to take marine mammals as authorized by the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407); and the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216).

1. Applicant: a. Name Southwest Fisheries Center National Marine Fisheries Service. b. Address P.O. Box 271, La Jolla, California 92038.

2. Type of Permit: Scientific Research.

3. Name and number of Animals:

Spotted dolphin (*Stenella attenuata*)	150,000
Spinner dolphin (*Stenella longirostris*)	100,100
Common dolphin (*Delphinus delphis*)	75,000
Striped dolphin (*Stenella coeruleoalba*)	50,000
Bottlenosed dolphin (*Tursiops truncatus*)	50,000
Rough-toothed dolphin (*Steno bredanensis*)	5,000
Fraser's dolphin (*Lagenodelphis hosei*)	1,000
Pygmy killer whale (*Feresa attenuata*)	250
Melon-headed whale (*Peponocephala electra*)	250
Risso's dolphin (*Grampus griseus*)	1,000

Tagging techniques will be initially monitored on the following animals currently maintained by cooperative public display facilities prior to any research activities in the wild.

Atlantic bottlenosed dolphin (*Tursiops truncatus*)	50
Pacific bottlenosed dolphin (*Tursiops gilli*)	50

Common dolphin (*Delphinus delphis*)	50
Spinner dolphin (*Stenella longirostris*)	50
Spotted dolphin (*Stenella attenuata*)	50

4. Type of Activity: To capture, tag/mark, identify, and release. The animals will be tagged/marked by names of streamer and disc tags, thermal and cryogenic marks.

5. Location of Activity: 1. 100 Spinner dolphins will be tagged off the West Coast of Oahu, Hawaii;

2. Up to 250 animals will be tagged of different species being maintained in cooperative public display facilities; and

3. The remaining numbers of species will be taken in the eastern tropical Pacific Ocean.

6. Period of Activity: Five years.

The purpose of this tagging program is to collect data on stocks of small cetaceans involved in the eastern tropical pacific yellowfin tuna Fishery and other areas where there is an incidental catch of small cetaceans, to assess the impact of the incidental mortalities and injuries on the cetacean stocks.

Documents submitted in connection with the above application are available for review in the following offices:

Director, National Marine Fisheries Service, 3300 Whitehaven St., Northwest, Washington, D.C.; and

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry St., Terminal Island, Calif. 90731.

Concurrent with the publication of this notice in the FEDERAL REGISTER the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Director, National Marine Fisheries Service, Department of Commerce, Washington, D.C. 20235, on or before November 10, 1977. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Director.

Dated: October 3, 1977.

MORRIS M. PALLOZZI,
Acting Assistant Director for Fisheries Management, National Marine Fisheries Service.

[FR Doc.77-29685 Filed 10-7-77;8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement among the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, Department of Health, Education, and Welfare, and the Occupational Safety and Health Administration, Department of Labor on the regulation of toxic and hazardous substances, see FR Doc. 77-29605, appearing under the Environmental Protection Agency in the Notices section of this FEDERAL REGISTER.

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

AIR FORCE ACADEMY BOARD OF VISITORS

Meeting

SEPTEMBER 29, 1977.

The Air Force Academy Board of Visitors is tentatively scheduled to meet at the Air Force Academy, Colorado Springs, Colo., during the period October 28-29, 1977. This meeting is pursuant to the Board's statutory charge (10 USC 9355) to meet at the Academy and to inquire into matters of morale, discipline, the curriculum, instruction, physical equipment, fiscal affairs, academic methods, and other matters relating to the Academy which the Board decides to consider.

The tentative agenda calls for portions of the meeting to be open for public attendance on 28 September from 8:15 AM to 11:15 AM and from 3:15 PM to 4:15 PM in the Superintendent's Confercence Room, Harmon Hall. Among the items on the tentative agenda during the open portions of the meeting are briefings to the Board on the following subjects: Update on Academic Program, New Military Science Curriculum, Basic Cadet Training for the Class of 1981, Cost per Graduate, Progress of Women Cadets, General Accounting Office Report on Contracting, and Construction Proposals for the Academy Cadet Chapel and Library. In addition to these open portions of the meeting, a press conference which will be open to the public has been scheduled for 9:15 AM on 29 September in Arnold Hall.

Portions of this meeting are tentatively scheduled to be closed to the public as matters to be discussed pertain to those listed in subsections (2) and (6) of section 552b(c), Title 5, United States Code. These closed portions include discussions with groups of cadets, faculty, and staff involving personal information and opinions, the disclosure of which would be a clearly unwarranted invasion of personal privacy. Also included are the executive deliberations of the Board involving discussion of such personal information.

If additional information is desired, contact Headquarters, U.S. Air Force (DPPA), Washington DC 20330, at 202-697-7116.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc.77-29647 Filed 10-7-77;8:45 am]

[3710-08]

Department of the Army

ROCKY MOUNTAIN ARSENAL, COLORADO

Notice of Filing of Final Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army on 7 October 1977 provided the Council on Environmental Quality with the Final Environmental Impact Statement concerning Disposal of Chemical Agent Identification Sets at Rocky Mountain Arsenal, Colorado and Addendum.

Copies of the statement and addendum have been forwarded to concerned Federal, State and local agencies. Interested organizations or individuals may obtain copies from Project Manager, Chemical Demilitarization and Installation Restoration, Building E-4585, ATTN: DRCPM-DR-T (Mr. G. Anderson), Aberdeen Proving Ground, MD 21010, phone 301-671-2270.

In the Washington area, inspection copies may be seen in the Environmental Office, Office of the Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, DC 20310, phone 202-694-1163.

Dated: October 3, 1977.

BRUCE A. HILDEBRAND,
Deputy for Environmental Affairs, Office of the Assistant Secretary of the Army, (Civil Works).

[FR Doc.77-29684 Filed 10-7-77;8:45 am]

[3810-70]

Office of the Secretary

DEPARTMENT OF DEFENSE WAGE COMMITTEE

Notice of Closed Meetings

Pursuant to the provisions of section 10 of Pub. L. 92-463, the Federal Advisory Committee Act, effective January 5, 1973, notice is hereby given that a meeting of the Department of Defense Wage Committee will be held on Tuesday, December 6, 1977; Tuesday, December 13, 1977; Tuesday, December 20, 1977; and Tuesday, December 27, 1977 at 9:45 a.m. in Room 1E801, The Pentagon, Washington, D.C.

The Committee's primary responsibility is to consider and submit recommendations to the Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) concerning all matters involved in the development and authorization of wage schedules for Federal prevailing rate employees pursuant to Pub. L. 92-392. At this meeting, the Committee will consider wage survey specifications, wage survey data, local wage survey committee reports and recommendations, and wage schedules derived therefrom.

Under the provisions of section 10(d) of Pub. L. 92-463, the Federal Advisory

Committee Act, meetings may be closed to the public when they are "concerned with matters listed in section 552b. of Title 5, United States Code." Two of the matters so listed are those "related solely to the internal personnel rules and practices of an agency," (5 U.S.C. 552b.(c)(2)), and those involving "trade secrets and commercial or financial information obtained from a person and privileged or confidential" (5 U.S.C. 552b.(c)(4)).

Accordingly, the Deputy Assistant Secretary of Defense (Civilian Personnel Policy) hereby determines that all portions of the meeting will be closed to the public because the matters considered are related to the internal rules and practices of the Department of Defense (5 U.S.C. 552b.(c)(2)), and the detailed wage data considered by the Committee during its meetings have been obtained from officials of private establishments with a guarantee that the data will be held in confidence (5 U.S.C. 552b.(4)).

However, members of the public who may wish to do so are invited to submit material in writing to the Chairman concerning matters believed to be deserving of the Committee's attention. Additional information concerning this meeting may be obtained by contacting the Chairman, Department of Defense Wage Committee, Room 3D281, The Pentagon, Washington, D.C.

MAURICE W. ROCHE,
Director, Correspondence and Directives, OASD (Comptroller).

OCTOBER 5, 1977.

[FR Doc.77-29665 Filed 10-7-77;8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

PRIVACY ACT OF 1974

Transfer of Systems of Records Existing and Proposed

AGENCY: Department of Energy.

ACTION: Notice.

SUMMARY: There are hereby transferred to the Secretary of Energy (the Secretary) and the Federal Energy Regulatory Commission (FERC), as appropriate to their respective functions, those systems of records or portions thereof either (i) established and in existence or (ii) proposed prior to October 1, 1977, under the Privacy Act of 1974 and other requisite authority vested in the departments, agencies and commissions which established or proposed such systems, as relate to the functions of any department, agency, commission, or component thereof which is either (i) transferred to the Department of Energy (DOE) by the Department of Energy Organization Act (Pub. L. 95-91) to either the Secertary or to FERC or (ii) delegated to the FERC by the Secretary.

EFFECTIVE DATE: October 1, 1977.

FOR FURTHER INFORMATION CONTACT:

John M. Treanor, Office of Administration, Room 2121, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-9840).

William D. Luck, Office of General Counsel, Room 6144, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461 (202-566-926).

SUPPLEMENTARY INFORMATION: The Department of Energy (DOE) was established by the Department of Energy Organization Act (Pub. L. 95-91) (the Act), which is made effective October 1, 1977 by Executive Order 12009, dated September 13, 1977 (42 FR 46267, September 15, 1977) (The Executive Order). The Act consolidated in DOE various energy functions previously performed by several federal agencies, so that federal energy policy and programs may be effectively coordinated and administered. The Act transfers to, and vests in, the Department and the independent collegial body within the Department, the Federal Energy Regulatory Commission (FERC), the functions of the former Federal Energy Administration, the Energy Research and Development Administration, the Federal Power Commission, and certain functions previously performed by the Interstate Commerce Commission, the Department of the Interior, the Department of Housing and Urban Development, the Department of the Navy, the Department of Commerce, and the Naval Reactor and Military Application Programs (established under the Atomic Energy Act of 1954).

Section 704 of the Act sets forth a provision to transfer listed items incidental to the transfers of functions affected by the Act. Section 704 of the Act states:

> The Director of the Office of Management and Budget, in consultation with the Secretary and the Commission, is authorized and directed to make such determinations as may be necessary with regard to the transfer of functions which relate to or are utilized by an agency, commission or other body, or component thereof affected by this Act, to make such additional incidental dispositions of personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds held, used, arising from, available to or to be made available in connection with the functions transferred by this Act, as he may deem necessary to accomplish the purposes of this Act.

Additionally, Section 2 of the Executive Order states that:

> The Director of the Office of Management and Budget, in consultation with the Secretary of Energy and the Federal Energy Regulatory Commission, as appropriate, shall take all steps necessary or appropriate to ensure or effectuate the transfer of functions provided for in the Department of Energy Organization Act, to the extent required or permitted by law, including transfers of funds, personnel and positions, assets, liabilities, contracts, property, records and other items related to the transfer of functions, programs, or authorities.

The departments, agencies and commissions, or components thereof, which, prior to the Act, discharged the functions which the Act vests in the DOE, established and proposed certain systems of records in accordance with the Privacy Act of 1974 and other authority vested in them. Since these systems were established or proposed in furtherance of functions which are now vested in the DOE, the DOE has reason to have possession and control of these systems.

Accordingly, pursuant to the cited authority vested in the Director of the Office of Management and Budget (OMB), and additional guidance received from OMB, there are hereby transferred to the Secretary and to FERC, as appropriate to their respective functions, those systems of records or portions thereof either (i) established and in existence or (ii) proposed prior to October 1, 1977, under the Privacy Act of 1974 and other requisite authority vested in departments the agencies and commissions which established or proposed such systems, as relate to the functions of any department, agency, commission, or component thereof, which is either (i) transferred to the DOE by the Act to either the Secretary or to FERC or (ii) delegated to the FERC by the Secretary.

This notice is not a rulemaking requiring the opportunity for public comment. However, written comments will be accepted and should be directed to the following address:

Department of Energy, John M. Treanor, Office of Administration, Room 2121, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461.

(Department of Energy Organization Act; Executive Order 12009; Privacy Act of 1974.)

Issued in Washington, D.C. on October 1, 1977.

JAMES R. SCHLESINGER,
Secretary of Energy.

[FR Doc.77-29759 Filed 10-7-77;8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 802-3]

REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES

Interagency Agreement

Interagency agreement among U.S. Consumer Product Safety Commission; U.S. Environmental Protection Agency; Department of Health, Education, and Welfare, Food and Drug Administration; and Department of Labor, Occupational Safety and Health Administration; relating to the regulation of toxic and hazardous substances.

I. PURPOSE

As principal regulatory agencies charged with protecting the public and the environment from the adverse effects of toxic and hazardous substances, we hereby agree to increase our on-going efforts to cooperate with each other as far as is practicable to make the most efficient use of resources, achieve consistent

regulatory policy, and improve the protection of the public health and environment.

Interagency cooperation is already taking place between various segments of the Environmental Protection Agency, Food and Drug Administration, Consumer Product Safety Commission, and Occupational Safety and Health Administration. This Interagency Agreement is intended to supplement these activities.

II. STATUTES

This agreement is entered into within the limits of the statutory authorities of the four agencies.

III. ITEMS OF AGREEMENT

A. The four agencies shall establish interagency communications channels at appropriate levels to facilitate the exchange of information and to explore options for increasing cooperation and coordination.

B. Each of the four agencies shall designate a liaison officer to coordinate the participation of that agency in this agreement.

C. In order to carry out the purpose of this agreement and to the extent consistent with the statutory responsibilities of the agencies which are parties to this agreement, such agencies will endeavor to develop common, consistent, or compatible:

1. Testing protocols, criteria for interpretations, quality assurance procedures, and other policies relating to the testing of toxic and hazardous substances;
2. Epidemiological practices and procedures;
3. Approaches to the assessment of risk presented by a toxic or hazardous substance and to the estimation of benefits associated with a substance;
4. Methods of obtaining, analyzing, storing, and exchanging information which might be of mutual interest;
5. Research and development policies, possibly including methods of sharing costs and facilities;
6. Regulations and regulatory development activities where a hazard can be most effectively controlled by joint participation or by use of the statutory authorities of more than one agency, e.g., joint public hearings or rulemaking action;
7. Compliance and enforcement procedures and policies;
8. Public communication and education programs, and informational services to industry;
9. Other activities as may be applicable.

D. The four agencies may initiate mutual training programs, personnel exchange programs, and other personnel policies which may further the purposes of this agreement.

E. The four agencies may enter into jointly sponsored contracts or award jointly sponsored grants to further the purposes of this agreement.

IV. SUPPLEMENTARY AGREEMENTS

This agreement may be further carried out by supplementary agreements of the following types:

A. Authorized representatives of the four agencies may amplify or otherwise modify the policy or provisions in this agreement or any of its supplements, provided that any material modification of the provisions in this agreement or any of its supplements shall be subject to the approval of the heads of the Environmental Protection Agency, Food and Drug Administration, Occupational Safety and Health Administration, and a majority of the members of the Consumer Product Safety Commission.

B. Authorized representatives of two or three of the four agencies may execute a bilateral or trilateral supplementary agreement which affects only the parties thereto, and which is consistent with the purpose and provisions of this overall agreement.

C. Subordinate officials of the four agencies (or of any two or three of the four) who are authorized to execute inter-agency agreements may, within their area of responsibility, execute supplements to this agreement which are consistent with its purpose and provisions.

V. RELATED AGREEMENTS

In addition, one or more of the four agencies may execute an Interagency Agreement with agencies not party to this agreement including one which is directed at similar goals and is consistent with the purpose of this agreement. In the aforementioned case, such Interagency Agreements may be designated "Related Agreements."

VI. DURATION, RENEWAL, AND TERMINATION

This agreement shall take effect when accepted by all four parties and shall endure for four (4) years or until three parties have individually terminated it, whichever occurs first. This agreement may be renewed by mutual acceptance of the parties after four years from acceptance, or earlier if terminated in accordance with the terms of the agreement.

This agreement may be terminated by any of the parties to it following 30 days advance written notice by that party to all of the other parties.

Supplementary agreements may be temporary and terminate on a certain date or upon completion, as provided. In addition, those which involve resource commitments on the part of any agency may have different provisions for termination which will govern only for that supplement.

The termination of this agreement or any supplement by one party does not render it void for the other parties.

VII. AGREEMENT AUTHORITY

This agreement is entered into under the authority of the Economy Act of 1932 and under that of various provisions for interagency cooperation appearing in the legislative authorities of the four agencies.

For the Consumer Product Safety Commission.

S. JOHN BYINGTON,
Chairman.

For the Food and Drug Administration.

DONALD KENNEDY,
Commissioner.

For the Environmental Protection Agency.

DOUGLAS M. COSTLE,
Administrator.

For the Occupational Safety and Health Administration.

EULA BINGHAM,
Assistant Secretary of Labor.

SEPTEMBER 26, 1977.

[FR Doc.77-29805 Filed 10-7-77;8:45 am]

[6560-01]

[FRL 803-6]

TOXIC SUBSTANCES CONTROL ACT

Extension of Comment Period for Proposed Guidance on Notification of Substantial Risk Under Section 8(e)

On September 9, 1977 the Environmental Protection Agency (EPA) proposed in the FEDERAL REGISTER guidance on "Notification of Substantial Risk under Section 8(e)" of the Toxic Substances Control Act (42 FR 45362). In that action, EPA proposed its policy concerning the provisions of Section 8(e) (which are already in effect), soliciting comments on this proposed policy prior to publishing final guidance.

This notice extends the deadline for comments on the proposed guidance from October 15 to October 31, 1977. EPA wishes to point out that the extended comment period coincides with that for the Consumer Product Safety Commission's regulation proposed on September 16, 1977 concerning substantial product hazards (42 FR 46720).

Written comments on EPA's proposed guidance should bear the document control number OTS-080004 and should be submitted in triplicate to the U.S. Environmental Protection Agency, Office of Toxic Substances (WH-557), 401 M Street SW., Washington, D.C. 20460, attention: Joan Urquhart.

Dated: October 6, 1977.

ANDREW BREIDENBACH,
Acting Assistant Administrator for Toxic Substances.

[FR Doc.77-29799 Filed 10-7-77;8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[FCC 77-626; RM-2764]

TELEVISION BROADCASTER TRANSLATORS ON SECONDARY USE BASIS

Memorandum Opinion and Order Denying Petition for Rule Making

Adopted: September 15, 1977.

Released: September 28, 1977.

In the matter of petition to amend the Commission's rules to restore UHF chan-

nels 70–83 for additional assignments to television broadcast translators on a secondary use basis, RM–2764.

1. On October 5, 1976, the Council for UHF Broadcasting (CUB) petitioned the Commission for rulemaking to amend § 2.106 and Part 74 of the Commission's rules to allow new television broadcast translators [1] to utilize UHF channels 70–83 (806–890 MHz) on a secondary use basis. CUB was joined in the petition by the Public Broadcasting Service, Corporation for Public Broadcasting, National Association of Broadcasters, Association of Maximum Service Telecasters, Inc., Joint Council on Educational Telecommunications, National Association of Educational Broadcasters, and Association of Independent Television Stations, Inc. Comments on the petition were filed by the American Telephone and Telegraph Co. and the GTE Service Corporation. CUB also filed a reply comment.

2. In 1970, the Commission ruled in Docket No. 18262 [2] that channels 70–83 were to be re-allocated to the land mobile radio service and that no new television translators would be assigned to these channels. Translators already assigned in the channel 70–83 band were allowed to remain indefinitely on a secondary use basis, however. The Commission subsequently decided in Docket No. 18861 [3] that new translators would be authorized on channels 55–69 where possible, and on channels 14–54 [4] if it is not possible to operate on channels 55–69. High-power translators were also authorized to operate on unused UHF television channels listed in the television Table of Assignments [5] in § 73.606(b) of the rules.

3. CUB contends that the rapid growth of UHF television translators since the decisions in Dockets Nos. 18262 and 18861 has resulted in congestion in the channel 55–69 band, and has forced nearly 30 new translator assignments into the band below channel 55. A continuation of the present arrangement, it says, will inevitably lead to a spectrum conflict in the channel 14–54 band between translators and primary UHF TV stations.[6] This eventuality, it maintains, coupled with the limited use of land mobile radio in sparsely populated areas where most translators are required, justifies the relief requested in the petition.

4. The only parties to file comments on the petition—the American Telephone and Telegraph Co. and the GTE Service Corp.—oppose it on the grounds that granting of the petition could hinder the development of land mobile radio, and that there has been no substantive showing of need by CUB for additional frequencies for translator use. CUB, in a reply comment, states that there is no reason for land mobile radio development to be inhibited since it (land mobile radio) will remain as the primary user of the band, and again cites the rapid growth of UHF television translators as justifying the petition.

DISCUSSION OF ISSUES AND DECISION

5. As CUB points out, there has been a rapid growth of television translators on channels 55–69. Currently, the Commission has issued some 490 licenses and construction permits in this band, with about another 100 new applications on file. However, we note that in the channel group 70–83, which contains one less channel than 55–69, there are presently over 700 translator assignments which were issued before our Docket 18861 decision. Even though we recognize the taboo restrictions in the UHF band, it should be noted that there are over 2,400 translators on the 12 VHF channels, which also accommodate some 625 primary TV stations as opposed to about 30 primary stations on channels 55–69.

6. Thus, relative to other channels available for translator use, channels 55–69 would appear to have considerable potential for future growth of both TV primary and translator stations. This does not mean, however, that some congestion does not or will not exist in certain geographical areas in the future, which require the assignment of channels below channel 55. In fact, some 34 [7] translators have already been authorized below channel 55 on channels not listed in the Television Table of Assignments. All of these 34, however, are in rural areas where the UHF spectrum below channel 55 is very lightly utilized and could readily accommodate additional translators.

7. In summary, it would appear that in the vast majority of areas in the United States additional translator assignments on channels 14–69 could be made without conflict with existing or planned primary TV service, and in most areas additional translator assignments could be made on channels 55–69 without such conflict. Furthermore, the only areas where channel shortages now exist or might arise in the foreseeable future are the major cities where future requirements of the primary land mobile service preclude additional secondary translator operations on channels 70–83. Thus, we do not agree that a general re-opening of channels 70–83 for new secondary translator operations is justified on the basis of actual or potential congestion on TV channels 69 and below or is otherwise in the public interest. We prefer at this time to retain the full potential of the 806–890 MHz band (channels 70–83) for the future growth and development of land mobile services, and we re-affirm our policies as established in Dockets 18262 and 18861 pertaining to the limited use of these channels by translators.

8. If, however, the actual spectrum requirements for translators in certain areas in the future exceed that which can be met by efficient use of channels 14–69, we will, of course, consider other means of satisfying such requirements, including increased secondary use of channels 70–83. Because we expect such instances to be few in number, we believe they can best be handled on a case-by-case waiver basis taking into account the existing and foreseeable needs of the primary land mobile service in the particular areas involved.

9. By taking the above course of action, the Commission is in no way limiting its flexibility at the 1979 World Administrative Radio Conference concerning future use of the 806890 MHz band, nor is it impacting the work of its UHF Task Force, which is studying future requirements in the UHF band. Rather, the Commission is simply stating that under present circumstances, it perceives no need to authorize additional general translator use of 806890 MHz. Since, however, conditions could change over the long time periods that both the WARC and the UHF Task Force are addressing, the Commission retains its options concerning the future use of this band.

10. *Accordingly, it is ordered*, That the above referenced petition for rulemaking, filed by the Council for UHF Broadcasting, is denied.

FEDERAL COMMUNICATIONS COMMISSION,
VINCENT J. MULLINS,
Secretary.

[FR Doc.77-29602 Filed 10-7-77;8:45 am]

[1] Translators retransmit the signals of television broadcast stations by means of direct frequency conversion and amplification of the incoming signal without significantly altering other characteristics of the signal.

[2] First Report and Order and Second Notice of Inquiry, 35 FR 8644.

[3] Report and Order, 36 FR 19588.

[4] Currently, channel 37 is unavailable, as it is reserved for the radio astronomy service.

[5] A channel listed in the television Table of Assignments will hereinafter be referred to as an "allotted" channel.

[6] Primary stations as used herein mean regular television broadcast stations, as contrasted with translator stations.

[7] This figure excludes five (5) translators which were given special waivers to operate below channel 55. All figures cited herein are from the Broadcast Bureau's TV Engineering Data Base and include the U.S. Possessions of Guam, Puerto Rico, and the Virgin Islands.

[6712-01]

[Report No. I-394]

COMMON CARRIER SERVICES INFORMATION

International and Satellite Radio Applications Accepted for Filing

OCTOBER 3, 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

AL, 696-DSE-P/L-77 Live Line, Inc., Jasper, AL. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 33°50'40" N., Long. 87°18'27" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

WI, 697-DSE-P/L-77 Total TV, Inc., Janesville, WI. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 42°44'34" N., Long. 88°58'53" W. Rec. freq: 3700-4200 MHz. Emission (none listed). With a Scientific Atlanta Model 8008B Antenna. (5 meter assumed.)

AL, 698-DSE-P/L-77 R. E. James, d.b.a. Wiregrass Broadcasting Co., Enterprise, AL. For authority to construct, own and operate a domestic communciations satellite receive-only Earth station at this location. Lat. 31°18'10" N., Long. 85°50'14" W. Rec. freq: 3700-4200 MHz. Emission (none listed). With a 6 meter antenna.

SC, 699-DSE-P-77 South Carolina Educational Television Commission, Beauford, SC. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 32°42'48" N., Long. 80°40'50" W. Rec. freq: 3700-4200 MHz. Emission 36000 F9. With a 10 meter antenna.

AZ, 700-DSE-P/L-77 Western Tele-Communications, Inc., Phoenix, AZ. For authority to construct, own and operate a domestic communications satellite Earth station for Message/Data and Video Transmit and Receive, at this location. Lat. 33°20'43" N., Long. 112°09'07" W. Rec. freq: 3700-4200 MHz. Trans. freq: 5925-6425 MHz. Emission 36000F9. With a 10 meter antenna.

MI, 701-DSE-P-77 Cable Vision, Inc., Mt. Pleasant, MI. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 43°33'50" N., Long. 84°48'48" W. Rec. freq: 3700-4200 MHz. Emission (none listed). With a 5 meter antenna.

VA, 702-DSE-P/L-77 Sammons Communications of Virginia, Inc., Petersburg, VA. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 37°14'35" N., Long. 77°22'05" W. Rec. freq.: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

TE, 703-DSE-P/L-77 Sammons Communications, Inc., Bristol, TE. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 36°35'-09" N., Long. 82°11'47" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 4.5 meter antenna.

FL, 704-DSE-P/L-77 Teleprompter Corp., Brandon, FL. For authority to construct, own an operate a domestic communications satellite receive-only Earth station at this location. Lat. 27°55'39" N., Long. 82°18'05" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 6 meter antenna.

MI, 705-DSE-P/L-77 Canton Cablevision, Inc., Canton, MI. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 32°36'40" N., Long. 90°02'29" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

NV, 706-DSE-P/L-77 TV Pix, Inc., Carson City, NV. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 39°10'16" N., Long. 119°45'-35" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

CA, 707-DSE-P/L-77 TV Pix, Inc., South Tahoe, CA. For authority to construct, own and operate a domestic communications satellite receive-only Earth station at this location. Lat. 38°56'47" N., Long. 119°57' 55" W. Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

AR, 708-DSE-ML-77 CPI Satellite Telecommunications, Inc., Texarkana, AR (KE79). Modification of license to utilize a 6 meter antenna instead of the original 5 meter one licensed.

LA, 709-DSE-ML77 Alpine Cablevision, Inc., Alexandria, AL (KD43). Modification of license to permit the reception of signals from the Madison Square Garden Events.

LA, 710-DSE-ML-77 Houma Cablevision, Inc., Houma, LA (KD81). Modification of license to permit the reception of signals from the Madison Square Garden Events.

NC, 711-DSE-ML-77 Cable Television Co., Wilmington, NC (WD41). Modification of license to permit the reception of signals from the Madison Square Garden Events.

NV, 712-DSE-P/L-77 Tonopah TV Inc., Tonopah, NV. For authority to construct, own and operate a domestic communications satellite receive-only earth station at this location. Lat. 38°04'31" N., Long. 117° 14'01". Rec. freq: 3700-4200 MHz. Emission 36000F9. With a 5 meter antenna.

NJ, 713-DSE-R-77 ITT Space Communications, Inc., Ramsey, NJ (WB80). Renewal of this developmental Earth station license to: May 13, 1979.

Amendment 586-DSE-P/L-77, West Texas Microwave Co., Midland, TX. Amended to provide additional information and data necessary to obtain authority to utilize a 6 meter antenna instead of the 10 meter antenna originally applied for.

VA, SSA-16-77 Western Union Telegraph Co., McLean, VA. Request for a 3 month extension, but not beyond January 31, 1978, of the temporary authority to operate a temporary earth station in McLean, Va., for the purpose of providing television relay service to and from subscribers in the Washington, D.C. area.

26-CSS-LA-77 Communications Satellite Corp., 60° East Longitude. Request authority for the launch, positioning, and in-orbit testing of the INTELSAT IV-A (F-3) communications satellite which will serve as the spare-in-orbit for the Indian Ocean Region Primary satellite, and will be located at 60° East Longitude.

[FR Doc.77-29666 Filed 10-7-77;8:45 am]

[6720-01]

FEDERAL HOME LOAN BANK BOARD

[H.C. No. 232]

BASS FINANCIAL CORP., ET AL.

Receipt of Application

OCTOBER 5, 1977.

Notice is hereby given that the Federal Savings and Loan Insurance Corporation has received an application from the Bass Financial Corp. through its subsidiary institution, Unity Savings Association, ("Unity"), Chicago, Ill., for approval of a bulk purchase acquisition by "Unity" of the Wabash Building and Loan Association, Louisville, Ill., an uninsured association, under the provisions of section 408(e) of the National Housing Act, as amended (12 U.S.C. 1730(e)), and section 584.4 of the Regulations for Savings and Loan Holding Companies, said acquisition to be effected through the bulk purchase of all of the assets of Wabash Building and Loan Association. Comments on the proposed acquisition should be submitted to the Director, or Deputy Director, Office of Examinations and Supervision, Federal Home Loan Bank Board, Washington, D.C. 20552 on or before November 10, 1977.

RONALD A. SNIDER,
Assistant Secretary,
Federal Home Loan Bank Board.

[FR Doc.77-29706 Filed 10-7-77;8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

[Independent Ocean Freight Forwarder License No. 1051]

OHANNESON FREIGHT FORWARDING CO.

Order of Revocation

By letter dated September 2, 1977, Ms. Elizabeth A. Ohanneson, Ohanneson Freight Forwarding Co., P.O. Box 2116, San Francisco, Calif. 94126, was advised by the Federal Maritime Commission that Independent Ocean Freight Forwarder License No. 1051 would be automatically revoked or suspended unless a valid surety bond was filed with the Commission on or before October 1, 1977.

Section 44(c), Shipping Act, 1916, provides that no independent ocean freight forwarder license shall remain in force unless a valid bond is in effect and on file with the Commission. Rule 510.9 of Federal Maritime Commission General Order 4, further provides that a license will be automatically revoked or suspended for failure of a licensee to maintain a valid bond on file.

Ohanneson Freight Forwarding Co. has failed to furnish a valid surety bond.

By virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 210.1 (Revised), section 5.01 (c), dated June 30, 1975;

It is ordered, That Independent Ocean Freight Forwarder License No. 1051 issued to Ohanneson Freight Forwarding Co. be returned to the Commission for cancellation.

It is further ordered, That Independent Ocean Freight Forwarder License No. 1051 be and is hereby revoked effective October 1, 1977.

It is further ordered, That a copy of this order be published in the FEDERAL REGISTER and served upon Ohanneson Freight Forwarding Co.

LEROY F. FULLER,
Director, Bureau of Certification and Licensing.

[FR Doc.77-29593 Filed 10-7-77;8:45 am]

[6730-01]

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION, AFL-CIO AND NEW YORK SHIPPING ASSOCIATION, INC.

Agreement Filed

Notice is hereby given that the following agreement has 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 agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126; or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Francisco, Calif., and Old 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 October 18, 1977. Any person desiring a hearing on the proposed agreement 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 agreement (as indicated hereinafter) and the statement should indicate that this has been done.

Notice of agreement filed by:

Donato Caruso, Esquire, Lorenz, Finn, Giardino & Lambos, The Cunard Building, 25 Broadway, New York, N.Y. 10004.

Agreement No. T-3007-3, which is between the International Longshoremen's Association, AFL-CIO (ILA) and the New York Shipping Association, Inc. (NYSA), modifies the parties' basic agreement, as amended, which is intended to provide the funds for NYSA to meet it obligations for ILA pension, welfare and clinics, guaranteed annual income, vacations, holidays and other fringe benefits incurred under the October 1, 1974-September 30, 1977, NYSA-ILA Collective Bargaining Agreement. The purpose of the modification provided for by Agreement No. T-3007-3 is to extend the termination date of the basic agreement, as amended, from September 30, 1977, until either: (a) December 31, 1977; or (b) until the Commission approves a new assessment agreement between the parties superseding Agreement No. T-3007, as amended, whichever first occurs.

Dated: October 5, 1977.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77-29631 Filed 10-7-77;8:45 am]

[8410-01]

OHIO RIVER BASIN COMMISSION

GREEN RIVER BASIN COMPREHENSIVE COORDINATED JOINT PLAN

Availability of Adopted Plan

Pursuant to section 204(3) of the Water Resources Planning Act of 1965 (Pub. L. 89-80), the Ohio River Basin Commission has adopted the Green River Basin Comprehensive Coordinated Joint Plan for transmittal to the President and the Congress through the Water Resources Council.

Copies are avaliable on request to the Ohio River Basin Commission, 36 East Fourth Street, Cincinnati, Ohio 45202.

FRED E. MORR,
Chairman.

[FR Doc.77-29653 Filed 10-7-77;8:45 am]

[6740-02]

FEDERAL POWER COMMISSION

[Docket Nos. RI77-64; CI77-238]

FRIO PRODUCTION CO.

Order Granting Petition for Special Relief; Permitting Intervention; and Terminating Proceeding

SEPTEMBER 30, 1977.

On May 5, 1977, Frio Production Co. (Frio) filed a petition for special relief pursuant to § 2.76 of the Commission's General Policy and Interpretations. Frio requests a total rate of $1.60 per Mcf at 14.65 psia for the sale of its 100 percent working interest in the gas produced from the Nos. 5, 7, and 9 Hinnant wells in the Ramerino Field of Live Oak County, Tex., to United Gas Pipe Line Co. (United).

The petition was noticed on June 29, 1977, with the period for filing petitions to intervene or protests closing on July 19, 1977. On July 13, 1977, United filed a petition to intervene, but stated no position.

The Commission Staff made an analysis of the economics of this project. The results of this analysis, attached hereto as Appendix A, indicate that the requested rate is cost supported.

The Proposal. Frio proposes to overhaul a compressor at a cost of $18,000 and to construct an access road at a cost of $11,285. These expenditures will enable it to produce an additional 60,000 Mcf at 14.65 psia during the remaining one year productive life, as estimated by Frio.

Background. Frio is making this sale under its small producer certificate issued in Docket No. CS72-701 and under its contract dated August 24, 1972, with United. United is willing to give Frio an Amendatory Agreement to the contract supporting any rate the Commission may allow up to $1.60 per Mcf. Frio is presently receiving 35 cents/Mcf plus the usual adjustments.

Detail. The proposed expenditures of $18,000 for compressor repair and $11,285 for the construction of a new access road have been accepted by Staff as reasonable. Frio has a remaining net book value of $30,968 for the lease and equipment. Staff accepts as reasonable Frio's estimate of $25,000 as the salvage value of the compressor at the end of the estimated 1 year production life.

Frio estimates operating and maintenance expenses for the next year to be $24,000, gross recoverable gas reserves to be 60,000 Mcf, and deliverability to be one year. Staff estimates that 4,000 Mcf of the gross recoverable gas reserves will be required for compressor fuel.

Staff has used the above costs along with Frio's estimated 42,393 Mcf of gas attributable to its 75.70143 percent net working interest in remaining production in a study to determine the rate required which would alow Frio to recoup all costs associated with this project and earn a 15 percent rate of return. This study followed traditional methodology. The results of this study, attached hereto as Appendix A, indicate that a rate of $1.6866 per Mcf is required. Thus, Frio's requested rate of $1.60 per Mcf appears to Staff to be cost supported.

Frio did not request an allowance for possible income tax liability. Cost support of the rate proposed has been established without consideration of any possible tax liability. Also, Staff has reviewed the information in the Commission's files relating to Frio. It is its opinion that Frio has total gas production that is so small that it will continue to be able to claim a statutory depletion allowance under the Tax Reform Act of 1975.

On January 21, 1977, Frio filed an application to abandon the sale involved in this proceeding because of the economics involved. The granting of the petition for special relief would obviate the need for such abandonment.

After reviewing the costs to be incurred and the reserves to be recovered, we determine that Frio's petition for special relief is warranted and that it is in the public interest to grant this petition.

The Commission finds: (1) The petition for special relief of Frio is hereby granted.

(2) Frio's application to abandon in Docket No. CI77-238 should be denied.

The Commission orders: (A) The petition for special relief of Frio is hereby granted.

(B) Frio is authorized to collect $1.60 per Mcf for gas from its Nos. 5, 7, and 9 Hinnant wells in the Ramerino Field of Live Oak County, Tex., effective upon the date that the proposed work is completed or the date of the Commission's order herein, whichever is later.

(C) This authorization is subject to the following conditions: (1) Frio must file, within 30 days of issuance of this order, an appropriate rate change filing in accordance with § 154.94 of the Commission's Regulations under the Natural Gas Act (18 CFR 154.94) and an executed contract amendment providing for payment of the approved rate; (2)

within 30 days of the effective date provided in Ordering Paragraph (B) above for the rate authorized herein. Frio must file a statement signed by United that the overhaul of the compressor and the construction of the access road have been completed to its satisfaction.

(D) United is permitted to intervene in the above-entitled proceeding, subject to the Rules and Regulations of the Commission; *Provided, however,* That its participation shall be limited to matters affecting asserted rights and interests specifically set forth in its petition for leave to intervene; and *Provided, further,* That the admission of United in the manner provided shall not be construed as recognition by the Commission that it might be aggrieved because of any order or orders entered in this proceeding, and that it agrees to accept the record as it now stands.

(E) Frio's application for abandonment in Docket No. CI77-238 is hereby denied and that proceednig is terminated.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Schedule 1, Frio Production Co., Docket No. RI77-6¼*

[Unit cost of gas]

Line No.	Item (a)	Amount (b)
1	Net working interest volumes:	
2	Gas—M ft³ at 14.65 lb/in²a²	42,393
3	Liquids—barrels	0
4	Cost of production:	
5	Return on rate base at 15 pct ³	$6,844
6	DD&A ³	35,253
7	Production expense ⁴	24,000
8	Subtotal	66,097
9	Regulatory expense ⁵	42
10	Total cost of production	66,139
11	Unit cost of gas (cents per 1,000 cubic feet):	
12	Cost of production ⁶	146.01
13	Production tax ⁷	12.65
14	Total unit cost	168.66

¹ 60,000 M ft³—4,000 M ft³ estimated compressor fuel ×75.70143 pct new working interest.
² Line 7 of schedule 3×15 pct.
³ From line 7 of schedule 2.
⁴ Estimated by applicant.
⁵ Line 2×0.1¢/per 1,000 cubic feet per opinion No. 749.
⁶ Line 10÷line 2.
⁷ 7.5 pct of line 14.

APPENDIX A.—*Schedule 2, Frio Production Co., docket No. RI77-6¼*

[Investment]

Line No.	Item (a)	Amount (b)
1	Investment:	
2	Remaining net book value, Feb. 1, 1977	$30,968
3	Overhaul compressor	18,000
4	Construct new access road	11,285
5	Total investment	60,253
6	Less salvage value ¹	25,000
7	Depreciable investment	35,253
8	Depreciation per unit of production ²	.831576

¹ Estimated by applicant.
² Line 7÷42,393 M ft³.

APPENDIX A.—*Schedule 3, Frio Production Co., docket No. RI77-6¼*

[Average investment and annual rate base]

Line No.	Year (a)	Annual new working interest production (1,00 cubic feet) (b)	Beginning of year investment (c)	Depreciation ¹ (d)	End of year investment (e)	Average investment ² (f)
1	Average investment:					
2	1	42,393	$60,253	$35,253	$25,000	$42,627
3	Average annual investment ³					42,627
4	Annual rate base:					
5	Average annual investment					42,627
6	Average annual working capital allowance ⁴					3,000
7	Total annual rate base					45,627

¹ Col. (b)×line 8 of schedule 2.
² Col. (e)+col. (e)÷2.
³ Col. (f) of line 2.
⁴ 12.5 pct×line 7 of schedule 1.

[FR Doc.77-29478 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. RP72-89]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Motion for Approval of Certain Proposed Curtailment Tariff Revisions Having Unanimous Wholesale Customer Support

SEPTEMBER 30, 1977.

Take notice that on September 28, 1977, Columbia Gas Transmission Corp. (Columbia) filed, pursuant to section 1.12 of the Commission's Rules of Practice and Procedure, a motion requesting the Commission's approval of certain proposed revised curtailment procedures as embodied in the proposed tariff provisions contained in Appendix A thereto.

In its motion Columbia states that on August 3, 1977, as supplemented September 9, 1977, it submitted for filing certain tariff sheets incorporating proposed changes to sections 14.3 and 14.7 of the General Terms and Conditions of its FPC Gas Tariff, Original Volume No. 1, relating to daily curtailment procedures and the disposition of penalties. According to the motion, certain modifications of the proposed procedures set forth in the August 3 filing were agreed upon by Columbia and its participating wholesale customers and not opposed by the Commission Staff at an informal conference, and are set forth in the attached Appendix A. Columbia states that the proposed tariff provisions as modified are supported by all of its participating wholesale customers as well as the Public Service Commission of New York, the Public Utilities Commission of Ohio, and three indirect customers, with no objection by the Commission Staff.

Upon receipt of a Commission order approving the revised procedures contained in Appendix A, Columbia agrees to withdraw its August 3 tariff filing and, in lieu thereof, file tariff sheets incorporating the agreed upon curtailment procedures with a proposed effective date of November 1, 1977.

The motion is on file with the Commission and is available for public inspection. It appears reasonable and consistent with the public interest in this proceeding to prescribe a period shorter than 15 days for the filing of answers to the aforesaid motion. Therefore, answers or objections to the motion may be filed with the Federal Power Commission, Washington, D.C. 20426, on or before October 7, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29672 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. CP77-636]

COLUMBIA GAS TRANSMISSION CORP.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Columbia Gas Transmission Corp. (Applicant), 1700 MacCorkle Avenue SE., Charleston, W. Va. 25314, filed in Docket No. CP77-636 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to provide certain of its wholesale customers with natural gas storage service in accordance with the provisions of a new Rate Schedule CSS, which Applicant proposes to incorporate in its FDC Gas Tariff, Original Volume No. 1, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's order of March 21, 1977, in Docket No. CP73-302, it was authorized to construct and operate the first phase of Crawford storage field in Fairfield and Hocking Counties, Ohio. Applicant states that development of the first phase of Crawford would provide it with an estimated additional storage capacity of 31,812,000 Mcf, of which 19,088,000 Mcf would be utilized to store the necessary volumes of base gas, and that the remaining 12,724,000 Mcf of storage capacity would be available to

accommodate routine injections and withdrawals. Applicant further states that construction of the Crawford storage facility is now well underway, and Applicant presently anticipates that the first phase development would be essentially complete by April 1, 1980, which is the first day of the 1980 summer injection season. Applicant contemplates, however, that during the first phase development, Crawford can be utilized for the withdrawal of volumes of gas in the amounts of 1,700,000 Mcf and 6,500,000 Mcf during the 1978–79 and 1979–80 winter seasons, respectively, it is said.

Applicant asserts that the proposed storage would provide its customers with additional flexibility in the utilization of their available gas supplies, particularly during the more critical winter heating season when such flexibility is needed most.

Applicant states that for the reason stated above and as a result of the interest exhibited by its customers, Applicant prepared a precedent agreement for storage service, which agreement constituted a firm offer by Applicant to render a storage service, subject to the Commission's approval. Applicant further states that the agreement was sent to each of its eligible wholesale customers, and that seventeen of its customers elected to participate in the proposed storage service, thirteen of which indicated a desire to purchase additional storage service. The seventeen customers which elected to participate in Applicant's proposed service are: Baltimore Gas & Electric Co., Cincinnati Gas & Electric Co., Union Light, Heat & Power Co., The Dayton Power & Light Co., Elizabethtown Gas Co., Lancaster, City of, Orange & Rockland Utilities, Inc., Penn Gas, Inc., Roanoke Gas Co., UGI Corp., Columbia Gas of Kentucky, Inc., Columbia Gas of Maryland, Inc., Columbia Gas of New York, Inc., Columbia Gas of Ohio, Inc., Columbia Gas of Pennsylvania, Inc., Columbia Gas of Virginia, Inc., and Columbia Gas of West Virginia, Inc. It is indicated that Applicant prepared an amendment dated August 3, 1977, to the precedent agreement for storage service, which amendment provided that the storage service capacity initially offered by Applicant but not accepted by certain of its customers was reallocated among the thirteen customers.

Applicant indicates that no facilities other than those previously authorized in Docket No. CP73-302 would be required to render the storage service contemplated.

It is stated that pursuant to Applicant's proposed Rate Schedule CSS, each participating customer would furnish its allocated share of the volume to be injected as base gas out of its authorized monthly volumes, determined in accordance with Applicant's then effective curtailment plan, and that the volume of gas to be injected and stored for subsequent withdrawal would be paid for by each participating customer under Applicant's Rate Schedule CSD, G, or SGS in the month in which such customer requests injections to be made for its account.

Applicant indicates that its proposed storage service would enable its participating customers to reserve a portion of their summer season allocations from Applicant for delivery to their essential high-priority markets during subsequent winter heating seasons.

Applicant urges the Commission to act on this application before February 1, 1978, in order that Applicant can timely file and implement Rate Schedule CSS so that injection of the volumes of gas to be stored for the account of its customers can commence as scheduled on April 1, 1978.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 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) and 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 Commision'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. It 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.77-29673 Filed 10-7-77;8:45 am]

[6740-02]

[RP77-113, RP77-135-1, RP77-135-2]

EL PASO NATURAL GAS CO. ET AL.

Notice of Petition for Extraordinary Relief and of Consolidation of Proceedings

SEPTEMBER 30, 1977.

In the matter of El Paso Natural Gas Company, RP77-113, El Paso Natural Gas Company (City of Denver City Utilities), RP77-135-1, El Paso Natural Gas Company (Community Public Service Company), RP77-135-2.

Take notice that on August 22, 1977, City of Denver City Utilities (Denver City), P.O. Box J, Denver City, Tex. 79323, filed pursuant to Section 2.78(b) of the Commission's General Policy and Interpretations (18 CFR 2.78(b)) in Docket No. RP77-135-1, a petition for relief from the curtailment plan currently in effect on the system of El Paso Natural Gas Company (El Paso). Take further notice that on September 14, 1977, Community Public Service Company (CPSC), 501 West St., Forth Worth, Tex. 76102, filed in Docket No. RP77-135-2 a similar petition for relief from El Paso's curtailment plan and that, concurrently therewith, CPSC filed a motion to consolidate for Commission consideration SPSC's petition with the petition for extraordinary relief filed by El Paso on July 21, 1977, in Docket No. RP77-113.[1] The foregoing requests of Denver City and CPSC are more fully set forth in their pleadings which are on file with the Commission and open to public inspection.

Denver City states that its present winter season Priority 1 base volume under El Paso's tariff is 199,206 Mcf. Denver City claims that the winter season upon which the base volume was based was very mild and that it has attached 75 to 100 more customers since that base winter—1973–74. Accordingly Denver City requests relief of at least 15,000 Mcf to supplement its 1977–78 Priority 1 winter season base volumes under El Paso's tariff. Denver City states that it joins in the petition for extraordinary relief filed by El Paso in Docket No. RP77-113 on behalf of certain of its distribution customers, including Denver City. However, El Paso's petition forecasts a need to augment Denver City's 1977–78 winter season base volumes by 10,873 Mcf rather than the 15,000 Mcf requested by Denver City. Denver City's petition also notes that it is continuing to attach new customers.

CPSC states that its present summer and winter season Priority 1 base volumes under El Paso's tariff are:

Summer season	*Winter season*
60,376	197,915

CPSC claims that the following, rather than the foregoing, volumes accurately reflect its system requirements:

Summer season	*Winter season*
87,351	284,005

CPSC states that the difference in requirements is not due to recent load growth but instead is due to the following factors. First, the historical base period, consisting of the 12 months ended October 31, 1974, was not representative of normal conditions in that the base period occurred at a time of severe

[1] Notice of El Paso's petition for extraordinary relief in Docket No. RP77-113 was issued on August 3, 1977 (42 FR 40239).

economic recession in Kermit, during which many homes and small business hooked up to natural gas service were temporarily vacant. Second, the base period experienced substantially warmer than normal weather. Third, the base volumes reflected for CPSC in El Paso's curtailment tariff were based on deliveries by El Paso to CPSC and not on CPSC's sales data; El Paso's deliveries data are not accurate due to a faulty El Paso meter at the city gate. And, fourth, the tariff base volumes do not take into account a loss by CPSC of a former local gas supply.*

CPSC seeks permanent revision of its summer and winter base requirements under El Paso's tariff to reflect those volumes hereinabove set forth which accurately state CPSC's system requirements. Also CPSC asks that overrun penalties automatically be waived in the event that colder-than-normal weather causes the temperature sensitive portion of CPSC's load to exceed the base requirements as herein proposed to be revised. CPSC further states that it files the instant petition rather than relying upon the position of El Paso in Docket No. RP77-113 for two reasons: first, El Paso seeks relief covering only the 1977-78 winter season, whereas CPSC requires revision of its data base figures on a permanent basis, including both winters and summers; and, second, the volume of relief that El Paso seeks for CPSC is insufficient due to the fact that El Paso's petition was prepared prior to receipt of current requirements data from CPSC.

