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federal register

THURSDAY, DECEMBER 1, 1977

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LITTERA SCRIPTA MANET
1934

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DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
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	HEW/FDA			HEW/FDA
	HEW/HRA			HEW/HRA
	HEW/HSA			HEW/HSA
	HEW/NIH			HEW/NIH
	HEW/PHS			HEW/PHS

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

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

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Federal Agencies using this table in calculating time requirements for submissions must allow sufficient extra time for FEDERAL REGISTER scheduling procedures.

In computing dates certain, the day after publication counts as one. All succeeding days are counted except that when a date certain falls on a weekend or holiday, it is moved forward to the next Federal business day. (See 1 CFR 18.17)

A new table will be published monthly in the first issue of each month. All January, February and March dates are in 1978.

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AGENCY ABBREVIATIONS USED IN HIGHLIGHTS AND REMINDERS

(This List Will Be Published Monthly In First Issue Of Month.)

USDA—AGRICULTURE DEPARTMENT

AMS—Agricultural Marketing Service
ARS—Agricultural Research Service
ASCS—Agricultural Stabilization and Conservation Service
APHIS—Animal and Plant Health Inspection Service
CCC—Commodity Credit Corporation
CEA—Commodity Exchange Authority
CSRS—Cooperative State Research Service
EMS—Export Marketing Service
ERS—Economic Research Service
FmHA—Farmers Home Administration
FCIC—Federal Crop Insurance Corporation
FAS—Foreign Agricultural Service
FNS—Food and Nutrition Service
FSQS—Food Safety and Quality Service
FS—Forest Service
PSA—Packers and Stockyards Administration
RDS—Rural Development Service
REA—Rural Electrification Administration
RTB—Rural Telephone Bank
SCS—Soil Conservation Service

COMMERCE—COMMERCE DEPARTMENT

Census—Census Bureau
DIBA—Domestic and International Business Administration
EDA—Economic Development Administration
MA—Maritime Administration
MBE—Minority Business Enterprise Office
NBS—National Bureau of Standards
NFPCA—National Fire Prevention and Control Administration
NOAA—National Oceanic and Atmospheric Administration
NSA—National Shipping Authority
NTIS—National Technical Information Service
PTO—Patent and Trademark Office
USTS—United States Travel Service

DOD—DEFENSE DEPARTMENT

AF—Air Force Department
Army—Army Department
DCPA—Defense Civil Preparedness Agency
DIA—Defense Intelligence Agency
DLA—Defense Logistics Agency

Engineers—Engineers Corps
Navy—Navy Department

DOE—ENERGY DEPARTMENT

ERA—Economic Regulatory Administration
FERC—Federal Energy Regulatory Commission

HEW—HEALTH, EDUCATION, AND WELFARE DEPARTMENT

ADAMHA—Alcohol, Drug Abuse, and Mental Health Administration
CDC—Center for Disease Control
FDA—Food and Drug Administration
HCFA—Health Care Financing Administration
HDSO—Human Development Services Office
HRA—Health Resources Administration
HSA—Health Services Administration
NIH—National Institutes of Health
OE—Office of Education
PHS—Public Health Service
RSA—Rehabilitation Services Administration
SSA—Social Security Administration

HUD—HOUSING AND URBAN DEVELOPMENT DEPARTMENT

CARF—Consumer Affairs and Regulatory Functions, Office of Assistant Secretary
CPD—Community Planning and Development, Office of Assistant Secretary
FDAA—Federal Disaster Assistance Administration
FHEO—Fair Housing and Equal Opportunity, Office of Assistant Secretary
FHC—Federal Housing Commissioner, Office of Assistant Secretary for Housing
FIA—Federal Insurance Administration
GNMA—Government National Mortgage Association
ILSRO—Interstate Land Sales Registration Office
NCA—New Communities Administration
NCDC—New Community Development Corporation
NVACP—Neighborhoods Voluntary Associations and Consumer Protection, Office of Assistant Secretary

INTERIOR—INTERIOR DEPARTMENT

BPA—Bonneville Power Administration
BIA—Bureau of Indian Affairs
BLM—Bureau of Land Management
FWS—Fish and Wildlife Service
GS—Geological Survey
MESA—Mining Enforcement and Safety Administration
Mines—Mines Bureau
NPS—National Park Service
OHA—Office of Hearings and Appeals
Reclamation—Reclamation Bureau
SMRE—Surface Mining Reclamation and Enforcement Office

JUSTICE—JUSTICE DEPARTMENT

DEA—Drug Enforcement Administration
INS—Immigration and Naturalization Service
LEAA—Law Enforcement Assistance Administration
NIC—National Institute of Corrections