The petitions for extraordinary relief filed by El Paso, Denver City and CPSC may involve common questions of fact and law. Accordingly, pursuant to Section 3.5(a)(6) under the Commission's General Rules (18 CFR 3.5(a)(6)), those three proceedings are consolidated for Commission consideration.

Any person desiring to be heard or to make any protest with reference to said petitions should on or before Ocober 17, 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. Persons who have heretofore intervened in Docket No. RP77-113 need not intervene in this consolidated proceeding.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29674 Filed 10-7-77;8:45 am]

* These reasons, among other things, are set forth in prepared testimony, appended to the petition, of CPSC's Rate Manager, James R. Hall.

[6740-02]

[Docket No. CP77-267]

MID LOUISIANA GAS CO. AND TRANSCONTINENTAL GAS PIPE LINE CORP.

Order Granting Rehearing, Providing for Formal Hearing, and Establishing Procedures

SEPTEMBER 30, 1977.

On August 15, 1977, Transcontinental Gas Pipe Line Corporation (Transco) filed pursuant to section 19(a) of the Natural Gas Act an application for rehearing of the Commission's order issued July 14, 1977, in Docket No. CP77-267 pursuant to section 7 of the Natural Gas Act. On September 14, 1977, the Commission issued an order granting a rehearing for the limited purpose of further consideration.

The order of July 14, 1977, authorized Mid Louisiana Gas Company (Mid Louisiana) to abandon by sale to Transco, its Hester Storage Field in St. James Parish, Louisiana, and 8.8 miles of 12-inch connecting pipeline and to abandon the storage service it renders to Transco. Further, said order issued a certificate of public convenience and necessity authorizing Transco to acquire and operate the Hester Field and related connecting pipeline, to proville Mid Louisiana a storage service comparable to its existing use of the Hester Field, and to construct and operate certain faciilties at Hester. Additionally, Transco and Mid Louisiana were authorized to transport and exchange natural gas under a new agreement to reflect the subject changes. Transco is to pay Mid Louisiana $8,500,000 for the Hester Storage facility, including approximately $8,000,000 Mcf of cushion gas and the connection pipeline between the storage field and the Transco Southeast Louisiana Gathering System.

The amount of $8,500,000, which Transco will pay for the Hester facility, exceeds Mid Louisiana's net book value of this property by $832,244. In its certificate application, Transco proposes that the difference between the purchase price of $8,500,000 and Mid Louisiana's net book cost be amortized by periodic charges to Account 406, Amortization of Gas Plant Acquisition Adjustments. In the order of July 14, 1977, however, the Commission states that its:

> Policy is to require that such amortization be charged to Account 425, Miscellaneous Amortization unless the applicant can demonstrate that specific dollar benefits to its customers offset the amounts paid in excess of net book value.

No such showing was made in Transco's application. Consequently, ordering paragraphs (F) and (G) of the July 14, 1977, order provide as follows:

> (F) Transco' [sic] proposed method of accounting for the purchase is approved except that the acquisition adjustment shall be amortized by charges to Account 425, Miscellaneous Amortization rather than to Account 406, Amortization of Plant Acquisition Adjustments.
>
> (G) Transco's transportation and storage charges to Mid Louisiana shall be subject to elimination of all amounts relating to the acquisition adjustment and shall also be subject to the rate of return as determined proper in Transco's rate proceeding in Docket No. RP76-136.

In its application for a rehearing, Transco argues that the Commission's rejection of Transco's proposed accounting treatment of the amount by which the purchase price of the Hester facility exceeds its net book value is erroneous because (1) the Commission failed to recognize that there is no significant profit to Mid Louisiana from the proposed sale, (2) the Hester Field's substantial cushion gas inventory results in specific dollar benefits to Transco's customers, and (3) the Commission erroneously denied Transco its right to a hearing.

Concerning the first of these arguments, Transco maintains that the excess over net investment to be paid by Transco represents "almost entirely the amount required to make Mid Louisiana 'whole' by virtue of the substantial income tax ($795,000) which must be paid by Mid Louisiana upon disposal of the field by sale to Transco." Transco says that this tax is caused by the excess of tax depreciation over book depreciation as a result of using "liberalized tax depreciation." Earlier tax reduction was flowed through to Mid Louisiana's customers. Consequently, says Transco, "there is no significant profit to Mid Louisiana from the proposed sale and the gas consuming public as a whole will not be paying rates higher than those based upon net investment." Transco therefore maintains that the rule against charging consumers for utility property "write ups" does not apply.

Transco also argues that even if the purchase price of the Hester Field does exceed Mid Louisiana's net investment, the acquisition and operation of the field by Transco will yield significant monetary benefits to Transco's custmores. In support of this assertion, Transco has attached an appendix to its application for rehearing which purports to show that the 8,000,000 Mcf of injected cushion gas in the Hester Field is being acquired at a substantial savings to Transco's customers that would offset the excess of cost over Mid Louisiana's net investment.

The Commission finds that Section 7(c) of the Natural Gas Act entitles Transco to a hearing on its application for a certificate. Transco is incorrect in supposing, however, that Section 7(c) entitles it to a hearing limited to the specific issues of real profit to Mid Louisiana and specific dollar benefits to Transco's customers. Accordingly, the Commission will grant a rehearing and provide for a formal hearing, which will include all issues raised by the application for a certificate of public convenience and necessity and for an order permitting and approving abandonment in Docket No. CP77-267.

The Commission finds: Good cause exists to grant rehearing, provide for a formal hearing, and establish the procedures for such hearing all as hereinafter ordered.

The Commission orders: (A) The application for rehearing filed herein by Transco on August 15, 1977, is hereby granted.

(B) Pursuant to the authority of the Natural Gas Act, particularly Sections 7 and 15 thereof, the Commission's Rules of Practice and Procedure, and the Regulations under the Natural Gas Act (18 CFR, Chapter I), a public hearing shall be held commencing November 21, 1977 at 10 a.m. (EDST) in a hearing room of the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426, concerning the propriety of issuing a certificate of public convenience and necessity and an order permitting and approving abandonment.

(C) On or before October 25, 1977, Transco, Mid Louisiana, and any other party in support of issuing a certificate of public convenience and necessity and permitting and approving abandonment shall file with the Secretary of this Commission and serve upon all parties to this proceeding, its testimony and exhibits comprising its case-in-chief in support of its petition.

(D) An Administrative Law Judge to be designated by the Chief Administrative Law Judge for that purpose (see, Delegation of Authority, 18 CFR § 3.5 (d)) shall preside at the hearing in this proceeding with authority to establish and change all procedural dates and to rule on all motions (with sole exception of petitions to intervene, motions to consolidate and sever, and motions to dismiss, as provided for in the Rules of Practice and Procedure).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29675 Filed 10-7-77;8:45 am]

[6740-02]

[Dockets Nos. CP76-285, CP76-388, CP76-389, CP77-289, CP77-511, CP77-512]

MOUNTAIN FUEL RESOURCES INC. ET AL.

Order Consolidating Applications, Granting Temporary Certificates, Granting Interventions, Providing in Part for Formal Hearing and Prescribing Procedures

SEPTEMBER 30, 1977.

In the matter of Mountain Fuel Resources, Inc., Docket No. CP76-285, Mountain Fuel Supply Co., Docket No. CP76-388, Northwest Pipeline Corp., Docket No. CP76-389, El Paso Natural Gas Co., Docket No. CP77-289, Northwest Pipeline Corp., Docket No. CP77-511, Clay Basin Storage Co., Docket No. CP77-512.

The above-captioned applications represent both an underlying long-term plan for the development and use of storage facilities with short-term transportation arrangements and, a limited interim project. The area in question is the Clay Basin Storage Field (Field), Daggett County, Utah, specifically the Dakota Formation which began production in 1935 and was nearly depleted by March of 1976. Geographically, the Field site is near the Utah-Wyoming-Colorado border.

THE UNDERLYING PROJECT

On March 3, 1976, Mountain Fuel Resources, Inc., (Resources), a wholly-owned subsidiary of Mountain Fuel Supply Company (Supply), filed an application in Docket No. CP76-285, pursuant to Section 7(c) of the Natural Gas Act to acquire, construct and operate facilities necessary to convert the Field into a gas reservoir and to render storage service. The Application involved a pipeline to connect the storage field to Northwest Pipeline Corporation's (Northwest) mainline, in addition to compressors and field gathering lines connecting seven (7) existing and eight (8) additional wells at a total estimated cost of $15,437,000. The application was noticed March 18, 1976 (41 FR 12340, March 25, 1976).

On June 10, 1976, Northwest filed an application in Docket No. CP76-389, pursuant to Section 7(c) to seek authorization to engage in storage arrangements with Resources whereby Northwest would deliver to Supply during the summer of 1976 for credit on its account with Resources for storage. This was to transfer title to all existing gas within the Field to the account of Northwest. Northwest also anticipated construction of a tap valve, meter station, and mainline looping and compressor by 1978, as well as injections of cushion gas. The application was noticed on July 2, 1976 (41 FR 28587, July 12, 1976).

Also on June 10, 1976, Supply filed an application in Docket No. CP76-388, pursuant to section 7(c) to render short-term displacement arrangements (described above) and to temporarily install a compressor. The application was noticed on June 30, 1976 (41 FR 28020, July 8, 1976).

Resources and Northwest anticipated a 30-well facility by 1978-1979 with withdrawal capacity of 150,000 Mcf/d at an estimated facilities cost of $25,449,000 ($31,308,000 by Northwest's estimate) together with an estimated cost of $33,384,000 for purchase of Canadian summer gas. Resources proposed a $7,530 per month charge as the cost of operations, a 1.0 cent per Mcf transportation charge, with an 8 percent depreciation rate and a 12 percent annual return on cost of service.

In order to reflect minor modifications in the facilities, schedules, amounts of injections, and to provide additional information, various supplements and amendments to the applications were filed. Temporary certificates were issued to Resources on July 19, 1976, and February 10, 1977; to Supply on July 19, 1976 and November 26, 1976; and to Northwest on July 19, 1976, November 26, 1976, and February 10, 1977.

THE INTERIM PROJECT

On March 8, 1977, El Paso Natural Gas Company (El Paso) filed an application in Docket No. CP77-289, pursuant to Section 7(c) together with Resources Third Amendment on March 10, and an Amendment of Northwest on March 9, 1977.[1]

Under the newly proposed arrangement, Northwest would receive gas from El Paso at certain points of interconnection in San Juan County, New Mexico, transport it to the existing interconnection between Northwest and Resources would inject the gas for the account of Clay Basin Storage Company (Clay Basin). Clay Basin would hold title to all the gas for later predetermined sales to four (4) of El Paso's East-of-California (EOC) Distributors; Arizona Public Service Company (APS), Southern Union Company (Southern Union), Southwest Gas Corporation (Southwest), and Tucson Gas and Electric Company (TG&E).[2] Withdrawal would be accomplished whereby Northwest would deliver equivalent volumes to El Paso in La Plata County, Colorado, and would take title to the gas in storage by displacement. El Paso would then transport the gas to the EOC Distributors who had previously purchased the gas. The gas which would be delivered as needed to protect service to the EOC Priority 1 and 2 customers would have been husbanded through storage of gas otherwise sold to lower priorities.

Clay Basin filed an application in Docket No. CP77-512 pursuant to section 7(c) on July 19, 1977. Clay Basin is an independent holding company created by El Paso for the sole purpose of facilitating the financial arrangements in this project. Clay Basin's financing scheme involves loans not to exceed $25 million at 110 percent of the prime rate as well as a 0.5 percent commitment fee on unused amounts and a facility fee of 10 percent of the prime rate of the total commitment. The remaining borrowing of 13.87 percent and $10,000 in stock to be issued to El Paso.

El Paso anticipates selling 16.7 Bcf of gas to Clay Basin during the period continuing through April 30, 1978, to receive gas necessary to transport and redeliver gas to EOC Distributors as needed. El Paso seeks to construct and operate pipeline to connect the El Paso and Northwest pipelines, to modify and relocate a check-meter, and to construct and operate plant piping and aerial gas heat exchangers. The proposed cost is $450,000 to be financed from funds on hand.

Northwest requests authority to deliver larger amounts of gas for storage and withdrawal over the level approved on February 10, 1977, on a best efforts basis in order to meet the expected needs of the 1977-1978 heating season.[3]

By April 30, 1978, all planned deliveries by El Paso to Northwest for

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[1] Docket No. CP77-511 was not filed until July 18, 1977.

[2] Hereafter referred to as the EOC Distributors.

[3] Third and Fourth Amendment to CP76-389.

injections to storage will cease. If, at any time after October 31, 1977, the total gas stored in the Field exceeds 27,000,000 Mcf, then all or a portion of that excess may be used to protect Priority 1 and 2 requirements of El Paso and Northwest customers. The interim arrangement is scheduled to expire by December 31, 1979, and if at that time, any surplus gas remains in Clay Basin's account, it will be returned as protection to EOC Priority 1 and 2 customers.

All parties seek temporary as well as permanent authorization for this project.

CONSOLIDATION AND INTERVENTIONS

The public convenience and necessity as well as the expeditious management of these applications dictate that the six (6) above-captioned dockets be consolidated and we so find.

Notices of Interventions or petitions to intervene in support, either directly or indirectly, of the long-term and interim projects were filed by:

1. El Paso Natural Gas Co.
2. Clay Basin Storage Co.
3. Asarco Inc., Compania Minera de Cananea, S.A. de C.V., Inspiration Consolidated Copper Co., and Kennecott Copper Corp.
4. Salt River Project Agricultural Improvement and Power District.
5. Southern Union Co.
6. Northwest Natural Gas Co.
7. Washington Natural Gas Co.
8. Cascade Natural Gas Corp.
9. Idaho Public Utilities Commission.
10. Pacific Gas and Electric Co.
11. Arizona Public Service Co.
12. Southern California Gas Co.
13. Colorado Interstate Gas Co.
14. Washington Utilities and Transportation Commission.
15. Washington Water Power Co.
16. Southwest Gas Corp.
17. The People of the State of California and the Public Utilities Commission of the State of California.
18. Tucson Gas and Electric Co.
19. San Diego Gas and Electric Co.
20. Public Utility Commissioner of Oregon.
21. Intermountain Gas Co.
22. Wyoming Industrial Gas Co.
23. Utah Gas Service Co.
24. Public Service Co. of Colorado, Western Slope Gas Co., and Cheyenne Light Fuel & Power Co.

One petitioner filed requesting a hearing; Arizona Electric Power Cooperative and the city of Willcox, Ariz. (AEPCO).

PROCEDURES AND ISSUES FOR HEARING

We find that applications relating to the underlying project should be set for hearing. The following two specific issues are of particular concern to Staff:

1. What is the propert percentage depreciation that should be applied over the life of the Field, and, what is the duration of that life?

2. What is the proper percentage rate of return that should be applied to the operation of the services of the Field?

We will, therefore, establish a date for the filing of testimony by the parties and supporting intervenors. Subsequent to the filing of direct testimony and opportunity for Staff to review thereof, a prehearing conference shall be convened to establish procedures to expedite the orderly conduct of the formal hearing and to further define the issues.

TEMPORARY AUTHORIZATION AND DENIAL OF HEARING ON INTERIM PROJECT

As stated in the filings, the urgency of this project is apparent in that the project envisions injections during the summer season of 1977 for withdrawal during the heating season of 1977–78 for the protection of EOC High-Priority customers. Previous arrangements to protect EOC Priority 1 and 2 customers have ceased and as that protection has been found to be needed (discussed infra), and as the instant proposal represents the needed additions to the protection afforded by the Rhodes Storage facility; it is abundantly clear that an emergency does exist and the public convenience and necessity require that temporary certificates be issued in Docket Nos. CP76–285, CP76–389, CP77–289, CP77–511, and CP77–512.

Said temporary authorization in Docket No. CP77–512 however, should be conditioned as follows.

1. The facility fee on bank credit be eliminated.

2. The interest rate of 13.87 percent on subordinated debentures be reduced to 9.71 percent as most recently allowed for overall return to El Paso in Docket No. RP77–18.

3. The return on the $10,000 of common equity be set at the most recently allowed return of 14.75 percent in Docket No. RP77–18.

4. The proposal be limited to the expiration date of the bank credit agreement; March 31, 1980..

On August 23, 1977, AEPCO filed a "Protest, Petition to intervene and Motion for Consolidated Hearing", and either expressly or by reference, have applied that pleading to all the above referenced proceedings. As noted above, the intervention of AEPCO is proper, however, the overall tenor and specific allegations presented by AEPCO appears to be beyond the accepted bounds of advocacy. In its answer filed on September 6, 1977, El Paso argues that it should be stricken pursuant to Section 1.15 (f) of the Commission's Rules of Practice and Procedure.[4] While this argument may have merit, we will assume that this filing is unique and its inherent difficulties will not reoccur. We will address each issue raised therein to show that each is the concern of on-going proceedings and thus vitiating any need for hearing in the instant proceeding other than as provided for herein.[5]

There are presently three on-going proceedings involving the El Paso system and in which AEPCO has intervened and is participating: RP72–6 the "Flame Stabilization" phase of the curtailment proceeding; SP76–38 and RP72–6, the consolidated proceeding involving the AEPCO complaint and system-wide curtailment plan; and CP73–334, CP74–289, and CP75–360, the Rhodes Storage Reservoir Project. Several issues raised by AEPCO in the instant petition to intervene are presently being litigated in one of the aforementioned proceedings.[6]

AEPCO raise the issues of the "alleged" deficiency and need of this project for the protection of Priority 1 and 2 EOC customers as well as challenging the load equation and nominations of gas by distributors. Similiar considerations are present in the proposed Settlement and Termination filed August 19, 1977, by El Paso pursuant to Commission directive set forth in Opinion Nos. 800 and 800–A. The matter of the broadness of the tariff for storage will also be considered therein.

Deficiencies, nominations by distributors, tracing of gas from storage, double-counting, and the load equation are a concern of the consolidated complaint/system-wide curtailment proceeding as well as subjects within the ambit of *City of Willcox, et al., supra.*, note 6. These matters would also include the consideration of the proper classification of storage gas. However, these issues must be reviewed in the context of this proposed underlying project herein set for hearing.

We find that an emergency is shown for the heating season 1977–78 as well as the future[7] and that the issues that are raised by intervenors are the concern of on-going proceedings.[8] We also find that any detrimental effect that may be occasioned by this project can be easily remedied by the above-cited, on-going, system-wide proceedings.

The Commission finds: (1) It is necessary and appropriate in carrying out the provisions of the Natural Gas Act that a public hearing be held on the matters involved and the issues presented as hereinbefore described and limited.

(2) Participation in these proceedings by the listed intervenors may be in the public interest and that permitting the filing of the late petitions to intervene

[4] Southwest Gas Corp., Southern Union Co. and Arizona Public Service Co. filed replies to AEPCO's Protest stating in part that no copy of this filing was ever served on them.

[5] September 21, 1977, Northwest filed an Answer to AEPCO's Protest in Docket Nos. CP76–389 and CP77–511. Northwest primarily argues that the El Paso system is not involved in the underlying project and thus the protest should be disallowed as it applies to the Northwest system.

[6] Relevant to the above-cited proceedings, Commission and Judicial History involve Opinion Nos. 800 and 800–A, issued May 23 and July 20, 1977, as well as *City of Willcox, et al.*, v. *F.P.C., et al.*, ____ F. 2d ____ (D.C. Cir. 1977) (No. 74–2123, Decided June 30, 1977) which remanded Opinion Nos. 697 and 697–A, the presently effective curtailment plan.

[7] Clay Basin Storage Project is also an integral part of the proposed settlement in CP73–334, et al., (Opinion Nos. 800, 800–A) filed August 19, 1977.

[8] AEPCO filed on September 26, 1977, a "Reply" to the Answers to their Protest. Said reply does not add materially to the original protest and maintains the same objectionable tenor.

will not delay the proceedings and may be in the public interest.

(3) The public convenience and necessity as well as the expeditious management of these proceedings require the consolidation of the six (6) above-indicated docket numbers.

(4) An emergency does exist for which the public convenience and necessity require that temporary authorization be issued as hereinbefore conditioned.

The Commission orders: (A) The applications filed in Docket No. CP76-285 by Mountain Fuel Resources, Inc., in Docket No. CP76-388 by Mountain Fuel Supply Co., in Docket No. CP76-389 by Northwest Pipeline Corp., in Docket No. CP77-289 by El Paso Natural Gas Co., in Docket No. CP77-511 by Northwest Pipeline Corp., and in Docket No. CP77-512 by Clay Basin Storage Co., are hereby consolidated and set for hearing with Docket No. CP76-285, Mountain Fuel Resources, Inc.

(B) All parties and all supporting intervenors shall file direct testimony and exhibits comprising their cases-in-chief on all issues set forth in this Order on or before November 29, 1977.

(C) The temporary certificates requested shall be issued subject to the conditions as hereinbefore described.

(D) A prehearing conference is to be convened on November 15, 1977, at the Federal Power Commission, 825 North Capitol Street NE., Washington, D.C. 20426 to discuss procedural and substantive issues. The Presiding Judge has authority to establish and change all procedural dates, and to rule on all motions (with the sole exception of petitions to intervene, motions to consolidate and severe, and motions to dismiss) as provided for in the Rules of Practice and Procedure.

(E) The above-mentioned petitioners are permitted to intervene in this proceeding, subject to the Rules and Regulations of the Commission; *Provided, however*, That participation of such petitioners shall be limited to matters affecting asserted rights and interests as specifically set forth in the petitions to intervene, and *Provided, further*, That the admission of such petitioners shall not be construed as recognition by the Commission that they might be aggrieved because of any Order of the Commission entered in this proceeding.

(F) The tendered tariff sheets of Storage Company and Northwest in Docket Nos. CP77-512 and CP77-511, respectively, shall be accepted and the temporary authorization accept the tariff sheets with waiver of the notice and certificate requirements of Sections 154.-22 and 154.51 of the Commission's Regulations and permit such tariff sheets to become effective as of the date of authorization. The tariff sheets tendered by El Paso in Docket No. CP77-289 should be accepted for filing subject to any surcharge modifications based on the above recommended financial conditions. Further, El Paso should file within 15 days tariff sheets reflecting the appropriate changes resulting therefrom.

(G) The Secretary shall cause prompt publication of the Order to be made in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A

TENDERED TARIFF SHEETS

Storage Company

Original Sheet Nos. 1 through 26 to its initial FPC Gas Tariff, Original Volume No. 1.

Northwest

Original Sheet Nos. 233 through 257 to its FPC Gas Tariff, Original Volume No. 2.

EL PASO

Original Volume No. 1

Sixth Revised Sheet No. 63-C.2.
Fifth Revised Sheet No. 63-C.3.
Fourth Revised Sheet No. 63-C.4.
Sixth Revised Sheet No. 63-C.5.
Fifth Revised Sheet No. 63-C.6.
First Revised Sheet No. 63-C.7.
First Revised Sheet No. 63-C.8.
First Reivsed Sheet No. 63-C.9.
Original Sheet No. 63-C.9A.
Original Sheet No. 63-C.9B.
Original Sheet No. 63-C.9C.
Original Sheet No. 63-C.9D.
Original Sheet No. 63-C.9E.

Third Revised Volume No. 2

Sixth Revised Sheet No. 1-M.2.
Fifth Revised Sheet No. 1-M.3.
Fourth Revised Sheet No. 1-M.4.
Sixth Revised Sheet No. 1-M.5.
Fifth Revised Sheet No. 1-M.6.
First Revised Sheet No. 1-M.7.
First Revised Sheet No. 1-M.8.
First Revised Sheet No. 1-M.9.
Original Sheet No. 1-M.9A.
Original Sheet No. 1-M.9B.
Original Sheet No. 1-M.9C.
Original Sheet No. 1-M.9D.
Original Sheet No. 1-M.9E.
Original Sheet Nos. 900 through 933.

Original Volume No. 2A

Sixth Revised Sheet No. 7-MM.2.
Fifth Revised Sheet No. 7-MM.3.
Fourth Revised Sheet No. 7-MM.4.
Sixth Revised Sheet No. 7-MM.5.
Fifth Revised Sheet No. 7-MM.6.
First Revised Sheet No. 7-MM.7.
First Revised Sheet No. 7-MM.8.
First Revised Sheet No. 7-MM.9.
Original Sheet No. 7-MM.9A.
Original Sheet No. 7-MM.9B.
Original Sheet No. 7-MM.9C.
Original Sheet No. 7-MM.9D.
Original Sheet No. 7-MM.9E.

[FR Doc.77-29676 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. CP77-642]

NATURAL GAS PIPELINE COMPANY OF AMERICA

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Natural Gas Pipeline Company of America (Applicant), 122 South Michigan Avenue, Chicago, Illinois 60603, filed in Docket No. CP77-642 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of storage facilities to enable Applicant to withdraw up to 740,000 Mcf of natural gas per day and 82,800,000 Mcf for any 12-month period from the North Lansing Storage Field, Harrison County, Texas, and the establishment of a maximum inventory limit of 132,500,000 Mcf (inclusive of native gas), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that it filed applications and received authorization in Docket Nos. CP74-286 and CP77-29 to construct and operate facilities for the underground storage of natural gas in the North Lansing Field, Harrison County, Texas. The authorized inventory limit for the field is 85,000,000 Mcf (inclusive of native gas), and at this inventory limit Applicant would have available approximately 15,000,000 Mcf of gas for withdrawal during the winter heating season, and over a 12-month period a net of 46,750,000 Mcf of gas could be withdrawn, it is indicated.

It is stated that North Lansing is utilized by Applicant on a year round basis to provide protection against major supply outages, and as a scheduled source of supply during the winter season. It is further stated that Applicant relies heavily on its sources of supply from the offshore areas of Louisiana and Texas to maintain existing service to its customers.

Applicant indicates that it projects a maximum inventory of 132,500,000 Mcf of natural gas to complete the development of the field, which initial development phase was authorized in Docket No. CP74-286 and further development in Docket No. CP77-29. Applicant further indicates that the increment of development proposed would enable it to reach said maximum inventory of 132,500,000 Mcf which would provide Applicant with the capability to withdraw 57,500,000 Mcf of gas during the winter heating season. However, because Applicant proposes to utilize the North Lansing Field on a year-round basis as a source of supply to offset outages, Applicant requests authorization to establish a maximum inventory level of 132,500,000 Mcf of gas (inclusive of native gas), which would provide Applicant with the capability of withdrawing a net of 82,800,000 Mcf of gas over any 12-month period when Applicant reaches said maximum limit, it is indicated. Applicant states that in addition, at said limit it would have the capability of withdrawing up to 740,000 Mcf per day.

It is stated that these increases in peak day and annual withdrawal authorizations would provide Applicant with additional flexibility to maximize the utilization of its field storage facilities in enhancing the reliability of existing service, and that it would assist Applicant in meeting customer entitlements, thus avoiding deeper and unexpected curtailment, but would not be utilized to support any new or increased service to Applicant's customers.

Applicant indicates that to effectuate the proposal, it proposes to construct and operate:

(1) 12,000 BHP of compression; and

(2) Approximately 5.2 miles of 6-inch and 8-inch gathering pipelines, the drilling and connection of 15 wells for injection and withdrawal use and other miscellaneous facilities, all at Applicant's North Lansing Field storage in Harrison County, Tex.

Applicant further indicates that the estimated cost of constructing the proposed facilities is $11,638,000. Applicant also proposes to construct and operate pursuant to Section 2.55(a) of the Commission's General Policy and Interpretations (18 CFR 2.55(a)) downhole protection devices, dehydration, line heaters, and other miscellaneous facilities at a cost of $1,700,000. Applicant states that it would finance the total estimated cost of the facilities of $13,338,000 through interim and permanent financing.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 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) and 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.77-29678 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. CP77-625]

RMNG GATHERING CO.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 21, 1977, RMNG Gathering Co. (Applicant), 420 Capitol Life Center, 1600 Sherman St., Denver, Colo. 80203, filed in Docket No. CP77-625 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation for and exchange of natural gas with Northwest Pipeline Corporation (Northwest), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport for and exchange natural gas with Northwest pursuant to a gas purchase, transportation and exchange agreement dated February 2, 1977, as amended September 12, 1977, with Northwest. The subject agreement is for a term of 10 years. Applicant states that it has a need for additional gas supplies in order to serve the requirements of its parent, Rocky Mountain Natural Gas Company, Inc., and would exchange natural gas with Northwest to the extent provided by the subject agreement in order to acquire the right to purchase up to 25 percent of the volumes of gas to be delivered to Applicant by Northwest.

It is indicated that pursuant to a gas purchase contract dated January 25, 1977, between Northwest and Palmer Oil and Gas Company, Northwest has acquired a new source of gas supply in the Bar-X field area of Garfield County, Colorado which is remote from Northwest's existing transmission system, and that in order to make the volumes of natural gas to be purchased from Palmer Oil and Gas Company available to Northwest's transmission system at the least possible investment, Northwest has entered into the agreement with Applicant.

Applicant states that it would receive from Northwest the volumes of natural gas purchased by Northwest from Palmer Oil and Gas Company in the Bar-X field Garfield County area, at a mutually agreeable point on its gathering facilities located in or near Garfield County, Colorado. It is estimated that initially the total volumes received at the point would be approximately 260 Mcf per day. It is stated that the volumes of natural gas which Northwest would deliver to Applicant would be gathered by Northwest and transported to the facilities of Applicant. Northwest proposes to construct the necessary gathering facilities pursuant to a certificate authorization issued to it on October 19, 1976 in Docket No. CP76-459, it is indicated.

Applicant states that it would receive for exchange such volumes as are purchased by Northwest from Palmer Oil and Gas Company and would redeliver equivalent volumes, subject to Applicant's option to purchase up to 25 percent of the volumes delivered for exchange, at an existing point of interconnection between the facilities of Applicant and Northwest in or near Mesa County, Colorado, where Northwest is currently authorized to exchange volumes of natural gas with Applicant. The volumes of gas so delivered and received for exchange would be balanced on a BTU basis and such balancing, to the extent possible, would be achieved monthly, it is said.

It is stated that by a letter dated February 2, 1977, Applicant has notified Northwest of its intent to purchase up to 25 percent of the natural gas delivered to Applicant. It is further stated that the price to be paid by Applicant for the gas Northwest proposes to sell to Applicant would be equal to the purchase gas cost paid by Northwest to Palmer Oil and Gas Company, which current price if $1.46 per Mcf adjusted for BTU, including adjustments, taxes or other charges permitted under Opinion No. 770-A.

Applicant states that Northwest would pay Applicant its transportation cost of service, including a reasonable rate of return, all costs incurred from the delivery point to the point of redelivery to Northwest, which initial transportation charge would be 8 cents per Mcf comprised of 5.0 cents gathering and 3.0 cents for compression.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 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) and 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.77-29677 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. RI77-14]

S.S.C. GAS PRODUCING CO.

Order Approving Settlement Proposal and Granting Special Relief

SEPTEMBER 30, 1977.

On November 24, 1976, S.S.C. Gas Producing Co. (Petitioner) filed a petition for special relief pursuant to section 2.76 of the Commission's General Policy and Interpretations (18 CFR § 2.76). Petitioner requested authorization to increase its rate from the presently allowed 37.8 cents/Mcf to 76 cents/Mcf, inclusive of production taxes. Petitioner is selling its gas to Trunkline Gas Co. (Trunkline) under its small producer certificate issued in Docket No. CS72-258, January 31, 1972.

Petitioner stated that no additional investment is proposed to be made in order to recover the subject gas from 3 wells located in Bee County, Tex., but that the presently authorized rate made the production uneconomical and "will precipitate its abandonment."

The Commission, in its April 25, 1977, order setting this case for a hearing stated that this petition did not meet the requirements of section 2.76 because no additional investment was proposed to be incurred, and therefore it more properly was one under section 2.56b(h) (18 CFR § 2.56b(h)) and directed Petitioner to demonstrate that its out-of-pocket expenses incurred in the operation of the subject wells are greater than the revenues obtained from the sales of the gas, as the condition precedent to it being authorized a special relief rate (Order at 2).

A hearing was held on June 23, 1977, before a Presiding Administrative Law Judge. At the close thereof, the parties agreed to discuss possible settlement once again, and as a result the instant settlement proposal was agreed upon.

The proposal, filed by Petitioner on July 25, 1977, stated that it (Petitioner) would receive a total rate of 48 cents/Mcf for the sale of gas from the subject wells. Commission Staff filed comments in support of the settlement proposal on August 5, 1977. Staff concluded that the rate of 48 cents/Mcf was cost supported. (See Appendix A.) No other party was heard from.

Therefore, based upon our consideration of the petition, and the formal record in this case, including Staff's study and analysis, we conclude that the proposed settlement rate is cost justified and in the public interest. Trunkline will continue to receive this gas for its customers' benefit at a total rate of 48 cents/Mcf at 14.65 psia.

The Commission orders: (A) The settlement proposal submitted by S.S.C. Gas Producing Co. on July 25, 1977, in this docket is approved, authorizing Petitioner to collect a total rate of 48 cents/Mcf at 14.65 psia for the sale of the subject gas effective on this Commission order, subject to paragraphs (B) and (C) below.

(B) The special rate authorized in ordering paragraph (A) shall not become effective as provided therein unless Petitioner files, within 30 days of the issuance of this order, a notice of Independent Producer rate change in Docket No. CS72-258, designating this special relief rate.

(C) This order is without prejudice to any finding or orders which have been made or which will hereafter be made by the Commission, and is without prejudice to any claims or contentions which may be made by the Commission, its Staff, or any party or person affected by this order, in any proceeding now pending or hereafter instituted by or against S.S.C. Gas Producing Co. or any person or party.

By the Commission.

KENNETH F. PLUMB,
Secretary.

APPENDIX A.—*Sheet 1 of 2, SSC Gas Producing Co., docket No. RI77-14, M. M. Murphy No. 1 Well, and Cyrus Fox No. 1 Well, and Dan Fox No. 1 Well, Byrne Field and Fox Fields respectively, Bee County, Tex.*

[Unit cost of gas]

Line No.	Item (a)	Amount (b)
1	Volumes (new working interest):	
2	Gas—1,000 cubic feet at 14.65 lb/in²a.	59,340
3	Liquids—barrels	0
4	Cost of production:	
5	Production expenses	$26,313
6	Total cost of production	26,313
7	Unit cost of gas (cents per 1,000 cubic feet):	
8	Cost of production ..... cents	44.34
9	Production tax at 7.5 pct ..... do	3.60
10	Unit cost of gas ..... do	47.94
	Rounded to ..... do	48.00

NOTE.—The above calculations are based on representations of the applicant contained in his filings as supplemented by responses to staff inquiries.
Line 2: See sheet 2, line 2, col. (c).
Line 5: See sheet 2, line 12, col. (c).
Line 8: Line 6 divided by line 2.
Line 9: Line 10 times 0.075.

APPENDIX A.—*Sheet 2 of 2, SSC Gas Producing Co., docket No. RI77-14, M. M. Murphy No. 1 Well, and Cyrus Fox No. 1 Well, and Dan Fox No. 1 Well, Byrne Field and Fox Fields respectively, Bee County, Tex.*

[Summary of support data]

Line No.	Description (a)	Amount G.W.I. (b)	Amount N.W.I. (c)
1	Total volumes recoverable in 2.4 Yr:		
2	Gas—1,000 cubic feet at 14.65 lb/in²a.	70,393	[1] 59,340
3	Liquids		
4	Cash production expenses estimated to be incurred:[2]		
6	Compression expense		$10,263
7	Contract gaging		5,495
8	Lease repairs and supplies		1,268
9	Ad valorem taxes		992
10	Supervision and overhead		8,256
11	Regulatory expense		[3] 59
12	Total cash production expenses		26,313

[1] SSC's net working interest is 84.06%.
[2] These expenses are based on the average of the most recent 24 mo expenses projected over the 2.4 yr productive life of the wells. Staff allowed a 5 pct inflation factor annually in projecting costs.
[3] Line 2, col. (c)×0.1¢ per 1,000 cubic feet. This 0.1¢ per 1,000 cubic feet is the regulatory expense allowance used in opinion Nos. 749 and 749-A.

[FR Doc.77-29671 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. CP77-628]

TEXAS GAS TRANSMISSION CORP.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 22, 1977, Texas Gas Transmission Corp. (Applicant), 3800 Federica Street, Owensboro, Ky. 42301, filed in Docket No. CP77-628 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, on an interruptible, for 2 years of up to 340 Mcf of natural gas at 14.73 psia for the Quaker Oats Co. (Quaker Oats), an existing industrial customer of Jackson Utility Division, City of Jackson, Tenn. (Jackson), one of Applicant's resale customers, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant requests authorization to transport gas for Quaker Oats pursuant to a transportation service agreement, dated September 12, 1977, between Applicant and Quaker Oats. It is stated that Quaker Oats has entered into a contract for the purchase of volumes of natural gas to be produced from certain leasehold interests in Lincoln Parish, La., and that such natural gas would be delivered to Applicant by means of a dispatching arrangement at the tailgate of the Kerr-

McGee Gasoline Plant located near Dubach in Lincoln Parish, La., on Applicant's Lisbon-Guthrie 20-inch line. Applicant states that it would simultaneously redeliver volumes of natural gas up to 340 Mcf per day to Jackson at an existing point or points of delivery for Quaker Oat's account for use in Quaker's Jackson, Tenn., plant.

It is indicated that Quaker Oats operates a frozen food manufacturing plant in Jackson, Tenn., and that the plant manufacturing operation consists of 24 ovens for waffle production and 4 ovens for french toast. It is further indicated that the availability of natural gas is essential to the continued operation of the plant, and that there is no technologically feasible alternate fuel due to the contamination of food products.

Applicant indicates that it would retain a volume equal to 1.58 percent of the volume of natural gas delivered to Jackson for the account of Quaker Oats 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 1. Applicant states that it would collect an initial charge of 11.36 cents per Mcf for all quantities of gas transported and delivered to Jackson for the account of Quaker Oats.

It is indicated that Applicant would purchase the subject gas from Harvey Broyles, et al. (Broyles, et al.), for a price as follows:

	Per Mcf
From the date of first delivery through the first contract year	$1.80
Commencing with the first day of the second contract year and during such second contract year	2.00

It is indicated that Broyles, et al., is unwilling to make any sales from Tremont Field located in Lincoln Parish, La., to interstate pipelines for resale or be subject to any form of present or proposed federal regulations on the price of gas sold from such field as a result of such sales. Absent the present arrangements, Broyles, et al. would sell gas produced from the Tremont Field to one of the intrastate purchasers who have expressed interest in the subject gas, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 21, 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) and 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.77-29679 Filed 10-7-77;8:45 am]

[6740-02]

[FR Docket No. CP77-275]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Application

SEPTEMBER 30, 1977.

Take notice that on September 26, 1977, Transcontinental Gas Pipe Line Corp. (Applicant), P.O. 1396, Houston, Tex. 77001 filed in Docket No. CP77-275 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 of up to 3,000 Mcf of natural gas per day on an interruptible basis for PPG Industries, Inc. (PPG), an existing industrial customer of the City of Lexington, N.C. (Lexington) and the City of Shelby, N.C. (Shelby), two of Applicant's resale customers served under Rate Schedule CD-2, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant indicates that pursuant to the Commission's telegram of April 14, 1977, it received temporary authorization to render the proposed service to PPG. Applicant now requests permanent authorization to render the proposed service for 2 years for PPG pursuant to a transportation agreement dated March 18, 1977 among Applicant, PPG, Lexington and Shelby.

Applicant states that PPG has purchased from David S. Towner, d.b.a. David S. Towner Enterprises (Towner) the subject gas, which gas was produced from Guernsey and Nobel Counties, Ohio. It is stated that under the agreement between them PPG would pay Towner for the gas is as follows:

PRICE

(a) During the term of this Agreement, Buyer shall pay for the following:

	Per MCF
First delivery to April 30, 1977	$3.20
May 1 thru October 31, 1977	$2.05
Nov. 1, 1978, thru April 30, 1979	$2.40
May 1 thru October 31, 1978	$2.15
Nov. 1, thru April 30, 1979	$2.40
May 1, thru October 31, 1979	$2.25
Nov. 1, 1979, thru April 30, 1980	$2.50
May 1 thru October 31, 1980	$2.35
Nov. 1, 1980, thru April 30, 1981	$2.60

(b) If the contract is continued beyond April 30, 1981, the parties hereto shall mutually agree to renegotiate volumes and prices. It is indicated that the subject gas has never been sold in interstate commerce.

It is stated that PPG would arrange to have the subject gas delivered to Columbia Gas Transmission Corp. (Columbia) and Columbia would deliver the gas to Applicant at Dranesville, Va., by backing off on its takes from Applicant at that delivery point. Applicant would then deliver the transportation volumes at existing points of delivery to Lexington and Shelby for the account of PPG, and Lexington and Shelby would transport such quantities of natural gas to PPG's Lexington and Shelby, N.C. plants where Fiberglas is manufactured, it is said. It is indicated that all of the natural gas to be transported would be consumed in priority 2 service category, (process and plant protection uses at both Shelby and Lexington). The units are known at the furnace forehearths, refiners and cannals and certain other miscellaneous fiber conditioning equipment which all require the constant flame temperature characteristics of a gaseous fuel, it is indicated.

Applicant states that it would charge PPG, initially 8.57 cents per Dekatherm (dt) equivalent for all quantities delivered. This initial rates reflects the average cost per dt of moving gas within Applicant's Rate Zone 2, and such rate was determined by using the same method that was utilized in the development of the Zone 3 intra-zone rate of 9.55 cents per dt, it is indicated.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 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) and 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 Fed-

eral 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 reprsesented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29680 Filed 10-7-77;8:45 am]

[6740-02]

[Docket No. RP-72-99]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Notice of Availability of the Final Report of the Data Verification Committee

OCTOBER 3, 1977.

Take notice that on September 30, 1977, Transcontinental Gas Pipe Line Corp. (Transco) filed copies of a document entitled, "Report to the Federal Power Commission of Data Verification Committee Review of Revised Base Period Market Data and Resulting Recommendations" (DVC Final Report). The DVC Final Report makes the following recommendations:

1. That any multifamily use in excess of 50/Mcf per day within individual dwelling units (for example, heating, cooking, etc.), whether or not master metered, be classified as a Priority 1 usage and any central (for example, a central boiler) multifamily usage with a total use in excess of 50 Mcf per day be classified in the appropriate commercial category based on size and use.

2. That intercompany transfers during the base period be "sprinkled" in the selling company's markets based on the end use market profile of the purchasing company (intercompany transfer question).

3. That the Commission review the volume of gas classified as Priority 2 (feedstock and process) requirements attributed to Farmers Chemical Association in North Carolina Natural Gas Corporation's market data.

4. That Carolina Pipe Line Co. and Virginia Pipeline Co. be allowed to assign to each pipeline supplier, 100 percent of those markets which are served only by the respective supplier and which are physically isolated from the remainder of the respondent's systems (proration of isolated markets question).

5. That in order to classify loads on the basis of size, loads are to be classified on the basis of the total consumption of each customer and not segregated by use (load splitting question).

6. That any industrial space heating requirement over and above that required for plant protection should continue to be classified in the appropriate category as non-process and non-plant protection usage.

7. That requirements which indicate having oil or coal as an alternate fuel should continue to be classified as a non-process requirement in the appropriate priority based on size.

8. That industrial requirements for make-up air heaters should continue to be classified as a non-process use in the appropriate priority based on size.

9. That any industrial water heating loads should continue to be classified as non-process loads in the appropriate priority depending on size.

10. That any Transco customer that presented specific data changes to the DVC to up-grade markets to correct classification errors contained in the original data be allowed to make such changes when approved by the DVC.

Attached to the DVC Final Report are dissenting or minority views of various individual members of the DVC. Filed concurrently with the DVC Final Report are six copies of the minutes and corrections to the minutes of the DVC meetings.

Transco has also filed, in the instant docket, the final revised "raw" base period market data and the revised base period end use market profile of its CD, ACQ and Firm Direct Industrial customers.

The final revised "raw" base period market data, containing customers affidavits, reflects each respondents' modification of its market data consistent with the recommendations in the DVC Final Report.

The revised end use market profile reflects the recommendations of the DVC, as well as the data manipulations (e.g. storage sprinkling and imputed ACQ markets) called for in Opinion Nos. 778 and 778-A. This profile would serve as the basis for allocation of available gas supplies on the Transco system upon acceptance of the recommendations in the DVC Final Report.

Copies of (a) the Final Report of the Data Verification Committee, (b) the minutes and corrections to the minutes of the DVC meetings, (c) the minority reports and dissenting views of individual members of the DVC, (d) final revised "raw" base period market data, and (e) revised base period end use market profiles are on file and available for public inspection in the Commission's Office of Public Information, Room 1000, 825 North Capitol Street NE., Washington, D.C. 20426. Any person desiring to be heard or to comment on the filed report and its supporting material, should file written comments with the Federal Energy Regulatory Commission, Washington, D.C. 20426, on or before October 12, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc.77-29682 Filed 10-7-77;8:45 am]

[6740-02]

[Docket Nos. CP77-638 and CP77-635]

WEIPENN GAS CO.

Notice of Petition for Declaratory Order or Alternatively Application To Abandon

SEPTEMBER 30, 1977.

Take notice that on September 23, 1977, Weipenn Gas Co. (Weipenn), through its successor-in-interest, Bazzle Gas Co. (Bazzle or Petitioner), 2821 NW. 50th Street, Oklahoma City, Okla. 73112, filed in Docket Nos. CP77-638 and CP77-635, respectively, a petition pursuant to Section 1.7(c) of the Commission's Rules of Practice and Procedure (18 CFR 1.7 (c)) for a declaratory order disclaiming jurisdiction over certain acts and operations performed by Petitioner, and the facilities used to effectuate such operations; or in the alternatively an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its pipeline facilities located in Braxton County, W. Va., and the transportation service rendered to Equitable Gas Co. (Equitable) through such facilities, all as more fully set forth in the petition an application which is on file with the Commission and open to public inspection.

Petitioner indicates in Docket No. CP77-638 that the facilities over which it requests the Commission to disclaim jurisdiction extends from the so-called Engle Farm in Otter District, Braxton County, W. Va., to Equitable's Burnsville Compressor Station in Salt Lick District, Braxton County, W. Va., a distance of approximately twelve miles, and that the facilities consist of approximately 65,882 feet of 6, 8, and 10-inch line, together with 57,481 feet of 2, 4, and 6⅝-inch line. Petitioner states that pursuant to the terms of a gathering agreement executed April 26, 1963, between Weipenn and Equitable, Petitioner collects gas purchased by Equitable for various producers at points all along the system, and delivers such gas to Equitable at the Burnsville terminus, it is said.

It is indicated that pursuant to the Commission's order of July 13, 1964, in Docket No. CP64-183, et al., Weipenn received authorization to acquire the subject facilities from Cumberland and Allegheny Gas Co. (Cumberland) to sell and deliver natural gas to Equitable, and to transport natural gas for Equitable. Pursuant to the subject order, Cumberland was also granted authorization to abandon the subject facilities by sale to Weipenn. Cumberland, a regulated Class A pipeline, had sold the subject facilities to Weipenn by agreement dated September 20, 1962. Cumberland had filed an abandonment application to permit the sale to Weipenn and Weipenn, at the same time had filed an application for certificate authorization to acquire them, it is said. It is indicated that pursuant to the Commission's order of July 13, 1964, the Commission found that the

facilities were used in the transportation and sale of natural gas in interstate commerce, and issued the requested certificates and abandonment authorizations.

Petitioner states that it has since acquired the facilities of Weipenn through a series of assignments, which facilities are said to total 123,363 feet of pipeline, and constitute all of the facilities which were authorized by the Commission's order of July 13, 1964.

Petitioner states in Docket No. CP77-368 that the facilities and service in question are non-jurisdictional by reason of the production and gathering exemption contained in Section 1(b) of the Natural Gas Act. Petitioner further states that it is not engaged in the transportation of natural gas in interstate commerce, but rather is engaged merely in the gathering of natural gas with respect to the service rendered to Equitable. Petitioner maintains that this conclusion is required due primarily to three major factors: (1) the nature and extent of the operations and service rendered to Equitable; (2) the intent of the underlying agreement between Weipenn and Equitable as evidence by its specific terminology; and (3) the structure and design of the subject facilities.

In regards to the nature of service, Petitioner indicates that the mere size of facilities is not by itself an important factor for purposes of determining whether the nature of the operations is gathering only or is transportation. Petitioner's facilities are, by any comparison, minute, it is indicated. The largest pipeline involved is ten inches in diameter, and of the 25 or so miles of total pipeline involved in this petition, approximately 6 miles consist of 2 to 4-inch pipeline, with the remainder ranging from 6 to 10 inches, it is said. Petitioner asserts that should the Commission disagree with the relief requested herein and assert jurisdiction over the facilities and transportation service being rendered, Petitioner would have the dubious distinction of being the smallest interstate pipeline over which the Commission has ever asserted jurisdiction. Petitioner states that the entire facilities are located within the State of West Virginia, and the Petitioners owns no other natural gas pipeline facilities either within the State of West Virginia or in any other State.

It is indicated that while a separate agreement between Weipenn and Equitable executed concurrently with the gathering agreement provided for the sale of certain volumes of natural gas, that agreement was wholly incidental to the gathering agreement. Most significantly, the nature of the gathering service was in no way contingent upon or defined by the trivial sales involved, and that notwithstanding the contingency of such sales, the delivery service on behalf of Equitable was and remains gathering only, in the strictest legal sense of the word, it is asserted.

Petitioner states that even if one assumes that the facilities were jurisdictional at that time they were operated by the previous owners, the Commission has recognized that a change in ownership by itself can render previously jurisdictional facilities nonjurisdictional. Petitioner further states that it is apparent that the Commission certificated the facilities by its July 13, 1963, order only because Cumberland was an otherwise jurisdictional natural gas company with extensive interstate facilities operations, and as such was required to receive abandonment authorization for the sale to Weipenn. It is stated that for reasons not apparent, the questions of Commission jurisdiction over Weipenn was never raised in the prior proceedings; however, the provision in Paragraph (D) of the July 13 order, that the certificate would be effective only during the time of Weipenn's ownership indicates that the Commission itself believed jurisdiction attached only because of the prior ownership and subsequent sale by Cumberland. Petitioner states that the Commission by that provision specifically intended for the certificate to expire at the time Weipenn no longer operated the facilities as authorized, and that the Commission intended to terminate its jurisdiction at such time.

Petitioner indicates that the second important criteria to take into consideration for purposes of determining the status of the service performed for Equitable must be the underlying agreement executed between Weipenn and Equitable, which agreement repeatedly refers to the service being performed as gathering, and never as transportation.

Petitioner states that in the final analysis, the structure, or physical design of the facilities must be the determinative factor deciding the jurisdictional question. In every prior Commission decision on this issue, great weight has been given to the specific design involved, since each case ultimately has to turn on the physical factors involved, it is asserted. Petitioner further states that judged by this traditional criterion of the physical structure of the system, Petitioner is demonstrably engaged in gathering only, within the meaning of Section 1 (b) of the Act. It is stated that Petitioner collects gas for Equitable at all points along the system, and makes delivery at Burnsville, where Petitioner's facilities terminate. It is stated that there is no intermediate pipeline, there is no last point of delivery beyond which no more gas is commingled, and there is in essence, no central point on the Petitioner's system, and jurisdiction therefore does not attach.

Petitioner indicates that it is not engaged predominantly, or at all, in the transportation of gas in interstate commerce. It is indicated that Petitioner performs functions in the production of natural gas and sale of that gas in intrastate commerce, and, with respect to the operations rendered for Equitable, is engaged in the gathering of gas produced by other producers and delivery to Equitable's interstate transmission line.

In Docket No. CP77-635 Bazzle requests permission and approval to abandon its pipeline facilities located in Braxton County, W. Va., and the transportation service rendered to Equitable through such facilities. Bazzle indicates that the pipelines are deteriorating, and that since their construction in 1915, the subject pipeline has required increasing maintenance and repair operations and expenditures in recent years. This has resulted in total expenses of $25,157 for the first half of 1977, against an income of $18,228, resulting in a loss on operations of $6,929, it is said. Bazzle states that because of the additional work required to service the pipeline and provide more facilities, Bazzle approached Equitable in an effort to renegotiate the underlying transportation charge of 2.0 cents per Mcf, which has been in effect from the time of the underlying agreement dated April 26, 1963. Bazzle further states that while recognizing the increased transportation costs being incurred by it, and the resultant need for an increase in revenues in order to maintain the pipeline, Equitable declined to enter into any agreement for an increased transportation charge due to the availability of Equitable's own pipeline in the vicinity of the Bazzle line. It is indicated that there would be no significant decrease in Equitable's service to its customers if the requested abandonment is granted, since Equitable would continue to purchase similar quantities from their current sources.

Accordingly, Petitioner states that in the event the Commission determines that Petitioner's facilities, and the service rendered on behalf of Equitable, are subject to Commission's jurisdiction, Petitioner, in the alternative, request hereby that the Commission grant Bazzle permission and approval to abandon the subject facilities.

Any person desiring to be heard or to make any protest with reference to said application and petition should on or before October 21, 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 required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are 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.77-29681 Filed 10-7-77;8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

THE ALFRED I. DU PONT TESTAMENTARY TRUST AND FLORIDA NATIONAL BANKS OF FLORIDA, INC.

Statement in Connection With Order Approving Designation of Purchaser of Shares of Florida National Banks of Florida, Inc.

By letter dated August 25, 1977, Florida National Associates, Inc., Jacksonville, Fla. ("FNA"), requested, pursuant to the provisions of the Plan of Divestiture ("Plan") submitted by the Alfred I. duPont Testamentary Trust ("duPont Trust") with respect to its 2,330,638 shares (the "Shares") of Florida National Banks of Florida, Inc., Jacksonville, Fla. ("Florida National"), the approval of the Board of FNA's designation of Florida National as purchaser of the Shares. The Plan was approved by the Board on December 10, 1974. By order dated September 21, 1977, the Board approved FNA's designation of Florida National as purchaser of the Shares, and in connection with such approval, and acting pursuant to the Board's authority under section 5(b) of the Bank Holding Company Act (the "Act") (12 U.S.C. § 1844(b)), the Board directed Florida National to comply with certain requirements set forth in the order designed to insure the effective and complete separation of Florida National's banking and related interests from the nonbanking interests of the duPont Trust that was mandated by Congress in 1966.

The Alfred I. duPont Testamentary Trust was established in 1935 with assets of about $27 million, consisting mainly of shares in E.I. duPont de Nemours & Co., Florida real estate and properties, and controlling interests in a number of banks in Florida. Mr. Edward Ball, Mr. duPont's brother-in-law, was named as one of the four original trustees of the duPont Trust and continued to manage the Florida properties owned by the Trust as he had done prior to Mr. duPont's death. With Mr. Ball serving, in effect, as managing trustee, the Trust expanded its bank holdings to include some 30 banks located throughout the State of Florida. Together these banks constituted the largest banking organization in Florida prior to 1970. The Trust's nonbanking interests, which continued to expand after Mr. duPont's death, included among others, the St. Joe Paper Company and the Florida East Coast Railway Co.

As originally enacted in 1956, the Bank Holding Company Act did not include testamentary trusts, such as the duPont Trust, as companies subject to the Act's prohibitions against the ownership of nonbanking interests by firms that controlled banks. In 1966, however, focusing primarily upon the extensive banking and industrial interests in the duPont Trust, Congress amended the Act's definition of "company" to include long-term trusts and it removed the Act's exemption for religious, charitable and educational institutions.

The 1966 Amendments to the Act required that within 5 years (that is, by July 1, 1971), the duPont Trust either divest its nonbanking interests or cease to be a bank holding company. In 1970, the duPont Trust submitted to the Board its plan to comply with the 1966 Congressional mandate. It proposed: (1) to transfer the Trust's banking interests to a newly formed bank holding company in return for stock in the holding company, and (2) thereafter to reduce the Trust's interest in the new holding company to less than 25 percent of its voting shares.

On August 13, 1970, the Board approved, as the first step in the Trust's compliance with the 1966 Amendments, the application of Florida National to become a bank holding company through an exchange of its own shares for all of the shares of the 30 banks owned by the duPont Trust. In its order approving the reorganization, the Board advised the duPont Trust that in order to comply with the Act, the Trust would have to eliminate all relationships with Florida National that would enable the Trust to exercise control or a controlling influence over the holding company or its subsidiary banks.

On February 11, 1971, Florida National consummated its acquisition of nearly all of the shares of the 30 banks owned by the duPont Trust. The duPont Trust thereby acquired 59.6 percent of Florida National's outstanding shares. Officers, directors, and employees of the Florida National banks acquired almost 9 percent. Mr. Ball personally acquired 6.4 percent, and the estate of Mr. Ball's sister, Jessie Ball duPont, acquired 4.5 percent. On June 24, 1971, the duPont Trust sold over 3 million of its Florida National shares to the public, thereby reducing the Trust's holding of Florida National's voting shares to 24.9 percent.

In May 1971, Mr. Ball resigned his position as Coordinator of the Florida National banks,[1] as well as all other official positions he held with Florida National and its subsidiary banks, including his seats on the boards of directors of four of the subsidiary banks.[2] By early 1972, all interlocking officers and directors between the duPont Trust and its subsidiaries, on the one hand, and Florida National and its subsidiary banks, on the other hand, were terminated.

In September 1971, the Board adopted, as an amendment to its Regulation Y, certain presumptions of control designed to implement the expanded definition of "control" brought about by the 1970 Amendments to the Act.[3] One of the rebuttable presumptions (12 CFR § 225.-2(b)(2)) provided, in effect, that shares of a bank holding company held by officers, directors, or trustees of a second company would be considered to be indirectly controlled by the second company where the second company itself owned or controlled more than 5 percent of the holding company's shares and the combined stock ownership in the holding company of the second company and its officers, directors and trustees together amounted to 25 percent or more of the holding company's shares. Under this provision, the duPont Trust's 24.9 percent interest in Florida National coupled with Mr. Ball's 6.4 percent gave rise to the presumption that the duPont Trust continued to control Florida National, and thus indicated a finding that the duPont Trust's divestiture of its banking interest had not been complete or effective.

On July 5, 1973, acting pursuant to the procedures set forth in Regulation Y, the Board issued a preliminary determination that the duPont Trust exercised control and/or a controlling influence over the management or policies of Florida National and its subsidiary banks and, therefore, had failed to divest control of Florida National and its subsidiary banks as required by the 1966 Amendments to the Act. The Board's preliminary determination was based on six factors:

1. The duPont Trust's ownership of over 24 percent of Florida National's shares.

2. The apparent continuation, after July 1, 1971, of pre-existing relationships between the duPont Trust and its trustees and Florida National.

3. Trustee Ball's service for 20 years as Coordinator of the Florida National banks.

4. Trustee Ball's ownership of Florida National's shares.

5. The ownership of 4.5 percent of Florida National's shares by the Estate of Mrs. duPont (Trustee Ball's sister), the executors of which were individuals who served as trustees of the duPont Trust.

6. The fact that no person (other than the Trust and Trustee Ball) owned more than 5 percent of the voting shares of Florida National.

The duPont Trust did not contest the preliminary determination of control and indicated to the Board its willingness to divest itself of its entire interest in Florida National. By Order dated October 15, 1973, the Board made final its determination that the duPont Trust had continued after July 1, 1971, to exercise control and/or a controlling influence over Florida National and, therefore, had remained a bank holding company. Accordingly, the Board ordered the duPont

Trust to terminate its control and/or controlling influence over Florida National and to divest the 2,330,638 shares of Florida National held by the duPont Trust no later than December 31, 1974. The duPont Trust was further ordered to submit a specific plan of divestiture.

By letter dated December 10, 1974, the Board approved a plan of divestiture that provided for the immediate and irrevocable transfer of custody, title, and voting rights to the Shares to the Peoples First National Bank of Miami Shores, Fla. ("Miami Bank"), as trustee under an Irrevocable Living Trust. Under the terms of the Irrevocable Trust, the Miami Bank was required to sell the Shares at $18 per share or the publicly quoted bid price per share for such stock on a date 60 days after the day on which the sale of such stock by the duPont Trust pursuant to the Plan was approved by the Board, whichever price was greater,[4] to FNA, a corporation organized by the presidents of five of Florida National's subsidiary banks, provided FNA qualified within 33 months after the effective date of the Irrevocable Trust as financially able to purchase the Florida National Shares.

Under the Plan, the stock of FNA was to be offered to officers, directors and employees of Florida National and its subsidiaries and certain customers of Florida National's subsidiaries. However, FNA had the right under the Plan to elect not to purchase the Shares itself and instead to designate a person or persons to purchase the Shares by "private placement," provided that such purchaser was approved by the Board within the 33 month period. If FNA failed to qualify as financially able to purchase the Shares or failed to designate a purchaser approved by the Board within that period, FNA's rights under the Plan were to terminate, and the Miami Bank was required to sell the Shares at public sale. At such public sale, persons affiliated with the duPont Trust, its trustees, or any of the subsidiaries of the duPont Trust were to be prohibited from purchasing the Shares.

During 1977, it became clear to FNA that it would not be able to demonstrate its financial capacity to purchase the Shares by the time its purchase rights were to expire under the Plan. Accordingly, FNA elected to exercise its rights under the Plan to designate a purchaser and on August 25, 1977, FNA requested Board approval of its designation of Florida National.[5] Florida National proposed to purchase the Shares, which will be held in its treasury, for $18 per share, or an aggregate of approximately $42 million cash, all of which will be borrowed. Florida National anticipates that approximately $17 million of the principal amount will be repaid early in 1978 with funds available to Florida National as the result of mergers among several of its subsidiary banks. Florida National, with 32 subsidiary banks having aggregate assets of $1.6 billion (as of December 31, 1976) is the fourth largest banking organization in Florida. Florida National's financial and managerial resources are regarded as satisfactory and its future prospects appear favorable. While the purchase of the Shares by Florida National will result in a significant increase in the company's debt, the Board believes that Florida National has sufficient resources to service the debt and still remain a source of financial strength to its subsidiary banks.

Following receipt of FNA's August 25, 1977, designation of Florida National as purchaser of the Shares, an extensive field investigation was conducted by staff of the Board and the Federal Reserve Bank of Atlanta to determine the extent to which, if at all, the duPont Trust or any of its trustees or any other person affiliated with the duPont Trust may have continued after December 10, 1974 (the date the Board approved the duPont Trust Plan of Divestiture), to exercise control or a controlling influence over the affairs of Florida National and its subsidiary banks, and to assess the effect that a purchase of the Shares by Florida National might have with respect to any existing or potential control relationship between the duPont Trust and Florida National.[6] The investigation indicated that following the transfer of the Shares to the Miami Bank under the Irrevocable Living Trust, the previous control relationship between the duPont Trust and Florida National began to dissipate substantially. Management of Florida National and its subsidiary banks assumed working control over Florida National, new directors were added to the Florida National board who had no prior affiliation with the Trust or its trustees, and substantial operational and policy changes were effected independent of and without consultation with, or review, influence or control by the duPont Trust, its individual trustees or any subsidiary or affiliate of the duPont Trust. With the exception of the duPont Trust's contacts with Florida National's lead bank, Florida First National Bank of Jacksonville, Jacksonville, Fla. ("Jacksonville Bank"), in its capacity as corporate trustee of the duPont Trust, the investigation disclosed no evidence of efforts by or on behalf of the Trust to influence the day-to-day operations or policies of Florida National. The lack of such evidence, in the Board's view, was significant indication of Florida National's ability to carry on its operations independent of the duPont Trust or any of its related interests.

While it thus appeared to the Board that the 1974 divestiture of the Shares by the duPont Trust to the Miami Bank was substantially effective in terminating the control relationship between Florida National and the duPont Trust, the Board was concerned that if Florida National were to purchase the Shares, certain other relationships between the duPont Trust and Florida National might provide the duPont Trust with the potential ability to influence the affairs of Florida National and its subsidiary banks in a manner inconsistent with the objectives sought by Congress in the 1966 Amendments to the Act. This potential would, of course, have been significantly lessened if the Shares had been sold to FNA, or to a third party block purchaser because a countervailing ownership force would thereby have been created and the purchaser's very substantial equity investment in the Shares would have created a strong incentive on the part of the purchaser to act in its own interest and independent of the duPont Trust.

Because Florida National's purchase of the Shares would eliminate the possible creation of such an independent ownership interest, it was necessary, in the Board's view, that an approval of that purchase be accompanied by the imposition of protective restraints that would assure an effective and permanent separation of Florida National's banking and related interests from the duPont Trust's nonbanking interests in order to carry out the 1966 mandate of Congress. The requirements imposed in the Board's Order of September 21, 1977, were designed and are intended by the Board to remove any remaining potential for the duPont Trust to exert control or a controlling influence over Florida National and its subsidiary banks. These protective requirements should also strengthen the ability and resolve of the management of Florida National to continue to operate the holding company independent of the duPont Trust. The Order directs the termination of all remaining relationships between the duPont Trust and Florida National, and prohibits the creation of future relationships that offer the potential for a continuation or reestablishment of the duPont Trust in a control relationship with respect to Florida National.

Significant among the relationships that the Board has directed be terminated, is the continued service of the Jacksonville Bank as corporate trustee of the duPont Trust. So long as the Jacksonville Bank remained a trustee of the duPont Trust it not only shared legal title to the nonbanking assets held in the trust,[7] but potentially held a position as the deciding and controlling vote in the event of disagreements among the individual trustees.[8] In view of the continuing disagreement and litigation among the individual trustees, the significance of the Jacksonville Bank's position in this regard could have provided an incentive for the Trust or individual trustees to attempt to exert influence over Florida National with regard to the administration of the affairs of the Trust. In the Board's judgment, these factors, as well as the desirability in general of separating the Jacksonville Bank from involvement with the business interests of the Trust, weighed heavily for removal of the Jacksonville Bank as corporate trustee.

Although the Board's Order does not contain provisions addressed directly to the personal stock ownership in Florida National of Mr. Ball or the Estate of Jessie Ball duPont, the Board recognizes that at present these interests together

represent the largest single block of stock in Florida National. The Board believes, however, that the protective provisions contained in the Order are fully adequate to insure that this stock interest cannot be used to reestablish a control relationship between the duPont Trust and Florida National.

The Board intends to monitor closely the operations of Florida National and relationships between Florida National and the duPont Trust and its representatives and it will not hesitate to take action to insure compliance with the terms and purposes of this Order. In this regard, the Board emphasizes that the officers and directors of Florida National and its subsidiaries, and particularly those directors who are not also officers, bear a heavy responsibility for assuring that both the letter and spirit of the Order are faithfully observed.

Board of Governors of the Federal Reserve System, October 3, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

FOOTNOTES

[1] Prior to July 1, 1971, Mr. Ball, through the Coordinator's Office, which he headed, dominated completely the management, operations, and policies of the 30 Florida National banks owned by the duPont Trust.

[2] Mr. Ball did, however, select the president for Florida National (a position equivalent to that of Coordinator held by Mr. Ball until May 1971) and all of its initial directors. The Coordinator's Office formed the nucleus of Florida National. The staff of the Coordinator's Office became basically the staff of Florida National.

[3] The 1970 Amendments added § 2(a)(2)(c) to the Act, which defined "control" to include the exercise of a controlling influence over the management or policies of another firm.

[4] Since the quoted market price of Florida National stock has at no time been as high as $18 per share since the Board's approval of the Plan, $18 was, in effect, the minimum sale price fixed by the Irrevocable Trust.

[5] In connection with its analysis of FNA's designation of Florida National, Board staff reviewed FNA's designation of Duke University, Durham, N.C., as alternative purchaser of the Shares, as well as the offers to purchase the Shares submitted to FNA by Combanks Corp., Winter Park, Fla. However, the Duke designation was withdrawn by FNA, and was in any event not to be considered by the Board unless it disapproved the Florida National designation, and FNA did not accept Combanks's offers. Accordingly, the Board was not called upon to consider the merits of these proposals. However, the documents relating to these proposals were in the record before the Board.

[6] In the course of the investigation, the Board's representatives personally interviewed all of the trustees of the duPont Trust, all of the FNA officers, senior officials, and directors of Florida National and its subsidiary banks, as well as a number of other persons whose interests were known to be adverse to those of the duPont Trust, Mr. Ball or FNA.

[7] Section 4(c)(4) of the Act exempts from the Act's prohibitions against ownership or control of nonbanking assets by a bank holding company shares held in good faith in a fiduciary capacity, except where such shares are held under a trust that itself constitutes a "company" as defined in the Act. Since the duPont Trust is a "company" within the Act's definition, this exemption is not available to Florida National.

[8] As corporate trustee, the Jacksonville Bank had power not only to break a tie vote among the individual trustees, but to vote in such a way as to create a tie vote among the trustees and then to vote again to break the tie.

[FR Doc.77-29607 Filed 10-7-77;8:45 am]

[6210-01]

JACKSON HOLE BANKING CORP.

Order Denying Formation of Bank Holding Company

Jackson Hole Banking Corp., Jackson, Wyo., has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) of formation of a bank holding company through acquisition of 91.3 percent of the common voting shares of The Jackson State Bank, Jackson, Wyo. ("Bank"). Applicant also proposes to acquire nonvoting preferred shares of Bank.

Notice of the application, affording opportunity for interested persons to submit comments and views, has been given in accordance with § 3(b) of the Act. The time for filing comments and views has expired, and the Board has considered the application and all comments received in light of the factors set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

Applicant is a nonoperating Wyoming corporation organized for the purpose of becoming a bank holding company through the acquisition of Bank ($44.2 million in deposits).[1] Upon acquisition of Bank, Applicant would control the 10th largest banking organization in the State of Wyoming and approximately 2.4 percent of total deposits in commercial banks in the State.

Bank is the larger of the two banks located in Teton County, which approximates the relevant banking market, and holds approximately 81.7 percent of the total commercial bank deposits in the market.

The proposed transaction involves the transfer of ownership of Bank from individuals to a corporation owned by the same individuals. Since Applicant has no other subsidiaries, consummation of the proposal would not have any adverse effect upon existing or potential competition nor would it increase the concentration of banking resources. Thus, the Board concludes that the competitive effects of the instant proposal are not adverse and are consistent with approval.

The Board has indicated on previous occasions that a holding company should constitute a source of financial and managerial strength to its subsidiary bank(s), and that the Board will closely examine the condition of an applicant in each case with this consideration in mind.[2] Having examined such factors in light of the record in this application, the Board concludes that the record presents adverse considerations as they relate to the applicant bank holding company that warrant denial of the proposal to place the ownership of Bank into corporate form.

The president of Bank, along with members of his family, are the principal shareholders of Bank and, under this proposal, would become the president and principal shareholders of Applicant. The president of Bank has served in that capacity for approximately ten years. Material in the record reflects that Bank's earnings and capital position have generally been lower than those of similarly situated banks in the State. Such results appear to be attributable to the policies and practices currently in evidence in Bank's operations. Inasmuch as no management changes are contemplated by Applicant and this proposal would continue and enhance management's control of bank, the Board is of the view that the record of Bank's operations indicates that managerial factors are an adverse consideration.

With respect to financial considerations, the Board notes that Applicant would incur a sizable debt in connection with the proposed acquisition of Bank's shares. Applicant proposes to service this debt over a 12-year period through dividends to be declared by Bank and tax benefits to be derived from filing consolidated tax returns. The projected earnings for Bank contained in the application are higher than Bank has generally enjoyed in the past, as well as being higher than other banks in the area. In addition, the projected asset growth of Bank is much less than that experienced in recent years. Based upon more realistic earnings and growth projections, it is the Board's judgment that Applicant would not have the necessary financial resources to meet its annual debt servicing requirements, maintain adequate capital at Bank, and meet any unexpected problems that might arise at Bank. It is true that Applicant's plan calls for it to incur debt for the purpose of injecting capital into Bank; however, a more appropriate means of achieving capital improvement considering Bank's

[1] Unless otherwise indicated, all banking data are as of December 31, 1976.

[2] The Bank Holding Company Act is clear in its mandate that the Board, in acting on an application to acquire a bank, inquire into the financial and managerial resources of an applicant. While this proposal involves the transfer of the ownership of Bank from individuals to a corporation owned by essentially the same individuals, the Act requires that before an organization is permitted to become a bank holding company and thus obtain the benefits associated with the holding company structure, it must secure the Board's approval. Section 3(c) of the Act provides that the Board must, in every case, consider, among other things, the financial and managerial resources of both the applicant company and the bank to be acquired. The Board's action in this case is based on a consideration of such factors.

present condition would be a retention of earnings and a curtailing of dividends. In sum, the Board does not view Applicant's overall financial plan as one that would enable it to serve as a source of strength to Bank or one that would the Board concludes that considerations enhance Bank's prospects. Therefore, the Board concludes that considerations relating to financial resources and future prospects weigh against approval of this application.

No significant changes in Bank's operations or in the services offered to customers are anticipated to follow from consummation of the proposed acquisition. Consequently, convenience and needs factors lend no weight towards approval of this proposal.

On the basis of the circumstances concerning this application, the Board concludes that the banking considerations involved in this proposal present adverse factors bearing upon the financial and managerial resources and future prospects of Applicant and Bank. Such adverse factors are not outweighed by any procompetitive effects or by benefits that would result in better serving the convenience and needs of the community. Accordingly, it is the Board's judgment that approval of the application would not be in the public interest and that the aplication should be denied.

On the basis of the facts of record, the application is denied for the reasons summarized above.

By order of the Board of Governors,[1] effective September 30, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29608 Filed 10-7-77;8:45 am]

[6210-01]

MANUFACTURERS HANOVER CORP.

Proposed Acquisition of First Credit Corporation and First Credit Corporation of Georgia

Manufacturers Hanover Corp., New York, N.Y., has applied, pursuant to § 4 (c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8) and § 225.4 (b)(2) of the Board's Regulation Y (12 CFR § 225.4(b)(2)), for prior approval of the indirect acquisitions by Applicant (through its wholly-owned subsidiary, Ritter Financial Corporation) of direct or indirect ownership, control or power to vote, of shares of a de novo corporation and to acquire substantially all the assets of First Credit Corp., Whiteville, N.C., and First Credit Corporation of Georgia, Fayetteville, Ga. Notice of the applications was published on the following dates in newspapers circulated as indicated: with respect to First Credit Corporation, on July 30, 1977, in Star-News Newspapers, New Hanover County, N.C., on August 1, 1977, in The Wallace Enterprise, Wallace, N.C.; on August 2, 1977, in The Sanford Daily Herald, Lee County, N.C.; on August 3, 1977, in The Sandhill Citizen, Aberdeen, N.C.; and on August 4, 1977, in The Brunswick Beacon, Sallotte, N.C. With respect to First Credit Corp. of Georgia, notice was published on July 28, 1977, in The Taylor County News, Butler, Ga., Harris County Journal, Talbotton New Era, Patriot-Citizen, Meriwether Vindicator, all published in Manchester, Ga. and the Thomaston Times, Thomaston, Ga.; on August 3, 1977, in Fayette County News, Fayetteville, Ga.; and on August 7, 1977, in News/Daily, Clayton County, Ga.

Applicant states that the proposed subsidiary would engage in the following activities: Making or acquiring for its own account or for the account of others, loans and other extensions of credit such as would be made by a finance company; servicing loans and other extensions of credit for any person and acting as an agent or broker for the sale of credit related life and accident and health insurance which is related to extensions of credit made and acquired by Ritter Financial Corp. and/or its direct and indirect subsidiaries; reinsurance, through its indirect subsidiary, Ritter Life Insurance Co., of credit life and accident and health insurance, which is related to extensions of credit made and acquired by Ritter Financial Corp. and/or its direct and indirect subsidiaries. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Banks of New York, Atlanta and Richmond.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 1, 1977.

Board of Governors of the Federal Reserve System, October 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29609 Filed 10-7-77;8:45 am]

[1] Voting for this action: Vice Chairman Gardner and Governors Jackson, Partee, and Lilly. Absent and not voting: Chairman Burns and Governors Wallich and Coldwell.

[6210-01]

ORBANCO, INC.

Proposed Retention of Shares of Northwest Acceptance Corporation and, Indirectly, Northwest Industrial Loan Company

Orbanco, Inc., Portland, Oreg., has applied, pursuant to § 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and § 225.4(b)(2) of the Board's Regulation Y (12 CFR § 225.4 (b)(2)), for permission to retain voting shares of Northwest Acceptance Corporation and, indirectly, Northwest Industrial Loan Company, both of Portland, Oreg. Notice of the application was published on August 16, 1977, in The Anchorage Daily Times, Anchorage, Alaska; on August 17, 1977, in The Sacramento Bee, Sacramento, Calif., Arizona Daily Star, Tucson, Ariz., The Wichita Eagle, Wichita, Kans., The Houston Chronicle, Houston, Tex., The Louisville Times, Louisville, Ky., The State, Columbia, S.C., The Florida Times-Union, Jacksonville, Fla., The Wall Street Journal, West Coast Edition and Southwest Edition; on August 18, 1977, in The Oregonian, Portland, Oreg., San Francisco Chronicle, San Francisco, Calif., The Idaho Statesman, Boise, Idaho, the Arizona Republic, Phoenix, Ariz., Great Falls Tribune, Great Falls, Mont., The Kasas City Times, Kansas City, Missouri, Tulsa Tribune, Tulsa, Okla., The Birmingham News, Birmingham, Ala., The Charlotte Observer, Charlotte, N.C., The Wall Street Journal, East Coast Edition, and San Antonio Ligh, San Antonio, Tex.; on August 19, 1977, in Seattle Post-Intelligencer, Seattle, Wash., Casper Star-Tribune, Casper, Wyo., Albuquedque Journal, Albuquerque, N. Mex., Dallas Times Herald, Dallas, Tex., Spokane Daily Chronicle, Spokane, Wash., and Commercial Appeal and Press, Memphis, Tenn.; on August 22, 1977, in The Richmond Times-Dispatch, Richmond, Va., The Atlanta Constitution, Atlanta, Ga., The Atlanta Journal, Atlanta, Ga., and The Oregonian, Portland, Oreg.; on August 24, 1977, in Los Angeles Times, Los Angeles, Calif., The Mobile Press, Mobile, Ala., and Savannah Evening Press, Savannah, Ga.; on August 25, 1977, in Daily Oklahoman, Oklahoma State; on August 26, 1977, in the Billings Gazette, Billings, Mont., Eugene Register-Guard, Eugene, Oreg., and Salt Lake City Tribune, Salt Lake City, Utah; on August 31, 1977, in Las Vegas Review-Journal, Las Vegas, Nev., and The Denver Post, Denver, Colo.; and on September 9, 1977, in The Nashville Banner, Nashville, Tenn.

Applicant states that the proposed subsidiary would engage in the activities of capital goods financing, equipment leasing, the sale, as agent, of credit related life insurance, purchasing loans and making loans. Such activities have been specified by the Board in § 225.4(a) of Regulation Y as permissible for bank holding companies, subject to Board approval of individual proposals in accordance with the procedures of § 225.4(b).

Interested persons may express their views on the question whether consummation of the proposal can "reasonably by expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question should be accompanied by a statement summarizing the evidence the person requesting the hearing proposes to submit or to elicit at the hearing and a statement of the reasons why this matter should not be resolved without a hearing.

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of San Francisco.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than November 1, 1977.

Board of Governors of the Federal Reserve System, October 4, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29610 Filed 10-7-77;8:45 am]

[6210-01]

SAN BANCORP.

Formation of Bank Holding Company

San Bancorp., Sanborn, Iowa, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 per cent or more of the voting shares of Sanborn Savings Bank, Sanborn, Iowa. The fatcors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 to be received no later than October 31, 1977.

Board of Governors of the Federal Reserve System, October 3, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc.77-29611 Filed 10-7-77;8:45 am]

[6210-01]

[Docket No. TCR 76-110]

WORLD AIRWAYS, INC.

Prior and Final Certifications Pursuant to the Bank Holding Company Tax Act of 1976

World Airways, Inc., Oakland, Calif. ("Airways"), has requested a prior certification pursuant to section 6158(a) of the Internal Revenue Code (the "Code"), as amended by section 3(a) of the Bank Holding Company Tax Act of 1976 (the "Tax Act"), that its sale on January 16, 1974, of 1,360,950 shares of First Western Bank & Trust Co., Los Angeles, Calif. ("Bank"), indirectly owned and controlled by it through its wholly-owned subsidiary, Worldamerica Investors Corp., Oakland, Calif. ("Worldamerica"), to Lloyds First Western Corp., Wilmington, Del. ("First Western"), a subsidiary of Lloyds Bank Limited, London, England ("Lloyds"), was necessary or appropriate to effectuate the policies of the Bank Holding Company Act (12 U.S.C. § 1841 et seq.) ("BHC Act"). Airways has also requested a final certification pursuant to section 6158(c)(2) of the Code that it has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) ceased to be a bank holding company.[1]

In connection with these requests, the following information is deemed relevant for purposes of issuing the requested certifications:[2]

1. Airways is a corporation organized under the laws of the State of Delaware on March 29, 1948. Worldamerica is a corporation organized under the laws of the State of California on June 8, 1968. Airways acquired all of the outstanding voting shares of Worldamerica on June 8, 1968.

2. On June 8, 1968, Airways acquired indirect ownership and control, through Worldamerica, of 1,360,950 shares, representing 99.48 per cent of the outstanding voting shares, of Bank.

3. Airways became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its direct ownership and control at that time of more than 25 per cent of the outstanding voting shares of Worldamerica, and by virtue of its indirect ownership and control at that time, through Worldamerica, of more than 25 per cent of the outstanding voting shares of Bank, and it registered as such with the Board on November 26, 1971.[3] Airways would have been a bank holding company on July 7, 1970, if the BHC Act Amendments of 1970 had been in effect on such date, by virtue of its direct and indirect ownership and control on that date of more than 25 per cent of the outstanding voting shares of Worldamerica and Bank, respectively.

4. On December 10, 1973, the Board issued an Order pursuant to § 3(a)(1) of the BHC Act approving the applications of Lloyds and First Western to become bank holding companies through the acquisition of control of Bank. On January 16, 1974, Airways sold all of the 1,360,950 shares of Bank indirectly owned and controlled by it, through Worldamerica, to First Western for cash.

5. On January 16, 1974, Airways held property acquired by it on or before July 7, 1970, the disposition of which would, but for the proviso of section 4(a)(2) of the BHC Act, have been necessary or appropriate to effectuate section 4 of the BHC Act if Airways were to remain a bank holding company beyond December 31, 1980, and which property would, but for such proviso, have been "prohibited property" within the meaning of sections 6158(f)(2) and 1103(c) of the Code. Section 1103(g) of the Code provides that any bank holding company may elect, for purposes of section 6158 of the Code, to have the determination whether property is "prohibited property" made under the BHC Act as if such Act did not contain the proviso of section 4(a)(2) thereof. Airways has represented that it will make such an election.[4]

6. Neither Airways nor any subsidiary of Airways holds any interest in Bank, Lloyds, or any other subsidiary of Lloyds, or in any other bank or any holding company that controls a bank.

7. Neither Lloyds nor any subsidiary of Lloyds, including Bank, holds any interest in Airways or any subsidiary of Airways.

8. No officer, director (including honorary or advisor director) or employee with policy-making functions of Airways or any subsidiary of Airways also holds any such position with Lloyds, or any subsidiary of Lloyds, including Bank,

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[1] Pursuant to sections 2(d)(2) and 3(e)(2) of the Tax Act, in the case of any sale that takes place on or before December 31, 1976 (the 90th day after the date of the enactment of the Tax Act), the certification described in section 6158(a) shall be treated as made before the sale, and the certification described in section 6158(c)(2) shall be treated as made before the close of the calendar year following the calendar year in which the last such sale occurred, if application for such certification was made before the close of December 31, 1976. Airway's application for such certifications was received by the Board on December 20, 1976.

[2] This information derives from Airways' correspondence with the Board concerning its requests for certification, Airways' Registration Statement filed with the Board pursuant to the BHC Act, and other records of the Board.

[3] Worldamerica similarly became a bank holding company on December 31, 1970, as a result of the 1970 Amendments to the BHC Act, by virtue of its direct ownership and control of more than 25 per cent of the outstanding voting shares of Bank, and it registered as such with the Board on November 26, 1971.

[4] Section 1103(g) of the Code requires that an election thereunder be made "at such time and in such manner as the Secretary [of the Treasury] or his delegate may by regulations prescribe." Any such election, once made is irrevocable. As of this date no such regulations have been promulgated. An election made under this subsection does not apply unless the final certification referred to in section 6158(c)(2) of the Code includes a certification by the Board that the bank holding company "has disposed of either all banking property or all nonbanking property."

or with any other bank or any company that controls a bank.

9. Airways does not control in any manner the election of a majority of directors, or exercise a controlling influence over the management or policies, of Lloyds or any subsidiary of Lloyds, including Bank, or of any other bank or company that controls a bank.

On the basis of the foregoing information, it is hereby certified that:

(A) at the time of its sale, through Worldamerica, of the 1,360,950 shares of Bank to First Western, Airways was a qualified bank holding corporation, within the meaning of section 6158(f)(1) and subsection (b) of section 1103 of the Code, and satisfied the requirements of those sections;

(B) the shares of Bank that Airways sold to First Western through Worldamerica were all or part of the property by reason of which Airways controlled (within the meaning of section 2(a) of the BHC Act) a bank or bank holding company;

(C) the sale of the shares of Bank was necessary or appropriate to effectuate the policies of the BHC Act;

(D) Airways has (before the expiration of the period prohibited property is permitted under the BHC Act to be held by a bank holding company) ceased to be a bank holding company; and

(E) Airways has disposed of all banking property.

This certification is based upon the representations made to the Board by Airways and upon the facts set forth above, and is conditioned upon Airways making the election required by section 1103(g) of the Code at such time and in such manner as the Secretary of the Treasury or his delegate may by regulation prescribe. In the event the Board should hereafter determine that facts material to this certification are otherwise than as represented by Airways, or that Airways has failed to disclose to the Board other material facts, it may revoke this certification.

By order of the Board of Governors, acting through its General Counsel, pursuant to delegated authority (12 CFR § 265.2(b)(3)), effective October 3, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc.77-29612 Filed 10-7-77;8:45 am]

[1610-01]

GENERAL ACCOUNTING OFFICE

REGULATORY REPORTS REVIEW

Notice of Receipt of Report Proposal

The following request for clearance of a report intended for use in collecting information from the public was received by the Regulatory Reports Review Staff, GAO, on October 3, 1977. See 44 U.S.C. 3512 (c) and (d). The purpose of publishing this notice in the FEDERAL REGISTER is to inform the public of such receipt.

The notice includes the title of the request received; the name of the agency sponsoring the proposed collection of information, the agency form number, if applicable; and the frequency with which the information is proposed to be collected.

Written comments on the proposed CAB request are invited from all interested persons, organizations, public interest groups, and affected businesses. Because of the limited amount of time GAO has to review the proposed request, comments (in triplicate) must be received on or before October 31, 1977, and should be addressed to Mr. John M. Lovelady, Acting Assistant Director, Regulatory Reports Review, U.S. General Accounting Office, Room 5033, 441 G Street NW., Washington, D.C. 20548.

Further information may be obtained from Patsy J. Stuart of the Regulatory Reports Review Staff (202-275-3532).

CIVIL AERONAUTICS BOARD

The CAB requests an extension without change clearance of Passenger Origin-Destination Survey Report, Form 2787. This Survey, conducted continuously on the basis of a 10 percent sample, is a cooperative effort by the U.S. certificated route air carriers, the Air Transport Association of America and the Civil Aeronautics Board. All U.S. certificated route air carriers, except helicopter and intra-Alaska carriers, participate in the survey which provides information on the individual passenger's journey and choice of routing and air carrier. CAB estimates approximately 26 certificated route air carriers are respondents and that reporting burden averages 1,000 hours per quarterly response.

JOHN M. LOVELADY,
Acting Assistant Director,
Regulatory Reports Review.

[FR Doc.77-29533 Filed 10-7-77;8:45 am]

[6820-27]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

COMPILATION OF AGENCY SUBMISSIONS FOR THE FIFTH ANNUAL REPORT OF THE PRESIDENT ON FEDERAL ADVISORY COMMITTEES COVERING CALENDAR YEAR 1976

Availability of Microfilm

This compilation has been microfilmed and accessioned by the National Archives. It is available for viewing in the reading rooms of the National Archives Building, Washington, D.C., and the 11 Regional Archives Branches. In addition, copies of the two roll 16 mm microfilm set may be ordered at a total cost of $24 from the National Archives and Records Service (NEPS), Washington, D.C. 20408, by requesting Micro Copy No. A-1199.

Dated: September 27, 1977.

JAMES B. RHOADS,
Archivist of the United States.

[FR Doc.77-29648 Filed 10-7-77;8:45 am]

[4110-88]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Alcohol, Drug Abuse, and Mental Health Administration

ADVISORY COMMITTEES

Meetings

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. Appendix I), announcement is made of the following National Advisory bodies scheduled to assemble during the month of November 1977:

EPIDEMIOLOGIC STUDIES REVIEW COMMITTEE

November 3-4; 9:00 a.m. Thomas Paine Room, Sheraton-Park Hotel, 2660 Woodley Road NW., Washington, D.C. 20008. Open: November 3, 9:00-10:00 a.m. Closed: Otherwise. Contact, Edna Frazier, Parklawn Building, Room 10C-09, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3374).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research and training activities in the field of epidemiology and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., on November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92-463 (5 U.S.C. Appendix I).

DEVELOPMENTAL PROBLEMS RESEARCH REVIEW COMMITTEE

November 3-4, 9:00 a.m. Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Md. 20015. Open: November 3, 9:00-10:00 a.m. Closed: Otherwise. Contact: Mrs. Diana Souder, Parklawn Building, Room 10-104, 5600 Fishers Lane, Rockville, Md. 20857 (301-443-3566).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the developmental growth of juveniles and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.-10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Council for final review.

RESEARCH SCIENTIST DEVELOPMENT REVIEW COMMITTEE

November 3–5; 9:00 a.m. Capitol Room, Dupont Plaza Hotel, Connecticut and Massachusetts Avenue NW., Washington, D.C. 20036. Open: November 3; 9:00–10:00 a.m. Closed: Otherwise. Contact: Jeannette Raley, Parklawn Building, Room 9C–24, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4347).

Purpose. The Committee is charged with the initial review of grant applications for Research Scientist Development Awards and Research Scientist Awards administered by the National Institute of Mental Health and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

MINORITY GROUP MENTAL HEALTH PROGRAMS REVIEW COMMITTEE

November 3–5; 9:00 a.m., Quality Inn, Cabinet Suite, 415 New Jersey Avenue NW., Washington, D.C. 20001. Open: November 3, 9:00–11:00 a.m. Closed: Otherwise. Contact: Edna M. Hardy Hill, Parklawn Building, Room 7–102, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3724).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to minority mental health research and training and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–11:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determinations by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S.C. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

SOCIAL SCIENCES RESEARCH REVIEW COMMITTEE

November 3–5; 9:00 a.m. Executive Room, Dupont-Plaza Hotel, Dupont Circle NW., Washington, D.C. 20036. Open: November 3; 9:00–9:30 a.m. Closed: Otherwise. Contact: Marilyn Andersen, Parklawn Building, Room 10–95, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3936).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to social science research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–9:30 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

CLINICAL PSYCHOPHARMACOLOGY RESEARCH REVIEW COMMITTEE

November 7–8; 9:00 a.m. Lobby Room, Holiday Inn Hotel, 5520 Wisconsin Avenue, Chevy Chase, Md. 20014. Open: November 7; 9:00–10:00 a.m. Closed: Otherwise. Contact: Toni Bragg, Parklawn Building, Room 9–104, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3568).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical psychopharmacology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–10:00 a.m., November 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

EXPERIMENTAL PSYCHOLOGY RESEARCH REVIEW COMMITTEE

November 7–9, 9:00 a.m., Suite B–120, Shoreham Americana Hotel, 2500 Calvert Street NW., Washington, D.C. 20008. Open: November 7, 9:00–9:30 a.m. Closed: Otherwise. Contact: John T. Hammack, Parklawn Building, Room 10–95, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3936).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to experimental psychology research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–9:30 a.m., November 7, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determiation by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

SOCIAL PROBLEMS RESEARCH REVIEW COMMITTEE

November 10–12, 9:00 a.m. Lobby Room, Holiday Inn, 5520 Wisconsin Avenue, Chevy Chase, Md. 20015. Open: November 10, 9:00–9:30 a.m. Closed: Otherwise. Contact: Mrs. Vi Kemp, Parklawn Building, Room 10–104, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4843).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to the field of social problems and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–9:30 a.m., November 10, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

BIOLOGICAL SCIENCES TRAINING REVIEW COMMITTEE

November 11–12; 8:30 a.m. Conference Room, Quality Inn, 616 Convention Way, Anaheim, Calif. 92802. Open: November 11, 8:30–9:30 a.m. Closed: Otherwise. Contact, Donna Spain, Parklawn Building, Room 9C–09, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3855).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to biological sciences research training and makes recommendations to the National Advisory Mental Health Counicl for final review.

Agenda. From 8:30 a.m.–9:30 a.m., November 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committe will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

NEUROPSYCHOLOGY RESEARCH REVIEW COMMITTEE

November 11–13; 9:00 a.m. California IV Room, Quality Inn, 616 Convention Way, Anaheim, Calif. 92802. Open: November 11,

9:00–10:00 a.m. Closed: Otherwise. Contact, Eileen Nugent, Parklawn Building, Room 10C–06, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3942).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to research activities and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–10:00 a.m., November 11, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

RAPE PREVENTION AND CONTROL ADVISORY COMMITTEE

November 14–15; 9:30 a.m., Conference Room C, Parklawn Building, Rockville, Md. 20857. Open: November 14–15. Contact, Ms. Elizabeth S. Kutzke, Parklawn Building, Room 10C–03, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–1910).

Purpose. The Rape Prevention and Control Advisory Committee advises the Secretary, Department of Health, Education, and Welfare, the Administrator, Alcohol, Drug Abuse, and Mental Health Administration, and the Director, National Institute of Mental Health, through the National Center for the Prevention and Control of Rape, on matters regarding the needs and concerns associated with rape in the United States and makes recommendations pertaining to activities to be undertaken by the Department to address the problems of rape.

Agenda. The entire meeting will be open to the public. During the two-day meeting the Advisory Committee will provide input on the National Center's fiscal year 1977 program and fiscal year 1978 planning to develop the Advisory Committee's report to the Secretary.

MENTAL HEALTH SMALL GRANT COMMITTEE

November 17–19; 1:00 p.m. The Oak Room and Parlor A, Burlington Hotel, 1120 Vermont Avenue NW., Washington, D.C. 20005. Open: November 17, 4:00–5:00 p.m. Closed: Otherwise. Contact, Mary E. Enyart, Parklawn Building, Room 10C–14, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4337).

Purpose. The Committee is charged with the initial review of small grant applications for Federal assistance in all disciplines relevant to the National Institute of Mental Health and for small grant projects submitted for support to the other Institutes of the Alcohol, Drug Abuse, and Mental Health Administration, and makes recommendations to the National Advisory Councils of the respective Institutes for final review.

Agenda. From 4:00 p.m.–5:00 p.m., November 17, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

CLINICAL PROGRAM-PROJECTS RESEARCH REVIEW COMMITTEE

November 18–19; 9:00 a.m. Arlington Hyatt House, 1325 Wilson Boulevard, Arlington, Va. 22209. Open: November 18, 9:00–10:00 a.m. Closed: Otherwise. Contact, Dr. Jack Lasky, Parklawn Building, Room 10C–23B, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–4707).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute of Mental Health relating to clinical research and makes recommendations to the National Advisory Mental Health Council for final review.

Agenda. From 9:00 a.m.–10:00 a.m., November 18, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of section 552b(c)(6), Title 5 U.S. Code and section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

COMMUNITY ALCOHOLISM SERVICES REVIEW COMMITTEE

November 3–6; 9:00 a.m. Sheraton-Silver Spring Motor Inn, 8727 Colesville Road, Silver Spring, Md. 20910. Open: November 3, 9:00–10:00 a.m. Closed: Otherwise. Contact, Mr. Sidney Leopold, Parklawn Building, Room 11–10, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–1374).

Purpose. The Committee is charged with the initial review of grant applications for Federal assistance in the program areas administered by the National Institute on Alcohol Abuse and Alcoholism relating to alcoholism services activities and makes recommendations to the National Advisory Council on Alcohol Abuse and Alcoholism for final review.

Agenda. From 9:00 a.m.–10:00 a.m., November 3, the meeting will be open for discussion of administrative announcements and program developments. Otherwise, the Committee will be performing initial review of grant applications for Federal assistance and will not be open to the public in accordance with the determination by the Acting Administrator, Alcohol, Drug Abuse, and Mental Health Administration, pursuant to the provisions of Section 552b(c)(6), Title 5 U.S. Code and Section 10(d) of Pub. L. 92–463 (5 U.S.C. Appendix I).

Substantive program information may be obtained from the contact persons listed above. The NIMH Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Edwin Long, Deputy Director, Division of Scientific and Public Information, NIMH, Parklawn Building, Room 15–105, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3600). The NIAAA Information Officer who will furnish upon request summaries of the meeting and rosters of the committee members is Mr. Harry Bell, Associate Director, Office of Public Affairs, NIAAA, Parklawn Building, Room 11A–17, 5600 Fishers Lane, Rockville, Md. 20857 (301–443–3306).

Dated: October 5, 1977.

CAROLYN T. EVANS,
Committee Management Officer, Alcohol, Drug Abuse, and Mental Health Administration.

[FR Doc.77–29736 Filed 10–7–77; 8:45 am]

[4110–03]

Food and Drug Administration

REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement among the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, Department of Health, Education, and Welfare, and the Occupational Safety and Health Administration, Department of Labor on the regulation of toxic and hazardous substances, see FR Doc. 77–29605, appearing under the Environmental Protection Agency in the Notices section of this FEDERAL REGISTER.

[4110–83]

Health Resources Administration

ADVISORY COMMITTEE

Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following National Advisory body scheduled to meet during the month of November 1977:

Name: National Advisory Council on Health Professions Education.

Date and time: November 15–16, 1977, 8:30 a.m.

Place: Center Building, Room 7–32, 3700 East-West Highway, Hyattsville, Md. 20782.

Open for entire meeting.

Purpose: The Council advises the Secretary with respect to the preparation of general regulations and with respect to policy matters in the administration of programs of financial assistance for the

health professions and makes recommendations based on its review of applications requesting such assistance.

Agenda: The Council will meet to review draft program specifications prepared for use in implementing Pub. L. 94-484, Health Professions Educational Assistance Act of 1976, and 1978 budget update.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should contact Mrs. Lynn Stevens, Bureau of Health Manpower, Room 4-22, Center Building, 3700 East-West Highway, Hyattsville, Md. 20782, telephone 301-436-6508.

Agenda items are subject to change as priorities dictate.

Dated: October 3, 1977.

JAMES A. WALSH,
Associate Administrator for Operations and Management.

[FR Doc.77-29663 Filed 10-7-77;8:45 am]

[4110-08]

National Institutes of Health

CANCER SPECIAL PROGRAM ADVISORY COMMITTEE

Notice of Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of the meeting of the Cancer Special Program Advisory Committee, National Cancer Institute, October 27-28, 1977, Holiday Inn, Bethesda, Pennsylvania Room, 8120 Wisconsin Avenue, Bethesda, Md. 20014. This meeting will be open to the public on October 27, 1977, from 9 a.m. to 10 a.m., to consider minutes of the last meeting, future meeting dates and other information items. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in Sections 552b(c)(4) and 552b (c)(6), Title 5, U.S. Code and Section 10(d) of Pub. L. 92-463, the meeting will be closed to the public on October 27, 1977, from 10 a.m. to 5:00 p.m., and on October 28 from 8:30 a.m. to adjournment, for the review, discussion, and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Md. 20014 (301-496-5708), will provide summaries of the meeting and rosters of committee members.

Dr. William R. Sanslone, Executive Secretary, Cancer Special Program Advisory Committee, National Cancer Institute, Westwood Building, Room 805, National Institutes of Health, Bethesda, Md. 20014 (301-496-7565), will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.392, National Institutes of Health.)

Dated: October 5, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-29829 Filed 10-7-77;10:35 am]

[4110-08]

National Heart, Lung, and Blood Institute

THROMBOTIC PROCESS IN ATHEROGENESIS

Notice of Workshop

Notice is hereby given of the Workshop on the Thrombotic Process in Atherogenesis sponsored by the Division of Blood Diseases and Resources and the Division of Heart and Vascular Diseases of the National Heart, Lung, and Blood Institute in conjunction with the Councils on Arteriosclerosis and Thrombosis of the American Heart Association. The Workshop with be held on the following dates:

Sunday, October 16, 1977, 8:30 a.m.-9 p.m.
Monday, October 17, 1977, 8:30 a.m.-3 p.m.
Tuesday, October 18, 1977, 8:30 a.m.-9 p.m.
Wednesday, October 19, 1977, 8:30 a.m.-1 p.m.

The meetings will be held at the International Conference Center of the Sheration Inn in Reston, Va.

This Workshop will be open to the public. Attendance by the public will be limited to space available. Advance registration is required.

Mrs. Sally Simpson, Conference Coordinator, Kappa Systems, Inc., 150 Wilson Boulevard, Arlington, Va. 22209 (703-527-4500), will provide additional information.

Dated: October 6, 1977.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc.77-29829 Filed 10-7-77;8:45 am]

[7536-01]

NATIONAL FOUNDATION FOR THE ARTS AND THE HUMANITIES

ADVISORY COMMITTEE RESEARCH GRANTS PANEL

Meeting

SEPTEMBER 29, 1977.

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92-463, as amended), notice is hereby given that a meeting of the Research Grants Panel will be held at 806 15th Street NW., Washington, D.C. 20506, in room 1130, from 9 am. to 5:30 pm. on October 27 and 28, 1977.

The purpose of the meeting is to review the applications submitted to the Research Tools Program of the National Endowment for the Humanities, for projects in the fields of music, art, literature, and film beginning October 1, 1978.

Because the proposed meeting will consider financial information and disclose information of a personal nature the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, pursuant to authority granted me by the Acting Chairman's delegation of authority to close advisory committee meetings, dated August 2, 1977, I have determined that the meeting would fall within exemptions (4) and (6) of 5 U.S.C. 552b(c) and that it is essential to close the meeting to protect the free exchange of internal views and to avoid interference with operation of the Committee.

It is suggested that those desiring more specific information contact the Advisory Committee Management Officer, Mr. Stephen J. McCleary, 806 15th Street NW., Washington, D.C. 20506, or call area code 202-724-0367.

STEPHEN J. MCCLEARY,
Advisory Committee Management Officer.

[FR Doc.77-29590 Filed 10-7-77;8:45 am]

[7555-02]

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

EARTHQUAKE HAZARDS REDUCTION ADVISORY GROUP

Notice of Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, the Office of Science and Technology Policy announces the following meeting:

Name: Earthquake Hazards Reduction Advisory Group.

Date: October 26, 1977.

Time: 9 a.m. to 4 p.m.

Place: Room 3104, New Executive Office Building, 17th and Pennsylvania Avenue NW., Washington, D.C.

Type of meeting: Open.

Contact person: Mr. William Montgomery, Executive Office of the President, Office of Science and Technology Policy, Washington, D.C. 20500, telephone 202-395-4692.

Summary minutes: May be obtained from the Office of Science and Technology Policy, Washington, D.C. 20500.

Purpose of advisory committee: The Office of Science and Technology Policy, in accordance with the statutory mandate to analyze and interpret significant developments and trends in science and technology and relate these to their impact on the achievement of national goals and objectives, is reviewing the activities and plans appropriate to the Federal, State, local governmental units, and the private sector for the implementation of actions derived from a comprehensive program of research in earthquake prediction, earthquake hazards assessment, and earthquake disaster mitigation.

Agenda: 9 a.m. to 4 p.m., a discussion of draft materials prepared as part of the policy review process for the President.

WILLIAM MONTGOMERY,
Executive Officer.

[FR Doc.77-29652 Filed 10-7-77;8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM 31682, 31686, 31687, 31689, 31692, and 31693]

NEW MEXICO

Notice of Applications

SEPTEMBER 30, 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 Co. has applied for six 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 29 N., R. 8 W.,
Sec. 17, SE¼NW¼;
Sec. 18, SE¼SW¼;
Sec. 19, NE¼NW¼, SE¼SW¼ and SW¼SE¼;
Sec. 30, NW¼NE¼ and NE¼NW¼.
T. 30 N., R. 8 W.,
Sec. 26, SE¼NE¼ and E½SE¼.
T. 29 N., R. 9 W.,
Sec. 8, SE¼NW¼.
T. 30 N., R. 9 W.,
Sec. 28, E½SE¼ and SW¼SE¼;
Sec. 33, NE¼NE¼.

These pipelines will convey natural gas across 1.676 miles of public lands in San Juan County, N. Mex.

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, N.Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc.77-29649 Filed 10-7-77;8:45 am]

[4310-84]

OUTER CONTINENTAL SHELF OIL AND GAS LEASE SALES

List of Restricted Joint Bidders

Pursuant to the authority vested in the Director of the Bureau of Land Management by the provisions of 43 CFR 3302.3-2(a), the following companies shall be restricted from bidding jointly with any other company on this same list at Outer Continental Shelf oil and gas lease sales held during the bidding period of November 1, 1977, through April 30, 1978:

Amoco Production Co.
BP Alaska Exploration, Inc.
Chevron U.S.A., Inc.
Exxon Corp.
Gulf Oil Corp.
Mobil Oil Corp.
Shell Oil Co.
Standard Oil Co. of California
Texaco, Inc.

ARNOLD E. PETTY,
Acting Associate Director, Bureau of Land Management.

SEPTEMBER 30, 1977.

[FR Doc.77-29691 Filed 10-7-77;8:45 am]

[4310-70]

National Park Service

JOHN D. ROCKEFELLER, JUNIOR, MEMORIAL PARKWAY

Establishment

Public Law 92-404 authorized the Secretary of the Interior to establish the John D. Rockefeller, Junior, Memorial Parkway to consist of lands and interest in lands, in Teton County, Wyo., as generally depicted on a drawing entitled "Boundary Map, John D. Rockefeller, Junior, Memorial Parkway, Wyoming," Numbered PKY-JDRM-20,000, and dated August 1971.

The National Park Service has acquired all lands authorized under Pub. L. 92-404.

Now, therefore, I, Cecil D. Andrus, Secretary of the Interior, hereby give notice of the establishment of John D. Rockefeller, Junior, Memorial Parkway, Wyo., consisting of 23,777 acres.

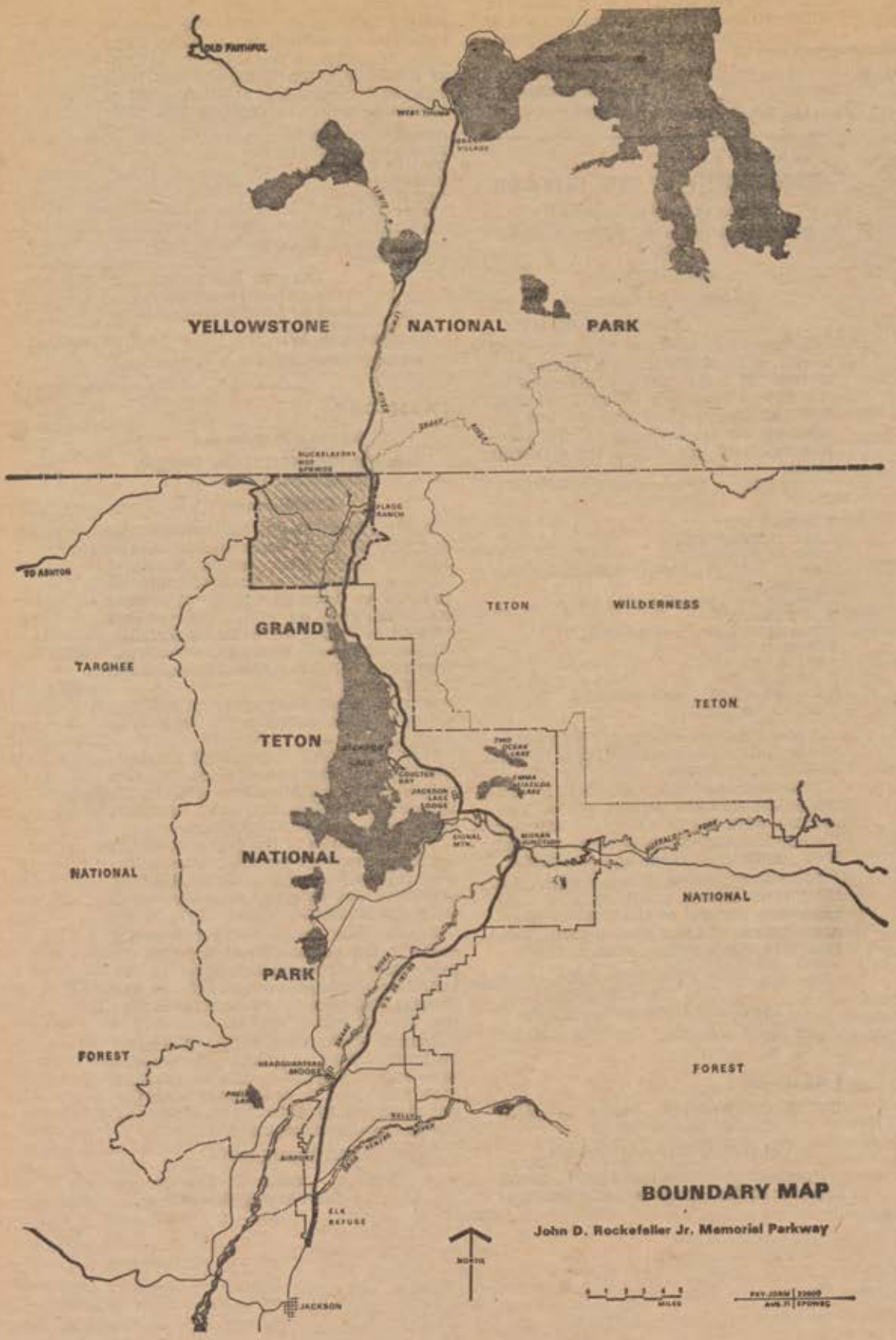
The boundaries of the parkway, which encompass an area generally identical to that referred to in Pub. L. 92-404, are shown on the attached map numbered PKY-JDRM-20,000, August 1971.

Adjustments may be subsequently made in the boundaries of the area by publication of the amendments to the boundary description, thereof, in the FEDERAL REGISTER, as provided for in section 1(a) of Pub. L. 92-404.

John D. Rockefeller, Junior, Memorial Parkway, will be administered in accordance with the Act of August 25, 1972 (86 Stat. 619), and in accordance with the Act of August 25, 1916 (93 Stat. 535), as amended and supplemented.

Dated: September 30, 1977.

CECIL D. ANDRUS,
Secretary of the Interior.



[FR Doc.77-29470 Filed 10-7-77;8:45 am]

[4310–70]

National Park Service

NATIONAL REGISTER OF HISTORIC PLACES

Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the National Park Service before September 29, 1977. Pursuant to § 60.13(a) of 36 CFR Part 60, published in final form on January 9, 1976, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the Keeper of the National Register, National Park Service, U.S. Department of the Interior, Washington, D.C. 20240. Written comments or a request for additional time to prepare comments should be submitted by October 17, 1977.

RONALD M. GREENBERG,
Acting Keeper
of the National Register.

ALASKA

Juneau Division

Juneau, *Alaska Steam Laundry* 174 S. Franklin St.

CALIFORNIA

Monterey County

Pebble Beach, *Olvida Penas*, 1061 Majella Rd.

San Diego County

San Diego, *Independent Order of Odd Fellows Building*, 526 Market St. HABS.

FLORIDA

Broward County

Plantation vicinity, *Lock No. 1, North New River Canal*, S of Plantation on FL 84.

Clay County

Green Cove Springs, *St. Mary's Church*, St. Johns Ave.

Hillsborough County

Tampa *Hutchinson House*, 304 Plant Ave.
Tampa, *Tampa Theater and Office Building*, 711 Franklin St.

Leon County

Tallahassee, *St. John's Episcopal Church*, 211 N. Monroe St.

MASSACHUSETTS

Essex County

Salem, *Ward, Joshua, House*, 148 Washington St.

Plymouth County

Brockton, *Old Post Office Building*, Crescent St.

Worcester County

Oxford vicinity, *Hudson House*, NE of Oxford on Hudson Rd.

MISSOURI

Jackson County

Kansas City, *Shelley, William Francis, House*, 3601 Baltimore Ave.

NEW MEXICO

Bernalillo County

Tijeras, *Holy Child Church*, off 140/U.S. 66.

NEW YORK

Suffolk County

Smithtown, *First Presbyterian Church*, 175 E. Main St.

NORTH CAROLINA

Chatham County

Pittsboro, *Pittsboro Masonic Lodge*, East and Masonic Sts.
Pittsboro, *Pittsboro Presbyterian Church*, N. East St.

Dare County

Duck vicinity, *Caffeys Inlet Lifesaving Station*, N of Duck on SR 1200.

Forsyth County

Winston-Salem, *Smith, W. F., and Sons Leaf House and Brown Brothers Company Building*, 4th St. between Patterson and Linden Sts.

Gaston County

Gastonia, *Jenkins, David, House*, 1017 Church St.

Guilford County

Greensboro, *Sherwood, Michael, House*, 426 W. Friendly Ave.

Wake County

Raleigh, *Capitol Area Historic District*, capitol building and environs.

OHIO

Athens County

Athens vicinity, *Blackwood Covered Bridge*, S of Athens on SR 46.

Brown County

Georgetown vicinity, *Thompson-Bullock House*, W of Georgetown on OH 221.

Butler County

Hamilton vicinity, *Fitz Randolph-Watson House*, E of Hamilton off OH 4.
Middleton, *South Main Street District*, 34–704 S. Main St.

Clark County

Springfield vicinity, *Hertzler, Daniel, House*, W of Springfield off OH 4
Springfield, *Warder Public Library*, E. High and Springs Sts.

Clermont County

Goshen vicinity, *Devanney Site*, W of Goshen.

Clinton County

Clarksville vicinity, *Harvey, Eli, House*, 1133 Lebanon Rd.

Cuyahoga County

Cleveland, *St. Stephen Church*, 1930 W. 54th St.
Independence vicinity, *Terra Vista Archeological District*, N of Independence.

Franklin County

Columbus, *Columbus Near East Side District*, roughly bounded by Parson Ave. Broad and Main Sts., and the railroad.

Jackson County

Coalton, *Miner's Supply Store (Wood Hardware Store)*, Main and 2nd Sts.

Lawrence County

Burlington vicinity, *Macedonia Church*, N of Burlington on Burlington–Macedonia Rd.
Ironton, *Fifth and Lawrence Streets Residential District*, 5th and Lawrence Sts.

Lucas County

Toledo, *Burt's Theater*, 719–723 Jefferson St.

Miami County

New Carlisle vicinity, *Baumgardner, William, House and Farm Buildings*, 8390 National Rd.

Montgomery County

Dayton vicinity, *Arnold Homestead*, N. of Dayton on OH 201.

Perry County

New Reading vicinity, *Bowman Mill Covered Bridge*, S. of New Reading on SR 86.

Portage County

Kent, *Kent, Charles, House*, 125 N. Pearl St.

Seneca County

Tiffin, *Downtown Tiffin Historic District*, roughly bounded by Riverside Dr., Jefferson, Monroe, Sycamore, and Coe Sts.

Trumbull County

North Bloomfield vicinity, *Greene Township Center*, E. of North Bloomfield on OH 87.

Warren County

Oregonia vicinity, *Taylor Mound and Village Site*, N. of Oregonia.

Washington County

Belpre, *Stone, Capt. Jonathan, House*, 612 Blennerhassett Ave.
Marietta vicinity, *Hildreth Covered Bridge*, 5 mi. E. of Marietta off OH 26.

Wood County

Bowling Green vicinity, *Dodge Site*, N. of of Bowling Green.
Perrysburg vicinity, *MacNichol Site*, SW. of Perrysburg.

OKLAHOMA

Cleveland County

Norman, *Sooner Theatre Building*, 101 E. Main St.

Roger Mills County

Hammon vicinity, *Allee Site*, W. of Hammon.
Hammon vicinity, *Lamb-Miller Site*, NW. of Hammon.

Wagoner County

Porter vicinity, *Van Tuyl Homeplace*, N of Porter.

OREGON

Jackson County

Ashland, *Carter, H. B., House*, 91 Gresham St.

Lake County

Valley Falls vicinity, *East Lake Abert Archeological District*, N of Valley Falls on U.S. 395.

Lane County

Eugene vicinity, *Spores, Jacob C., House*, N of Eugene off I–5.
Junction City, *Lee, Dr. Norman L., House*, 655 Holly St.

Union County

Union, *Eaton, Abel E., House*, 464 N. Main St.

Wallowa County

Joseph, *First Bank of Joseph*, 2nd and Main Sts.

Yamhill County

McMinnville, *Pioneer Hall, Linfield College*, Linfield College campus.

SOUTH CAROLINA

Berkeley County

Hanahan vicinity, *Otranto Plantation*, 18 Basilica Ave.

Charleston County

Charleston, *Bennett, Gov. Thomas, House*, 69 Barre St.
Charleston, *Lucas, Jonathan, House*, 286 Calhoun St. HABS.

Greenville County

Greenville, *Wesley, John Methodist Episcopal Church*, 101 E. Court St.

Laurens County

Laurens, *Owings, John Calvin, House*, 787 W. Main St.

McCormick County

Bradley vicinity, *Sylvania*, S of Bradley off SC 10/221.

Sumter County

Pinewood vicinity, *St. Mark's Church*, W of Pinewood on SR 51.

Union County

Carlisle vicinity, *Hillside*, NW of Carlisle on SC 215.

York County

York, *Witherspoon-Hunter House*, 15 W. Liberty St.

SOUTH DAKOTA

Stanley County

Fort Pierre, *Old Fort Pierre School*, 2nd Ave. and 2nd St.
Fort Pierre, *Stockgrowers Bank Building*, Deadwood and Main Sts.
Fort Pierre, *Sumner, Gaylord, House*, 2nd and Wandel Sts.
Fort Pierre, *United Church of Christ, Congregational*, 2nd Ave. and Main St.

TEXAS

Bexar County

San Antonia, *Salado Battlefield and Archeological Site*, 1006 Holbrook Rd.

WISCONSIN

Rock County

Clinton vicinity, *Jones, Samuel S., Cobblestone House*, E of Clinton on Milwaukee Rd.
Edgerton vicinity, *Kinney Farmstead/Tay-e-he-dah Site*, E of Edgerton at Maple Beach.

[FR Doc.77-29538 Filed 10-7-77;8:45 am]

[4310-70]

GOLDEN GATE NATIONAL RECREATION AREA ADVISORY COMMISSION

Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Golden Gate National Recreation Area Advisory Commission will be held at 9:30 a.m., on Saturday, October 22, 1977, at West Marin School, Point Reyes Station, Calif.

The Advisory Commission was established by Pub. L. 92-589 to provide for the free exchange of ideas between the National Park Service and the public and to facilitate the solicitation of advice or other counsel from members of the public on problems pertinent to the National Park Service System in Marin and San Francisco counties.

The major item on the agenda will be an update on the Point Reyes National Seashore proposals.

The meeting will be open to the public. Any member of the public may file with the Commission a written statement concerning the matters to be discussed.

Persons wishing further information concerning this meeting or who wish to submit written statements may contact Jerry L. Schober, Acting General Manager, Bay Area National Parks, Fort Mason, San Francisco, Calif. 94123, telephone 415-556-2920.

Minutes of the meeting will be available for inspection four (4) weeks after the meeting at the Office of the General Manager, Bay Area National Parks, Fort Mason, San Francisco, Calif.

Dated: October 5, 1977.

ROBERT M. LANDAU,
Assistant for Advisory Boards and Commissions, National Park Service.

[FR Doc.77-29644 Filed 10-6-77;8:45 am]

[4310-10]

Office of Hearings and Appeals

[Docket No. M 77-258]

CONSOLIDATION COAL CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301(c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Consolidation Coal Co., c/o Alan B. Mollohan, Suite 300, 818 Connecticut Avenue NW., Washington, D.C. 20006, has filed a petition to modify the application of 30 CFR 75.1700, oil and gas wells, to its Mine No. 20, located in Marion County, W. Va.

The substance of Petitioner's statement is as follows:

1. The large majority of oil and gas wells in Mine No. 20 were drilled (and many were also abandoned), between 1890 and 1920 when no standards for drilling and plugging existed. Oil and gas sands are now nearly depleted, hence no appreciable volume of gas comes from petroleum reservoirs.

2. In lieu of the provision to establish and maintain barriers around oil and gas wells, it is proposed that the Pittsburgh coal seam be sealed from surrounding strata at the affected wells, and to this end the Petitioner proposes to do the following:

(a) Petitioner will plug the wells which are to be intersected in Mine No. 20 using a proven technique developed through a series of cooperative agreements between the United States Bureau of Mines, the Energy Research and Development Administration, the Mining Enforcement and Safety Administration, and the coal industry. The attached, Exhibit "A",[1] is a schematic drawing illustrating this technique.

(b) The procedure essentially involves the placing of plugs in the wellbore below the base of the Pittsburgh coalbed which will prevent any natural gas from entering the mine after the well is mined through.

(c) Before the well is filled to the Pittsburgh coalbed, Petitioner may run a directional survey on the well to deter-NUMBER OF STATEMENTS: An origithe coalbed; but if it does not, and if it does not penetrate the wellbore in mining, Petitioner shall continue mining until the well is located. Gamma ray neutron and caliper logs shall be run in the well to determine the exact depth of the coalbed, the most competent formation for setting a mechanical bridge plug if needed, and the wellbore diameter for calculating the cement requirements. An automatic tracer injector unit of sulfur hexafluoride will be placed in the well.

(c) The well will be plugged back to the base of the Pittsburgh coalbed using an expandable cement and fly-ash-gel water slurry. A 50 percent fly-ash-cement mix will be used to fill the wellbore from the base of the Pittsburgh coalbed to the surface.

(e) Petitioner will, during its normal mining cycle, mine through and remove that segment of the plug existing between the mine pavement and roof. During this operation and for a period of six (6) months thereafter, Petitioner, in cooperation with the Mining Enforcement and Safety Administration, will monitor the mine atmosphere for traces of gas. A Federal mine inspector shall be present during the mining through operations.

(f) Petitioner shall instruct all personnel in the affected area to proceed with caution when mining into and through the well-support pillar, and especially diligent efforts shall be made to assure a gas-free atmosphere in the affected areas. Petitioner will cooperate with the Mining Enforcement and Safety Administration to sample for gas immediately before, during and immediately after mining through each well.

(g) In addition to the methane testing procedures set forth in 30 CFR Part 75, methane examinations shall be made by qualified personnel using approved methane detection equipment at least once during each shift, during development and retreat mining, and the date and time of such examinations shall be recorded on a fireboss dateboard which shall be placed in the area.

3. The alternate proposal as above-described will at all times provide no less than a greater measure of safety than intended by the Act, as the alternate proposal will affect:

(a) The elimination of possible gas flow path;

(b) The simplification of the mine ventilation system; and

(c) The improvement of subsidence control in second mining.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before November 10, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Depart-

[1] The attached exhibit is available for inspection at the address listed in the last paragraph of this petition.

ment of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

SEPTEMBER 30, 1977.

[FR Doc.77-29650 Filed 10-7-77;8:45 am]

[4310-10]

[Docket No. M 77-259]

QUARTO MINING CO.

Petition for Modification of Application of Mandatory Safety Standard

Notice is hereby given that in accordance with the provisions of section 301 (c) of the Federal Coal Mine Health and Safety Act of 1969, 30 U.S.C. § 861(c) (1970), Quarto Mining Co., % Fred S. Souk, 1100 Connecticut Avenue NW., Washington, D.C. 20036, has filed a petition to modify the application of 30 CFR 75.1700, oil and gas wells, to its Powhatan No. 4 Mine, located in Monroe County, Ohio.

The substance of Petitioner's statement is as follows:

1. Petitioner's Powhatan No. 4 Mine has a number of oil/gas wells located within its boundaries, which were plugged and abandoned from 1900 to the early 1950's when oil in a commercial quantity was exhausted. The wells penetrate the Pittsburgh No. 8 coal seam where Petitioner intends to mine.

2. The barrier around the wells, required by 75.1700, interferes with Petitioner's (1) maintenance of effective roof control by requiring a hazardous and time-consuming relocation of the shield supports in the longwall sections; (2) simplification of the mine ventilation system in the continuous miner sections by requiring unnecessary air course changes; and, (3) improvement of mining safety and conservation by requiring a barrier of coal when more efficient and secure methods to prevent well gas leaks are available.

3. Extensive research conducted by the U.S. Bureau of Mines and U.S. Energy Research and Development Administration ("ERDA") has developed feasible and safety methods to plug abandoned oil/gas wells and eliminate the need for coal barriers around such wells. MESA Informational Report 1052 (Attachment 1 [a]) has concluded that certain plugging methods can effectively prevent well gases from entering the mine during regular mining operations and allow additional safety and operational benefits that are not possible under 75.1700. These methods, which Petitioner proposes to follow, guarantee no less than the same measure of protection afforded miners as 75.1700.

4. In lieu of 75.1700, Petitioner proposes (1) to plug all of the oil/gas wells lying within the tracts of the Pittsburgh No. 8 coal seam assigned to its No. 4 Mine that are necessary in the mining of said coal tracts by one of the techniques described in said Report 1052 depending upon conditions discovered on reopening the borehole, and (2) to mine through part of the plugged borehole in a normal mining cycle. Petitioner will notify the Mining Enforcement and Safety Administration ("MESA") before any plugging and mining activity is conducted in this regard. At MESA's option, such activity will be conducted in the presence and under the supervision of its personnel. Any changes in the procedures set forth in MESA Informational Report 1052 will be made only on approval of MESA's District Manager or his delegate.

5. The following procedures, as more specifically set forth in MESA Informational Report 1052, will be followed for plugging the wells: Petitioner will attempt to reopen a well to its total depth. Petitioner will take gamma ray, neutron, and caliper logs to determine respectively the depth of all coalbeds, the most competent formation for the placement of certain plugs, and the wellbore diameter. A directional survey will be conducted to determine the location of the intersection of each wellbore with the coal seam. A tracer unit of sulfur hexaflouride (an inert, permeable, and easily detectable gas) will be placed in the well and a mechanical bridge plug or other device set above it to provide a secure base for subsequent plugs. Expanding cement, flyash cement, and/or gaswater slurry will be injected to various depths in the remainder of the borehole, depending on geologic conditions.

6. The following procedures will be followed for mining through a plug: All mining operations within one hundred and fifty (150) feet of the well will be conducted with the utmost caution and in a nonexplosive atmosphere. In addition to the methane testing procedures in 30 CFR Part 75, a fireboss dateboard will be established in the affected area and methane examinations made and recorded at least once per shift by a qualified examiner. Petitioner will take air samples immediately before, during, and after mining through the concrete section of the plug between the mine floor and roof. Mining operations will be conducted during Petitioner's normal mining cycle, and, at MESA's option, in the presence and under the supervision of MESA personnel. In cooperation with MESA, Petitioner will monitor the mine atmosphere for traces of sulfur hexafluoride for six (6) months after mining through a plugged well.

REQUEST FOR HEARING OR COMMENTS

Persons interested in this petition may request a hearing on the petition or furnish comments on or before November 10, 1977. Such requests or comments must be filed with the Office of Hearings and Appeals, Hearings Division, U.S. Department of the Interior, 4015 Wilson Boulevard, Arlington, Va. 22203. Copies of the petition are available for inspection at that address.

DAVID TORBETT,
Acting Director, Office of Hearings and Appeals.

SEPTEMBER 30, 1977.

[FR Doc.77-29651 Filed 10-7-77;8:45 am]

[a] The enclosed attachment is available for inspection at the address listed in the last paragraph of this petition.

[7035-01]

INTERNATIONAL TRADE COMMISSION

[337-TA-30]

CERTAIN DISPLAY DEVICES FOR PHOTOGRAPHS AND THE LIKE

Order Concerning Procedure for Commission Action

Notice is hereby given that—

On August 31, 1977, the Presiding Officer in investigation No. 337-TA-30 [Certain Display Devices for Photographs and the Like], an investigation being conducted by the United States International Trade Commission under the authority of section 337 of the Tariff Act of 1930, issued his recommended determination that:

1. The Commission determine that there is a violation of section 337 in the importation or sale in the United States of display devices for photographs and the like meeting the claims of U.S. Letters Patent 3,774,332; and, further

2. The Commission grant complainant's and the investigative staff's motion for summary determination [Motion Docket No. 30-5] under Commission rule 210.50 on all issues; and, further

3. The Commission dismiss certain enumerated respondents in the investigation for the reason that they are not presently importing infringing products, or were not effectively served.

The Presiding Officer has certified the evidentiary record to the Commission for its consideration. Copies of the Presiding Officer's recommended determination may be obtained by interested persons by contacting the Office o fthe Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

The United States International Trade Commission will hold a hearing beginning at 10 a.m., e.d.t., October 31, 1977, in the Commission's Hearing Room, Room 331, 701 E Street NW., Washington, D.C., for the purpose of (1) hearing oral argument with respect to the recommended determination of the presiding officer concerning whether, in this matter, there is a violation of section 337 of the Tariff Act of 1930; (2) hearing oral argument concerning appropriate relief in the event that the Commission determines that there is a violation of section 337, and determines that there should be relief; and (3) receiving information and hearing oral argument, as provided for in § 210.14(a) of the Commission's Rules of Practice and Procedure [19 CFR 210.14(a)], concerning relief and the public interest factors set forth in sections 337(d) and (f) of the Tariff Act of 1930 which the Commission is to con-

sider in the event it determines there is a violation of section 337 and determines that there should be relief.

For the purpose of this hearing, parties wishing to make oral argument with respect to the recommended determination shall be limited to no more than 30 minutes time per party, 10 minutes of which may be reserved by complainant for rebuttal; and parties wishing to make oral argument with respect to relief shall be limited to no more than 15 minutes time per party.

The Commission will receive information and hear oral argument concerning relief and the public interest factors from all parties and interested persons and agencies. Each participant will be limited to no more than 30 minutes time in making his or her presentation, and each participant will be permitted an additional 5 minutes time for closing arguments after all of the 30 minute presentations have been concluded.

Requests for appearances at the hearing should be filed, in writing, with the Secretary of the Commission at his office in Washington no later than the close of business October 26, 1977. Requests should indicate the part of the hearing (i.e., with respect to the recommended determination; relief; or relief and the public interest) in which the requesting person desires to participate.

Notice of the Commission's institution of the investigation was published in the FEDERAL REGISTER of February 18, 1977 [42 FR 10073–10074].

Issued: October 5, 1977.

By order of the Commission:

KENNETH R. MASON,
Secretary.

[FR Doc.77-29716 Filed 10-7-77;8:45 am]

[4510–30]

DEPARTMENT OF LABOR

Employment and Training Administration

EMPLOYMENT TRANSFER AND BUSINESS COMPETITION DETERMINATIONS UNDER THE RURAL DEVELOPMENT ACT

Notice of Applications

The organizations listed in the attachment have applied to the Secretary of Agriculture for financial assistance in the form of grants, loans, or loan guarantees in order to establish or improve facilities at the locations listed for the purposes given in the attached list. The financial assistance would be authorized by the Consolidated Farm and Rural Development Act, as amended, 7 U.S.C. 1924(b), 1932, or 1942(b).

The Act requires the Secretary of Labor to determine whether such Federal assistance is calculated to or is likely to result in the transfer from one area to another of any employment or business activity provided by operations of the applicant. It is permissible to assist the establishment of a new branch, affiliate or subsidiary, only if this will not result in increased unemployment in the place of present operations and there is no reason to believe the new facility is being established with the intention of closing down an operating facility.

The Act also prohibts such assistance if the Secretary of Labor determines that it is calculated to or is likely to result in an increase in the production of goods, materials, or commodities, or the availability of services or facilities in the area, when there is not sufficient demand for such goods, materials, commodities, services, or facilities to employ the efficient capacity of existing competitive commercial or industrial enterprises, unles such financial or other assistance will not have an adverse effect upon existing competitive enterprises in the area.

The Secretary of Labor's review and certification procedures are set forth at 29 CFR Part 75. In determining whether the applications should be approved or denied, the Secretary will take into consideration the following factors:

1. The overall employment and unemployment situation in the local area in which the proposed facility will be located.

2. Employment trends in the same industry in the local area.

3. The potential effect of the new facility upon the local labor market, with particular emphasis upon its potential impact upon competitive enterprises in the same area.

4. The competitive effect upon other facilities in the same industry located in other areas (where such competition is a factor).

5. In the case of applications involving the establishment of branch plants or facilities, the potential effect of such new facilities on other existing plants or facilities operated by the applicant.

All persons wishing to bring to the attention of the Secretary of Labor any information pertinent to the determinations which must be made regarding these applications are invited to submit such information in writing within two weeks of publication of this notice to: Deputy Assistant Secretary for Employment and Training, 601 D St., NW., Washington, D.C. 20213.

Signed at Washington, D.C., this 6th day of October 1977.

ERNEST G. GREEN,
Assistant Secretary for Employment and Training.

Applications received during the week ending Oct. 7, 1977

Name of applicant	Location of enterprise	Principal product or activity
Crushed Aggregates, Ltd.	New Haven, Conn.	Manufacture of railroad ties—concrete.

[FR Doc.77-29777 Filed 10-7-77;8:45 am]

[4510–26]

Occupational Safety and Health Administration

REGULATION OF TOXIC AND HAZARDOUS SUBSTANCES

Interagency Agreement

CROSS REFERENCE: For the text of an interagency agreement among the Consumer Product Safety Commission, the Environmental Protection Agency, the Food and Drug Administration, Department of Health, Education, and Welfare, and the Occupational Safety and Health Administration, Department of Labor on the regulation of toxic and hazardous substances, see FR Doc. 77–29605, appearing under the Environmental Protection Agency in the Notices section of this FEDERAL REGISTER.

[4830–01]

Pension and Welfare Benefit Programs

DEPARTMENT OF THE TREASURY

Internal Revenue Service

CERTAIN TRANSACTIONS INVOLVING INSURANCE COMPANY POOLED SEPARATE ACCOUNTS REQUESTED BY AMERICAN COUNCIL OF LIFE INSURANCE AND OTHERS (APPLICATION NO. D–039)

Pendency of Proposed Class Exemption

AGENCIES: Department of Labor; Department of the Treasury/Internal Revenue Service.

ACTION: Notice of pendency of exemption.

SUMMARY: This document contains a notice of pendency before the Department of Labor and the Internal Revenue Service (hereinafter collectively referred to as the Agencies) of a proposed class exemption from the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act). The proposed class exemption would exempt prospectively and retroactively to January 1, 1975, certain transactions engaged in by insurance company pooled separate accounts in which an employee benefit plan or plans have an interest, if certain specified conditions are met and would exempt certain holdings by employee benefit plans of employer securities and employer real property if specified conditions are met. The proposed exemption, if granted, would affect participants and beneficiaries of employee benefit plans, their employers, insurance company separate accounts, and other persons engaging in the described transactions.

DATES: Written comments and requests for a public hearing must be delivered or mailed by November 10, 1977

ADDRESS: Send comments and requests for a hearing (at least six copies) to: Office of Regulatory Standards and Exceptions, Pension and Welfare Benefit Programs, Room C–4526, U.S. Department of Labor, Washington, D.C. 20216. Attention: Application No. D–039. The application for exemption and the com-

ments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefit Programs, U.S. Department of Labor, Room N-4677, 200 Constitution Avenue NW., Washington, D.C. 20216.

FOR FURTHER INFORMATION CONTACT:

Mary S. Champagne of the Department of Labor, 202-523-8299, or Carol D. Gold of the Internal Revenue Service, 202-566-6761. (These are not toll free numbers.)

SUPPLEMENTARY INFORMATION: Notice is hereby given of the pendency before the Agencies of an application filed jointly by the American Council of Life Insurance, The Prudential Life Insurance Co. of America, The Equitable Life Assurance Society of the United States, John Hancock Mutual Life Insurance Co., and Connecticut General Life Insurance Co. (hereinafter collectively referred to as the applicants) for a class exemption from the restrictions of sections 406 and 407(a) of the Act and from the taxes imposed by section 4975 (a) and (b) of the Code. The application was filed pursuant to section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722. The application contains representations with regard to the pending class exemption, which are summarized below. Interested persons are referred to the application on file with the Agencies for the complete representations of the applicants.

In general, the applicants represent that numerous transactions engaged in by an insurance company pooled separate account in which an employee benefit plan has an interest might constitute prohibited transactions under sections 406 and 407(a) of the Act and section 4975(c)(1) of the Code if the assets of the separate account are considered to be plan assets.[1] Although it is the view of the applicants that the assets of pooled separate accounts are not plan assets for purposes of the fiduciary responsibility and prohibited transaction provisions of the Act and the Code, the Agencies have rejected this view.[2] Accordingly, the applicants have applied for the proposed class exemption set forth herein.

The applicants represent that separate accounts are established and maintained by insurance companies pursuant to the provisions of state laws relating to separate accounts. Life insurance companies issue contracts that contain provisions for allocating amounts received under the contracts to separate accounts. The principal feature of contracts funded by a separate account is that the contract holder, not the insurance company, bears the investment risk with respect to the assets held in the separate account. The results of favorable or adverse investment experience, including changes in the market value of the assets, are periodically credited or charged to the accounts of the contract holders and, in the case of a variable annuity, are reflected in the annual amounts paid to the annuitant.

The applicants further represent that most life insurance company separate account assets are held in pooled accounts. A pooled account holds assets which fund obligations under several contracts, the holders of which have interests or units of participation in the pooled account. Pooled separate accounts used by tax qualified plants would be investment companies subject to registration and regulation under the Investment Company Act of 1940, but for the exception set forth in section 3(c)(11) of that Act. Under that section, a separate account is not an investment company if all of its assets are derived from contributions of pension or profit-sharing plans meeting the requirements of section 401 of the Code or the requirements for deduction of employer contributions of section 404(a)(2) of the Code and advances made by an insurance company in connection with the operation of the separate account.[3]

The applicants state that pooled separate accounts typically are distinguishable from each other by investment objective and, consequently, by types of assets which are purchased and held for investment. Pooled separate accounts may invest in, among other things, stocks and publicly traded debt obligations, real estate equity interests and debt obligations that are not publicly traded. The applicants represent that life insurance company pooled separate accounts often make major investments in the 500 to 1000 largest U.S. corporations through the purchase of equity and debt obligations of these corporations. Additionally, real property owned by pooled separate accounts may be leased to these corporations. The pension funds of these same 500 to 1000 companies are the principal purchasers of contracts funded by life insurance company pooled separate accounts.

Section 406(a)(1) of the Act and section 4975(c)(1) (A), (B), (C), and (D) of the Code contain prohibited transaction provisions which bar an employee benefit plan from engaging in certain specified transactions, among others, loans, leases, sales, or exchanges of property or provision of services, whether direct or indirect, with a party in interest (or disqualified person). Sections 406(a)(2) and 407(a) of the Act prohibit certain acquisitions and holdings by an employee benefit plan of employer securities and employer real property. The term "employer security" is defined in section 407(d)(1) as a security issued by an employer of employees covered by the plan, or by an affiliate of the employer. The term "employer real property" is defined in section 407(d)(2) as real property (and related personal property) which is leased to an employer of employees covered by the plan, or to an affiliate of the employer.

Section 406(b) of the Act and section 4975(c)(1) (E) and (F) of the Code prohibit a fiduciary with respect to a plan from engaging in certain types of self-dealing and conflicts of interest described in those sections. The term fiduciary is defined in section 3(21) of the Act and section 4975(e)(3) of the Code; an insurance company maintaining a separate account in which an employee benefit plan invests is a fiduciary with respect to the employee benefit plan. The term party in interest, which is defined in section 3(14) of the Act, and the term disqualified person, which is defined in section 4975(e)(2) of the Code, include, among others, employers any of whose employees are covered by the plan.

Accordingly, because assets held in a separate account to fund obligations under contracts purchased by employee benefit plans are plan assets, numerous transactions between an insurance company pooled separate account in which a plan has an interest and a party in interest or (disqualified person) with respect to that plan will be prohibited under sections 406 and 407(a) of the Act and section 4975 of the Code.

The applicants state that the application of the prohibited transaction rules to these transactions would be likely to restrict seriously potential high-quality investments for pooled seperate accounts and impede plans from placing funds with pooled separate accounts. The application states that these transactions recur on a continuous basis and that undoubtedly transactions of the type described have occurred after January 1, 1975, the effective date of the prohibited transaction provisions. Thus, the applicants have requested a class exemption effective for periods on and after January 1, 1975. Life insurance companies intend to enter into transactions of the type described in the application in the future if the class exemption is granted.

In support of the requested class exemption, the applicants represent that the transactions described in the application are customary in the sense that life insurance companies managing pooled separate accounts do not ordinarily distinguish between participating

[1] The term "separate account" is defined in section 3(17) of the Act as "an account established or maintained by an insurance company under which income, gains, and losses, whether or not realized, from assets allocated to such account, are, in accordance with the applicable contract, credited to or charged against such account without regard to other income, gains, or losses of the insurance company."

[2] See section 401(b)(2)(B) of the Act and section 4975(g)(1) of the Code.

[3] Section 3(a)(2) of the Securities Act of 1933 exempts from the provisions of that Act any interest or participation in a separate account which interest or participation is issued in connection with certain stock bonus, pension or profit-sharing plans qualified under section 401 of the Code, or annuity plans which meet the requirements for the deduction of employer contributions under section 404(a)(2) of the Code.

contract holders and others as potential lessees, borrowers, providers of services, etc. Instead, in making investment and other decisions, life insurance companies search for the best yield commensurate with sound investment risks. The application states that denial of the requested exemption would virtually preclude large, multile employer plans from participating in some pooled separate accounts.

The applicants represent that the proposed class exemption is in the interests of plans and of their participants and beneficiaries. In this regard, the applicants believe that it is vital that private pension plans and their participants have available for prudent use as many optional methods of obtaining sound investments as possible. It is equally important that pooled separate accounts in which plans participate not be needlessly subject to restrictions that are burdensome to administer, thereby unnecessarily increasing expenses of administration and impairing the investment flexibility of the accounts.

SCOPE OF THE PROPOSED EXEMPTION

In general, where a plan's participation in a pooled separate account does not exceed a specified percentage of the total assets in the pooled separate account, the proposed exemption would permit the pooled separate account to engage in transactions which otherwise might be prohibited under sections 406 and 407(a) of the Act and section 4975 (c)(1) of the Code with persons who are parties in interest (disqualified persons) with respect to the plan. Certain transactions involving multiple employer plans and certain acquisitions and holdings of employer real property and employer securities by pooled separate accounts which do not meet the requirements of the basic exemption may, nevertheless, be exempt if other specified conditions are met. The basic exemption also exempts certain acquisitions or holdings by employee benefit plans of qualifying employer real property or qualifying employer securities in excess of the ten percent limitation of section 407(a) of the Act.

In addition to the basic exemption, three specific exemptions are proposed which cover certain transactions engaged in by pooled separate accounts. The first would permit the pooled separate account to engage in transactions involving the furnishing of goods in connection with real property investments and the leasing of real property between the pooled separate account and persons who are parties in interest (disqualified persons) with respect to a plan which has an interest in the pooled separate account, if the amount involved in the transaction does not exceed a specified amount. The second exemption would exempt transactions between a pooled separate account and persons who are parties in interest (disqualified persons) with respect to a plan by virtue of being service providers. The third specific exemption would permit the insurance company or its affiliate to provide real property management services to the pooled separate account as long as these services are provided at cost.

The applicants also requested an exemption for the furnishing of services by a regulated public utility to an insurance company pooled separate account where the regulated public utility is a party in interest with respect to an employee benefit plan which has an interest in the separate account. The Agencies have not proposed such an exemption because they believe that it is not necessary. Section 408(b)(2) of the Act and section 4975(d)(2) of the Code, and the regulations adopted thereunder, provide a statutory exemption from the prohibitions of section 406 of the Act and section 4975(c)(1) of the Code which effectively grants the applicants the relief which they seek for the provision of services and incidental goods by a regulated public utility as described above. See 29 CFR 2550.408b-2, 42 FR 32389 (June 24, 1977), and 26 CFR 54.4975d-2, 42 FR 32384 (June 24, 1977).

Nothing in the proposed exemption permits an insurance company that maintains a pooled separate account in which a plan has an interest to receive any consideration for its own account from any party dealing with the pooled separate account in connection with a transaction involving the assets of the plan. Except to the extent provided in sections I and II of the proposed exemption, nothing in the exemption permits the insurance company to (1) deal with the assets of the pooled separate account in its own interest or for its own account, or in the interest of any other separate account of the insurance company, or (2) act in any transaction involving the plan on behalf of a party (or represent a party) whose interests are adverse to the interests of the pooled separate account or the plan.

GENERAL INFORMATION

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption granted under section 408(a) of the Act and section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person with respect to a plan to which the exemption is applicable from certain other provisions of the Act and the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interests of the plan's participants and beneficiaries and in a prudent fashion in accordance with section 404 (a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that a plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries.

(2) The exemptions proposed in section I of the pending exemption do not extend to transactions prohibited under section 406(b)(1) and 406(b)(3) of the Act and section 4975(c)(1) (E) and (F) of the Code. The exemption proposed in section II of the pending exemption does not extend to transactions prohibited under section 406(b)(3) of the Act and section 4975(c)(1)(F) of the Code.

(3) Before an exemption may be granted under section 408(a) of the Act and section 4975(c)(2) of the Code, the Agencies must find that the exemption is administratively feasible, in the interests of the plan or plans and of their participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan or plans.

(4) The pending exemption, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and the Code, including statutory exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption or transitional rule is not dispositive of whether the transaction is in fact a prohibited transaction.

(5) If granted, the pending class exemption will be applicable to a particular transaction only if the transaction satisfies the conditions specified in the class exemption.

(6) All interested persons are invited to submit written comments or requests for a hearing on the pending class exemption to the address and within the time period set forth above. All comments will be made part of the record. Comments and requests should state the reasons for the person's interest in the pending class exemption. Comments received and the application for exemption will be available for public inspection at the address set forth above.

PENDING EXEMPTION

Based on the application referred to and summarized above, the Agencies have under consideration the granting of the following class exemption pursuant to the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in ERISA Procedure 75-1 (40 FR 18471, April 28, 1975) and Rev. Proc. 75-26, 1975-1 C.B. 722.

SECTION I—*Basic exemption.* Effective January 1, 1975, the restrictions of sections 406(a), 406(b)(2), and 407(a) of the Act and the taxes imposed by section 4975 (a) and (b) of the Code by reason of section 4975(c)(1) (A), (B), (C), or (D) of the Code, shall not apply to transactions described below if the applicable conditions set forth in section III are met.

(a) *General exemption.* Any transaction between a party in interest (or disqualified person) with respect to a plan and an insurance company pooled separate account in which the plan has an interest, or any acquisition or holding by the pooled separate account of employer securities or employer real property of an employer with respect to the plan, if

at the time of the transaction, acquisition or holding—

(1) The assets of the plan (together with the assets of any other plans maintained by the same employer or employee organization) in the pooled separate account do not exceed—

(i) 10 percent of the total of all assets in the pooled separate account, if the transaction occurs prior to [date, 60 days after publication in the FEDERAL REGISTER of the grant of this exemption]; (ii) or

5 percent of the total of all assets in the pooled separate account, if the transaction occurs on or after (date, 60 days after the publication in the FEDERAL REGISTER of the grant of this exemption), and

(2) The party in interest (or disqualified person) is not the insurance company which holds the plan assets in its pooled separate account, any other separate account of the insurance company, or any affiliate of the insurance company.

(b) *Multiple employer plans exemption.* Any transaction between an employer (or an affiliate of an employer) of employees covered by a multiple employer plan and an insurance company pooled separate account in which the plan has an interest, or any acquisition or holding by the pooled separate account of employer securities or employer real property of the employer, if at the time of the transaction, acquisition or holding—

(1) In the case of a transaction occurring prior to (date, 60 days after publication of the grant of the exemption), the employer is not a substantial employer with respect to the plan (within the meaning of section 4001(a)(2) of the Act); or

(2) In the case of a transaction occurring on or after (date, 60 days after publication in the FEDERAL REGISTER of the grant of this exemption),

(i) The assets of the multiple employer plan in the pooled separate account do not exceed 10 percent of the total assets in the pooled separate account, and the employer is not a substantial employer with respect to the plan (within the meaning of section 4001(a)(2) of the Act), or

(ii) The assets of the multiple employer plan in the pooled separate account exceed 10 percent of the total assets in the pooled separate account, and the employer would not be a substantial employer with respect to the plan within the meaning of section 4001(a)(2) of the Act if "5 percent" were substituted for "10 percent" in that definition.

(c) *Excess holdings exemption for employee benefit plans.* Any acquisition or holding of qualifying employer securities or qualifying employer real property by a plan (other than through a pooled separate account) if—

(1) The acquisition or holding contravenes the restrictions of sections 406(a)(2) and 407(a) of the Act solely by reason of being aggregated with employer securities or employer real property held by an insurance company pooled separate account in which the plan has an interest, and

(2) The requirements of either paragraph (a) or paragraph (b) of this section are met.

(d) *Employer securities and employer real property.* Any acquisition or holding of employer securities or employer real property by the insurance company pooled separate account which does not meet the requirements of paragraphs (a) or (b) of this section, if no commission is paid to the insurance company or any person who is an affiliate of the insurance company or to the employer or any affiliate of the employer in connection with the acquisition or sale of employer securities or the acquisition, sale or lease of employer real property, and—

(1) In the case of employer real property—

(i) Each parcel of employer real property and the improvements thereon held by the pooled separate account are suitable (or adaptable without excessive cost) for use by different tenants, and

(ii) The property of the pooled separate account, which is leased or held for lease to others, in the aggregate, is dispersed geographically.

(2) In the case of employer securities—

(i) The employer security is a bond, debenture, note, certificate, or other evidence of indebtedness (such security is hereinafter referred to as an "obligation"),

(ii) The insurance company in whose pooled separate account the obligation is held is not an affiliate of the issuer of the obligation, and either

(iii) The pooled separate account already owns the obligation at the time the plan acquires an interest in the separate account and interests in the pooled separate account are offered and redeemed in accordance with valuation procedures of the pooled separate account applied on a uniform or consistent basis, or

(iv) Immediately after acquisition of the obligation: (A) Not more than 25 percent of the aggregate amount of obligations issued in the issue and outstanding at the time of acquisition is held by the plan, and (B) at least 50 percent of the aggregate amount referred to in (A) is held by persons independent of the issuer. The insurance company, its affiliates and any separate account of the insurance company shall be considered persons independent of the issuer: *Provided,* That the insurance company is not an affiliate of the issuer.

Provided, That, in the case of any plan which is not an eligible individual account plan (as defined in section 407(d)(3) of the Act), immediately after such acquisition the aggregate fair market value of employer securities and employer real property owned by the plan does not exceed 10 percent of the fair market value of the assets of the plan. For purposes of compliance with the conditions imposed by this paragraph, each plan shall be considered to own the same fractional share of each asset (or portion thereof) in the pooled separate account as its fractional share of total assets in the pooled separate account on the most recent preceding valuation date of the account.

SEC. II—*Specific exemptions.* Effective January 1, 1975, the restrictions of section 406(a) and 406(b)(1) and (2) of the Act and the taxes imposed by section 4975(a) and (b) of the Code by reason of section 4975(c)(1)(A), (B), (C), (D) or (E) of the Code shall not apply to the transactions described below provided that the conditions of section III are met.

(a) *Small leases and goods.* The furnishing of goods to an insurance company pooled separate account by a party in interest (or disqualified person) with respect to the plan, which plan has an interest in the pooled separate account, or the leasing of real property of the pooled separate account to a party in interest (or disqualified person), if—

(1) In the case of goods, they are furnished to the pooled separate account in connection with the real property investments of the pooled separate account;

(2) The party in interest (or disqualified person) is not the insurance company, any other pooled separate account of the insurance company, or an affiliate of the insurance company; and

(3) The amount involved in the furnishing of goods or leasing of real property in any calendar year (including the amount under any other lease or arrangement for the furnishing of goods in connection with the real property investments of the pooled separate account with the same party in interest (or disqualified person), or any affiliate thereof) does not exceed the greater of $25,000 or .025 percent of the fair market value of the assets of the pooled separate account on the most recent valuation date of the account prior to the transaction.

(b) *Transactions with persons who are parties in interest to the plan by virtue of being service providers.* Any transaction between an insurance company pooled separate account and a person who is a party in interest (or disqualified person) with respect to a plan, which plan has an interest in the pooled separate account, if—

(1) The person is a party in interest (or disqualified person) (including a fiduciary) by reason of providing services to the plan, or by reason of a relationship to a service provider described in section 3(14)(F), (G), (H), or (I) of the Act (or section 4975(e)(2)(F), (G), (H), or (I) of the Code), and the person exercised no discretionary authority, control, responsibility, or influence with respect to the investment of plan assets in the pooled separate account and has no discretionary authority, control, responsibility, or influence with respect to the management or disposition of the plan assets held in the pooled separate account; and

(2) The person is not an affiliate of the insurance company.

(c) *Management of real property.* Any services provided to an insurance company pooled separate account (in which a plan has an interest) by the insurance company or its affiliate in connection with the management of the real property investments of the pooled separate account, if the compensation paid to the insurance company or its affiliate for the services does not exceed the cost of the services to the insurance company or its affiliate.

SEC. III. *General conditions.* (a) At the time the transaction is entered into, and at the time of any subsequent renewal thereof that requires the consent of the insurance company, the terms of the transaction are not less favorable to the pooled separate account than the terms generally available in arm's length transactions between unrelated parties.

(b) The insurance company maintains for a period of six years from the date of the transaction the records necessary to enable the persons described in paragraph (c) of this section to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be deemed to have occurred if, due to circumstances beyond the control of the insurance company, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest or disqualified persons shall be subject to the civil penalty which may be assessed under section 502(i) of the Act, or to the taxes imposed by section 4975 (a) and (b) of the Code, if the records are not maintained, or are not available for examination as required by paragraph (c) below.

(c) Notwithstanding anything to the contrary in subsections (a)(2) and (b) of section 504 of the Act, the records referred to in paragraph (b) are unconditionally available at their customary location for examination during normal business hours by (1) the Department of Labor, (2) the Internal Revenue Service, (3) except for trade secrets or commercial or financial information which is privileged or confidential, any fiduciary of a plan who has authority to acquire or dispose of the interests of the plan in the separate account, any contributing employer to the plan, and any participant or beneficiary of the plan, and (4) any duly authorized employees or representatives of a person described in (1) through (3) of this paragraph.

SEC. IV—*Definitions.* For purposes of sections I through IV above.

(a) The term "multiple employer plan" means an employee benefit plan which satisfies at least the requirements of section 3(37)(A) (i), (ii), and (v) of the Act and section 414(f)(1) (A), (B), and (E) of the Code.

(b) An "affiliate" of a person includes—

(1) Any person directly or indirectly, through one or more intermediaries, controlling, controlled by, or under common control with the person;

(2) Any officer, director, partner, employee (including, in the case of an insurance company, any representative thereof, whether or not such person is a common law employee of the insurance company), or relative of such persons; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(c) The term "control" means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term "relative" means a "relative" as that term is defined in section 3(15) of the Act (or a "member of the family" as that term is defined in section 4975(e)(6) of the Code), or a brother, a sister, or a spouse of a brother or sister.

(e) Generally, the time as of which any transaction, acquisition, or holding occurs for purposes of this exemption is the date upon which the transaction is entered into (or the acquisition is made) and the holding commences. Thus, for purposes of this exemption, if any transaction is entered into, or an acquisition is made, on or after January 1, 1975, or a renewal which requires the consent of the insurance company occurs on or after January 1, 1975, and the requirements of this exemption are satisfied at the time the transaction is entered into or renewed, or at the time the acquisition is made or renewed, the requirements will continue to be satisfied thereafter with respect to the transaction or acquisition and the exemption shall apply thereafter to the continued holding of the securities or property so acquired. This exemption also applies to any transaction or acquisition entered into, or holding commencing, prior to Januray 1, 1975, if either the requirements of this exemption would have been satisfied on the date the transaction was entered into or acquisition was made (or on which the holding commenced), or the requirements would have been satisfied on January 1, 1975, if the transaction had been entered into, acquisition was made, or if the holding had commenced, on January 1, 1975. Notwithstanding the foregoing, this exemption shall cease to apply to a holding exempt by virtue of section I(a) above at such time as the interest of the plan in the pooled separate account exceeds the percentage interest limitation of section I(a), if the excess results solely from an increase in the amount of consideration allocated to the pooled separate account by the plant.

Signed at Washington, D.C., this 5th day of October 1977.

IAN D. LANOFF,
Administrator of Pension and Welfare Benefit Programs, Labor-Management Services Administration, United States Department of Labor.

ALVIN D. LURIE,
Assstiant Commissioner, Employee Plans and Exempt Organizations, Internal Revenue Service.

[FR Doc.77-29733 Filed 10-6-77;9:33 am]

[7555-01]

NATIONAL SCIENCE FOUNDATION

ADVISORY PANEL FOR PUBLIC UNDERSTANDING OF SCIENCE

Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Public Understanding of Science.

Date and time: October 27, 1977—2 p.m. to 5 p.m.; October 28, 1977—9 a.m. to 5 p.m.

Place: Room 651, National Science Foundation, 5225 Wisconsin Avenue NW., Washington, D.C. 20550.

Type of meeting: Part open: October 27, 1977—Open. October 28, 1977—Closed.

Contact person: Mr. George W. Tressel, Program Director, Public Understanding of Science, Office of Science and Society, National Science Foundation, Washington, D.C. 20550, telephone (202) 282-7770.

Purpose of panel: To provide advice and recommendations concerning direction and priorities for Public Understanding of Science Program. To provide advice and recommendations concerning support for projects in Public Understanding Of Science.

Agenda: Review 1977 grants. Review and evaluate proposals as part of the selection process of awards. Thursday, October 27 (open), 2-3 p.m., Review of grants made in fiscal year 1977; 3-5 p.m., Discussion of PUOS future program plans. Friday, October 27 (closed), 9 a.m. Review and evaluate proposals as part of the selection process for awards.

Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-29659 Filed 10-7-77;8:45 am]

[7555-01]

COMPREHENSIVE ASSISTANCE TO UNDERGRADUATE SCIENCE EDUCATION (CAUSE)

Project Directors' Meeting

A project directors' meeting will be held from 7:30 p.m. to 9 p.m., on October 27, 1977, and from 8:30 a.m. to 5 p.m. on October 28-29, 1977 at the Sheraton Park Hotel, 2660 Woodley Road NW., Washington, D.C.

The purpose of this meeting is to give project directors of the Comprehensive Assistance to Undergraduate Science Education program an opportunity to become better informed regarding appro-

priate methods for conducting internal project evaluation and to allow the CAUSE staff to set into motion mechanisms for monitoring projects.

The meeting will be chaired by Dr. John A. Maccini. Because of space limitation, members of the public who wish to attend should call 202-282-7777 regarding attendance at any of these meetings.

WALTER L. GILLESPIE,
Director, Division of Science Education Resources Improvement.

[FR Doc.77-29658 Filed 10-7-77;8:45 am]

[7555-01]

FEDERAL SCIENTIFIC AND TECHNICAL INFORMATION MANAGERS

Meeting

The next meeting of the Federal Scientific and Technical Information Managers will be held on Wednesday, October 12, 1977, from 9:30 a.m., to 12 noon, at the New Executive Office Building, 17th and H Streets NW., Washington, D.C., Conference Room 2010. The theme of this meeting will be "Major Development in Federal Information Policy."

These meetings, sponsored by the National Science Foundation, provide a forum for the interchange of information concerning common problems and coordination in the areas of Federal scientific and technical information and communications.

These meetings are designed solely for the benefit of Federal employees and officers, and do not fall under the provisions of the Federal Advisory Committee Act (P.L. 92-463). However, this meeting is believed to be of sufficient importance and interest to the public to be announced in the FEDERAL REGISTER.

Any persons wishing to attend this meeting or requiring further information should contact me, Division of Science Information, National Science Foundation, Washington, D.C. 20550, Telephone: (202) 632-5824.

LEE G. BURCHINAL,
Director.

OCTOBER 4, 1977.

[FR Doc.77-29660 Filed 10-7-77;8:45 am]

[7555-01]

SUBCOMMITTEE FOR THE MATHEMATICAL SCIENCES OF THE ADVISORY COMMITTEE FOR MATHEMATICAL AND COMPUTER SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, the National Science Foundation announces the following meeting:

Name: Subcommittee for the Mathematical Sciences of the Advisory Committee for Mathematical and Computer Sciences.
Date: October 27 and 28, 1977.
Time: 9 a.m. to 5 p.m. each day.
Place: October 27, 1977, Room 304; October 28, 1977, Room 628, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Part Open—Open: October 27—9 a.m.-5 p.m., October 28—10 a.m.-5 p.m., closed: October 27—9 a.m.-10 a.m.
Contact person: Dr. William H. Pell, Head, Mathematical Sciences Section, Room 304, National Science Foundation, Washington, D.C. 20550, telephone (202) 632-7377.
Summary minutes: May be obtained from the Committee Management Coordinator, Division of Personnel and Management, Room 248, National Science Foundation, Washington, D.C. 20550.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in the Mathematical Sciences.
Agenda: October 27: 9-12—Open—Introductory remarks and discussions of current budget developments. 1-5—A review of NSF activities in modern analysis and probability, viewed in a national perspective. NSF staff will present their program. The review team for modern analysis and probability will present its preliminary report, followed by discussion of the program and the report. October 28: 9-10—Closed—Closed for discussion of specific proposals. 10-3—Open—Long range planning discussion for the mathematical sciences, including status reports on major program thrusts, and other topics of interest to the subcommittee. 3-5—Recent progress in algebra.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Section 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-29656 Filed 10-7-77;8:45 am]

[7555-01]

SUBCOMMITTEE ON SENSORY PHYSIOLOGY AND PERCEPTION OF THE ADVISORY COMMITTEE FOR BEHAVIORAL AND NEURAL SCIENCES

Meeting

In accordance with the Federal Advisory Committee Act, P.L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Subcommittee on Sensory Physiology and Perception of the Advisory Committee for Behavioral and Neural Sciences.
Date and time: October 27 and 28, 1977—9 a.m. to 5 p.m. each day.
Place: Room 421, National Science Foundation, 1800 G Street NW., Washington, D.C. 20550.
Type of meeting: Closed.
Contact person: Dr. Sherman L. Guth, Program Director, Sensory Physiology and Perception, Room 320, National Science Foundation, Washington, D.C. 20550, telephone (202) 634-1624.
Purpose of subcommittee: To provide advice and recommendations concerning support for research in sensory physiology and perception.
Agenda: To review and evaluate research proposals and projects as part of the selection process for awards.
Reason for closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals and projects. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.
Authority to close meeting: This determination was made by the Committee Management Officer pursuant to provisions of Seciton 10(d) of P.L. 92-463. The Committee Management Officer was delegated the authority to make such determinations by the Acting Director, NSF, on February 18, 1977.

M. REBECCA WINKLER,
Acting Committee Management Officer.

[FR Doc.77-29657 Filed 10-7-77;8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-206]

SOUTHERN CALIFORNIA EDISON CO. AND SAN DIEGO GAS & ELECTRIC CO.

Issuance of Amendment to Provisional Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 27 to Provisional Operating License No. DPR-13, issued to Southern California Edison Company and San Diego Gas and Electric Company (the licensees), which revised Technical Specifications for operation of the San Onofre Nuclear Generating Station, Unit No. 1 (the facility), located in San Diego County, California. The amendment is effective of its date of issuance.

The amendment revises the Technical Specifications to (1) add a specific provision to Appendix A, Section 6.3 "Facility Staff Qualifications" requiring that the Chemical Radiation Protection Engineer shall meet or exceed the minimum qualifications of Regulatory Guide 1.8, September 1975; and (2) delete Subsection 3.1.2a(1)D, "Intertidal Studies" in Appendix B.

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 prepared an environmental impact appraisal for deletion of the provision in the Technical Specifications relating to "Intertidal Studies" and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant envi-

ronmental impact attributable to the action.

For further details with respect to this action, see (1) the application for amendment dated May 13, 1977, (2) Amendment No. 27 to License No. DPR–13, (3) the Commission's related Environmental Impact Appraisal, and (4) the Commission's letter to Southern California Edison Company dated September 22, 1977. 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 Mission Viejo Branch Library, 24851 Chrisanta Drive, Mission Viejo, Calif. A copy of items (2), (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 22nd day of September 1977.

For the Nuclear Regulatory Commission.

A. SCHWENCER,
Chief, Operating Reactors Branch No. 1, Division of Operating Reactors.

[FR Doc.77-29464 Filed 10-7-77;8:45 am]

[7590–01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS WORKING GROUP ON FIRE PROTECTION

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Working Group on Fire Protection, will hold an open meeting on October 26, 1977 at the Airport Marina Hotel, 2910 Yale Blvd., SE., Albuquerque, N. Mex. 87119. The purpose of this meeting is to review the NRC Office of Nuclear Regulatory Research Fire Protection Research Program.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 26, 1977

10:00 A.M. UNTIL CONCLUSION OF BUSINESS

The Working Group with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

At the conclusion of the Executive Session, the Working Group will meet to hear presentations by representatives of the NRC Staff and their consultants, and will hold discussions with them pertinent to this review.

At the conclusion of this session, the Working Group may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Working 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 open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

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 copies to the Working Group at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 19, 1977, addressed to Mr. R. L. Wright, Jr., ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(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 arrangements can be made. The Working 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 canceled 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 October 25, 1977 to the Office of the Executive Director of the Committee (telephone 202–634–1919, Attn: Mr. R. L. Wright, Jr.) between 8:15 a.m. and 5:00 p.m., EDT.

(d) Questions may be asked only by members of the Working Group, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permited only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 2, 1977 and January 26, 1976, respectively, at the NRC Public Document Room, 1717 H Street NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: October 4, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-29588 Filed 10-7-77;8:45 am]

[7590–01]

[Docket Nos. STN 50–502 and 50–503]

WISCONSIN ELECTRIC POWER COMPANY, ET AL.

Notice of Availability of an Addendum to the Draft Environmental Statement

Pursuant to the National Environmental Policy Act of 1969 and the United States Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that an Addendum to the Draft Environmental Statement (DES) prepared by the Commission's Office of Nuclear Reactor Regulation has been issued for the Koshkonong Nuclear Plant, Unit Nos. 1 and 2 located in Jefferson County, Wisconsin.

On August 4, 1977, the Wisconsin Electric Power Company advised the presiding Atomic Safety and Licensing Board that a decision had been made to relocate the proposed plant from the Koshkonong site to a site designated as Haven located in Sheboygan County, Wisconsin. As a result, the NRC Staff has ceased all review activity associated with the Koshkonong project. This Addendum to the DES is intended to present, for the information of the public, the comments received by the NRC from public and private agencies and certain individuals on the DES during the comment period.

The Addendum is available for inspection by the public in the Commission's Public Document Room at 1717 H Street, NW., Washington, D.C., the Dwight-Foster Public Library, P.O. Box 88, Fort Atkinson, Wis. 53538, and the Madison Public Library, Room 103–B, City-County Building, Madison, Wis. 53709. The document is also being made available at the Bureau of Planning and Budget, Wiscon-

sin Department of Administration, 1 West Wilson St., State Office Building, Madison, Wis. 53701.

Notice of the availability of the Commission's Draft Environmental Statement was published in the FEDERAL REGISTER on August 20, 1976 (41 FR 35213).

Single copies of the Commission's Addendum to the DES may be obtained by request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Site Safety and Environmental Analysis.

Dated at Bethesda, Maryland this 3rd day of October 1977.

For the Nuclear Regulatory Commission.

GEORGE W. KNIGHTON,
Chief, Environmental Projects Branch 1, Division of Site Safety and Environmental Analysis.

[FR Doc.77-29589 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-321]

GEORGIA POWER CO., ET AL.

Issuance of Amendment To Facility Operating License and Negative Declaration

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 44 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 to the Environmental Technical Specifications which requires operation of the hydrogen monitor in the offgas system and an alarm setpoint of 4 percent hydrogen concentration by volume.

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 prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility dated October 1972.

For further details with respect to this action, see (1) the application for amendment dated August 2, 1977, (2) Amendment No. 44 to License No. DPR-57, and (3) the Commission's related Safety Evaluation and Environmental Impact Appraisal. 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 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 4th day of October 1977.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-29597 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-331]

IOWA ELECTRIC LIGHT AND POWER CO., ET AL.

Issuance of Amendment To Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 39 to Facility Operating License No. DPR-49 issued to Iowa Electric Light and Power Company, Central Iowa Power Cooperative, and Corn Belt Power Cooperative, which revised Technical Specifications for operation of the Duane Arnold Energy Center, located in Linn County, Iowa. The amendment is effective as of its date of issuance.

The amendment consists of changes to the Technical Specifications to increase DAEC's maximum average planar linear heat generation rates (MAPLHGR).

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. Notice of Proposed Issuance of Amendment to Facility Operating License in connection with this action was published in the FEDERAL REGISTER on July 28, 1977 (42 FR 38442). No request for a hearing or petition for leave to intervene was filed following notice of the proposed action.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated June 24, 1077, as supplemented by letter dated July 29, 1977, (2) Amendment No. 39 to License No. DPR-49, 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 Cedar Rapids Public Library, 426 Third Avenue SE., Cedar Rapids, Iowa 52401. 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, 30th day September 1977.

For the Nuclear Regulatory Commission.

GEORGE LEAR,
Chief, Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc.77-29598 Filed 10-7-77;8:45 am]

[7590-01]

[Docket Nos. STN 50-522 and STN 50-523]

PUGET SOUND POWER & LIGHT COMPANY, ET AL. (SKAGIT NUCLEAR POWER PROJECT, UNITS 1 AND 2)

Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority in 10 CFR 2.787 (a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this construction permit proceeding:

Alan S. Rosenthal, Chairman
Dr. John H. Buck
Michael C. Farrar

Dated: October 3, 1977.

MARGARET E. DU FLO,
Secretary to the Appeal Board.

[FR Doc.77-29599 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-271]

VERMONT YANKEE NUCLEAR POWER CORP.

Issuance of Amendment To Facility Operating License and Negative Declaration

The Nuclear Regulatory Commission (the Commission) has issued Amendment No. 38 to Facility Operating License No. DPR-28 issued to Vermont Yankee Nuclear Power Corporation (the licensee) which revised Technical Specifications for operation of the Vermont Yankee Nuclear Power Station (the facility), located near Vernon, Vermont. The amendment is effective as of its date of issuance.

The amendment authorizes use of once-through cooling, subject to certain limitations and monitoring requirements, for the period October 1, 1977, through

May 31, 1978, to permit the acquisition of additional environmental information on the effects of using this mode of cooling. It also conforms the license with earlier actions taken by New Hampshire and Vermont.

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 prepared an environmental impact appraisal for the revised Technical Specifications and has concluded that an environmental impact statement for this particular action is not warranted because there will be no significant environmental impact attributable to the action other than that which has already been predicted and described in the Commission's Final Environmental Statement for the facility.

For further details with respect to this action, see (1) the application dated August 8, 1977, (2) Amendment No. 38 to License No. DPR-28, and (3) the Commission's Environmental Impact Appraisal. 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 Brooks Memorial Library, 224 Main St., Brattleboro, Vt. 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 30th day of September 1977.

For the Nuclear Regulatory Commission.

MORTON B. FAIRTILE,
Acting Chief, Operating Reactors Branch No. 4, Division of Operating Reactors.

[FR Doc.77-29600 Filed 10-7-77;8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON FLUID/HYDRAULIC DYNAMIC EFFECTS

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b.), the ACRS Subcommittee on Fluid/Hydraulic Dynamic Effects will hold an open meeting on October 26, 1977 at the Rodeway Inn, 7101 NE. 82d Ave., Portland, Oreg. 97220. The purpose of this meeting is to continue discussion on the effects of blowdown forces on reactor vessel supports.

The agenda for subject meeting shall be as follows:

WEDNESDAY, OCTOBER 26, 1977

8:30 A.M. UNTIL 8:45 A.M.

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

8:45 A.M. UNTIL CONCLUSION OF BUSINESS

The Subcommittee will meet to hear presentations by representatives of the NRC Staff, the Babcock and Wilcox Company, Combustion Engineering, and their consultants, and will hold discussions with these groups pertinent to this review.

At the conclusion of this session, the Subcommittee may caucus to determine whether the matters identified in the initial session have been adequately covered.

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of the Subcommittee is empowered to conduct the meeting in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

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 copies to the Subcommittee at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy thereof in time for consideration at this meeting. Comments postmarked no later than October 19, 1977, addressed to Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555, will normally be received in time to be considered at this meeting.

(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 arrangements can be made. The Subcommittee will receive oral statements on topics relevant to its purview at an appropriate time chosen by the Chairman.

(c) Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call on October 25, 1977 to the Office of the Executive Director of the Committee (telephone 202-634-1319, Attn: Dr. Richard P. Savio) between 8:15 a.m. and 5:00 p.m., EST.

(d) Questions may be asked only by members of the Subcommittee, its consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) A copy of the transcript of the portion(s) of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 2, 1977 and January 26, 1978, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555.

Copies may be obtained upon payment of appropriate charges.

Dated: October 4, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-29594 Filed 10-7-77;8:45 am]

[7590-01]

[Docket No. 50-341A]

THE DETROIT EDISON CO., ET AL.

Receipt of Attorney General's Advice and Time for Filing of Petitions to Intervene on Antitrust Matters

The Commission has received, pursuant to section 105c of the Atomic Energy Ac of 1954, as amended, the following additional advice from the Attorney General of the United States, dated September 30, 1977:

You have requested our further advice pursuant to Section 105c of the Atomic Energy Act of 1954, as amended, with respect to the above-cited application. By letter to you dated August 16, 1971, we rendered ad-

vice with respect to Detroit Edison Company's application to construct the Enrico Fermi Unit No. 2, 36 F.R. 17883. You have now asked us to review the application of Northern Michigan Electric Cooperative, Inc., and Wolverine Electric Cooperative, Inc. to participate in this unit. Under an agreement with Detroit Edison entered into February 8, 1977, Northern Michigan would purchase and own 11.22% of the unit and Wolverine Electric would purchase and own 8.78%.

Northern Michigan, headquartered in Boyne City, Michigan, is a generation and transmission cooperative which has three distribution cooperative members. Northern Michigan with an estimated 1977 peak load of 116 MW, is projected to quadruple its load over the next 15 years. Northern Michigan meets its bulk power requirements through a mix of small-scale self-generation and wholesale power purchases.

Wolverine, headquartered in Big Rapids, Michigan, is a generation and transmission cooperative, which has four distribution cooperative members. Wolverine, with a 1977 estimated peak load of 90 MW, is projected to triple its load over the next 15 years. Wolverine meets its bulk power requirement through a mix of small-scale self-generation and wholesale power purchases.

We have examined the information submitted by Northern Michigan and Wolverine in connection with the application, as well as other information relevant to competitive relationships in Michigan. Our review of this information has disclosed no antitrust problems which would require a hearing by your Commision on the instant application.

Any person whose interest may be affected by this proceeding may, pursuant to section 2.714 of the Commission's "Rules of Practice," 10 CFR Part 2, file a petition for leave to intervene and request a haring on the antitrust aspects of the application. Petitions for leave to interevene and requests for hearing shall shall be filed by November 10, 1977, either (1) by delivery to the NRC Docketing and Service Section at 1717 H Street NW., Washington, D.C., or (2) by mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Section.

For the Nuclear Regulatory Commission.

JEROME SALTZMAN,
Chief, Antitrust and Indemnity Group, Nuclear Reactor Regulation.

[FR Doc.77-29595 Filed 10-7-77;8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Notice of Meeting

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232 b.), the ACRS Subcommittees on Seismic Activity, the Skagit Nuclear Project, the Pebble Springs Nuclear Plant, and the Washington Public Power Supply System (WPPSS) Nuclear Projects, will hold a meeting on October 27 and 28, 1977 at the Roadway Inn, 7101 NE. 82nd Avenue, Portland, Oreg. 97220. The purpose of this meeting is to continue ACRS review of regional tectonics of the Pacific Northwest and of the 1872 earthquake and the implications regarding nuclear plants in the Pacific Northwest, and to continue review of (1) the application of the Portland General Electric Co. for a permit to construct the Pebble Springs Nuclear Plant, Units 1 and 2 and (2) the application of the Puget Sound Power and Light Co. for a permit to construct the Skagit Nuclear Plant.

The agenda for subject meeting shall be as follows:

THURSDAY OCTOBER 26 AND FRIDAY, OCTOBER 27, 1977

8:30 A.M. UNTIL 9:00 A.M. EACH DAY (OPEN)

The Subcommittee, with any of its consultants who may be present, will meet in Executive Session to explore their preliminary opinions regarding matters which should be considered in order to formulate a report and recommendations to the full Committee.

9:00 A.M. UNTIL CONCLUSION OF BUSINESS EACH DAY (OPEN)

The Subcommittees will meet to hear presentations by representatives of the NRC Staff, the United States Geological Survey (USGS), the Portland General Electric Co., the Puget Sound Power and Light Co., the Washington Public Power Supply System, and their consultants, and will hold discussions with these groups pertinent to this review.

The Subcommittees, in connection with the above meeting, may hold one or more open Executive Sessions with their consultants in order to explore their opinions and recommendations.

At the conclusion of these sessions, the Subcommittees may caucus in an open session to determine whether the matters identified in the initial session have been adequately covered.

In addition, it may be necessary for the Subcommittees to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with Subsection 10(d) of Public Law 92-463, that, should such sessions be required, it is necessary to close these sessions to protect proprietary information (5 U.S.C. 552b(c)(4)).

Practical considerations may dictate alterations in the above agenda or schedule. The Chairman of this meeting is empowered to conduct it in a manner that, in his judgment, will facilitate the orderly conduct of business, including provisions to carry over an incompleted open session from one day to the next.

The Advisory Committee on Reactor Safeguards is an independent group established by Congress to review and report on each application for a construction permit and on each application for an operating license for a reactor facility and on certain other nuclear safety matters. The Committee's reports become a part of the public record. Although ACRS meetings are ordinarily open to the public and provide for oral or written statements to be considered as a part of the Committee's information gathering procedure concerning the health and safety of the public, they are not adjudicatory type hearings such as are conducted by the Nuclear Regulatory Commission's Atomic Safety & Licensing Board as part of the Commission's licensing process. ACRS meetings do not normally treat matters pertaining to environmental impacts outside the radiological safety area.

With respect to public participation in the open portion of the meeting, the following requirements shall apply:

(a) Persons wishing to submit written statements regarding the agenda may do so by providing 15 copies to Mr. Ragnwald Muller or Dr. Richard P. Savio at the beginning of the meeting. Comments should be limited to safety related areas within the Committee's purview.

Persons desiring to mail written comments may do so by sending a readily reproducible copy to Mr. Ragnwald Muller or Dr. Richard P. Savio, ACRS, NRC, Washington, D.C. 20555. Copies postmarked no later than October 20, 1977 will normally be received in time to be considered at this meeting.

Background information concerning items to be considered at this meeting can be found in documents on file and available for public inspection at the NRC Public Document Room 1717 H Street NW., Wash., D.C. 20555; the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, Wash. 98294 (regarding the Skagit Nuclear Plant); the records Office, City Hall, Arlington, Oreg. 97812 (regarding the Pebble Springs Nuclear Plant); the Richland Public Library, Swift and Northgate Streets, Richlands, Wash. 99352 (regarding WPPSS 1, 2, and 4 Nuclear Plants); and the W. H. Abel Memorial Library, 125 Main Street, South, Montesano, Wash. 98563 (regarding WPPSS 3 and 5 Nuclear Plants).

(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 arrangements can be made. The Subcommittees will receive oral statements on topics relevant to their 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 therefore can be obtained by a prepaid telephone call on October 25, 1977 to the Office of the Executive Director of the Committee (Attention: Mr. Ragnwald Muller, telephone 202/634-1413 or Dr. Richard P. Savio, telephone 202/634-1919) between 8:15 a.m. and 5 p.m., EST.

(d) Questions may be asked only by members of the Subcommittees, their consultants, and the Staff.

(e) The use of still, motion picture, and television cameras, the physical installation and presence of which will not interfere with the conduct of the meeting, will be permitted both before and

after the meeting and during any recess. The use of such equipment will be allowed while the meeting is in session at the discretion of the Chairman to a degree that is not disruptive to the meeting. When use of such equipment is permitted, appropriate measures will be taken to protect proprietary or privileged information which may be in documents, folders, etc. being used during the meeting. Recordings will be permitted only during those sessions of the meeting when a transcript is being kept.

(f) Persons with agreements or orders permitting access to proprietary information may attend portions of ACRS meetings where this material is being discussed upon confirmation that such agreements are effective and relate to the material being discussed.

The Executive Director of the ACRS should be informed of such an agreement at least three working days prior to the meeting so that the agreement can be confirmed and a determination can be made regarding the applicability of the agreement to the material that will be discussed during the meeting. Minimum information provided should include information regarding the date of the agreement, the scope of material included in the agreement, the project or projects involved, and the names and titles of the persons signing the agreement. Additional information may be requested to identify the specific agreement involved. A copy of the executed agreement should be provided to Mr. Ragnwald Muller or Dr. Richard P. Savio, of the ACRS office, prior to the beginning of the meeting.

(g) A copy of the transcript of the open portions of the meeting where factual information is presented and a copy of the minutes of the meeting will be available for inspection on or after November 4, 1977 and January 30, 1978, respectively, at the NRC Public Document Room, 1717 H Street, NW., Washington, D.C. 20555; the Sedro Wooley Library, 802 Ball Avenue, Sedro Wooley, Wash. 98294 (regarding the Skagit Nuclear Plant); the Records Office, City Hall, Arlington, Oreg. 97812 (regarding the Pebble Springs Nuclear Plant); the Richland Public Library, Swift and Northgate Streets, Richland, Wash., (regarding WPPSS 1, 2, and 4 Nuclear Plants); and the W. H. Able Memorial Library, 125 Main Street, South, Montesano, Wash. 98563 (regarding WPPSS 3 and 5 Nuclear Plants).

Copies may be obtained upon payment of appropriate charges.

Dated: October 4, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc.77-29596 Filed 10-7-77;8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[License No. 04/04-5128]

CHICKASAW CAPITAL CORP.

Issuance of License to Operate as a Small Business Investment Company

On June 2, 1977, a notice was published in the FEDERAL REGISTER (42 FR 28197) stating that Chickasaw Capital Corporation, located at 67 Madison Avenue, Memphis, Tenn. 38147, had filed an application with the Small Business Administration (SBA), pursuant to 13 CFR 107.102 (1977) for a license to operate as a small business investment company under the provisions of section 301(d) of the Small Business Investment Act of 1958, as amended.

Interested parties were given until the close of business June 17, 1977, to submit their comments to SBA. No comments were received.

Notice is hereby given that having considered the application and all other pertinent information, SBA issued License No. 04/04-5128 to Chickasaw Capital Corporation, on August 30, 1977, to operate as a small business investment company, pursuant to section 301(d) of the Act.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: September 29, 1977.

PETER F. MCNEISH,
Deputy Associate Administrator for Investment.

[FR Doc.77-29617 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area 1353 Amdt. 1]

FLORIDA

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 40802), is amended by extending the termination date for filing for physical damage until the close of business on December 30, 1977. The termination date for economic injury is June 30, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29618 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disasteh Loan Area #1372]

ILLINOIS

Declaration of Disaster Loan Area

Cumberland and Shelby Counties and adjacent counties within the State of Illinois constitute a disaster area as a result of damage caused by severe storms, tornadoes, high winds, and heavy rains which occurred on August 21, 1977. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 17, 1977, and for economic injury until the close of business on June 16, 1978, at:

Small Business Administration, District Office, 219 South Dearborn Street, Chicago, Ill. 60604.

Small Business Administration, Branch Office, Illinois National Bank Building, One North Old State Capitol Plaza, Springfield, Ill. 62701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29619 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1285; Amdt. 1]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 6434), is amended by extending the filing date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on March 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29620 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1308; Amdt. 2]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 17930), and Amendment No. 1 (See 42 FR 39173) are amended by extending the filing date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on March 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29621 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1316; Amdt. 1]

MICHIGAN

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 21340), is amended by extending the filing date for physical damage until the close of business on November 30, 1977, and for economic injury until the close of business on March 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29622 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1373]

MINNESOTA

Declaration of Disaster Loan Area

Hennepin County and adjacent counties within the State of Minnesota constitute a disaster area as a result of damage caused by torrential rainfall and flooding which occurred on August 30, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 17, 1977, and for economic injury until the close of business on June 16, 1978, at:

Small Business Administration, District Office, Plymouth Building, Room 530, 12 South Sixth St., Minneapolis, Minn. 55402.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 16, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29623 Filed 10-7-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1375]

MISSOURI

Declaration of Disaster Loan Area

As a result of the President's declaration of September 14, 1977, and Federal Disaster Assistance Administration's designation of Clay, Jackson, Lafayette, Platte and Ray counties within the State of Missouri, I find that these counties constitute a disaster area because of damage resulting from severe storms and flooding beginning about September 11, 1977. The Small Business Administration will accept applications for disaster relief loans from disaster victims within the above-named counties, and adjacent counties within the State of Missouri. Eligible persons, firms, and organizations may file applications for loans for physical damage until the close of business on November 14, 1977, and for economic injury until the close of business on June 14, 1978, at:

Small Business Administration, District Office, 12 Grand Building, 5th Floor, 1150 Grand Ave., Kansas City, Mo. 64106.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Date: September 22, 1977.

PATRICIA M. CLOHERTY,
Acting Administrator.

[FR Doc.77-29624 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1378]

TENNESSEE

Declaration of Disaster Loan Area

The Counties of Franklin, Giles, Hamilton, Hardeman, Haywood, Lauderdale, Lincoln, Maury, Moore and adjacent counties within the State of Tennessee, 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 December 30, 1977 and for economic injury until the close of business on June 28, 1978 at:

Small Business Administration, District Office, Parkway Towers Room 1012, 404 James Robertson Parkway, Nashville, Tenn. 37219.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 28, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29625 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1381]

WISCONSIN

Declaration of Disaster Loan Area

Oneida County and adjacent counties within the State of Wisconsin, constitute a disaster area as a result of drought, causing dry wells, which occurred June 17, 1976 through September 9, 1977. Eligible persons, firms and organizations may file applications for physical damage until the close of business on November 28, 1977 and for economic injury until the close of business on June 29, 1978 at:

Small Business Administration, District Office, 122 West Washington Ave., Room 700, Madison, Wis. 53703.

Small Business Administration, Post-of-Duty Station, Federal Office Bldg. and U.S. Courthouse, 500 South Barstow St., Room B9AA; Eau Claire, Wis. 54701.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29626 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1383]

WISCONSIN

Declaration of Disaster Loan Area

Marathon County and adjacent counties within the State of Wisconsin constitute a disaster area because of physical damage resulting from a tornado which occurred on August 31, 1977. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 28, 1977, and for economic injury until the close of business on June 29, 1978, at:

Small Business Administration, District Office, 122 West Washington Ave., Room 700, Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 29, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29627 Filed 10-7-77;8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1379]

WISCONSIN

Declaration of Disaster Loan Area

The downtown business district on Main Street in the City of Waupun, Fond du Lac County, Wis., constitutes a disaster area because of damage resulting from a fire which occurred on September 7, 1977.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on November 28, 1977 and for economic injury until the close of busines on June 28, 1978 at:

Small Business Administration, District Office, 122 West Washington Ave., Madison, Wis. 53703.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: September 27, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc.77-29628 Filed 10-7-77;8:45 am]

[4710-01]

[Public Notice CM-7/117]

DEPARTMENT OF STATE

SHIPPING COORDINATING COMMITTEE, SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Notice of Meeting

The Panel on Bulk Cargoes of the working group on Subdivision and Stability, a part of the Subcommittee on Safety of Life at Sea (SOLAS) of the Shipping Coordinating Committee (SHC), will conduct an open meeting at 10 a.m., Monday, November 1, 1977, in Suite 2757 of the National Cargo Bureau, Inc., One World Trade Center, New York, N.Y. 10048.

The purpose of the meeting is to review the report of the last session of the Subcommittee on Containers and Cargoes of the Intergovernmental Maritime Consultative Organization (IMCO).

Requests for further information should be directed to Mr. Edward H. Middleton, United States Coast Guard, Washington, D.C., telephone: (area code 202) 426-2170, or Capt. S. Fraser Sammis, National Cargo Bureau, Inc., New York, N.Y., telephone: (area code 212) 432-1230.

The Chairman will entertain comments from the public as time permits.

CARL TAYLOR, Jr.,
Acting Director,
Office of Maritime Affairs.

SEPTEMBER 30, 1977.

[FR Doc.77-29654 Filed 10-7-77;8:45 am]

[4710-01]

[Public Notice CM-7/118]

STUDY GROUP 3 OF THE U.S. NATIONAL COMMITTEE FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Notice of Meeting

The Department of State announces that Study Group 3 of the U.S. National Committee for the International Telegraph and Telephone Consultative Committee (CCITT) will hold a meeting November 1, 1977 at 2 p.m. in Room 1406, Department of State, 2201 C Street NW., Washington, D.C.

Study Group 3 is responsible for considering U.S. Government and Industry views, and preparing contributions as appropriate, for meetings of those international CCITT Study Groups examining non-regulatory aspects of telegraph and telephone operations.

The purpose of the meeting on November 1 will be to discuss questions relating to analogue and digital equipment for facsimile telegraphy, and to consider views to be put forward at a meeting of CCITT Study Group XIV to be held in Geneva, Switzerland November 14-18, 1977.

Members of the general public may attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available. In that regard, entrance to the Department of State building is controlled and entry will be facilitated if arrangements are made in advance of the meeting. It is therefore requested that prior to October 26, 1977, members of the general public who plan to attend the meeting inform Mr. Arthur L. Freeman, Office of International Communications Policy, Department of State, telephone 202-632-1007, of their intention. All non-Government attendees must use the C Street entrance to the building.

Dated: September 29, 1977.

ARTHUR L. FREEMAN,
Chairman,
U.S. National Committee.

[FR Doc.77-29655 Filed 10-7-77;8:45 am]

[4710-02]

Agency for International Development

PROVISION OF PESTICIDES TO SAHEL REGION OF AFRICA

Waiver of Certain Requirements

On August 22, 1977, the Agency for International Development (A.I.D.) provided notice in the FEDERAL REGISTER (42 FR 42272) of the intention to waive certain requirements for provision of pesticides as set forth in the Interim Pesticide Procedures ("Interim Regulations") published in the FEDERAL REGISTER on January 7, 1976 (41 FR 1297). The reasons for the waiver were set forth in the notice, and the public was requested to provide comments on or before September 12, 1977.

In response, the Environmental Defense Fund and the National Audubon Society objected to A.I.D.'s financing the procurement of the pesticide lindane for use on the crops sorghum and millet. No other comments have been received.

For the reasons set forth in the above mentioned notice published in the FEDERAL REGISTER on August 22, 1977 (42 FR 42272) and having taken into consideration the comments of the Environmental Defense Fund and the National Audubon Society, I approve, under section (a) of the Interim Regulations, the financing by A.I.D. of the following pesticides and uses and I determine that the benefits of using such pesticides for the purposes intended outweight the potential adverse effects and that no preferable alternative is available:

Crop	Pesticide	Pests
Maize	Diazinon, endosulfan, malathion, trichlorfon.	Heliothis armigera-corn ear worm, sesamia calamistis-stem borer, sesamia botanephaga-stem borer, chilo orichal-cocliiella-shoot worm of bud worm, busseola fusca-stem borer.
Cowpeas	Diazinon	Acanthomia horrida-plant bug, acanthomia tomentoscollis-plant bug, helopeltis schoutendeni-plant bug, taeniothrips sjoestedti-thrips, coryna sp.-leaf-feeding beetle, Mylabris sp.-leaf-feeding beetle.
Groundnuts.	Diazinon, malathion, trichlorfon.	Spodoptera littoralis-leaf worm. Alcidodes dentipes-weevil, systates spp.-weevil, Heliothis armigera-leaf worm, Maruca testulalis-stem borer.
Rice	Malathion	Chaetocnema pulla-beetle, sesselia pusilla-beetle, trichispa serica-Africa rice hispa, diopsis thoracica-stalkeyed borer, chilopartellus spp.-maize borer.
Sorghum	Diazinon, dimethoate, malathion.	Busseola spp.-stem borers, Sesamia spp.-stem borers, atherigonia sp.-sorghum shoot fly, masalia species-leaf feeding caterpillars.
Millet	Same as sorghum	Same as sorghum.
Wasteland	Fenitrothion	African migratory locust, Grasshoppers.

This determination has been made in consultation with the Environmental Protection Agency as required under Section (b) of the Interim Regulations.

Dated: September 28, 1977.

JOHN J. GILLIGAN,
Administrator,
Agency for International Development.

[FR Doc.77-29613 Filed 10-7-77;8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[77-186]

SHIP STRUCTURE SUBCOMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Subcommittee to be held Thursday, October 27, 1977 at 10:00 a.m. in the Conference Room, 23d Floor, American Bureau of Shipping, 55 Broad Street, New York, N.Y. The agenda for this meeting is as follows: The research program in sea structures for the next fiscal year will be formulated; the status of current research projects will be reviewed.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from, LCDR T. H. Robinson, USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590 (202-426-2205). Any member of the public may present a written statement to the Committee at any time.

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

[FR Doc.77-29708 Filed 10-7-77;8:45 am]

[4910–14]

[77–187]

SHIP STRUCTURE COMMITTEE

Notice of Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. I) notice is hereby given of a meeting of the Ship Structure Committee to be held Friday, October 28, 1977 at 9:30 a.m. in the Conference Room, 23d Floor, American Bureau of Shipping, 55 Broad Street, New York, N.Y. The agenda for this meeting is as follows: To discuss present and future operations and research programs of the Committee.

Attendance is open to the interested public. With the Approval of the Chairman, members of the public may present oral statements at the hearing. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, and information may be obtained from LCDR T. H. Robinson. USCG, Secretary, Ship Structure Committee, U.S. Coast Guard Headquarters, Washington, D.C. 20590 (202–426–2205). Any member of the public may present a written statement to the Committee at any time.

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

[FR Doc.77–29709 Filed 10–7–77;8:45 am]

[4810–31]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 77–312; Reference: ATF O 1100.66A]

ASSISTANT DIRECTOR (TECHNICAL AND SCIENTIFIC SERVICES) OF AUTHORITIES OF THE DIRECTOR IN FORMULAS FOR DENATURED ALCOHOL AND RUM

Delegation of Authority

1. *Purpose.* This order delegates certain authorities, now vested in the Director by regulations in 27 CFR Part 212, to the Assistant Director, Technical and Scientific Services.

2. *Cancellation.* ATF O 1100.66, Delegation Order—Authorities of the Director in 27 CFR Part 212, Formulas for Denatured Alcohol and Rum Regulations, dated August 16, 1976, (41 FR 35540), is canceled.

3. *Background.* The Director has authority, under current regulations, to take final action on matters relating to the formulation of completely denatured alcohol, specially denatured alcohol and specially denatured rum; to the specifications for denaturants; and to uses of denatured spirits. It has been administratively determined that certain authorities now vested in the Director by regulations in 27 CFR Part 212, Formulas for Denatured Alcohol and Rum Regulations, belong to a lower organizational level and should be delegated.

4. *Delegations.* Pursuant to the authority vested in the Director by Treasury Department Order No. 221, dated June 6, 1972, and by 26 CFR 301.7701–9, there is hereby delegated to the Assistant Director, Technical and Scientific Services, the authority to take final action on the following matters relating to 27 CFR Part 212, Formulas for Denatured Alcohol and Rum Regulations:

a. To approve or disapprove ATF 1479–A describing manufacturing processes in which stocks of specially denatured alcohol formulas no longer authorized in this part will be used up, pursuant to 27 CFR 212.3(b).

b. To authorize the addition of odorants, rust inhibitors or dyes to completely denatured alcohol, under 27 CFR 212.10.

c. To receive notices from DSP proprietors who have added odorants or perfume material to denaturants authorized for completely denatured alcohol, including the names and properties of such odorants or perfume materials, under 27 CFR 212.10.

d. To authorize, pursuant to ATF F 1479–A, the use of any formula of specially denatured alcohol or specially denatured rum for uses not specifically authorized in this part, under 27 CFR 212.15(b).

e. To authorize, pursuant to ATF F 1479–A, the use of Specially Denatured Alcohol Formula No. 2–B in other than closed and continuous systems, under 27 CFR 212.17(c).

f. To authorize, pursuant to ATF F 1479–A, the use of Specially Denatured Alcohol Formula No. 2–C in other than closed and continuous systems, under 27 CFR 212.18(c).

g. To approve applications to use chemicals other than acetaldehyde or ethyl acetate as denaturants in Specially Denatured Alcohol Formula No. 29, under 27 CFR 212.39(a).

h. To approve or disapprove applications to use other essential oils or substances as denaturants in Specially Denatured Alcohol Formula No. 38–B, and to be furnished specifications, assay methods and samples of such denaturants, under 27 CFR 212.48(a).

5. *Coordination with other offices.* The authority delegated under paragraphs 4c and 4h of this order shall be carried out in coordination with the Chief, Industry Control Division (Regulatory Enforcement) in Bureau Headquarters.

6. *Redelegation.* The authorities delegated herein may be redelegated in Bureau Headquarters but not below the level of chemist in the Chemical Branch.

Effective date. This order becomes effective on October 11, 1977.

Signed: October 4, 1977.

STEPHEN E. HIGGINS,
Acting Director.

[FR Doc.77–29732 Filed 10–7–77;8:45 am]

[4810–22]

Customs Service

GRAIN ORIENTED SILICON ELECTRICAL STEEL FROM ITALY

Final Countervailing Duty Determination

AGENCY: U.S. Customs Service, Treasury Department.

ACTION: Final countervailing duty determination.

SUMMARY: This notice is to inform the public that a countervailing duty investigation has resulted in a final determination that a producer and exporter to the United States of grain oriented silicon electrical steel has not received from the Government of Italy benefits which are bounties or grants under the countervailing duty statute (19 U.S.C. 1303).

EFFECTIVE DATE: October 11, 1977.

FOR FURTHER INFORMATION CONTACT:

Richard B. Self, Office of Tariff Affairs, Department of Treasury, 15th & Pennsylvania Ave. NW., Washington, D.C. 20220 (202–566–8585).

SUPPLEMENTARY INFORMATION: On April 15, 1977, a "Preliminary Countervailing Duty Determination" was published in the FEDERAL REGISTER (42 FR 19934.) The notice stated that it had been preliminarily determined that benefits had not been received by TERNI Societa per l'Industria e l'Electtricita, S.P.A. (TERNI) which constitute bounties or grants within the meaning of section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303) (hereinafter referred to as "the Act").

Grain oriented silicon electrical steel is provided for in the Tariff Schedules of the United States under item numbers 608.88 and 609.07.

The preliminary determination discussed the various items which were alleged to constitute bounties or grants and indicated that further inquiry would be made regarding certain of them. Interested parties were invited to submit relevant data, views or arguments in writing with respect to the preliminary determination.

After consideration of all information received, including information received since publication of the preliminary determination, it is hereby determined that TERNI has not received, directly or indirectly, bounties or grants on its exports of grain oriented silicon electrical steel within the meaning of section 303 of the Act. The alleged benefits determined not to constitute bounties or grants include:

1. STOCK PURCHASES BY THE HOLDING COMPANY

TERNI is an Italian corporation, 98 percent of whose outstanding share capital is owned by FINSIDER, S.P.A., an Italian corporation, 58 per cent of whose stock is in turn owned by the Instituto per la Ricostrazione Industriale (IRI),

an agency of the Italian Government under the Ministry for State Participations. (The balance of Finsider's stock is held by otherwise unidentified parties, including non-governmental, persons and entities.)

Finsider, Terni's parent, has made substantial purchases of Terni stock in recent years. The issuance of share capital by Terni to enable necessary expansion of plant facilities has taken place during a period of substantial financial losses by the company. Only through Finsider's decisions to purchase share capital could Terni have undertaken its expansion. However, as 98 percent of Terni's stock is owned by Finsider, for the purposes of the countervailing duty law they are regarded as a single entity. The determination of whether a "bounty or grant" has been bestowed is, therefore, to be based on whether funds from the Italian Government were provided to Finsider, from which it invested in Terni's expansion. Such funds could have been provided through purchases of stock or of conversions of debt to equity by Finsider's parent, IRI. However, the available evidence indicates that no such transaction has occurred since 1965, a date deemed too remote from Terni's expansion to have impact on its current exports. The evidence indicates that to the extent Finsider has invested in Terni since 1965, it has done so from funds internally generated or raised in the capital markets on commercial terms. Therefore, even if its recent decisions to expand Terni were made at the suggestion or direction of the Italian Government, no "bounty" or "grant" within the meaning of the law exists. Of course if, in the future, the Italian Government should, either through IRI or otherwise, increase Finsider's available funds.

On other than terms that may reasonably be regarded as commercial, this conclusion may require reconsideration.

2. Preferential Financing and Credit Availability

During the period of capital expansion, Terni has substantially increased its borrowings, mostly from IRI-controlled banks. A comparative analysis of the short-term rates charged by IRI banks and private lenders to Terni shows that the IRI banks gave Terni no more favorable terms. Even the interest rates charged by "ILLIC", a Finsider subsidiary, have been consistently above those imposed by private banks. While Terni may have enjoyed a greater access to credit than might normally be expected for a corporation in Italy of comparable size and recent profit performance, that, alone, is not considered to be a bounty or grant in the absence of evidence that Terni benefited from preferential or favorable terms mandated by the Government. That banks regarded Terni as credit-worthy in the absence of government direction or guarantees provides no basis for countervailing.

3. Electricity Subsidies

Alleged below-cost electricity rates charged Terni by the state-owned electrical corporation, ENEL, reflect the terms of a compensation agreement between Terni and ENEL concluded in 1963, when ENEL assumed ownership of Terni's electrical facilities. Terni, then a private corporation, received compensation for the government's taking of its property in the form of both cash and a commitment that it would be charged by ENEL for delivered power at a stable rate for 30 years. This compensation for an expropriated asset cannot be regarded as a bounty or grant in the absence of evidence that the compensation formula was, at the time of its negotiation, on terms significantly more generous than comparable proceedings equivalent to eminent domain takings.

Terni is also exempted from the surcharge imposed by ENEL on power users to offset fuel cost increases. The exemption is based on the fact that Terni is deemed to fall within a class of manufacturers who produce at least 70 percent of the power they consume. By Italian court ruling, Terni qualified for this exemption, since the hydroelectric power supplied by the facility Terni formerly owned, and now owned by ENEL, met this test. In view of the purpose of the surcharge and the general exemption for which Terni qualifies, this does not constitute a bounty or grant to Terni.

4. Rebates of Taxes Under Italian Law 639

The relevant provision of this law grants rebates to "manufactured-products obtained from sheets, coils or pipes in either iron or steel which are neither referred to nor included elsewhere." Grain oriented silicon steel, exported in its raw form, is not a manufactured product within the meaning of Italian Law 639 and, accordingly, is not entitled to the rebate under the law. No evidence such rebates were given has been produced.

5. Preferential Shipping Rates

Terni has never used the Finsider owned shipping line, Sidemar, for shipments of grain oriented silicon steel to the United States, since such shipments have been too small to justify the use of the larger Sidemar carriers. The information presently available indicated that Sidemar is not used by Terni for the shipment of raw materials to Terni's facilities. There is, thus, no evidence that Terni received benefits, directly or indirectly, from favorable shipping rates.

6. Preferential Export Financing to Foreign Purchasers Under Italian Law 131

The available evidence indicates Terni has never utilized loans under this law for shipments to the United States.

7. Preferential Rates of Insurance Provided by the State

The available evidence indicates Terni has never received preferential insurance rates from any State-participation company.

8. Privileged Availability and Preferential Rate for Scrap

The information available indicates that CPR, the scrap company which is part of the Finsider Group, makes sales to Terni of scrap it purchases at market prices plus commission. Sales from its own stocks to Terni are made at the prices CPR paid. It thus appears that scrap purchases by Terni from CPR represent no subsidy, since the sales are made on an intra-company transfer price at no apparent loss to the supplier.

In view of the foregoing, a final determination is hereby made in this proceeding that no bounty or grant is being paid or bestowed, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303), upon the manufacture, production or exportation from Italy of grain oriented silicon steel manufactured by Terni, S.p.A.

This notice is published pursuant to section 303, Tariff Act of 1930, as amended (19 U.S.C. 1303).

Pursuant to Reorganization Plan No. 26 of 1950 and Treasury Department Order 190 Revision 14, July 1, 1977, the provision of Treasury Department and No. 165, Revised, November 2, 1954, and 159.47(d) of the Customs Regulations (19 CFR 159.47(d)), insofar as they pertain to the issuance of a countervailing duty order by the Commissioner of Customs, are hereby waived.

October 4, 1977.

Robert H. Mundheim,
General Counsel,
of the Treasury.

[FR Doc.77-29662 Filed 10-7-77;8:45 am]

[4810-22]

[T.D. 77-246]

STYROFOAM WORM TRAYS

Instruments of International Traffic

October 4, 1977.

Amendment to Treasury Decision 77-214 wherein Styrofoam trays used for the transportation of worms were designated as instruments of international traffic.

It has been established to the satisfaction of the U.S. Customs Service that the worm trays designated as instruments of international traffic in Treasury Decision 77-214 (42 FR 43470) are composed of foamed polystyrene rather than Styrofoam, a material which is subject to a trademark. Accordingly, Treasury Decision 77-214 is hereby amended by deleting all references to "Styrofoam" and substituting in its place the words "foamed polystyrene". This action is taken under the authority of 10.41(a)(1), Customs Regulations (19 CFR 10.41 a(a)(1)). (103046.) (BOR-7-07.)

J. P. Tebeau,
Director, Carriers, Drawback
and Bonds Division.

[FR Doc.77-29669 Filed 10-7-77;8:45am]

[8320-01]

VETERANS ADMINISTRATION

ADMINISTRATOR'S EDUCATION AND REHABILITATION ADVISORY COMMITTEE

Meeting

The Veterans Administration gives notice that a meeting of the Administrator's Education and Rehabilitation Advisory Committee, authorized by section 1792, title 38, United States Code, will be held at the Veterans Administration Central Office, 810 Vermont Avenue, NW., Washington, D.C., on October 27 and 28, 1977, at 9:30 a.m. The meeting will be for the purposes of reviewing the Veterans Administration's educational programs and developing recommendations pertinent thereto.

The meeting will be open to the public up to the seating capacity of the conference room. Because of the limited seating capacity and the need for building security, it will be necessary for those wishing to attend to contact Mr. C. L. Dollarhide, Deputy Director, Education and Rehabilitation Service, Veterans Administration Central Office (phone 202-389-2152), prior to October 24.

Interested persons may attend, appear before, or file statements with the committee. Statements, if in written form, may be filed before or within 10 days after the meeting. Oral statements will be heard at 1:30 p.m. on October 28, 1977.

Dated: October 4, 1977.

MAX CLELAND,
Administrator.

[FR Doc.77-29643 Filed 10-7-77;8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[AB 18 (Sub-No. 15)]

THE CHESAPEAKE AND OHIO RAILWAY CO.

Abandonment Portion Armitage Branch Between Oldtown and Nelsonville, in Hocking and Athens Counties, Ohio

SEPTEMBER 30, 1977.

The Interstate Commerce Commission hereby gives notice that comments received in response to the environmental threshold assessment survey (TAS) in the above-entitled proceeding have not caused the Commission's Section of Energy and Environment to modify its previous conclusion that this proceeding does not represent a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969, 42 U.S.C. 4321, et seq.

Said comments have been responded to in an addendum to the TAS which is available upon request to the Office of Proceedings, Interstate Commerce Commission, Washington, D.C. 20423, telephone 202-275-7011.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29695 Filed 10-7-77;8:45 am]

[7035-01]

FOURTH SECTION APPLICATION FOR RELIEF

OCTOBER 5, 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 October 26, 1977.

FSA No. 43442—*Newsprint Paper from Beaupre, Quebec, Canada.* Filed by Traffic Executive Association-Eastern Railroads, Agent (E.R. No. 3058), for interested rail carriers. Rates on paper, newsprint, in carloads, as described in the application, from Beaupre, Quebec, Canada, to Miami, Florida.

Grounds for relief—Water competition.

Tariff—Supplement 73 to Canadian Freight Association tariff No. 760, I.C.C. No. 325. Rates are published to become effective on November 4, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29697 Filed 10-7-77;8:45 am]

[7035-01]

[Notice No. 127TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

SEPTEMBER 30, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 903 (Sub 37TA), filed September 21, 1977. Applicant: FALWELL FAST FREIGHT, INC., P.O. Box 937, Lynchburg, Va. 24505. Applicant's representative: Wilmer B. Hill, attorney at law, 805 McLachlen Bank Bldg., 666 Eleventh St., NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products*, in bulk, in tank vehicles, from Wilmington, N.C., to Farmville, Forest, Lynchburg, Moneta and South Boston, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Exxon Company, U.S.A., P.O. Box 2180, Houston, Tex. 77001. Send protests to: Danny R. Beeler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 210, Roanoke, Va. 24011.

No. MC 1977 (Sub-No. 27TA) (Correction), filed August 15, 1977, published in the FEDERAL REGISTER issue of September 8, 1977, and republished this issue. Applicant: NORTHWEST TRANSPORT SERVICE, INC., 5231 Monroe St., Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600, Lincoln Center Bldg., Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except household goods as defined by the Commission, between Boise, Pocatello, Idaho Falls and Blackfoot, Idaho, on the one hand, and, on the other, points in the Idaho Counties of Washington, Payette, Gem, Canyon, Ada, Boise, Elmoore, Owyhee, Gooding, Twin Falls, Lincoln, Jerome, Minidoka, Cassia, Power, Oneida, Bannock, Bingham, Caribou, Franklin, Bear Lake, Bonneville, Jefferson, Madison and Fremont, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Applicant seeks to tack this with Authority held in MC 109236. Supporting shipper: There approximately one-hundred and seventy-four (174) statements of support attached to the application which may be examined at the Interstate Commerce Commission, in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: District Supervisor Roger L. Buchanan, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, Colo. 80202. The purpose of this republication is to include tacking statement which was previously omitted.

No. MC 35831 (Sub-No. 12TA) (Correction), filed July 25, 1977, published in the FEDERAL REGISTER issue of August 12, 1977, and republished this issue. Applicant: E. A. HOLDER, INC., P.O. Box 69, Kennedale, Tex. 76060. Applicant's representative: Billy R. Reid, P.O. Box 9093, Fort Worth, Tex. 76107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone, in bags*, from the plantsites of Texas Lime Company, at or near Cleburne, Tex., to points in New Mexico, Oklahoma, Louisiana, Arkansas, Kansas and Colo., for 180 days. Supporting shipper: Texas Lime Company, P.O. Box 851, Cleburne, Tex., 76031. Send protests to: Robert J. Kirspel, District Supervisor, Rm. 9A27 Federal Building, 819 Taylor St., Fort Worth, Tex. 76102. The purpose of this republication is to include territory and State's descriptions, which was previously omitted.

No. MC 60014 (Sub-No. 55TA) (Correction), filed August 5, 1977, published in the FEDERAL REGISTER issue of September 19, 1977, and republished this issue. Applicant AERO TRUCKING, INC., P.O. Box 308, Monroeville, Pa. 15146. Applicant's representative: A. Charles Tell, 100 East Broad St., Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Conduit or pipe, cement, containing asbestos fibre and fittings therefor*, from the plantsite of Cement Asbestos Products Company (subsidiary of ASARCO Incorporated), at or near Ragland, Alabama, to all points in the states of Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Michigan, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and the District of Columbia, for 180 days. Supporting shipper: Cement Asbestos Products Company, Subsidiary ASARCO Incorporated, 611 Olive St., Suite 1755, St. Louis, Mo. 63101. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Bldg., 1000 Liberty Ave., Pittsburgh, Pa. 15222. The purpose of this republication is to correct State description to read "Michigan," in lieu of Miami, which was previously typed in error.

No. MC 103926 (Sub-No. 60TA), filed September 20, 1977. Applicant: W. T. MAYFIELD SONS TRUCKING CO., P.O. Box 947, Mableton, Ga. 30059. Applicant's representatives: Wm. H. Driskell (same address as applicant), K. Edward Wolcott, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, which because of size or weight require the use of special equipment or handling, from Savannah, Ga., to points in Alabama, Florida, Georgia, Kentucky, Mississippi, North Carolina, South Carolina, Tennessee and Virginia, for 180 days. Supporting shippers: Georgia Ports Authority, 235 Peachtree St., Suite 1200, Atlanta, Ga. 30303. The Hipage Company, Inc., P.O. Box 1786, Savannah, Ga. 31402. E. L. Mobley, Inc., P.O. Box 1686, Savannah, Ga. 31402. John S. James Company, P.O. Box 2166, Savannah, Ga. 31402. Anderson Shipping Company, Two Whitaker St., Savannah, Ga. 31401. D. J. Powers Co., Inc., P.O. Box 9239, Savannah, Ga. 31402. Valiant Steel and Equipment, Inc., Number 1, Hatchcover Road, Savannah, Ga. 31402. Universal Steel & Construction Materials, Inc., P.O. Box 7115, Savannah, Ga. 31408. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 300, Atlanta, Ga. 30309.

No. MC 109533 (Sub-No. 96TA), filed September 20, 1977. Applicant: OVERNITE TRANSPORTATION COMPANY, 1000 Semmes Ave., Richmond, Va. 23224. Applicant's representative: C. H. Swanson, P.O. Box 1216, Richmond, Va. 23209. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Charleston, W. Va. and Huntington, W. Va., serving all intermediate points: From Charleston over Interstate Highway 64 to Huntington and return over same routes, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: No supporting shippers. Application due to the closing of the Huntington, W. Va. bridge by the West Virginia Highway Department. Send protests to: District Supervisor Paul D. Collins, Bureau of Operations, Interstate Commerce Commission, 400 North 8th St., Richmond, Va. 23240.

No. MC 120761 (Sub-No. 30TA), filed September 14, 1977. Applicant: NEWMAN BROS. TRUCKING COMPANY, P.O. Box 18728, 6551 Midway Rd., Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Bldg., Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulation board*, from the facilities of Johns-Manville Sales Corporation at or near Natchez, Miss., to points in Texas, Oklahoma and Ark., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Johns-Manville Sales Corporation, Ken-Caryl Ranch, Denver, Colo. 80217. Send protests to: Robert J. Kirspel District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102.

No. MC 112539 (Sub-No. 18TA), filed September 19, 1977. Applicant: PERCHAK TRUCKING, INC., P.O. Box 811, Rt. 309, Hazle Village, Hazleton, Pa. 18201. Applicant's representative: Joseph F. Hoary, 121 South Main St., Taylor, Pa. 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beryl ore*, from Hazelton, Pa., to Delta, Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Kawecki-Berylco Industries, Inc., P.O. Box 429, Hazelton, Pa. 18202. Send protests to: Paul J. Kenworthy, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 314 U.S. Post Office Building, Scranton, Pa. 18503.

No. MC 114569 (Sub-No. 191TA), filed September 20, 1977. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, Pa. 17072. Applicant's representative: N. L. Cummins (same address and applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal grass stops* (in rolls) *metal shovels; and building materials; sheet metal pipe, duct, fittings, and parts* for heating, cooling, and ventilating equipment; *sheet metal down spouts, gutters, fittings and fasteners* therefore; and advertising matter relative to and when moving in the same vehicle with above named commodities, not single piece to weigh more than 2,000 pounds. From Philadelphia, Pa. and its commercial zone to points in Alabama, Arkansas, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Ohio, Oklahoma, Tennessee, Texas, and Wisconsin. Note: This application is directly related to Petition for Modification filed May 2, 1977 and published June 16, 1977, in MC 114569 (Sub-No. 30) granted May 15, 1972 and (Sub-No. 60) granted June 4, 1964, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: (S) Rainaire Products, Inc. Camden, N.J. Southwark Metal Manufacturing Company, Philadelphia, Pa., Adelta Manufacturing Co., Inc., Philadelphia, Pa. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 118989 (Sub-No. 164TA), filed September 20, 1977. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, 53221. Applicant's representative: Rolland K. Draves (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Empty plastic containers*, from Burlington, Wis.; to Jeffersonville, Ind.; Bloomfield, and Jersey City, N.J.; for the account of Continental Diversified Industries, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Continental Diversified Industries, Highway 83S Burlington, Wis. 53105. Send protests to:

Gail Daugherty, Transportation Asst., Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 123329 (Sub-No. 32TA), filed September 15, 1977. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, 4056 Ogden Road SE., Calgary, Alberta, Canada. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, Mont. 59401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Surfactants* (Alkali) in bulk, in tank vehicles, from Willow Island, W. Va., to ports of entry on the United States-Canada Boundary line at or near Portal, N. Dak., for furtherance to points in Alberta, British Columbia and Saskatchewan, Canada, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): G. Durant, Traffic, Van Waters & Rogers, Ltd. 12425–149 Street, Edmonton, Alberta, Canada. Send protests to: Paul J. Labane, District Supervisor, Interstate Commerce Commission, 2602 First Avenue North, Billings, Mont. 59101.

No. MC 124251 (Sub-No. 40TA), filed September 19, 1977. Applicant: JACK JORDAN, INC., Highway 41 South, P.O. Box 689, Dalton, Ga. 30720. Applicant's representative: Archie B. Culbreth, Suite 246, 1252 W. Peachtree St., NW., Atlanta, Ga. 30309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid-plastic*, in bulk in pressure containers, in special van trailers, from Whitefield County, Ga., to points in Kansas, Pennsylvania, and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Latex and Chemical Corp., of Georgia, 1206 Lamar St., Dalton, Ga. 30720. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St., NW., Room 300, Atlanta, Ga. 30309.

No. MC 128256 (Sub-No. 23TA), filed September 2, 1977. Applicant: BLOSSER TRUCKING, INC., d.b.a. BLOSSER TRUCKING, 215 North Main St., Middlebury, Ind. 46540. Applicant's representative: G. D. Gerardi Jr., 215 North Main St., Middlebury, Ind. 46540. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood*, from Norfolk, Va., to Elkhart, Ind., and Pontiac, Mich., for 180 days. Supporting shipper(s): Plywood Panels, Inc., P.O. Box 12678, Norfolk, Va. 23502. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 129878 (Sub-No. 2TA), filed September 19, 1977. Applicant: FLOUR TRANSPORT, INC., 4325 Fruitland Ave., Los Angeles, Calif. 90058. Applicant's representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, from points in Los Angeles County, Calif. to points in San Diego County, Calif. for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Pillsbury Company, 5471 Ferguson Dr., Los Angeles, Calif. 90022. Send protests to: Interstate Commerce Commission, Irene Carols, Transportation Assistant, Room 1321 Federal Building, 300 North Los Angeles St., Los Angeles, Calif. 90012.

No. MC 138157 (Sub-No. 43TA), filed September 18, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, Chattanooga, Tenn. 37410. Applicant's representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, Tenn. 37412. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpeting and yarn* from the facilities of Berven Carpets Corp., Berven Rug Mills and Veridye Corp., Fresno, Calif., to points in Bartow, Catoosa, Cherokee, Chattooga, Dade, Fannin, Floyd, Gilmer, Gordon, Murray, Pickens, Walker and Whitfield Counties, Ga., Restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Berven Rug Mills, Inc., 2600 Ventura Ave., Fresno, Calif. 93717. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A–422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 138479 (Sub-No. 2TA), filed September 20, 1977. Applicant: C & C CARTAGE, INC., 740 W. Ireland Rd., South Bend, Ind. 46114. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Vinyl skirting, vinyl siding, asphalt siding and steel siding* from the facilities of Mastic Corporation at or near Stuarts Draft, Va., to points in Arkansas, Connecticut, Delaware, Florida, Illinois, Iowa, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, West Virginia, Wisconsin, Vermont and the District of Columbia, restricted to a transportation service to be performed under a continuing contract or contracts with Mastic Corporation, for 180 days. Supporting shipper: Mastic Corporation, 131 Taylor St., South Bend, Ind. 46626. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne St., Suite 113, Fort Wayne, Ind. 46802.

No. MC 141500 (Sub-No. 5TA), September 20, 1977. Applicant: SUPERIOR TRUCKING CO. INC., P.O. Box 35, Kewaskum, Wis. 53040. Applicant's representative: Richard C. Alexander, 710 N. Plankinton Ave., Milwaukee, Wis. 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal* from Davenport and Dubuque, Iowa to Buda, Fulton and Scioto Mills, Ill.; and points within the Commercial Zones of each destination City, as defined by the Commission, under a continuing contract with The C. Reiss Coal Company, for 180 days. Supporting shipper: The C. Reiss Coal Company, Sheboygan, Wis. 53081. Send protests to: Gail Daugherty, Transportation Asst, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Ave., Room 619, Milwaukee, Wis. 53202.

No. MC 142296 (Sub-No. 1TA), filed August 31, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: Lawrence A. Winkle, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a contract carrier, by motor vehicle, over irregular routes, transporting: (1) *Clothing and wearing apparel* from Paris, Tex., and Arkadelphia, Ark., to Memphis, Tenn.; and (2) *Raw materials* utilized in the manufacture and production of clothing and wearing apparel from Memphis, Tenn., to Arkadelphia, Ark., and Paris, Tex., under a continuing contract or contracts with Munsingwear, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Munsingwear, Inc., 718 Glenwood Avenue, Minneapolis, Minn. 55405. Send protests to: Opal M. Jones Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 142887 (Sub-No. 2TA) (Correction), filed August 31, 1977. published in the FEDERAL REGISTER *issue of* September 20, 1977, and republished this issue. Aplicant: NEW ENGLAND BULK TERMINAL, INC., 390 Southbridge St., Worcester, Mass. 01610. Applicant's representative: John F. O'Donnell, Barrett and Barrett, P.O. Box 238, 60 Adams St., Milton, Mass. 02187. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic dry*, in bulk, in tank vehicles, from Worcester and Leominster, Mass., to Dover, N.H.; Pownal, Vt.: Pawtucket, R.I.; Rochester, Granville, Schenectady, Yonkers, Hauppage, Brooklyn, N.Y.; Bethel, Conn.; Avenel, Edison, Tenton, Clarksville, Burlington, N.J.; Scranton and Lancaster, Pa.; and Winchester, Va., for 180 days. Supporting shipper: Borden Chemical, Division of Borden, Inc., 180 E. Broad St. Columbus, Ohio 43215. Send protests to: J. D. Perry, Jr. District Supervisor, Interstate Commerce Commission, 436 Dwight St., Rm. 338, Springfield, Mass. 01103. The purpose of this republication is correct

'MASS and Avenel' in lieu of Ma. and Avenuel, which was previously typed in error.

No. MC 143547 (Sub-No. 1TA) (Correction), filed August 19, 1977, published in the FEDERAL REGISTER issue of September 12, 1977, and republished this issue. Applicant: Grady Walker, d.b.a. GRADY WALKER USED CARS, Northeast 28th St., Fort Worth, Tex. 76117. 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: *Used passenger automobiles*, from Boston, Mass.; Detroit, Mich.; and Chicago, Ill., to Dallas, Tex., under a continuing contract, or contracts, with Texas Vehicle Management, Inc., and E. K. Arledge, Inc., in Truck-away Service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Texas Vehicle Management, Inc., 3504 Belt Line Rd., Dallas, Tex. 75234. E. K. Arlege, Inc., 525 N. Interurban, Richardson (Dallas) Tex., 75080. Send protests to: Robert J. Kirspel, District Supervisor, Room 9A27 Federal Bldg., 819 Taylor St., Fort Worth, Tex. 76102. The purpose of this republication is to include supporting shipper which was previously omitted.

No. MC 143562 (Sub-No. 1TA), filed September 19, 1977. Applicant: Donald R. Ford, d/b/a Service Transport, P.O. Box 37, 204 Poplar St., Burbank, Washington 99323. Applicant's representative: Boyd Hartman, attorney at law, Suite 210, Seattle Trust Bldg., 10655 NE. Fourth Street, Bellevue, Wash. 98004. Authority sought to operate as a Contract Carrier by motor vehicle over irregular routes, transporting meats, meat products and meat by-products and articles distributed by meat packinghouses as described in Section A and C of Appendix I, to the Report in Description in Motor Carrier Certificates, 61 M.C.C. 209 and 766. From the plant sites and/or storage facilities utilized by Columbia Foods, Inc., in Walla Walla County, Washington, to points in California, Idaho, Montana, Oregon and Washington under a continuing contract with Iowa Beef Processors, Inc. for 180 days. Supporting shipper: Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: Transportation Specialist, 858 Federal Building, 915 Second Ave., Seattle, Wash. 98174.

No. MC 143625 (Sub-No. 1TA), filed August 31, 1977. Applicant: REUNION TRANSPORT COMPANY, INC., 1087 Bourbon Place, Memphis, Tenn. 38106. Applicant's representative: Mr. John E. Madison, 1087 Bourbon Place, Memphis, Tenn. 38106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Waste chemicals*, from Memphis, Tenn., to Wilsonville, Ill.; Deer Park, Tex.; Baton Rouge, La.; Centerville, Miss.; Calvert City, Ky.; El Dorado, Ark.; and Kansas City, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lilly Industrial Coating, 2632 Channel Ave., Memphis, Tenn. 38113. Buckman Laboratories, Inc., 1256 N. McLean Blvd., Memphis, Tenn. 38108. Send protests to: Mr. Floyd A. Johnson, District Supervisor, Interstate Commerce Commission, 100 North Main Building, Suite 2006, 100 North Main Street, Memphis, Tenn. 38103.

No. MC 143639 (Sub-No. 1TA), filed September 20, 1977. Applicant: SMITH AND SMITH, INC., 4361 Headquarters Road, Charleston Heights, S.C. 29405. Applicant's representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, S.C. 29201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, in dump vehicles, from Charleston, S.C., commercial zone to Wilmington, Goldsboro, Lumberton, Monroe, and Statesville, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: W. R. Grace & Co., Agricultural Chemicals Group, P.O. Box 368, Wilmington, N.C. 28401. Send protests to: E. E. Strotheid, ICC, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens St., Columbia, S.C. 29201.

No. MC 143654 (Sub-No. 1TA), filed September 19, 1977. Applicant: DOYLE BRANT, An Individual, 4701 Valley Lane, St. Joseph, Mo. 64503. Applicant's representative: Doyle Brant (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Feed, animal or poultry*, in bag, in bulk or in bag/bulk combined, and *animal health aids and sanitation products*, also animal or poultry feed ingredients, between Elwood, Kans. commercial zone and points in Missouri, Iowa, and Nebraska, for 180 days. Applicant has also filed an underlying ETA seekup up to 90 days of operating authority. Supporting shipper: Allied Mills, Inc., West Des Moines, Iowa. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 143734 (Sub-No. 1TA), filed September 19, 1977. Applicant: CALVIN DRAGANO, INC., Box 361, Milton, Pa. 17847. Applicant's representative: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, Pa. 17101. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Scrap metal*, from Bloomsburg, Milton, and Temple, Pa., and Vineland, N.J., to Sparrows Point, Md., under a continuing contract with Vulcan Materials Co. of Birmingham, Ala., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Vulcan Materials Co., One Metroplex Drive, Birmingham, Ala. 35209. Send protests to: Charles F. Myers, District Supervisor, Interstate Commerce Commission, P.O. Box 869, Harrisburg, Pa. 17108.

No. MC 143743 TA, filed September 19, 1977. Applicant: FULTON TRUCKING CO., INC., 1195 Milton Terrace SE., Atlanta, Ga. 30315. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Rd. NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods, commodities in bulk, class A and B explosives and commodities which because of size or weight require the use of special equipment), between Atlanta, Ga., and Ellerslie, Ga. as follows: From Atlanta, Ga., over Interstate Highway 75 to junction Georgia State Highway 85, thence over Georgia State Highway 85 to junction Georgia State Highway 85W and 85E, thence over either Georgia State Highway 85W and 85E and Alternate U.S. Highway 27 to junction Georgia State Highway 85, thence over Georgia State Highway 85 to Ellerslie, Ga., and return over the same route serving all intermediate points and the off route points of Brooks, Woolsey, McDonough, Jonesboro, Stockbridge, Hampton, and Lovejoy, Ga. with the right to serve the commercial zones of all authorized points for 180 days. Supporting shipper(s): There are approximately 26 statements of support attached to application which may be examined at the Interstate Commerce Commission, in Washington, D.C. or copies, thereof may be examined at the field office below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree St. NW., Rm. 300, Atlanta, Ga. 30309.

No. MC 143744 TA, filed September 19, 1977. Applicant: DOUGLAS TRANSPORT, Rt. 1, Box 165B, Poulan, Ga. 31781. Applicant's representative: Laverne Johnson, 306 E. Kelly Street, Sylvester, Ga. 31791. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal cans, plastic containers*, and *canning machines*, from Baltimore, Md., to Eastpoint, Fla., for 180 days. Supporting shipper: Southern Can Distributor, P.O. Box 625, Eastpoint, Fla. 32328. Send protests to: District Supervisor G. H. Fauss, Jr., Bureau of Operations, ICC, Box 35008, 400 West Bay Street Jacksonville, Fla. 32202.

No. MC 143745 TA, filed September 19, 1977. Applicant: APPLE'S TRANSPORT SERVICE, 11703 Gard Avenue, Norwalk, Calif. 90650. Applicant's representative: Leonard O. Apple (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Overhead sprinkler systems and components* thereof, between Santa Fe Springs, Calif., on the one hand, and, on the other, the States of Oregon, Washington, Colorado, Utah, Nevada,

and Arizona, for 180 days. Supporting shipper: Automatic Sprinkler Corp. of America, 13100 E. Firestone Blvd., Santa Fe Springs, Calif. 90670. Send protests to: Irene Carlos, Transportation Assistant, Interstate Commerce Commission, Room 1321 Federal Building, 300 North Los Angeles Street, Los Angeles, Calif. 90012.

No. MC 143746 TA, filed September 20, 1977. Applicant: MARVIN Y. NEELY & NANCY B. NEELY, doing business as SHUN PIKE TOURS, 100 South County Line Road, Telford, Pa. 18969. Applicant's representative: Dennis Helf, Esq., Grim & Grim, 6th Street and Chestnut St., Perkasie, Pa. 18944. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, including baggage* of passengers in the same vehicle with passengers, transporting not more than 12 passengers in one vehicle, between Bucks, Montgomery, Lehigh, and Northampton Counties, Pa., and the Port of New York, and airports located in the city of New York, N.Y. for 180 days. Supporting shippers: There are approximately 13 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

By the Commission.

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

[FR Doc.77-29696 Filed 10-7-77;8:45 am]

[7035-01]

[Notice No. 128]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 3, 1977.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 25708 (Sub-No. 28TA), filed September 19, 1977. Applicant: LANEY TANK LINES, INC., P.O. Box 2729, Chapel Hill, N.C. 27514. Applicant's representative: Richard A. Mehley, 1000 16th Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, in tank vehicles, from Lancaster, S.C., and points within 15 miles thereof, to points in North Carolina and Georgia, for 180 days. Supporting shipper(s): Southern Energy, Inc., P.O. Box 100, Lancaster, S.C. 29720. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 30884 (Sub-No. 23TA), filed September 14, 1977. Applicant: JACK COOPER TRANSPORT CO., INC., 3501 Manchester Trafficway, Kansas City, Mo. 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movements, in truckaway service, from the plant sites or storage facilities of General Motors Corporation located at Detroit, Mich., to points in Arkansas, Iowa, Kansas, Missouri, Nebraska, and Oklahoma, under a continuing contract, or contracts, with General Motors Corp., for 180 days. Supporting shipper(s): General Motors Corp., 30007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 30884 (Sub-No. 24TA), filtd September 14, 1977. Applicant: JACK COOPER TRANSPORT CO., INC., 3501 Manchester Trafficway, Kansas City, Mo. 64129. Applicant's representative: Warren A. Goff, 2008 Clark Tower, 5100 Poplar Avenue, Memphis, Tenn. 38137. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Motor vehicles*, except trailers, in initial movement, in truckaway service, from the plant sites or storage facilities of General Motors Corp. located at Kansas City, Mo., to points in Michigan, under a continuing contract, or contracts, with General Motors Corp., for 180 days. Supporting shipper(s): General Motors Corp., 3007 Van Dyke Avenue, Warren, Mich. 48090. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 51146 (Sub-No. 528TA), filed September 19, 1977. Applicant: SCHNEIDER TRANSPORT, INC., 2661 South Broadway, Green Bay, Wis. 54306. Applicant's representative: Neil A. DuJardin (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from Milwaukee, Wis., to Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Polycon Industries, 1940 S. Hilbert, Milwaukee, Wis. (Berle Blitstein.) Send protests to: Gail Dougherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 47583 (Sub-No. 54TA), filed September 13, 1977. Applicant: TOLLIE FREIGHTWAYS, INC., 1020 Sunshine Road, Kansas City, Kans. 66115. Applicant's representative: D. S. Hults, P.O. Box 225, Lawrence, Kans. 66044. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fiber glass products and fiber glass roving, yarn, matting, and chopped strand*, from the plantsite and storage facilities of Certain Teed Corp. at or near Wichita Falls, Tex., to all points and places in the states of Arkansas, Colorado, Iowa, Illinois, Kansas, Minnesota, Missouri, Michigan, Nebraska, North Dakota, Oklahoma, South Dakota and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): MIA Chemical Ltd., 9300 Marshall Drive, Lenexa, Kans. 66215. Send protests to: Vernon V. Coble District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 94265 (Sub-No. 250TA), filed September 19, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., Rte. 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: William K. Gainey, Rte. 460, P.O Box 305, Windsor, Va. 23487. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from Chicago, Ill., to points in Virginia, restricted to shipments originating from the plant site of Fasano Pie Co., Chicago, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fasano Pie Co., 6201 West 65th

Street, Chicago, Ill. 60638. Send protests to: Paul D. Collins, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 107496 (Sub-No. 1108TA), filed September 19, 1977. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, Iowa 50309. Applicant's representative: E. Check (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fufural*, in bulk, in tank vehicles, from Cedar Rapids, Iowa, to Charleston, Ill., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker Oats Co., P.O. Box 3514, Chicago, Ill. 60654. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 108633 (Sub-No. 13TA), filed September 12, 1977. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 369, Bankhead Hwy., Carrollton, Ga. 30117. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment because of size or weight, Classes A and B explosives, and household goods as defined by the Commission), between Birmingham, Ala., and Memphis, Tenn. From Birmingham, Alabama over U.S. Highway 78 to Guin, Ala., thence over U.S. Highway 45 and Alternate U.S. Highways 45-278 to Tupelo, Mo., thence over U.S. Highway 78 and Tennessee State Highway 4, to Memphis, Tenn., and return, serving all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s). There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 W. Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 108633 (Sub-No. 14TA), filed September 12, 1977. Applicant: BARNES FREIGHT LINE, INC., P.O. Box 369, Bankhead Highway, Carrollton, Ga. 30117. Applicant's representative: Frank D. Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment because of size or weight, Classes A and B explosives, and household goods as defined by the Commission), (1) between Atlanta, Ga., and LaGrange, Ga., from Atlanta over Interstate Highway 85, U.S. Highway 27 and U.S. Highway 29 to LaGrange, serving the intermediate points of Hogansville, with closed doors, between Atlanta and Hogansville, and return, and (2) between Franklin, Ga., and LaGrange, Ga., from Franklin over U.S. Highway 27 to LaGrange, and return, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately 19 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Sara F. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, Ga. 30309.

No. MC 110525 (Sub-No. 1210TA), filed September 20, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, 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: Otto Fuel Composition, Chemicals NOIBN, in bulk, in specially adapted trailers, from the Naval Ordnance Station, Indianhead, Md., to the Naval Weapons Station, Yorktown, Va., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority Supporting shipper: Department of Defense, Department of the Army, Office of Staff Judge Advocate, Washington, D.C. 20315. Send protests to: Monica A. Blodgett, Transportation Assistant, Interstate Commerce Commission, 600 Arch Street, Room 3238, Philadelphia, Pa. 19106.

No. MC 11366 (Sub-No. 118TA), filed September 13, 1977. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, Pa. 16229. Applicant's representative: Daniel R. Smetanick (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry acrylic resin*, in bulk, in tank vehicles, from ports of entry between the United States and Canada located at Buffalo and Niagara Falls, N.Y., to Conyers, Ga., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chemacryl Plastics, Ltd., a subsidiary of CY/RO Industries, Berdan Avenue, Wayne, N.J. 07470. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, Pa. 15222.

No. MC 113908 (Sub-No. 407TA), filed September 9, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, (a) from ports of entry between the United States and the Republic of Mexico, located in Texas, New Mexico, Arizona, and California, and (b) from ports of entry between the United States and Canada located in New York, Pennsylvania, Washington, Detroit, and Port Huron, Mich., and Toledo, Ohio, to Burlingame, Calif., and (2) *alcohol and alcoholic liquors*, in bulk, from points in New York, New Jersey, Pennsylvania, and Maryland, to Burlingame, Calif., and (b) between the following points, Delavan and Peoria, Ill., Scobeyville, N.J., Burlingame and San Francisco, Calif., and Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Hiram Walker & Sons, Inc., Foot of Edmund Street, Peoria, Ill. 61601. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 11398 (Sub-No. 408TA), filed September 9, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, 2105 East Dale Street, P.O. Box 3180 G.S.S. Springfield, Mo. 65804, Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, and (2) *alcoholic liquors and alcohol and wines*, in bulk, from ports of entry between the United States and the Republic of Mexico, located in Texas, New Mexico, and Arizona, to points in the United States, between points in Indiana, Kentucky, Tennessee, and Pennsylvania, on the one hand, and, on the other, points in California, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Schenley Distillers, Inc., 36 East Fourth Street, Cincinnati, Ohio 45202. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 114273 (Sub-No. 299TA), filed September 19, 1977. Applicant: CRST, Inc., P.O. Box 68, 3930 16th Avenue, Cedar Rapids, Iowa 52460. Applicant's representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Unfrozen bakery goods*, from the plantsite and facilities of Midwest Biscuit Co., at or near Burlington, Iowa, to Denver, Colo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority.

Supporting shipper(s): Midwest Biscuit Co., 300 Mount Pleasant Street, Burlington, Iowa. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 118696 (Sub-No. 8TA), filed September 19, 1977. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, Ind. 46324. Applicant's representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet padding and mattress cores*, from Marion, Ind., to points in Georgia, Ohio, Kentucky, Maryland, Pennsylvania, Illinois, Minnesota, Wisconsin, Michigan, Missouri, New York, Connecticut, Iowa, and South Dakota, for 180 days. Supporting shipper(s): The General Tire & Rubber Co., Joseph S. Vatalaro, Corporate Director of Transportation, No. 1 General Street, Akron, Ohio 44329. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 119619 (Sub-No. 115TA), filed September 19, 1977. Applicant: DISTRIBUTORS SERVICE CO., 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: *Bananas and agricultural commodities* exempt from economic regulation under Section 203(b)(b) of the Interstate Commerce Commission Act, when transported in mixed loads with bananas, from Philadelphia, Pa., and points in the Philadelphia, Pa., Commercial Zone as defined by the Commission, to points in and including the Commercial Zones thereof as defined by the Commission, Cleveland, Cincinnati, and Youngstown, Ohio; Detroit and Grand Rapids, Mich.; Indianapolis and Terre Haute, Ind.; Chicago, Ill.; Pittsburgh, Pa.; and St. Louis, Mo., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pacific Fruit, Inc., Bernard Swedelson, Sales Manager, 19 Rector Street, New York, N.Y. 10006. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 121639 (Sub-No. 6TA), filed September 15, 1977. Applicant: OKMULGEE EXPRESS, INC., 207 North Cincinnati, Tulsa, Okla. 74103. Applicant's representative: Rufus H. Lawson, 106 Bixler Building, 2400 Northwest 23rd Street, Oklahoma City, Okla. 73107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except classes A and B explosives, commodities in bulk, articles of unusual value, household goods), between Henryetta, Okla., and McAlester, Okla.; between McAlester, Okla., and Poteau, Okla.; between Poteau, Okla., and the Oklahoma-Arkansas State line; between Wister, Okla., and Hodgens, Okla.; between Hodgens, Okla., and Poteau, Okla.; and between, Okla., and Henryetta, Okla., for 180 days. Supporting shipper(s): There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest 3rd Street, Oklahoma City, Okla. 73102.

No. MC 124071 (Sub-No. 12TA), filed September 15, 1977. Applicant: LIVESTOCK SERVICE, INC., P.O. Box 944, 1420 Second Avenue South, St. Cloud, Minn. 56301. 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: *Meats, meat products, meat byproducts, and articels 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), from the plantsite and storage facilities of Robel Beef Packers, Inc., St. Cloud, Minn., to Seattle, Wash.; Portland, Oreg.; Oakland, Los Angeles, and Wilmington, Calif.; Phoenix and Tucson, Ariz.; Los Vegas, Nev.; Albuquerque, N. Mex.; Denver, Colo.; Augusta and Atlanta, Ga.; Miami and Ft. Lauderdale, Fla.; Aiken and Columbia, S.C.; Charlotte and Raleigh, N.C.; Roanoke and Suffolk, Va.; Grand Junction, Colo., under a continuing contract, or contracts, with Robel Beef Packers, Inc., for 180 days. Supporting shipper(s): Robel Beef Packers, Inc., St. Cloud, Minn. 56301. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th Street, Minneapolis, Minn. 55401.

No. MC 124947 (Sub-No. 74TA), filed September 15, 1977. Applicant: MACHINERY TRANSPORTS, INC., 608 Cass Street, P.O. Box 2338, East, Peoria, Ill. 61611. Applicant's representative: David J. Lister, 1945 South Redweed Road, Salt Lake City, Utah 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and lumber products*, from points in Idaho, Montana, Oregon, and Washington, to points in Minnesota, Wisconsin, Michigan, Iowa, Illinois, Indiana, Ohio, Missouri, and Kentucky, for 180 days. Applicant has also filed an underlying ETA seeking up to 80 days of operating authority. Supporting shipper(s): There are approximately 23 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. Send protests to: Joe Green, District Supervisor, Room 240, Old Post Office Building, 215 Northwest 3rd Street, Oklahoma, City, Okla. 73102.

No. MC 12994 (Sub-No. 27TA), filed September 19, 1977. Applicant: RAY BETHERS TRUCKING, INC., 176 West Central Avenue, Salt Lake City, Utah 84107. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Corrugated pipe and pipe* fittings, from Fontana, Calif., to points in Utah, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Pacific Corrugated Pipe Co., P.O. Box 37, Lehi, Utah 84043 (N. T. Bingham, Director, Utah Operations). Send protests to: Lyle D. Helfer, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, Utah 84138.

No. MC 136371 (Sub-No. 27TA), filed September 19, 1977. Applicant: CONCORD TRUCKING CO., INC., 1 Scout Avenue, South Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used by discount department stores, for the account of Lady Rose Division, between the facilities of Lady Rose Division, at or near Westbury, N.Y., on the one hand, and, on the other Austin, Houston, and San Antonio, Tex., under a continuing contract, or contracts, with Lady Rose Division, Westbury, N.Y., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Lady Rose Division, 725 Summa Avenue, Westbury, N.Y. 11590. Send protest to: Robert E. Johnston, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 9 Clinton Street, Newark, N.J. 07102.

No. MC 138420 (Sub-No. 21TA), filed September 19, 1977. Applicant: CHIZEK ELEVATOR & TRANSPORT, INC., P.O. Box 147, Cleveland, Wis. 53015. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* from Poynette, Wis., to points in Michigan, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Oconomowoc, Canning Co., P.O. Box 248, Oconomowoc, Wis. 53066 (Patrick F. Muller). Send protests to: Gail Daugherty, Transportation Assistant,

Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 139434 (Sub-No. 3TA), filed September 16, 1977. Applicant: MID-AMERICA EXPRESS, INC., 1826 F Street, Gothenburg, Nebr. 67138. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, Nebr. 68501. 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 hides and commodities in bulk), from the plantsite of Armour & Co. and warehouse facilities utilized at or near Omaha, Nebr., to Memphis, Tenn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): D. A. Chute, Manager Transportation and Distribution, Armour Food Co., Fresh Meats Division, Greyhound Tower, Phoenix, Ariz. 85077. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Court House, 100 Centennial Mall North, Lincoln, Nebr. 68508.

No. MC 139577 (Sub-No. 9TA), filed September 13, 1977. Applicant: ADAMS TRANSIT, INC., P.O. Box 338, 204 E. Winnebago Street, Friesland, Wis. 53935. Applicant's representative: Wayne W. Wilson, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned vegetables*, from Clintonville, Antio, Cambria, Markesan, Wis., to Alabama, Florida, George, North Carolina, South Carolina, Tennessee, Virginia, Mississippi, Texas, Massachusetts, New York, and Connecticut, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Fall River Canning Co., P.O. Box 68, Fall River, Wis. 53932. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 302, Madison, Wis. 53703.

No. MC 139850 (Sub-No. 11TA), filed September 13, 1977. Applicant: FOUR STAR TRANSPORTATION, INC., 301-12 Park Bldg., Council Bluffs, Iowa 51501. Applicant's representative: Scott E. Daniel, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat by-products and articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities utilized by American Beef Packers, Inc., located at or near Oakland, Iowa, to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina and Tenn., restricted to traffic originating at the named origin and destined to the named destinations, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kenneth Hering Traffic Manager, American Beef Packers, Inc., P.O. Box 518, Oakland, Iowa. 51560. Send protests to: Carroll Russell District Supervisor, Interstate Commerce Commission, Suite 620, 110 No. 14th St., Omaha, Nebr. 68102.

No. MC 139973 (Sub-No. 27TA), filed September 19, 1977. Applicant: J. H. WARE TRUCKING, INC., 909 Brown St., P.O. Box 398, Fulton, Mo. 65251. Applicant's representative: Larry D. Knox, 600 Hubbell Bldg., Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Electrical appliances, equipment, and parts and pole-line hardware*, between Olean, N.Y.; East Stroudsburg and Cannonsburg, Pa.; and Zanesville, Ohio, on the one hand, and, on the other all points in the United States (except Alaska and Hawaii), restricted to traffic at or destined to the facilities of McGraw-Edison Company, for 180 days. Supporting shipper(s): McGraw-Edison Company, Corporate Logistics & Distribution, P.O. Box U, Columbia, Mo. 65201. Send protests to: Vernon V. Coble, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 140665 (Sub-No. 16TA), filed September 15, 1977. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Color or color additives, paint, chemicals, fiberglass materials, furnaces or kilns, and materials and supplies* used in the process of ceramic or enameling manufacturing, plastic materials and plastic articles, from Plymouth, Ind., and Chicago, Bartlett, Ill., to points in Arizona, California, Colorado, Nevada, New Mexico, Utah, Wyoming, Montana, Idaho, Oregon and Wash., for 180 days. Supporting shipper(s): Ferro Corporation, One Erieview Plaza, Cleveland, Ohio 44114. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 140665 (Sub-No. 17TA), filed September 13, 1977. Applicant: PRIME, INC., Route 1, Box 115-B, Urbana, Mo. 65767. Applicant's representative: Clayton Geer, P.O. Box 786, Ravenna, Ohio 44266. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Welding equipment and welding supplies*, from Troy, Ohio to points in the States of Texas, Louisiana, Oklahoma, Mississippi, and Ark., for 180 days. Supporting shipper(s): Hobart Brothers Company, Troy, Ohio 54373. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut St., Kansas City, Mo. 64106.

No. MC 143679 (Sub-No. 1TA), filed September 13, 1977. Applicant: William Graf, d.b.a. Wm. GRAF TRUCK LINE, Streeter, N. Dak. 58483. Applicant's representative: Charles E. Johnson, 418 East Rosser Ave., P.O. Box 1982, Bismarck, N. Dak. 58501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Hay stackers, grain drills, rock pickers, tub grinders, and insulation manufacturing plants*, from Jamestown, N. Dak., to points in South Dakota, Nebraska, Kansas, Texas and New Mexico, and (2) *iron and steel articles*, from Minneapolis, Minn., to Jamestown, N. Dak., restricted to a transportation service to be performed under a continuing contract, or contracts, with Haybuster Manufacturing, Inc., Jamestown, N. Dak., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Haybuster Manufacturing, Inc., P.O. Box 1008, Jamestown, N. Dak. 58401. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 143681 (Sub-No. 1TA), filed September 19, 1977. Applicant: S & S CONTRACT CARRIER, INC., P.O. Box 797, Royce City, Tex. 75089. 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: *Hand blown glassware for lighting fixtures*, from the facilities of Decatur Glass Works, at Decatur, Tex., to Linden, N.J., and Philadelphia, Pa., under a continuing contract, or contracts, with Decatur Glass Works, Div. Kidde Consumer Durables Corp., Decatur, Tex., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Decatur Glass Works, Div. Kidde Consumer Durables Corp., P.O. Box 502, Decatur, Tex. 76234. Send protests to: Opal M. Jones, Transportation Assistant, Interstate Commerce Commission, 1100 Commerce Street, Room 13C12, Dallas, Tex. 75242.

No. MC 143714TA, filed September 13, 1977. APPLICANT: ACACIA VAN & STORAGE CO., 56 West 15th Street, Merced, Calif. 95340. Applicant's representative: William A. Booth, 707 Wilshire Blvd., Suite 1800, Los Angeles, Calif. 90017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, between points within Merced, Madera and Mariposa Counties, and the City of Turlock in Stanislaus County, Calif., restricted to the transportation of traffic having prior or subsequent movement in interstate or foreign commerce, further restricted to

the performance of pick up and delivery service in connection with packing, crating, containerization, or unpacking, uncrating and decontainerization of such traffic, for 180 days. Supporting shipper(s): Bekins International Lines, Inc., 820 East "D" Street, Wilmington, Calif., 90744. Higa Fastpack, Inc., 465 California Street, Suite 530, San Francisco, Calif. 94104. Send protests to: Michael M. Butler, District Supervisor, 211 Main St., Suite 500, San Francisco, Calif. 94105.

No. MC 143738TA, filed September 20, 1977. Applicant: DONALD D. HAVELICK, Pado Company, 7902 Husky Way, SE., Olympia, Wash. 98503. Applicant's representative: Henry Winters, 15 So. Grady Way, Suite 235, Renton, Wash. 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and return of malt beverage containers*, between Busch-Fairfield, Calif., Seattle and Vancouver, Wash., and Sandpoint, Idaho, under a continuing contract, or contracts, with Frank's Distributors, for 180 days. Supporting shipper(s): Frank's Distributors, P.O. Box 1067, Sandpoint, Idaho 83864. Send protests to: Hugh H. Chaffe, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 858 Federal Building, 915 Second Avenue, Seattle, Wash. 98174.

No. MC 143739TA, filed September 19, 1977. Applicant: SHURSON TRUCKING CO., INC., P.O. Box 147, New Richland, Minn. 56077. Applicant's representative: William L. Fairbank, 1980 Financial Center, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and nonedible food products*, in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at Bettendorf, Iowa, to points in Colorado, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wis., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Terminal Ice & Cold Storage Co., P.O. Box 928, Bettendorf, Iowa 52766. Send protests to: Marion L. Cheney, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 S. 4th Street, Minneapolis, Minn. 55401.

By the Commission.

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

[FR Doc.77-29698 Filed 10-7-77;8:45 am]

[7035-01]

[Notice No. 129TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

October 6, 1977.

The following are notices of filing of applications for temporary authority under Section 210 a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 19311 (Sub-No. 35TA), filed September 22, 1977. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Rd., Sterling Heights, Mich. 48077. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Rd., Suite 102, Bloomfield Hills, Mich. 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and commodities requiring special equipment serving the plant site of Central Foundry Division of General Motors Corporation at Bedford, Ind., as an off route point in connection with otherwise authorized service, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): GM Logistics Operations, General Motors Corporation, 30007 Van Dyke Avenue, Warren, Mich. 48090. E. R. Wiseman, Director, Transportation Economics. Send protests to: Erma W. Gray, Secretary, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building & U.S. Courthouse, 231 West Lafayette Blvd., Detroit, Mich. 48226.

No. MC 50307 (Sub-No. 90TA), filed September 19, 1977. Applicant: INTERSTATE DRESS CARRIERS, INC., 247 West 35th Street, New York, N.Y. 10001. Applicant's representative: Arthur Liberstein, 167 Fairfield Rd., P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wearing apparel and materials, supplies and equipment* used in the manufacture of wearing apparel, except commodities in bulk, between New York, N.Y., on the one hand, and, on the other, Petersburg, W. Va., and between Petersburg, W. Va., on the one hand, and, on the other, points in Pennsylvania for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Edinburg Manufacturing Corp., 131 West 35th Street, New York, N.Y. 10001. Send protests to: Maria B. Kejss, Transportation Assistant, Interstate Commerce Commission, 26 Federal Plaza, New York, N.Y. 10007.

No. MC 82063 (Sub-No. 85TA), filed September 21, 1977. Applicant: KLIPSCH HAULING CO., 10795 Watson Rd., Sunset Hills, Mo. 63127. Applicant's representative: W. E. Klipsch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic resins*, in bulk, in tank vehicles, from Monticello, Ark., to all points in the United States (except Decatur, Ala.; Jeffersonville, Ind.; Louisville, Ky.; New Orleans, La.; Houston, Tex.; Alaska and Hawaii), for 180 days. Supporting shipper(s): Chemetics Systems, Inc., 2006 Gladwick Street, Compton, Calif. 90220. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 94265 (Sub-No. 252TA), filed September 23, 1977. Applicant: BONNEY MOTOR EXPRESS, INC., Rte 460, P.O. Box 305, Windsor, Va. 23487. Applicant's representative: William K. Gainey, Rte 460, P.O. Box 305, Windsor, Va. 23487. 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*, as described in Section A of Appendix I to the Report in *Descriptions of Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except commodities in bulk), from Smithfield, Va., to Greenville, South Carolina, Atlanta and Thomasville, Ga., and Montgomery and Birmingham, Ala., for 18 days. Supporting shipper(s): ITT, Gwaltney, Inc., P.O. Box 489, Smithfield, Va. 23430. Send protests to: Paul D. Collins, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, Va. 23240.

No. MC 103993 (Sub-No. 902TA), filed September 22, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28651 U.S. 20 West, Elkhart, Ind. 46514. Applicant's representative: Paul D. Borghesani, 28651 U.S. 20 West, Elkhart, Ind. 46514. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks*, in secondary movements, in truckaway service, from the plantsites and warehouse facilities of Midas International

Corp., and its Divisions, located at points in Elkhart County, Ind., to points in Indiana, Illinois, Kentucky, Michigan, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, Pennsylvania, Massachusetts, Connecticut, Delaware, New York, New Jersey, Maryland, Rhode Island, Georgia and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): The Frolic Division of Midas International Corp., County Road 15 South, Elkhart, Ind. 46514. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, Ind. 46802.

No. MC 111170 (Sub-No. 242TA), filed September 21, 1977. Applicant: WHEELING PIPE LINE, INC., P.O. Box 1718, 2811 N. West Ave., El Dorado, Ark. 71730. Applicant's representative: Tom E. Moore, P.O. Box 1718, El Dorado, Ark. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquid plastic resins*, in bulk, in tank vehicles, from Monticello, Ark, to points in the United States (except Alaska and Hawaii), for 180 days. Suporting shipper(s): Chemetics Systems, Inc., 2006 Gladwick Street, Compton, Calif. 90220. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 113908 (Sub-No. 412TA), filed September 15, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead, 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine and wine products*, in bulk, from points in California, to Long Prairie, Minn., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Minnesota Distillers, Inc., 609 6th Street, NE., Long Prairie, Minn. 56347. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 414TA), filed September 12, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wines, brandies, fruit juice and concentrates thereof*, in bulk, from points in California, to points in Kentucky, Missouri and New York, and from points in Kentucky, to points in Calif., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A. Perelli Minetti & Sons Wineries, P.O. Box 818, Delano, Calif. 93215. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 415TA), filed September 12, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale St., P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Alcoholic liquors*, in bulk, from ports of entry on the United States, Republic of Mexico boundary line located in Texas, New Mexico and Ariz., to Weston, Mo., and (2) *alcoholic liquors*, in bulk, from points in New York, New Jersey, Pennsylvania, Maryland, Virginia and Delaware, to Weston, Mo., for 1180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): McCormick Distilling Company, P.O. Box 38, Weston, Mo. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Bldg., 911 Walnut St., Kansas City, Mo. 64106.

No. MC 113908 (Sub-No. 416TA), filed September 12, 1977. Applicant: ERICKSON TRANSPORT CORP., 2105 East Dale Street, P.O. Box 3180 G.S.S., Springfield, Mo. 65804. Applicant's representative: B. B. Whitehead (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcohol, alcoholic liquors, neutral spirits, distilled spirits, wine, wine products, brandies, fruit juice and concentrates thereof*, in bulk, from points in California, to points in Arkansas, Florida, Georgia, Idaho, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Missouri, New Jersey, New Mexico, New York, Ohio, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and Wisconsin, for 180 days. Supporting shipper(s): A. Perelli Minetti & Sons Wineries, P.O. Box 818, Delano, Calif. 93215. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 115654 (Sub-No. 69TA), filed September 22, 1977. Applicant: TENNESSEE CARTAGE CO., INC., P.O. Box 1193, No. 1 Candy Lane, Nashville, Tenn. 37202. Applicant's representative: Henry E. Seaton, 915 Pennsylvania Building, 425 13th Street NW, Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectionery and confectionery products, chocolate syrup, and cocoa*, in mechanically refrigerated equipment, except in bulk, from Atlanta, Ga., and its commercial zone to that part of Alabama south of U.S. Highway 80, for 180 days. Supporting shipper(s): Hershey Foods Corporation, P.O. Box 47517, Atlanta, Ga. 30340. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 116073 (Sub-No. 364TA), filed September 22, 1977. Applicant: BARRETT MOBILE HOME TRANSPORT, INC., 1825 Main Avenue, P.O. Box 919, Moorhead, Minn. 56560. Applicant's representative: John C. Barrett, P.O. Box 919, Moorhead, Minn. 56560. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Travel trailers*, including fifth wheel trailers, tent and pickup campers, from the plantsite of AMF Skamper Corp. at or near Bristol, Ind., to points and places in the United States, excluding Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): AMF Skamper Corp., Box 328, Bristol, Ind. 46507. Send protests to: Ronald R. Mau, District Supervisor, Bureau of Operations, Interstate Commerce Commission, P.O. Box 2340, Fargo, N. Dak. 58102.

No. MC 116077 (Sub-No. 386TA), filed September 21, 1977. Applicant: ROBERTSON TANK LINES, INC., 2000 W. Loop South, Suite 1800, Houston, Tex. 77027. Applicant's representative: John C. Browder (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Caustic potash*, liquid, in bulk, in tank vehicles, from Corpus Christi, Tex., to Atlanta, Ga., and Goodyear, Ariz., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): PPG Industries, Inc., Pittsburgh, Pa. 15222. Send protests to: John F. Mensing, District Supervisor, 8610 Federal Building, 515 Rusk Avenue, Houston, Tex. 77002.

No. MC 116457 (Sub-No. 23TA), filed September 23, 1977. Applicant: GENERAL TRANSPORTATION INC., 1804 S. 27th Avenue, P.O. Box 6484, Phoenix, Ariz. 85009. Applicant's representative: D. Parker Crosby, 1710 S. 27th Avenue, P.O. Box 6484, Phoenix, Ariz. 85005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Logs* that are precut, milled, and notched for use in construction and erection of log buildings and building materials, hardware, and accessories necessary for the erection of log buildings, poles, railings, and posts for erection of fences, from Navajo and Apache Counties, Ariz., to points in the United States except Alaska and Hawaii, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Log Homes, 4409 N.

Saddlebag Trail, Scottsdale, Ariz. 85251. Send protests to: Andrew V. Baylor, District Supervisor, Interstate Commerce Commission, Room 2020 Federal Building, 230 N. First Avenue, Phoenix, Ariz. 85025.

No. MC 117613 (Sub-No. 21TA), filed September 21, 1977. Applicant: D. M. BOWMAN, INC., Route 9, Box 26, 15 East Oak Ridge Drive, Hagerstown, Md. 21740. Applicant's representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, Md. 21740. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Insulation and insulating materials*, between Charlottesville, Va., Kingston, N.Y., Elmswood Park, N.J., and Allentown, Pa., and their respective commercial zones, on the one hand, and, on the other, points in Maryland, Virginia, Pennsylvania, and West Virginia, under a continuing contract, or contracts, with Bow Lighting and Supply, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bow Lighting and Supply, 806 Frederick Street, Hagerstown, Md. 21740. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 11423.

No. MC 117730 (Sub-No. 19TA), filed September 21, 1977. Applicant: KOUBENEC MOTOR SERVICE, INC., Route 47, Huntley, Ill. 60142. Applicant's representative: Albert A. Andrin, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Industrial sand*, in bulk, in conveyor equipment, from Aurora, Ill., to all states in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, for 180 days. Supporting shipper(s): Faskure Coated Sand, Division of Aurora Metals, Inc., John Smillie, General Manager, 1019 Jericho Road, Aurora, Ill. 60506. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386.

No. MC 119741 (Sub-No. 85TA), filed September 20, 1977. Applicant: GREEN FIELD TRANSPORT CO., INC., P.O. Box 1235, R.F.D. No. 2, 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: *Food, food products, and food ingredients*, in vehicles equipped with mechanical refrigeration, from the plant and storage facilities of Archer Daniels Midland Co., Decatur, Ill., to points in Oklahoma and Texas, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Archer Daniels Midland Co., P.O. Box 1470, 4666 Faries Parkway, Decatur, Ill. 62525. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 123255 (Sub-No. 121TA), filed September 21, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products*, from the facilities of the International Paper Co. at or near Jay and Livermore Falls, Maine, to points in the states of Arizona, California, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Wisconsin, and those in New York on and west of Interstate 81, and the District of Columbia, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): International Paper Co., 220 East 42nd Street, Room 300, New York, N.Y. 10017. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 123255 (Sub-No. 122TA), filed September 22, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic products*, from the facilities of Amoco Plastic Products Co., Division of Amoco Chemical Corp., at or near Seymour, Ind., to points in the states of Alabama, Florida, Georgia, Maryland, Michigan, North Carolina, Ohio, South Carolina, and Wisconsin, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amoco Chemical Corp., 200 East Randolph Drive, Chicago, Ill. 60601. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 125368 (Sub-No. 23TA), filed September 23, 1977. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26, Holly Ridge, N.C. 28445. Applicant's representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, N.C. 28445. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen bakery products*, from the plant sites and storage facilities of Pepperidge Farm, Inc., at Downers Grove, Ill., to points in Connecticut, Delaware, Florida, Georgia, Massachusetts, Maryland, New Jersey, New York, Pennsylvania, and South Carolina, for 180 days. Supporting shipper(s): Pepperidge Farm, Inc., 595 Westport Avenue, Norwalk, Conn. 06851. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 310 New Bern Avenue, 624 Federal Building, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 125368 (Sub-No. 24TA), filed September 23, 1977. Applicant: CONTINENTAL COAST TRUCKING CO., INC., P.O. Box 26 Holly Ridge, N.C. 28445. Applicant's representative: C. W. Fletcher, P.O. Box 26, Holly Ridge, N.C. 28445. 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*, 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 bulks), from the plant sites and storage facilities of Swift plants located at or near Omaha, Nebr.; Des Moines, Sioux City, Glenwood, and Marshalltown, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, and from Grand Island, Nebr., to points in Alabama, for 180 days. Supporting shipper(s): Swift Fresh Meats Co., a Division of Swift & Co., 115 W. Jackson Boulevard, Chicago, Ill. 60604. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, P.O. Box 26896, Raleigh, N.C. 27611.

No. MC 126118 (Sub-No. 53TA), filed September 23, 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 Detroit, Mich., and its commercial zone to North Wilkesboro, N.C., and its commercial zone, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Boggs Distributing Co., David C. Boggs, President, 300 Boggs Lane, Johnson City, Tenn. 27601. Send protests to: Max H. Johnston, District Supervisor, Interstate Commerce Commission, 285 Federal Building, 100 Centennial Mall North, Lincoln, Nebr. 68058.

No. MC 127539 (Sub-No. 60TA), filed September 26, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98421. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, in vehicles equipped with mechanical refrigeration, from the plantsite and facilities of Leslie Foods, a Division of Leslie Salt Co., Inc., located at or near Oakland, San Jose, and Sunnyvale, Calif., to points in Oregon and Washington, for 180 days. Supporting shipper(s): Leslie Foods, a Division of Leslie Salt Co., Inc., 575 Independent Road, Oakland, Calif. 94621. Send pro-

tests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 128290 (Sub-No. 5TA), filed September 20, 1977. Applicant: EARL HAINES, INC., P.O. Box 841, Winchester, Va. 22601. Applicant's representative: Bill R. Davis, Suite 101, Emerson Center, 2814 New Springs Road, Atlanta, Ga. 30339. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wood fiber mulch and wood cellulose insulation*, from Baltimore County, Md., to points in the states of Kentucky, Virginia, West Virginia, Maryland, Delaware, New Jersey, New York, Pennsylvania, Connecticut, Rhode Island, New Hampshire, Vermont, Maine, Ohio, Massachusetts, Tennessee, North Carolina, South Carolina, Georgia, Alabama, Florida, Texas, Mississippi, Louisiana, Arkansas, Oklahoma, Michigan, Illinois, Indiana, and the District of Columbia; and recycled cardboard and recycled newsprint, on return, for 180 days. Supporting shipper(s): Superior Fiber Products Co., Suite 501, Executive Plaza II, Hunt Valley, Md. 21031. Send protests to: W. C. Hersman, District Supervisor, Interstate Commerce Commission, 12th and Constitution Avenue NW., Room 1413, Washington, D.C. 20423.

No. MC 134150 (Sub-No. 14TA), filed September 20, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, Tenn. 37412. Applicant's representative: Patrick E. Quinn, 2931 South Market Street, P.O. Box 9596, Chattanooga, Tenn. 37410. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Medical, dental and consumer care products*, from Chattanooga, Tenn., to points in the United States in and east of Montana, Wyoming, Colorado, and New Mexico, restricted against the transportation of commodities in bulk, in tank vehicles, and further restricted to a transportation service to be performed, under a continuing contract, or contracts, with Cutter Laboratories, Inc., for 180 days. Supporting shipper(s): Cutter Laboratories, Inc., Berkeley, Calif. 94710. Send protests to: Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Court House, 801 Broadway, Nashville, Tenn. 37203.

No. MC 134494 (Sub-No. 8TA), filed September 16, 1977. Applicant: WAYNE DANIEL TRUCK, INC., P.O. Box 303, Mount Vernon, Mo. 65712. Applicant's representative: Harry Ross, Jr., 58 South Main Street, Winchester, Ky. 40391. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectioneries*, from Belmont, Hayward, San Francisco, and Los Angeles, Calif., to Robinson, Ill.; Denver, Colo., and Kansas City, Mo., restricted to service at Denver, Colo., and Kansas City, Mo., limited to partial delivery of shipments which require final delivery at Robinson, Ill., under a continuing contract, or contracts, with L. S. Heath & Sons, Inc., for 180 days. Supporting shipper(s): L. S. Heath & Sons, Inc., 206 S. Jackson, Robinson, Ill. 62454. Send protests to: John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, Mo. 64106.

No. MC 134740 (Sub-No. 6TA), filed September 23, 1977. Applicant: JACK BAULOS, INC., P.O. Box 71, Oak Lawn, Ill. 60454. Applicant's representative: Stephen H. Loeb, 180 N. La Salle Street, Chicago, Ill. 60601. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Artificial Christmas trees and related Christmas novelties thereof*, from the facilities of American Tree & Wreath, a Division of American Technical Industries, Inc., at Aurora, Ill., to points in Iowa, Indiana, Michigan, Minnesota, Nebraska, North Dakota, South Dakota, and Wisconsin, under a continuing contract, or contracts, with American Tree & Wreath, a Division of American Technical Industries, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): American Tree & Wreath, a Division of American Technical Industries, Inc., Charles Nadler, Mid-West Sales Manager, 5500 W. Touhy Avenue, Skokie, Ill. 60076. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 S. Dearborn Street, Room 1386, Chicago, Ill. 60604.

No. MC 136228 (Sub-No. 31TA), filed September 22, 1977. Applicant: LUISI TRUCK LINES, INC., P.O. Box H, New Walla Walla Highway No. 11, Milton-Freewater, Oreg. 97862. 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: *Meats, meat products, and meat by-products, and articles distributed by meat packinghouses*, as described in Sections A and C of the Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Wallula, Wash., to points in Arizona, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Columbia Foods, Inc., a subsidiary of Iowa Beef Processors, Inc., Dakota City, Nebr. 68731. Send protests to: R. V. Dubay, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, Portland, Oreg. 97204.

No. MC 136379 (Sub-No. 2TA), filed September 26, 1977. Applicant: JAY WATERS, INC., 1529 North Broadway, Everett, Wash. 98201. Applicant's representative: Michael D. Duppenthaler, 607 Third Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Shakes and shingles*, from points in Clallam, Jefferson, Grays Harbor, Pacific, King, and Lewis Counties, Wash., to points in California, for 180 days. Supporting shipper(s): Robinson Plywood & Timber Co., P.O. Box 840, Everett, Wash. 98206. Hinchen Bros. Shake Inc., Box 1216, Forks, Wash. 98331. Send protests to: Hugh H. Chaffee, District Supervisor, Interstate Commerce Commission, 858 Federal Building, Seattle, Wash. 98174.

No. MC 138420 (Sub-No. 22TA), filed September 22, 1977. Applicant: CHIZEK ELEVATOR AND TRANSPORT, INC., P.O. Box 147, Cleveland, Wis. 53063. Applicant's representative: Wayne W. Wilson, 329 W. Wilson Street, P.O. Box 8004, Madison, Wis. 53708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising materials and supplies and malt beverage dispensing equipment* when moving therewith, from Detroit, Mich., to St. Louis, Mo., and (2) *rejected shipments and empty malt beverags containers*, from St. Louis, Mo., to Detroit, Mich., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Mid-America Beer Dist., Inc., 4400 Gustine Avenue, St. Louis, Mo. 63116. (Gerald R. Woodward.) Send protests to: Gail Daugherty, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, Wis. 53202.

No. MC 139858 (Sub-No. 11TA), filed September 20, 1977. Applicant: AMSTAN TRUCKING, INC., 1255 Corwin Avenue, Hamilton, Ohio 45015. 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: *Paper products and printed materials*, from Evansville, Ind., to California, Illinois, Kentucky, Missouri, Ohio, Tennessee, and Baltimore, Md., and *paper*, from Illinois, Ohio, Tennessee, Alabama, Louisiana, Mississippi, North Carolina, Pennsylvania, and Texas, to Evansville, Ind., and *scrap paper*, from Evansville, Ind., to Illinois and Ohio, restricted to traffic originating at or destined to the facilities of American Standard Inc., and limited to a transportation service to be performed, under a continuing contract, or contracts, with American Standard Inc., of New Brunswick, N.J., for 180 days. Supporting shipper(s): James P. Nelligan, General Traffic Manager, American Standard Inc., P.O. Box 2003, New Brunswick, N.J. 08903. Send protests to: Paul J. Lowry, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 5514-B Federal Building, 550 Main Street, Cincinnati, Ohio 45202.

No. MC 139756 (Sub-No. 4TA), filed September 22, 1977. Applicant: HOWARD HERLEE LISK d.b.a. HOWARD LISK, 305 Park Road, Wadesboro, N.C. 28170. 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: *Fly ash*, in bulk, in tank and hopper-type vehicles, from the facilities of Amax Resource Recovery Systems, Inc., located at or near Roxboro and Terrell, N.C., to points in South Carolina and Virginia, under a continuing contract, or contracts, with Amax Resource Recovery Systems, Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Amax Resource Recovery Systems, Inc., 2708 Church Street, Greensboro, N.C. 27405. Send protests to: Terrell Price District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Charlotte, N.C. 28205.

No. MC 140484 (Sub-No. 24TA), filed September 22, 1977. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, 2671 E. Edison Avenue, Fort Myers, Fla. 33902. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glassware, chinaware, earthenware, porcelainware, stoneware and plastic bowls, cups, dishes or plates and accessories*, from Lake City, and Jeannette, Pa., and Sebring and Bedford Heights, Ohio to points in Alabama, Georgia, Florida, and Tennessee, for 180 days. There is no environmental impact involved in this application. Supporting shipper(s): Jeannette Corp., Bullitt Avenue, Jeannette, Pa. 15644. Send protests to: Donna M. Jones, Transportation Assistant, Interstate Commerce Commission, Monterey Building, Suite 101, 8410 N.W. 53rd Terrace, Miami, Fla. 33166.

No. MC 140553 (Sub-No. 3TA), filed September 20, 1977. Applicant: ROGERS TRUCK LINE, INC., P.O. Box 125, Webster City, Iowa 50595. Applicant's representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, Iowa 50309. 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. Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Souix City and Des Moines, Iowa, to points in Alabama, Georgia, Florida, Tennessee, North Carolina, and South Carolina, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Swift Fresh Meats Co., a division of Swift & Co., 115 W. Jackson Boulevard, Chicago, Ill. 60604. Siouxland Beef Packers, Inc., P.O. Box 2371, Sioux City, Iowa 51107. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, Iowa 50309.

No. MC 140572 (Sub-No. 2TA), filed September 20, 1977. Applicant: R. C. MOORE, INC., Box 346, Waldboro, Maine 04572. Applicant's representative: Chester A. Zyblut, 366 Executive Building, 1030 Fifteenth Street, NW., Washington, D.C. 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wood and plastic products, toothpick dispensers and sporting goods and accessories*, from Wilton and Strong, Maine, to points in Pennsylvania, Delaware, Maryland, and the District of Columbia, to points in New Jersey located on and south of U.S. Highway 130 and New Jersey Highway 33 and points in New York (except New York, N.Y., and Nassau and Suffolk Counties, N.Y.), under a continuing contract, or contracts, with Forster Manufacturing Co., Inc., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Forster Manufacturing Co., Inc., Depot Street, Wilton, Maine 04294. Send protests to: Donald G. Weiler, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 307, 76 Pearl Street, Portland, Maine 04111.

No. MC 142065 (Sub-No. 8TA), filed September 23, 1977. Applicant: DAVID BENEUX PRODUCE & TRUCKING, INC., P.O. Drawer F., Mulberry, Ark. 72947. Applicant's representative: Don Garrison, 324 North Second Street, Rogers, Ark. 72756. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs and food ingredients* (except in bulk), in vehicles with mechanical refrigeration, from Crozet, Va., to points in New Jersey, New York and Pennsylvania, under a continuing contract, or contracts, with Mortons Frozen Foods, Division ITT Continental Baking Co., Inc., of Charlottesville, Va., for 180 days. Supporting shipper(s): Mortons Frozen Foods, Division ITT Continental Baking Co., Inc., 2007 Earhart Street, Charlottesville, Va. 22906. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, Ark. 72201.

No. MC 142864 (Sub-No. 2TA), filed September 21, 1977. Applicant: RAY E. BROWN TRUCKING, INC., 1266 Stuart Street, NW., P.O. Box 501, Massillon, Ohio 44646. Applicant's representative: Jerry B. Sellman, Muldoon, Pemberton, & Ferris, 50 West Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs*, from the facilities and plantsite of Kitchens of Sara Lee located at or near Deerfield and Chicago, Ill., to points in Ohio, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kitchens of Sara Lee, 500 Waukegan Road, Deerfield, Ill. 60015. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building and U.S. Courthouse, 85 Marconi Boulevard, Columbus, Ohio 43215.

No. MC 143753TA, filed September 22, 1977. Applicant: BOLES & FRANKLIN, INC., Rt. 2, Box 169, Weaverville, N.C. 28787. Applicant's representative: George W. Clapp, 109 Hartsville Street, P.O. Box 836, Taylors, S.C. 29687. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, in dump vehicles, from points in Bell, Clay, Harlan, Knox, Laurel, and Whitley Counties, Ky., and points in Anderson, Campbell, Grainger, and Morgan Counties, Tenn., to points in Buncombe, Burke, Haywood, and McDowell Counties, N.C., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kincaid Coal Co., P.O. Box 45, Thorn Hill, Tenn. 37881. Send protests to: Terrell Price, District Supervisor, Interstate Commerce Commission, 800 Briar Creek Road, Room CC516, Charlotte, N.C. 28205.

No. MC 143754TA, filed September 22, 1977. Applicant: MACZUK INDUSTRIES, INC., Route 2, New Haven, Mo. 63068. Applicant's representative: Robert L. Hawkins, Jr., 312 East Capitol Avenue, Jefferson City, Mo. 65101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Molasses, liquid feed, and liquid feed ingredients*, in bulk, in tank vehicles, from New Haven, Mo., to points in Illinois, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cargill, Inc., P.O. Box 9300, Minneapolis, Minn. 55440. Send protests to: J. P. Werthmann, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 1465, 210 N. 12th Street, St. Louis, Mo. 63101.

No. MC 143755TA, filed September 20, 1977. Applicant: GLOUCESTER NEW COMMUNITIES COMPANY, INC., R. D. 2, Box 76A, Kings Highway, Swedesboro, N.J. 08085. Applicant's representative: Eldon M. Chorney, R. D. 2, Box 76A, Kings Highway, Swedesboro, N.J. 08085. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Residents* of applicant's housing development in Woolwich and Logan Townships, Gloucester County, N.J., between Woolwich and Logan Townships, Gloucester County, N.J., and Philadelphia, Pa., under a continuing contract, or contracts, with Beckett Homeowners Association, for 180 days. Supporting shipper(s): Beckett Homeowners Association, R. D. No. 2, Box 76A, Kings Highway, Swedesboro, N.J. 08085. Send protests to: District Supervisor, Interstate Commerce Commission, 428 East State Street, Room 204, Trenton, N.J. 08608.

By the Commission.

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

[FR Doc.77-29699 Filed 10-7-77;8:45 am]

[7035-01]

[Notice No. 234]

MOTOR CARRIER TRANSFER PROCEEDINGS

OCTOBER 11, 1977.

Application filed for temporary authority under section 210a(b) in connection with transfer application under section 212(b) and Transfer Rules, 49 CFR Part 1132:

No. MC-FC 77339. By application filed September 30, 1977, JERRY J. KOBS, INC., R.R. No. 2, Walnut, IA 51577, seeks temporary authority to transfer a portion of the operating rights of IOWA PACKERS XPRESS, INC., P.O. Box 231, Spencer, IA 51301, under section 210a (b). The transfer to JERRY J. KOBS, INC., of a portion of the operating rights of IOWA PACKERS XPRESS, INC., is presently pending.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29700 Filed 10-7-77;8:45 am]

[7035-01]

[Notice N. 233]

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 November 10, 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-76638, filed October 2, 1977. Transferee: BROWN LINES, INC., 22 First St. West, Kalispell, Mont. 59901. Transferor: Lyle H. Hacke, doing business as Brown Bus Lines, 606 Montana Ave., Libby, Mont. 59923. Applicants' representative: John B. Dudis, Jr., Attorney at Law, P.O. Box 759, Kalispell, Mont. 59901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 123481, issued July 14, 1971, as follows: *Passengers and their baggage, and express and newspapers* in the same vehicle with passengers, between Bonners Ferry, Idaho, and Kalispell, Mont., serving all intermediate points from Bonners Ferry over U.S. Highway 2 to Kalispell and return over same route. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC-FC-77271, filed September 29, 1977. Transferee: Colorado-Wyoming Transfer Co., Inc., 2850 Blake St., Denver, Co. 80205. Transferor: Burge Moving and Storage, Inc., 2850 Blake St., Denver, Co. 80205. Applicants' representative: Truman A. Stockton, Jr., Attorney at Law, The 1650 Grant St. Bldg., Denver, Co. 80203. Authority sought for purchase by transferee of the operating rights of transferor set forth in Certificate No. MC 121247 (Sub-No. 2), issued April 9, 1969, as follows: Commodities, the transportation of which because of their size or weight require the use of special equipment or special handling, between Cheyenne, Wyo., and Denver, Colo., restricted to shipments originating at Cheyenne, Wyo. and destined to Denver, Colo., or originating at Denver, Colo., and destined to Cheyenne, Wyo. Transferee presently holds authority from this Commission under Certificate No. MC 136504. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77313, filed September 19, 1977. Transferee: Kenneth A. Roushey, R. D. 1, Wapwallopen, Pa. 18660. Transferor: Russell J. Haefele, doing business as A & H Trucking Co., 55 Ashley St., Ashley, Pa. 18706. Applicant's representative: Thomas F. Kilroy, Attorney at Law, Suite 406, Executive Bldg., 6901 Keene Mill Rd., Springfield, Va. 22150. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 134245 (Sub-No. 1), issued April 29, 1971, as follows: *Shredded paper and polyurethane foam*, from West Pittston, Pa., to Leitchfield, Ky., Stamford, Conn., New York, N.Y., Elizabeth, N.J., Chicago, Ill., Framingham, Mass., Baltimore, Md., and Columbus and Dayton, Ohio, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC 77316, filed September 19, 1977. Transferee: Panther Valley Carriers, Inc., R. D. No. 3, Tamaqua, Schuylkill County, Pa. 18252. Transferor: William N. stegmeier, doing business as Panther Valley Carriers, R. D. No. 3, Tamaqua, Schuylkill County, Pa. 18252. Applicant's representative: Ronald T. Derenzo, Zimmerman, Lieberman & Derenzo, Attorneys, 200 Mahantongo Street, Pottsville, Schuylkill County, Pa. 17901. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates Nos. MC 21720 and MC 21720 Sub 4, issued July 18, 1966, and May 14, 1964, respectively, as follows: Over regular routes, *Malt beverages*, from Northampton, Pa., to Charleston, S.C., over specified highways, serving no intermediate points, and *Empty malt beverage containers* on return over the above-specified route, serving no intermediate points; irregular routes, *Agricultural commodities*, from points in Lehigh and Northampton Counties, Pa., to points in New York, New Jersey, Delaware, Maryland and the District of Columbia; *Malt beverages*, from Northampton, Pa., to Baltimore, Md., New York, N.Y., and points on Long Island, N.Y., and those in New Jersey and the District of Columbia, and return; from Mahanoy City, Pa., to the District of Columbia and points in New Jersey, Now York, Ohio, Delaware, Maryland, and Virginia. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC-FC-77321, filed September 21, 1977. Transferee: DIXON LEASING CO., INC., Old Egg Harbor Road, Lindenwold, N.J. 08021. Transferor: GEORGE WASHINGTON BOYER, doing business as GEORGE W. BOYER TRUCKING, 684 Sunrise Drive, Avalon, N.J. 08202. Attorney for transferee: Robert B. Einhorn, Esquire, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, Pa. 19107. Attorney for transferor: John H. Mead, Esquire, 20 Decatur Street, P.O. Box 376, Cape May, N.J. 08204. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Permit No. MC 49071 issued April 10, 1971, as follows: Refractory products, aggregate materials, bonding materials and coatings, castables, gunning materials, insulation materials, metal anchors, clips and castings, and plastics and ramming mixes, from Philadelphia, Pa., to points in Connecticut, Delaware, Massachusetts, New Jersey, New York, and Rhode Island, and points in those parts of Maryland and Virginia on and east of U.S. Highway 15; Raw materials used in the manufacture of refractory products, from New York, N.Y., Worcester, Mass., points in Delaware and New Jersey, and points in that part of Maryland on and east of U.S. Highway 15, to Philadelphia, Pa.; Fire clay, from Crossmans, Perth Amboy, South River, Woodbridge, in Middlesex County, Millville, in Cumberland County, Trenton, in Mercer County in Winslow Junction, in Camden County, N.J., to Philadelphia, Pa.; Fire brick and clay, from Philadelphia, Pa., to Baltimore, Md., Wilmington and Dover, Del., New

York, N.Y., and points in New Jersey. Transferee presently holds no authority from this Commission. Application has been filed for temporary authority under section 210a(b).

No. MC–FC–77323 filed September 23, 1977. Transferee: Harold R. Prigmore, doing business as J & D Towing Company, 3371 South 500 West Street, P.O. Box 15439, Salt Lake City, Utah 84115. Transferor: Gerald R. Davis and Harold R. Prigmore, a partnership, doing business as J & D Towing, 3371 South 500 West Street, Salt Lake City, Utah 84115. Applicants' representative: Miss Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificate No. MC 123605, issued September 18, 1975, as follows: Wrecked or disabled motor vehicles, except passenger automobiles, in truckaway service, by means of heavy duty wrecker equipment only, between points in Davis, Salt Lake, and Weber Counties, Utah, on the one hand, and, on the other, points in Arizona, Colorado, Idaho, Montana, Nevada, Utah, and Wyoming. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–77325, filed September 23, 1977. Transferee: Swiss Ski Tours, Inc., 65–03 Myrtle Ave., Glendale, N.Y. Transferor: Swiss Ski Tours, Inc., 67–50 Thorton Pl., Forest Hills, N.Y. Applicant's representative: Gerald E. Paley, Attorney at Law, 285 Madison Ave., New York, N.Y. 10017. Authority sought for purchase by transferee of the brokerage rights of transferor, as set forth in License No. MC 12820, issued June 4, 1964, authorizing a service to be performed in connection with transportation by motor vehicle in interstate or foreign commerce as follows: Passengers and their baggage, in round trip tours, beginning and ending at Glendale, Queens County, N.Y., and extending to points in Maine, Massachusetts, New Hampshire, and Vermont. Transferor is authorized to engage in the above-specified operations as a broker at Glendale, Queens County, N.Y. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

No. MC–FC–77328, filed September 27, 1977. Transferee: William H. Ott, Inc., doing business as Texas Hot Shot Company, 3815 Irvington Blvd., Houston, Tex. 77009. Transferor: William H. Ott, doing business as Texas Hot Shot Company, 3815 Irvington Blvd., Houston, Tex. 77009. Applicant's representative: Mike Cotten, P.O. Box 1148, Austin, Tex. 78767. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in Certificates No. MC 106941 and MC 106941 (Sub-No. 2) and MC 106941 (Sub-No. 3) issued April 24, 1952, December 21, 1962, and July 19, 1967 as follows: Machinery, equipment, materials, and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and *machinery, materials,* equipment, and supplies, used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines including the stringing and picking up thereof, between Houston, Tex., on the hand, and, on the other, points in Louisiana. From Houston, Tex., to points in Texas with no transportation for compensation on return except as otherwise authorized. Machinery, equipment, materials, and supplies, used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of natural gas and petroleum and their products and by-products, and machinery, materials, equipment and supplies used in, or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipe lines, including the stringing and picking up thereof, except the stringing or picking up of pipe in connection with main pipe lines, between Houston, Tex., on the hand, and, on the other, points in Oklahoma. Machinery, equipment, materials, and supplies used in or in connection with the construction, operation, repair, servicing, maintenance, and dismantling of pipelines, other than pipelines used for the transmission of natural gas, petroleum, their products and by-products, water, or sewerage, restricted to the transportation of shipments moving to or from pipeline rights way of way, from Houston, Tex., to points in Texas, with no transportation for compensation on return except as otherwise authorized. Between Houston, Tex., on the hand, and, on the other, points in Louisiana and Oklahoma. *Earth drilling machinery and equipment, and machinery,* equipment, materials, supplies and pipe incidental to, used in, or in connection with (a) the transportation, installation, removal, operation, repair, servicing, maintenance, and dismantling of drilling machinery and equipment, (b), the completion of holes or wells drilled, (c) the production, storage, and transmission of commodities resulting from drilling operations at well or hole sites and (d) the injection or removal of commodities into or from holes or wells, between Houston, Tex., on the one hand, and, on the other, points in Louisiana and Oklahoma. From Houston, Tex., to points in Texas, with no transportation for compensation on return except as otherwise authorized. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority section 210a(b).

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

[FR Doc.77-29701 Filed 10-7-77;8:45 am]

[7035–01]

[Ex Parte No. MC–88 (Sub-No. 2)]

DETENTION OF MOTOR VEHICLES

Shipments of Uncrated New Furniture, Fixtures, and Appliances

In the order of the Commission served August 31, 1977, petitions for a stay of the prescribed uniform nationwide detention rules pending reconsideration, reopening, and judicial review were denied. On September 2, 1977, the United States Court of Appeals for the Third Circuit stayed the effectiveness of the prescribed rules.

In the order of August 31, 1977, the effectiveness of the prescribed rules was stayed with respect to "shipments of uncrated, uncartoned new furniture, fixtures, and appliances requiring inside strapping, wrapping, bracing, and other loading devices similar to those of the household goods moving industry." In staying the effectiveness of the rules, it was stated that a subnumbered proceeding would be instituted immediately "to receive evidence on the issue of an exemption or other handling." Accordingly, this proceeding will be instituted and the participants are requested to address such issues as:

(1) The current detention practices with respect to these shipments;

(2) The nature of the specific shipments and the reasons why the detention rule, in its current form, 126 MCC 803, as modified by the decision and order of the Commission served September 15, 1977, should not apply to them; and

(3) Alternative suggestions directed at modifying the prescribed rule in lieu of totally exempting specific shipments.

It is ordered: A proceeding is instituted to determine whether an exemption or other modified treatment is warranted with respect to shipments of uncrated, uncartoned new furniture, fixtures, and appliances.

This order will be served upon all interested persons and parties to Ex Parte No. MC 88, Detention of Motor Vehicles—Nationwide, North American Van Lines, Inc., Mural Transport, Inc., Office Furniture Distribution Management Association, Inc., National Furniture Traffic Conference, Inc., Hamilton Industries, The Store Kraft Manufacturing Co., Hobart Corp., Ozite Corp., Elsters, Inc., and Speed Queen, and be published in the Federal Register.

No oral hearing will be scheduled for receiving testimony in this proceeding unless a need should later appear, but any interested persons may participate in this proceeding by submitting for consideration written statements of facts, views, or arguments on the issues mentioned above, or any other subjects pertaining to those issues.

Any person intending to participate actively in this proceeding shall notify the Commission by filing the original and one copy of a statement of intent to participate, as well as the position it intends to take, with the Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423, on

or before October 31, 1977. The Office of Proceedings shall then prepare and make available to all persons a list containing the names and addresses of all parties to this proceeding, upon whom copies of all statements must be served. At the time of transmittal of the service list, the Commission will fix the time within which initial statements and reply statements must be filed.

Decided: October 3, 1977.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29894 Filed 10-7-77;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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[6715-01]

1

FEDERAL ELECTION COMMISSION.

FEDERAL REGISTER: No. 1492.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, October 6, 1977, at 10 a.m.

PLACE: 1325 K Street NW., Washington, D.C.

CHANGE IN MEETING: Please add: Office accounts—Commission's Regulation, Part 113, letter from U.S. House of Representatives Select Committee on Ethics.

PERSON TO CONTACT FOR INFORMATION:

Mr. David Fiske, press officer.

MARJORIE W. EMMONS,
Secretary to the Commission.

[S-1529-77 Filed 10-5-77;11:49 am]

[6740-02]

2

FEDERAL ENERGY REGULATORY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: To be published October 7, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: October 11, 1977, 10 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No. and Company

G-8—CP77-419, et al., Tennessee Gas Pipeline Co., a division of Tenneco Inc., et al.

G-9—RP72-133 (PGA77-2), United Gas Pipe Line Co.

KENNETH F. PLUMB,
Secretary.

[S-1530-77 Filed 10-6-77;10:12 am]

[6210-01]

3

FEDERAL RESERVE SYSTEM, BOARD OF GOVERNORS.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: 43 FR 52601, September 30, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, October 5, 1977.

CHANGES IN THE MEETING: Addition of the following closed items to the meeting:

1. Organizational issues relating to the Board's staff.

2. The Board's building project involving enclosure of the Martin Building podium area. (The previously announced meeting included consideration of any agenda items carried forward from a previous meeting; this matter was originally scheduled for a meeting on September 28, 1977.)

Previously announced closed items:

1. Proposed statement to be presented to the Senate Committee on Banking, Housing, and Urban Affairs regarding the Federal Reserve's role in the payments mechanism.

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: October 6, 1977.

THEODORE E. ALLISON,
Secretary of the Board.

[S-1532-77 Filed 10-6-77;12:35 pm]

[7590-01]

4

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Wednesday, October 12.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

10 a.m.—1. Briefing on BWR Mark I, II, III containment designs. 2. Briefing on steam generator tube leaks.

3 p.m.—1. Meeting with KMC representatives on physical search requirements. 2. Affirmation of: Proposed order in Seabrook (tentative); conflict of interest exemption.

NOTE.—The affirmations will consist of votes on matters previously reviewed individually by the Commissioners and are expected to take no more than 5 minutes.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: October 5, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1531-77 Filed 10-6-77;10:12 am]

[7590-01]

5

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, October 11, 1977.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Briefing on reactor licensing schedules.

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

Dated: October 4, 1977.

WALTER MAGEE,
Office of the Secretary.

[S-1527-77 Filed 10-5-77;9:53 am]

federal register

TUESDAY, OCTOBER 11, 1977

PART II

INTERSTATE COMMERCE COMMISSION

■

STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATIONS PAYMENTS

Proposed Rulemaking and Order

[7035-01]

INTERSTATE COMMERCE COMMISSION

[49 CFR Part 1127]

[Ex Parte No. 293 (Sub-No. 8)]

STANDARDS FOR DETERMINING COMMUTER RAIL SERVICE CONTINUATION SUBSIDIES AND EMERGENCY OPERATING PAYMENTS

Proposed Rulemaking and Order

AGENCY: Rail Services Planning Office, Interstate Commerce Commission.

ACTION: Proposed Rulemaking.

SUMMARY: In response to a petition of the Southeastern Pennsylvania Transportation Authority, the Office is reopening rulemaking in Ex Parte No. 293 (Sub-No. 8) to consider whether the commuter rail service subsidy standards should be revised to limit the subsidizer's responsibility for personal injuries and property damage.

DATES:

Comments filed by: November 10, 1977.
Reply Comments filed by: November 25, 1977.

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ADDRESS: Submit statement to:

Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20423.

SUPPLEMENTAL INFORMATION: The Rail Services Planning Office (the Office) presently has under consideration a petition filed June 3, 1977, by the Southeastern Pennsylvania Transportation Authority (SEPTA) seeking a reopening of the above-referenced rulemaking proceeding to consider amendment of the Standards for Determining Commuter Rail Service Continuation Subsidies and Emergency Operating Payments (49 CFR Part 1127). On June 10, 1977, the Consolidated Rail Corporation (ConRail) filed an opposition to SEPTA's request, and on June 16, 1977, SEPTA filed a reply.

SEPTA urges reconsideration of certain aspects of the Commuter Standards on the premise that regulations "implementing a new and rather general legislative mandate, should, no matter how carefully considered and drafted, give way to later insights developed through negotiations and dealings between the parties". ConRail opposes reopening because three of the four areas of SEPTA's concern "were not only specifically considered in the proceedings leading to promulgation of the Standards, but were also expressly reaffirmed by RSPO following mediation proceedings held February 24, 1977, at the request of SEPTA and ConRail". Should the Office decide to consider SEPTA's request on its merits, ConRail does suggest two additional areas of concern which it feels should be revisited.

The Office agrees with SEPTA that the public interest will be served by reviewing the rights and responsibilities of the commuter authorities, the operator, and the Federal Government under the commuter rail service continuation program. Upon such review, the Office has concluded that rulemaking should be instituted to consider limited revision of the standards. The prospective modification and the issues raised by SEPTA and ConRail are discussed below.

I. Financial Commitments and Responsibility

Failure of Federal Funding. Whether the burden of financial responsibility should be shifted from the subsidizer to the operator in the event the Urban Mass Transportation Administration (UMTA) fails to make advance payments under § 1127.8(h) of the Standards.

SEPTA observes that it is entirely dependent on Federal, State, and local grants for funds to continue subsidizing commuter rail service; that it has no taxing authority or other assured source of revenue; that it provides transportation services (bus, trolley, and subway) besides commuter rail; that in the event of default under its commuter rail agreement, the assets, grant moneys and revenues pertaining to these other services would be subject to levy by ConRail; and that at least in the event of a failure of Federal funding "it is simply impossible to believe that Congress could have intended such a result."

SEPTA, therefore, proposes to qualify the subsidizer's obligation to make monthly payments by amending § 1127.8 (h) of the standards as follows:

> Notwithstanding any other provision of this part, in the event that the Secretary (of Transportation) shall fail to pay any such monthly amount in advance to the subsidizer, the subsidizer's obligation to make monthly payments to the railroad for continuation of commuter rail service shall be reduced by the amount of, and for the duration of, said non-payment, unless said non-payment is occasioned by a default by the subsidizer under any Federal agreement.

There is considerable merit to SEPTA's proposed amendment of § 1127.8(h). The difficulty is that the RRR Act confers upon ConRail the right to discontinue commuter service if "an applicable rail service continuation payment * * * is not paid *when it is due*" (Section 304(e)(2)(C) (emphasis supplied). The Office is concerned about the propriety of insulating the subsidizer from service discontinuance when payments are not made on time. On the other hand, the Office recognizes that in conferring this discontinuance right on ConRail, Congress also imposed a parallel obligation on the Secretary to reimburse subsidizers for the additional costs they incur in continuing the commuter service. The Office agrees that it is patently unfair to penalize the subsidizer solely because the Federal Government does not fulfill its statutory responsibility, and in a recent ruling (Interpretation No. 5) has affirmed that UMTA is obligated to reimburse the subsidizer for the interest payable to the railroad on overdue Federal assistance.

The Office also recognizes that the statute does not call for monthly payments, much less payments in advance of service. Thus, it would arguably be a reasonable exercise of administrative discretion to excuse the subsidizer from making monthly payments solely because UMTA had not met its advance payment obligation. On balance, however, the Office believes that the public interest will best be served by preserving the existing rights and responsibilities of the parties. To date, ConRail has not elected to assert its discontinuance rights although the Federal Government has not dispersed emergency assistance funds for nearly a year. The Office presumes that ConRail has sufficient working capital to await compensation (with interest) from UMTA and that if its circumstances materially change, it will afford the subsidizers and UMTA a reasonable opportunity to bring the subsidy payments up to date. The Office also reiterates its belief expressed in the mediation summary that the public interest will be disserved unless the subsidizers and ConRail resolve their differences by spelling out mutually satisfactory discontinuance proceduress in the subsidy agreement.

Failure of Local Funding. Whether the funds and assets necessary to the continuation of SEPTA's transportation services other than commuter rail should be insulated from judgment and levy if there is a failure of local funding.

SEPTA in effect acknowledges that in the event of a default in payments, ConRail is entitled to pursue its discontinuance rights and to obtain a judgment and levy against any funds which SEPTA *"may have received for the continuation of commuter rail service and which SEPTA is legally authorized to pay over to ConRail * * *"* (emphasis supplied). SEPTA asserts, however, that to avoid adverse impact upon public health and safety, the funds and assets necessary to the continuation of its other transportation services should not be jeopardized by judgment and levy. SEPTA suggests that the Office has reached a contrary conclusion in its summary of the mediation session and has ruled that ConRail is entitled to judgment and levy in the event of a failure of local funding. SEPTA argues that Congress contemplated offers of financial assistance from subsidizers which are unable to pledge the full faith and credit of a governmental body with taxing authority and that this decision is "tantamount to a recognition that ConRail might have to bear some risk of loss." It further argues that by permitting entities such as SEPTA to offer subsidy, Congress did not intend to jeopardize the other facets of SEPTA's regional transportation system or to permit commuter rail service to be subsidized by other services. SEPTA, therefore, proposes that § 1127.3(e) be amended by adding the following clause at the end of the first sentence:

> * * * *Provided, however,* That the liability of the subsidizer for any payment to (the railroad) shall be limited to the funds which the subsidizer shall have received for the

continuation of rail service and which the subsidizer shall be legally authorized to pay to (the railroad).

Upon consideration of the contentions of the parties, the Office has concluded that it would be inappropriate to insulate by administrative regulation SEPTA's non-rail commuter assets and revenues from levy and judgment in the event of default. Section 304(c) contemplates that commuter rail service will be continued without the consent of ConRail only upon offers to make subsidy payments by financially responsible persons. Congress did not limit the liability of these persons in any respect, but on the contrary, affirmatively obligated them to make the subsidy payments when due. The statute (Section 205(d)) also directed the Office to adopt regulations "which avoid cross subsidization among commuter, intercity, and freight rail services." A regulation which effectively shifts the ultimate liability for commuter service from SEPTA to ConRail would be facially inconsistent with this statutory principle.

Contrary to SEPTA's contention, the Office did not rule in its summary of the mediation session that ConRail was entitled to judgment and levy on all its revenues and assets. This is a question of state law on which the Office expresses no opinion. The Office does believe that the parties could fashion reasonable restrictions on their judicial remedies in negotiating the operating agreement. However, in the absence of a statutory directive, the Office does not view SEPTA's proposed regulation as consistent with rail continuation provisions of the RRR Act.

SEPTA's Underlying Financial Commitments. Whether the responsibility for determining the validity of a subsidy offer should in effect be shifted from the Office to the subsidizer.

SEPTA asserts that in negotiating the operating agreement, ConRail has insisted upon receiving specific written commitments from each and every one of the state and local governments upon which SEPTA relies for funds. SEPTA argues that ConRail has effectively required commitments guaranteeing payment by the subsidizer, whereas § 1127.3 (c) only requires subsidy offers to contain "information demonstrating that the prospective subsidizer has or will have the financial resources to subsidize the service and otherwise fulfill its contractual obligations." SEPTA expresses the belief that its latest subsidy offer, on which the operating agreement was negotiated, went well beyond the information required by RSPO regulations. Acknowledging, however, that ConRail apparently disagrees, SEPTA proposes to eliminate any uncertainty by amending § 1127.3(c)(3) to require that the subsidy offer contain:

> * * * information supporting the prospective subsidizer's *reasonable belief* that it has or will have available financial resources adequate to pay the rail service continuation subsidy, *as reasonably estimated* by the subsidizer (emphasis supplied).

In its opposition, ConRail disputes SEPTA's claim that it has insisted upon "guarantees" from SEPTA's constituent governments, asserting that the letters of commitments themselves refute such an assertion. The Office will not undertake to construe the commitments made by SEPTA's constituent governments. It does reiterate the opinion experssed in the summary of the mediation session "that ConRail cannot dictate the nature and extent of SEPTA's underlying financial commitments." Thus, while SEPTA is obligated "to demonstrate through gurantees, security arrangements or other appropriate measures that it has the capacity to fulfill its commitments," ConRail has no right to dictate the form by which SEPTA manifests its financial responsibility.

The Office is also not persuaded that SEPTA's proposed amendment of § 1127.3(c)(3) is consistent with the service continuation provisions of the RRR Act. SEPTA's proposed regulation would effectively shift the duty for determining whether a person is "financially responsible" from the Office to the subsidizer. Although the Office has not been called upon to rule on the validity of any subsidy offer, under the statutory scheme, such a determination would be within its administrative discretion.

II. Interest and Penalties

Whether SEPTA should be required to pay interest on late payments in the absence of ConRail's agreement to penalty provisions which SEPTA feels are necessary to insure a satisfactory level of service.

Section 1127.3(e) of the Commuter Standards requires the subsidized to pay interest to the railroad on overdue subsidy payments. In contrast, § 1127.5(n) permits, but does not require, the imposition of negotiated penalties for inferior performance. SEPTA asserts that during negotiations, while ConRail insisted upon its "right" to receive interest on late payments (as reflected in § 9.01(c) of the operating agreement), it refused to agree to penalties for inferior performance without cash incentives (as an addition to avoidable cost) for superior performance.

In SEPTA's view, the imposition by regulation or agreement of interest on late subsidy payments is the equivalent to a liquidated damage arrangement. SEPTA does not quarrel with the concept of liquidated damages, but believes that RSPO lacks the power to impose them, particularly upon one party only. SEPTA argues that the analogous liquidated damage provision applicable to ConRail's obligations would be a penalty clause for specified breaches of the performance standards. However, because the Standards make penalties permissive rather than mandatory, SEPTA says that it is not in a position of comparable strength with ConRail to negotiate liquidated damages provisions. Therefore, SEPTA proposes that the RSPO Standards be amended as follows:

1. Replace the third sentence of § 1127.3(e) with the following sentence:

> The subsidy agreements may include reasonable provisions as agreed upon by the parties for the accrual of interest on overdue subsidy payments, at a fixed rate or a rate determinable by reference to prevailing interest rates, for such period as they remain unpaid and the railroad has not terminated the service.

2. Amend the first sentence of § 1127.5(n) to read:

> The subsidy agreements may include reasonable provisions as agreed upon by the parties for penalties for service inferior to stipulated performance standards or incentive payments for superior performance, or both.

In its opposition, ConRail points out that the Standards impose interest not only on late payments by subsidizers, but also on overpayments which are to be adjusted after the end of the subsidy year. ConRail argues that "similarly, penalties should be charged to ConRail only to the extent that it may equally benefit from performance incentives" and suggests that "SEPTA's goals would be better served by the give-and-take of negotiations on appropriate penalties and incentives than by attempting to restructure the basic financial guidelines of the Standards."

The Office is sympathetic with SEPTA's desire to negotiate penalty provisions to indue a satisfactory level of service. The Office acknowledges, too, its observation during rulemaking that the assessment of interest is "in the nature of a penalty to discourage late payments, rather than a return on investment" (see 41 FR at 20108). Nevertheless, in adopting the interest provision, the final standards provided that interest on overdue payments would accrue only "for such period as the operator agrees to waive any rights to terminate service" (41 FR at 26939). Thus ConRail's forebearance from exercising its statutory right of discontinuance when payments are not made "when due" (Section 304(e)) constitutes the quid pro quo for late payment charge. The imposition of interest on late and overpayments is also consistent with the no cross subsidization principle of Section 205(d). For these reasons, the Office adheres to its conclusion that the present interest provision should be retained.

III. Responsibility for Personal Injuries and Property Damage

Whether the responsibility for losses arising from personal injuries and property damage, which are not necessarily and reasonably sustained, should be shifted from the subsidizer to the railroad.

SEPTA asserts that it should not be responsible for reimbursing ConRail for losses caused by ConRail's own wilful, reckless or negligent conduct. SEPTA argues Congress did not intend that ConRail could intentionally injure persons or destroy a subsidizer's property, yet require the subsidizer to bear the consequent financial burden. It believes the concept of "avoidable cost" was not intended to protect ConRail against losses caused by ConRail's recklessness or negligence, and submits that "the

absence of any incentive to operate the commuter service in the manner necessary to minimize personal injuries and property damage is plainly against public policy." It argues, therefore, that ConRail must be required to bear at least part of the financial responsibility for third party claims and damage to SEPTA's facilities which are not covered by insurance where there is good reason to believe that such costs are not "reasonably and necessarily sustained." To implement this principle, SEPTA recommends that the first section of § 1127.5 (h)(13) be replaced with the following sentences:

> The subsidizers shall be responsible for costs incurred under these accounts resulting from the operation of the commuter service up to a level determined by reference to past loss experience in the operation of the commuter service. The level determined, expressed as a percentage of total costs, shall be equal to the losses experienced, expressed as a percentage of costs, for the reference period, except to the extent that adjustments are appropriate to reflect changes in the character of the service, the type of equipment used, or similar factors. The railroad shall be responsible for all costs in excess of the level so determined.

Under this approach, while the casualty reserve fund would continue to serve as a "savings account," the existence of such savings would have no effect in determining whether SEPTA or ConRail would ultimately bear a particular loss. Rather, the fund would only be available for reimbursement to the extent that aggregate losses did not exceed past losses for the level of service provided.

The necessity for such a provision has, in SEPTA's view, already been demonstrated by an accident in May 1977, when a three-car commuter train was derailed after having struck a car door which had fallen from a ConRail freight train. There were no personal injuries, but damage to the three cars is estimated at $50,000, none of which is covered by insurance. SEPTA asserts that this is obviously a case in which at least an inference of ConRail negligence can be drawn from the presence of a freight car door on the tracks.

ConRail opposes any change in the casualty loss regulations, relying upon the following ruling of the Director during the mediation proceedings:

> This matter was exhaustedly considered by the Office in the rulemaking in which the regional freight standards were adopted (41 FR at 3402). In my opinion, no casualties would occur, or liabilities accrue, but for the provision of subsidized commuter or freight service. In these circumstances, the ultimate responsibility for personal injury and property damage must be borne by the subsidizer and, in the absence of ConRail's consent, cannot be shifted to the operator of the contract service. This is not to say that ConRail is entitled to an indemnification provision in its Subsidy Agreement with SEPTA; however, under the standards, (§ 1127.5(k)(13)), SEPTA is responsible for any costs incurred for personal injury and property damage resulting from the operation of its commuter service. The standards make provision for insurance to underwrite these losses, and, at SEPTA's option, require ConRail to establish a casualty reserve fund for the purpose of holding SEPTA harmless for personal injury and property liability. Should, however, insurance and/or such fund prove insufficient, SEPTA must bear ultimate responsibility for these liabilities. *See* Rulings, p. 7.

The casualty loss issue, which arises under both the Commuter and Freight Standards, has been a serious and difficult one to resolve. Under both standards, the ultimate responsibility for personal injury and property damage is imposed upon the subsidizer on the premise that no casualties would occur, or liabilities accrue, but for the provision of subsidized service (see 41 FR at 32533 and 41 FR at 3402). At the present time, subsidizers are acting as self-insurers for per claim casualty liabilities under $2,000,000 and ConRail has obtained insurance protecting them against claims between $2,000,000 and $50,000,000. ConRail has no insurance for catastrophic losses in excess of $55,000,000. Thus, in the event of catastrophe, claims over $50,000,000 would have to be paid out of the casualty reserve fund, and, if the fund were exhausted, must be borne ultimately by the subsidizer. To ameliorate this problem, Senator Harrison A. Williams, Jr., has introduced the Commuter Rail Passenger Service Continuation Act of 1977 (S. 1890), Section 301 of which would reduce the subsidizers' ultimate exposure to claims under $2,000,000 and over $50,000,000 by authorizing the United States Railway Association to reimburse them for uninsured casualty losses in amounts not to exceed $50,000,000 for any single occurrence.

In view of the pending legislation, the Office believes that the public interest would be served by soliciting the views of the parties on the casualty loss issue. Those desiring to express their views should brief the following questions:

1. Whether the railroad should be responsible for its own wilful, reckless or negligent conduct.
2. Whether Issue 1 should be resolved differently, if the railroad's conduct causes direct personal injury or property damage to the subsidizer, as distinguished from third parties.
3. Whether the railroad should be responsible for excess losses as measured by past loss experience in the operation of a similar level of commuter service.
4. Whether the railroad or the subsidizer should be responsible for losses arising from unintentional accident or act of God.
5. Whether the ultimate responsibility for catastrophic loss should be shifted from the subsidizer to the federal government.

IV. Required Detail in Submitting Subsidy Estimates and Financial Status Reports

Whether the Standards should be amended to require more detail regarding the subsidy estimate and the revenues earned and expenses incurred in the actual commuter operation.

SEPTA asserts that ConRail's subsidy estimate cannot be meaningfully assessed because ConRail is not required to elucidate, and the subsidizer is not permitted to evaluate, the factual assumptions on which the estimate is based. SEPTA further asserts that the financial status report is not sufficiently detailed to enable it to make a reasonably competent determination that the reported costs reflect ConRail's actual experience in the operation of the commuter service. SEPTA says the Standards become meaningless if a subsidizer is required to rely entirely not only upon ConRail's good faith, but also upon the accuracy of ConRail's bookkeeping and calculations.

SEPTA urges that the subsidy estimate and financial status report be more detailed, so that it will be in a better position to explain and justify the levels of funding to its financial sources and so it will be in a position to determine how the operation of the commuter service may be made more efficient. SEPTA, therefore, proposes the following changes in § 1127.3 (d) and (f):

> (1) An explanation of how the "projected" amounts in the financial status reports are arrived at, i.e., whether by proration of the amounts in the annual estimate or otherwise;
>
> (2) Under passenger revenues, amounts attributable to fare increases and to pass rider allowances;
>
> (3) Under other revenues, amounts attributable to leases, parking lots, advertising, lockers, telephones, and other concessions;
>
> (4) Under costs for maintenance of way and structures, maintenance of equipment, and transportation, separate amounts for material, labor and any other cost category;
>
> (5) Inclusion of fringe benefits under the various "labor" amounts, rather than as a separate item;
>
> (6) Under transportation, an amount for the cost of power (electric power and diesel fuel); and
>
> (7) Under the labor amounts, numbers of employees utilized, as compared to the Manpower Utilization Plan.

ConRail opposes the foregoing revisions, believing that specific informational requests should be handled individually during the course of the negotiation of the subsidy agreements, rather than attempting through rulemaking to harmonize the disparate information demands of the several subsidizers. ConRail affirms that it is willing to confer with subsidizers and to provide them such additional financial information they may deem necessary, subject only to the receipt of appropriate reimbursement therefor. And, although it opposes the attempt to utilize the subsidy estimate and quarterly financial status reports to assess the efficiency of particular commuter lines, it is prepared to cooperate with the subsidizer in developing information designed to quantify real cost savings.

Section 1127.9 of the Standards provides that the subsidizer shall have reasonable access, at a time and a place mutually agreeable to the parties, to inspect, audit and copy the records of the railroad. SEPTA has not asserted that its right of access is in any way deficient or that ConRail has refused to cooperate in supplying information. Hence, the Office cannot agree that SEPTA must rely not only upon ConRail's good faith but the accuracy of its bookkeeping and calculations.

It should be recognized that the initial subsidy estimates were necessarily based

on "best available data" (§ 1127.3(b)). Future estimates will, however, be predicated on actual operating experience under the subsidy program; therefore, by instituting the appropriate auditing procedures, SEPTA should be in a position to make a meaningful assessment of future subsidy estimates. In any event, the Office assumes that ConRail would respond to reasonable requests to explain the factual basis upon which future estimates are based. If this assumption proves incorrect, the subsidizer can petition the Office for relief.

V. ACKNOWLEDGEMENT OF DISCONTINUANCE RIGHT

Whether a subsidizer must acknowledge the exclusivity of the railroad's Federal discontinuance rights in the subsidy agreement.

ConRail argues that in its petition SEPTA has asserted that "ConRail be required to choose between alternative remedies of discontinuance of service or actual reimbursement of cost." In such circumstances ConRail believes that the subsidizer must acknowledge that ConRail's right of discontinuance is exclusively governed by Section 304(e and a) of the RRR Act.

The Office perceives no reason to change the opinion expressed by its Director in the summary of the mediation session:

ConRail correctly perceives Congressional intent to set forth exclusive discontinuance procedures in Section 304(a) of the RRR Act for rail passenger service mandated under Section 304(e). Nevertheless, I do not believe that an acknowledgment by SEPTA of this statutory interpretation is an integral provision of the Subsidy Agreement. I firmly believe, however, that the public interest will be disserved unless the parties resolve this issue, and strongly recommend that the parties spell out mutually satisfactory discontinuance procedures in the Subsidy Agreement.

VI. RESPONSIBILITY FOR PERFORMANCE BY AMTRAK

ConRail asserts that in its petition SEPTA is urging that ConRail be required to accept penalties for inferior service without being entitled to parallel incentives in the event of superior performance. ConRail argues that should "such a one-sided provision" be adopted, those commuter services necessarily delegated to Amtrak should not be included within any such mandatory penalty provisions.

ConRail's arguments regarding its responsibility for performance by Amtrak were carefully considered in the mediation session and the Office perceives no reason to change its view. In any event, contrary to ConRail's belief, SEPTA has not asserted in its rulemaking petition that penalty provisions should be made mandatory.

Persons interested in expressing their views on the casualty loss issues (Part III above) should submit an original and six copies of their statements on or before November 10, 1977 to:

Rail Services Planning Office, Interstate Commerce Commission, Washington, D.C. 20423.

Reply statements may be submitted on or before November 25, 1977.

This is not a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969.

Issued October 5, 1977, by Alan M. Fitzwater, Director, Rail Services Planning Office.

H. GORDON HOMME, Jr.,
Acting Secretary.

[FR Doc.77-29664 Filed 10-7-77;8:45 am]

federal register

TUESDAY, OCTOBER 11, 1977
PART III

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS AND INSTITUTIONAL GRANTS

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 179]

GRADUATE AND PROFESSIONAL STUDY FELLOWSHIPS AND INSTITUTIONAL GRANTS

Proposed Rules, Procedures and Criteria

AGENCY: Office of Education, HEW.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Commissioner proposes new regulations (45 CFR Part 179) to establish rules, procedures, and criteria governing the award of fellowships for graduate and professional study and the award of institutional grants to expand or improve graduate or professional study programs.

DATES: Comments on or before November 10, 1977.

ADDRESSES: Comments should be sent to Bureau of Higher and Continuing Education, Division of Training and Facilities, U.S. Office of Education, Room 3066, Regional Office Building No. 3, 7th and D Streets SW., Washington, D.C. 20202. Comments will be available for public inspection at the above office, between 8:30 a.m. and 4:00 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Dr. Donald Bigelow, Bureau of Higher and Continuing Education, 7th and D Streets SW., Regional Office Building No. 3, Room 3709, Washington, D.C. 20202. Telephone 202-245-2347.

SUPPLEMENTARY INFORMATION: Subject to funds being made available through enactment of the Labor-HEW Appropriations Act, public meetings will be held in three cities. (If necessary, a timely notice of cancellation will be published in the FEDERAL REGISTER.)

The date and time for each meeting follow:

DATES

October 18, 1977, New York City, N.Y., 1:30 p.m. to 4:30 p.m.

October 20, 1977, Denver, Colo., 1:30 p.m. to 4:30 p.m.

October 26, 1977, Atlanta, Ga., 1:30 p.m. to 4:30 p.m.

ADDRESSES

The public meetings will be held at the following locations:

New York City, in Room 109 of Warren Weaver Hall, New York University, 251 Mercer Street, 10012

Denver, Colorado, in the Auditorium of the Main Post Office Building, 1823 Stout Street, 80202

Atlanta, Georgia, in Davage Auditorium, Haven-Warren Hall, Clark College, 240 Chestnut Street, SW., 30314

FOR FURTHER INFORMATION CONTACT

WASHINGTON, D.C.

Donald N. Bigelow, telephone: 202-245-2347.

NEW YORK CITY, N.Y.

Francis M. Hammond, Office of Education, DHEW, 26 Federal Plaza, 10007, telephone: 212-264-4025.

DENVER, COLORADO

Norbert K. Baumgart, Office of Education, DHEW, Federal Building, 19th and Stout Streets, 80294, telephone: 303-837-3733.

ATLANTA, GEORGIA

Ken A. Brunner, Office of Education, DHEW, 50 Seventh Street, NE., 30323, telephone: 404-257-2891.

Pub. L. 94-482, The Education Amendments of 1976, amended Title IX-B of the Higher Education Act of 1965, to enlarge the scope of the program to provide fellowships for graduate study to permit the award of fellowships for professional study as well. The Commissioner is proposing regulations to govern the award of those fellowships. Conjointly, the Commissioner is also proposing regulations to govern the award of institutional grants authorized under Title IX-A to strengthen and improve the quality of graduate and professional programs.

SUMMARY OF COMMENTS AND RESPONSES

In the Notice of Intent to issue regulations published in the FEDERAL REGISTER of December 22, 1976 (41 FR 55749), the Commissioner invited comments on several issues arising from the 1976 Education Amendments concerning the graduate and professional study programs. The following is a summary of the comments received and the responses of the Office of Education:

Comment. The statute requires that the State Commission have an opportunity to comment on an application for an institutional grant. One respondent recommended that the State Commission have the right to comment after the application is received in Washington but before a decision is made on funding. Another suggested that an applicant provide assurances that it has sent a copy of the application to the State Commission. The Commission could then provide comments to the institution and the Commissioner.

Response. The Commissioner proposes that an applicant provide assurances in the application that the State Commission has been given an opportunity to offer recommendations on the application to the applicant and to the Commissioner.

Comment. The statute requires that a program described in an application for an institutional grant be consistent with State, regional, or national priorities. One commenter recommended that the applicant assume the burden of demonstrating consistency with priorities. Another person suggested that the panels reviewing the applications should be familiar with State, regional, and national priorities and that their judgment about consistency should be accepted.

Response. The Commissioner agrees that the applicant should demonstrate consistency with State or regional, or national priorities and that the reviewing panels should consider the degree of consistency when evaluating applications. The proposed criterion in § 179.26 (b) (4) and (b) (5) reflects this decision.

Comment. The statute authorizes grants for the development of proposed graduate and professional programs. One person recommended that the Commissioner give highest priority to proposals for innovation in existing programs or for re-direction of those programs. Another commenter advised caution in allocating funds for new, innovative, and expanded graduate programs since there are already a large number of strong graduate programs. One respondent urged that a substantial portion of the funds be used to enhance and maintain the quality of traditional programs, but that some funds be used to develop or revise doctoral programs to prepare students for nonacademic or nontraditional employment.

Response. The Commissioner agrees that a balance is required among awards and criteria will be developed which will assure this result in the light of national needs as determined, from time to time, by the Commissioner, and published in the FEDERAL REGISTER.

Comment. Section 923 of the Higher Education Act, as amended, requires the Commissioner to award fellowships only to individuals who are enrolled in a course of study leading to a doctor of philosophy, doctor of arts, or an equivalent degree. One respondent suggested that "equivalent degree" means the terminal degree that is appropriate and acceptable for senior faculty appointment in a field of study. Another suggested that the Commission adopt the definition used by the Association of Graduate Schools or the Council of Graduate Schools. One commenter contended that the juris doctor (J.D.) should be considered as equivalent to a Ph. D. Another person suggested that the regional accrediting associations certify to the equivalence of the professional degree work in question.

Response. The Commissioner will interpret "equivalent degree" to mean the usual terminal degree awarded in a discipline or a professional field. However, the Commissioner will not award fellowships to individuals pursuing a degree from which funds from other Federal programs are available, or to those pursuing a degree from a school or department of divinity.

Comment. Several commenters offered suggestions about how the Commissioner should award the fellowships. Most of those who commented recommended that the Commissioner allocate the fellowships to institutions.

The institution would recommend to the Commissioner qualified students to receive the fellowships. One person recommended that at least one-third of the fellowships be awarded on the basis of merit in a national competition. Another suggested that ten percent of the fellowships be awarded through national competition.

Response. The Commissioner believes that the statutory requirements intend that fellowships be awarded to individ-

uals with varied backgrounds and experiences; therefore that by allocating fellowships to institutions, this requirement can better be fulfilled. The Commissioner believes this method will provide greater opportunity for more students from traditionally underrepresented groups and in different areas of the country, since the Commissioner can allocate fellowships to those institutions, which demonstrate an ability to provide training for those students. This process will also encourage the development of strong graduate and professional programs in all geographical areas of the United States, making programs more accessible to most students.

Comment. The statute requires the Commissioner to determine present and projected personnel needs in all areas of education beyond the high school and in other career fields of high national priority. The majority of respondents stated that there is no need for further manpower studies. Some suggested that the Commissioner obtain information from the Department of Labor, the National Science Foundation, the Research Council's Commission on Human Resources, and various professional associations. One commenter contended that there should be a balance between training for immediate national needs and training in the traditional basic academic fields. Another contended that there is a strong national interest in training professionals to serve in certain areas of the law.

Response. The Commissioner will use all available information on manpower needs from appropriate organizations, associations, and government agencies. The Commissioner also plans to convene a broad-based group of knowledgeable individuals from inside and outside of the Federal government to assist in determining those academic and other career fields "of importance to the national interest," and to publish these priorities in the FEDERAL REGISTER.

Comment. When awarding fellowships the Commissioner must consider the need to prepare a larger number of individuals from minority groups which have been traditionally underrepresented in colleges and universities. However, a graduate or professional institution may not grant preference or disparate treatment to minorities in the administration of the fellowship program. Regarding the definition of minority groups, one respondent noted that Federal agencies had already established a definition. Another wrote that the term should not be defined since the law prohibits preferential or disparate treatment and that financial need should be an eligibility criterion. Another suggested that minority status should be one factor in a weighted formula for allocation of fellowships. One person recommended that women be considered as a minority.

Response. The Commissioner will be guided by current practices in programs in the Department of Health, Education, and Welfare for special groups. When evaluating an application from an institution for an allotment of fellowships, the Commissioner will consider the institution's plans for considering the needs of the traditionally underrepresented.

Comment. The statute requires the Commissioner to set rates for fellowship stipends and institutional allowances which are comparable to those prevailing under other Federal fellowship programs. Two commenters suggested that the rates paid by the fellowship program under the National Institutes of Health and the National Science Foundation serve as a guide.

Response. The Commissioner will consider the rates paid by those programs and others in making his final decision. The maximum amount which a student may receive and the amount of the institutional allowance are announced in the attached Notice of Proposed Rule Making and in the application materials.

Title 45 of the Code of Federal Regulations is amended by adding a new Part 179 to read as set forth below.

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

(Catalog of Federal Domestic Assistance Number 13.580 Graduate and Professional Study Fellowships and Institutional Grants)

Dated: July 7, 1977.

ERNEST L. BOYER,
United States Commissioner of Education.

Approved: September 29, 1977.

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

Title 45 of the Code of Federal Regulations is amended by adding a new Part 179 to read as follows:

Subpart A—General Provisions

Sec.

179.1 Introduction.
179.2 Purpose.
179.3 Definitions.
179.4 Review of applications.

Subpart B—Institutional Grants

179.21 Purpose.
179.22 Eligible institutions.
179.23 Application contents.
179.24 Authorized activities.
179.25 Grant limitations.
179.26 Criteria for institutional grants.
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Subpart C—Graduate and Professional Fellowship Program

179.41 Purpose.
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179.44 Criteria for allocating fellowships.
179.45 Length of fellowships.
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179.48 Interruption of fellowship tenure.
179.49 Vacated fellowships.
179.50 Amount of the fellowship.
179.51 Institutional allowance.
179.52 Payment procedures.
179.53 Records and reports.

AUTHORITY: Title IX (Parts A and B) of the Higher Education Act of 1965, secs. 901–904; 921–925, as amended (20 U.S.C. 1134–1134h), unless otherwise noted.

Subpart A—General Provisions

§ 179.1 Introduction.

These regulations govern the award of institutional grants for graduate and professional programs under Title IX–A of the Higher Education Act, as amended, and of fellowships for graduate and professional programs under Title IX–B of the Higher Education Act, as amended.

(920 U.S.C. 1134–1134b; 1134d–1134h)

NOTE.—Institutional grants for public service programs under Title IX–A are governed by 45 CFR Part 194, and fellowship grants for public service under Title IX–C are governed by 45 CFR Part 195.

§ 179.2 Purpose.

The Commissioner is authorized:

(a) To make awards to institutions of higher education to strengthen, improve, and expand the quality of graduate and professional programs leading to an advanced degree (other than a medical degree); or

(b) To award fellowships to be used in approved graduate or professional programs at institutions of higher education; or

(c) Both.

(20 U.S.C. 1134–1134b; 1134b–1134h)

§ 179.3 Definitions.

As used in this part:

(a) "Academic career" beyond high school means a career at some level of postsecondary education as a teacher, administrator, or educational specialist.

(b) "Act" means the Higher Education Act, as amended.

(c) "Fellow" is a fellowship recipient.

(d) "Fellowship" is an award by the Commissioner to a person for graduate or professional study under Title IX–B of the Act.

(e) "Graduate study" means study leading to a degree of doctor of philosophy, doctor of arts, or an equivalent degree.

(f) "Institution" means an institution of higher education as defined in section 1201(a) of the Act.

(20 U.S.C. 1141(a))

(g) "Professional study" means any post-baccalaureate study leading to the recognized terminal degree in a career field.

(h) "Project" means the activity or a combination of activities proposed and carried out under an institutional grant.

(i) "Title IX–A" means Title IX–A of the Act, which authorizes grants for institutional support at both the graduate and undergraduate levels related to graduate and professional study programs.

(j) "Title IX–B" means Title IX–B of the Act, which authorizes fellowships for graduate and professional study in approved programs in institutions of higher education.

(20 U.S.C. 1134; 1134d)

§ 179.4 Review of applications.

(a) Applications for institutional grants for graduate and professional

study programs under Title IX–A will be reviewed in accordance with the criteria in § 179.26.

(b) Applications for allocations of fellowships to approved programs under Title IX–B will be reviewed in accordance with the criteria in § 179.44.

(c) Applications will be received and reviewed only in response to a Notice of Closing Date which the Commissioner publishes in the FEDERAL REGISTER.

(20 U.S.C. 1134–1134b; 1134d–1134h)

Subpart B—Institutional Grants

§ 179.21 Purpose.

The Commissioner makes grants to institutions of higher education under Title IX–A to strengthen and improve graduate and professional programs leading to advanced degrees (other than medical degrees). The Commissioner also makes grants to strengthen undergraduate programs when he determines that strengthened undergraduate programs will contribute to the purposes of Title IX–A.

(20 U.S.C. 1134(a)(1) and (3))

§ 179.22 Eligible institutions.

Only institutions of higher education as defined in § 179.3 are eligible to receive grants under this subpart.

(20 U.S.C. 1134a)

§ 179.23 Application contents.

An application, under this subpart must:

(a) Describe a graduate or professional study program and propose activities for conducting the program which are likely to make substantial progress towards achieving the program goals;

(b) Provide an assurance that the State Commission established or designated under Section 1202 of the Act has been given an opportunity to offer recommendations on the application both to the institution and to the Commissioner; and

(c) Include information which enables the Commissioner to evaluate it on the basis of the criteria in § 179.26.

(20 U.S.C. 1134a)

§ 179.24 Authorized activities.

(a) Funds may be used for activities:

(1) To strengthen, expand, and improve academic programs of graduate and professional education; and

(2) To strengthen undergraduate programs when the Commissioner determines that strengthened undergraduate programs will contribute to the purposes of Title IX–A.

(b) Eligible activities are:

(1) Faculty improvement;

(2) Expansion of graduate and professional programs of study;

(3) Acquisition of appropriate instructional equipment and materials;

(4) Cooperative arrangements among graduate and professional schools;

(5) Strengthening graduate and professional school administration;

(6) Development of proposed graduate and professional programs; and

(7) Needed innovation in graduate and professional programs.

(20 U.S.C. 1134b(a))

§ 179.25 Grant limitations.

No funds provided under this subpart may be used for:

(a) Payment in excess of 66⅔ percent of the total cost of the project or activity described in the institution's application;

(b) Payment in excess of 50 percent of the cost of the purchase or rental of books, audiovisual aids, scientific apparatus, or other materials or equipment, less any percent of that cost, as determined by the Commissioner, which is paid from sums received (other than those under this part) as Federal financial assistance;

(c) Sectarian instruction or religious worship, or primarily in connection with any part of the program of a school or department of divinity;

(d) Construction or renovation of buildings, or the cost of leasing space; or

(e) Fellowship assistance to students.

(20 U.S.C. 1134b(c))

§ 179.26 Criteria for institutional grants.

The Commissioner shall take into account the following considerations when evaluating applications for institutional grants:

(a) The extent to which the funding helps to provide, as far as practicable, a wide distribution of graduate and professional study programs throughout the United States,

(b) The extent to which the proposed project ranks high on the criteria set forth below, with maximum point scores for each criterion as shown. The criteria replace the general criteria for direct project grant and contract programs contained in 45 CFR 100a.26(b).

(1) The project proposes activities which would be of assistance in providing graduate and professional education to persons with varied backgrounds and experiences including, but not limited to, underrepresented and minority groups (20);

(2) Procedures are incorporated in the project scheme to evaluate its effectiveness (5);

(3) The estimated budget is sufficient in relation to the project objectives and is adequate to support its successful completion (10);

(4) The project is consistent with State or regional priorities (10);

(5) The project includes new programmatic arrangements related to the thrust of the program. These may be arrangements involving undergraduate, professional, or other graduate units within the institution, or arrangement with outside institutions or agencies (10);

(6) The educational and other related experiences of the personnel conducting the project qualify them to participate, and the director is given clear responsibility, ample time, and sufficient authority (15);

(7) The project provides activities as part of the course of studies which are innovative or clearly enhance the program emphasis (5); and

(8) The overall graduate or professional academic program of the institution is strong enough to assure the success of the project when measured by criteria such as the following:

(i) The academic requirements are sufficient to support a high quality program (10);

(ii) Institutional resources such as facilities, equipment, and libraries are adequate (5);

(iii) The program offers opportunities for relevant, supervised practicums or other comparable experiences (10).

(20 U.S.C. 1134b)

§ 179.27 Duration of program assistance.

(a) Grant awards made pursuant to this subpart will be for a period of one year.

(b) A grant application may be filed proposing a program with a duration in excess of one year. This application must be accompanied by an explanation of the the need for multi-year support, an overview of the objectives and activities proposed for each year, and budget estimates to attain these objectives in any subsequent year. If the Commissioner finds that the application demonstrates that multi-year support is needed to carry out the proposed program, he may, in the initial notification of grant award, indicate an intention to assist the program on an appropriate multi-year basis through continuation grants.

(c) Continuation grants are subject to availability of funds and, consequently, are made only in response to an application in each subsequent fiscal year and upon a determination by the Commissioner that:

(1) The grantee has complied with the grant terms and conditions, the Act, and the regulation;

(2) The program has met its original goals to date; or will do so as the result of constructive changes proposed by the on-going evaluation.

(20 U.S.C. 1134)

§ 179.28 General provisions regulations.

Assistance under Title IX–A for institutional grants for graduate and professional study programs is subject to provisions contained in Subchapter A of this chapter (relating to fiscal, administrative, property management, and other matters).

(20 U.S.C. 1134–1134b)

Subpart C—Graduate and Professional Fellowship Program

§ 179.41 Purpose.

The purpose of this program is to award fellowships for study leading to an advanced degree in a graduate or professional study program approved by the Commissioner.

(20 U.S.C. 1134e and 1134f)

§ 179.42 Approved programs.

The Commissioner allocates fellowships to institutions of higher education

which have programs approved by the Commissioner. The Commissioner approves a program if:

(a) The program enables persons to prepare for academic careers, or for other careers in professional fields of importance to the national interest, and

(b) The institution:

(1) Gives consideration, in accepting persons into the program, to meeting the need to prepare a larger number of individuals from minority groups, especially from among such groups who have been traditionally underrepresented in colleges and universities; and

(2) Offers satisfactory assurance that the institution will provide special orientations and practical experiences designed to prepare fellowship recipients for academic careers or for other professional careers in fields of importance to the national interest, as noted in § 179.43.

(20 U.S.C. 1134f)

§ 179.43 Fellowship award procedures.

(a) The Commissioner, from time to time, identifies and publishes in the FEDERAL REGISTER a list of academic and professional career fields of high national priority in which he proposes to award fellowships.

(b) Institutions of higher education may apply for an allocation of fellowship awards for graduate and professional programs in these fields.

(c) Institutions receiving an allocation (usually 5–15 fellowships) recommend eligible students to the Commissioner for the award of fellowships.

(20 U.S.C. 1134e)

§ 179.44 Criteria for allocating fellowships to institutions of higher education.

The Commissioner evaluates applications for fellowship allocations in accordance with the following considerations:

(a) The extent to which an application requests fellowships for continuation of support for individuals awarded fellowships in a previous year;

(b) The extent to which funding the application will assist in attaining a wider distribution of graduate and professional study programs throughout the United States; and

(c) The extent to which the program for which an allocation of fellowships is requested ranks high, based on the maximum point scores as shown, on the following criteria:

(1) The objectives of the program clearly meet the requirements of § 179.42 and are justified in the application (15);

(2) Procedures are planned to measure the effectiveness and success of the program (5);

(3) Institutional resources such as facilities, equipment, and libraries are adequate to support the program (5);

(4) The director of the program is given clear responsibility, ample time, and sufficient authority (5);

(5) The academic requirements are sufficient to support a high quality program (10);

(6) The institution provides sufficient evidence that it gives consideration, in accepting persons into the program, to meeting the need to prepare a larger number of individuals from minorities which have been traditionally underrepresented in colleges and universities (15);

(7) The institution's plan for recruiting individuals for fellowships will provide opportunities to persons who:

(i) Have demonstrated their competence outside of higher education for at least two years subsequent to the completion of their undergraduate studies; or

(ii) Have varied backgrounds and experiences from other than academic settings (10);

(8) The likelihood that the institution's plan to nominate fellowship candidates will enable these students to overcome financial hardship and other barriers (10);

(9) The relevant aspect of the special orientations and practical experiences to be provided the fellows; (15) and

(10) The background, education, research interests, and experiences of the faculty qualify them to design, implement, and carry on a successful program (10).

(20 U.S.C. 1134f)

§ 179.45 Length of fellowships.

(a) Fellowship awards are for a period not in excess of twelve months.

(b) Fellows who maintain satisfactory proficiency in their course of study may have their fellowships renewed subject to the availability of funds, but no fellow may receive more than 36 months of support except as noted in paragraph (c) of this section.

(c) The Commissioner may award a fellowship for an additional 12 month period beyond the initial 36 months in special circumstances when the Commissioner determines that the extension would serve the purposes of the fellowship programs.

(20 U.S.C. 1134e)

§ 179.46 Eligibility for fellowships.

A recipient of a fellowship under this part must:

(a) Have been accepted or enrolled for post-baccalaureate study leading to an advanced degree of doctor of philosophy, doctor of arts, or an equivalent degree, or a terminal post-baccalaureate professional degree, at an institution of higher education that has received an allocation of fellowship;

(b) Plan to pursue an academic career or some other professional career of importance to the national interest as determined by the Commissioner; and

(c) Be a national of the United States or be in the United States for other than a temporary purpose and intend to become a permanent resident, or be a permanent resident of the Trust Territories of the Pacific Islands.

(20 U.S.C. 1134f(a))

§ 179.47 Fellowship conditions.

In order to continue to receive payments under a fellowship, a fellow must:

(a) Maintain satisfactory proficiency as determined by the institution;

(b) Devote essentially fulltime to study or research in the field in which the fellowship was awarded; and

(c) Not engage in gainful employment during the period of the fellowship, except on a part-time basis in teaching, research, or similar activities approved by the Commissioner.

(20 U.S.C. 1134h)

§ 179.48 Interruption of fellowship tenure.

(a) A fellow may take a leave of absence for a period up to 12 months for the purpose of work, travel, or independent study away from the campus, if:

(1) The leave of absence is approved by the institution at which the fellow is enrolled and by the Commissioner; and

(2) The work, travel, or independent study is supportive of the fellow's academic program.

(b) The Commissioner makes no payments to the fellow or the institution during this period.

(20 U.S.C. 1134e(c))

§ 179.49 Vacated fellowships.

(a) If a fellowship is vacated prior to the end of a period for which it was awarded, the institution to which the fellowship is allocated may recommend to the Commissioner another individual to receive the fellowship. This individual must meet all the eligibility requirements and be chosen in accordance with the institution's fellowship award procedures.

(b) The duration of the reawarded fellowship shall be for the completion of the period remaining in the vacated fellowship.

(c) A fellow awarded a vacated fellowship may apply for renewal of the fellowship in the same manner and to the same extent as the original fellow.

(20 U.S.C. 1134e (a) and (b))

§ 179.50 Amount of the fellowship.

(a) The maximum stipend to any fellow is $3900 for a twelve month year payable at the monthly rate of $325 for any period the fellow is enrolled in the program.

(b) The fellow earns entitlement to the stipend on a monthly basis. A fellow who is enrolled in the program for less than twelve months receives a pro rata share of the stipend. A fellow who is enrolled in the program for the entire academic year (including summer sessions) shall be considered to be enrolled in the program for the full twelve months.

(20 U.S.C. 1134g(a); 1134h(a))

§ 179.51 Institutional allowance.

(a) The Commissioner pays an institutional allowance to an institution of higher education that is equal to the total sum of stipends paid to fellows attending that institution.

(b) This allowance is intended to pay for the instructional costs of the fellows.

The institution may not charge fellows tuition or nonrefundable fees. If the institution charges a fellow for tuition or nonrefundable fees which are required by the institution as part of the fellow's instructional program, the Commissioner will deduct that amount from the institutional allowance.

(c) Although the institutional allowance accrues on a monthly basis, the institution is entitled to claim one-half of this amount as soon as the fellow has been enrolled for two weeks. It is entitled to claim the remaining amount when the fellow has been enrolled for six and one-half months.

(20 U.S.C. 1134g(b))

§ 179.52 Payment procedures.

(a) The Commissioner pays to the institution the fellowship stipends and the institutional allowances. The institution is responsible for disbursing stipends to the fellows.

(b) The institution determines the frequency with which payments of the stipend will be made to fellows, except that no fewer than two payments a year shall be made.

(c) If a fellow, for any reason, fails to complete the period of study for which any payment under the fellowship has been made, the institution is responsible for recovery of excess payments.

(d) If a vacated fellowship is not reawarded to another qualified student, the institution must refund to the Federal government the pro rata share of the institutional allowance.

(20 U.S.C. 1134g(a); 1134h(a))

§ 179.53 Records and reports.

(a) Each institution of higher education which receives an allocation of fellowships under this part shall make such reports as are required by 45 CFR 100a.-432.

(b) Each individual who is awarded a fellowship shall keep such records and submit such reports as are required by the Commissioner. Such reports shall include a certificate from an appropriate official at the institution of higher education, library, archive, or other research center approved by the Commissioner, stating that the fellow is making satisfactory progress in and is devoting essentially full time to the program for which the fellowship was awarded.

NOTE.—Such certification from the institution should indicate that the fellow is not engaging in gainful employment other than part-time employment (approved by the institution) in teaching, research, or similar activities.

(20 U.S.C. 1134h)

[FR Doc.77-29718 Filed 10-7-77;8:45 am]

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