LABOR—LABOR DEPARTMENT

BLS—Bureau of Labor Statistics
BRB—Benefits Review Board
ESA—Employment Standards Administration
ETA—Employment and Training Administration
FCCPO—Federal Contract Compliance Programs Office
LMSEO—Labor Management Standards Enforcement Office
OSHA—Occupational Safety and Health Administration
P&WBP—Pension and Welfare Benefit Programs
W&H—Wage and Hour Division

STATE—STATE DEPARTMENT

AID—Agency for International Development
FSGB—Foreign Service Grievance Board

DOT—TRANSPORTATION DEPARTMENT

CG—Coast Guard
FAA—Federal Aviation Administration
FHWA—Federal Highway Administration
FRA—Federal Railroad Administration
MTB—Materials Transportation Bureau
NHTSA—National Highway Traffic Safety Administration
OHMO—Office of Hazardous Materials Operations
OPSO—Office of Pipeline Safety Operations
SLS—Saint Lawrence Seaway Development Corporation
UMTA—Urban Mass Transportation Administration

TREASURY—TREASURY DEPARTMENT

ATF—Alcohol, Tobacco and Firearms Bureau
Customs—Customs Service
Comptroller—Comptroller of the Currency
ESO—Economic Stabilization Office (temporary)
FS—Fiscal Service
IRS—Internal Revenue Service
Mint—Mint Bureau
PDB—Public Debt Bureau
RSO—Revenue Sharing Office

INDEPENDENT AGENCIES

ATBCB—Architectural and Transportation Barriers Compliance Board
CAB—Civil Aeronautics Board
CASB—Cost Accounting Standards Board
CEQ—Council on Environmental Quality
CFTC—Commodity Futures Trading Commission
CITA—Textile Agreements Implementation Committee
CPSC—Consumer Product Safety Commission
CRC—Civil Rights Commission
CSA—Community Services Administration
CSC—Civil Service Commission
CSC/FPRAC—Federal Prevailing Rate Advisory Committee
EEOC—Equal Employment Opportunity Commission
EXIMBANK—Export-Import Bank of the U.S.
EPA—Environmental Protection Agency
ESSA—Endangered Species Scientific Authority
ERDA—Energy Research and Development Administration
FCC—Federal Communications Commission
FCSC—Foreign Claims Settlement Commission
FDIC—Federal Deposit Insurance Corporation
FEA—Federal Energy Administration
FEC—Federal Election Commission
FHLBB—Federal Home Loan Bank Board
FPC—Federal Power Commission
FRS—Federal Reserve System
FTC—Federal Trade Commission
GSA—General Services Administration
GSA/ADTS—Automated Data and Telecommunications Service
GSA/FPA—Federal Preparedness Agency
GSA/FSS—Federal Supply Service
GSA/NARS—National Archives and Records Service
GSA/PBS—Public Buildings Service
ICC—Interstate Commerce Commission
ICP—Interim Compliance Panel (Coal Mine Health and Safety)
ITC—International Trade Commission
LSC—Legal Services Corporation
NASA—National Aeronautics and Space Administration
NCUA—National Credit Union Administration
NFAH/NEA—National Endowment for the Arts
NFAH/NEH—National Endowment for the Humanities
NLRB—National Labor Relations Board
NRC—Nuclear Regulatory Commission
NSF—National Science Foundation
NTSB—National Transportation Safety Board
OFR—Office of the Federal Register
OMB—Office of Management and Budget
OPIC—Overseas Private Investment Corporation
PADC—Pennsylvania Avenue Development Corporation
PRC—Postal Rate Commission
PS—Postal Service
RB—Renegotiation Board
RRB—Railroad Retirement Board
ROAP—Reorganization, Office of Assistant to President
SBA—Small Business Administration
SEC—Securities and Exchange Commission
TVA—Tennessee Valley Authority
USIA—United States Information Agency
VA—Veterans Administration
WRC—Water Resources Council

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.

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Title 1—General Provisions

CHAPTER I—ADMINISTRATIVE COMMITTEE OF THE FEDERAL REGISTER

CFR CHECKLIST

1976/1977 Issuances

This checklist, prepared by the Office of the Federal Register, is published in the first issue of each month. It is arranged in the order of CFR titles, and shows the revision date and price of the volumes of the Code of Federal Regulations issued to date for 1976 and 1977. New units issued during the month are announced on the back cover of the daily FEDERAL REGISTER as they become available.

For a Checklist of current CFR volumes comprising a complete CFR set, see the latest issue of the Cumulative List of CFR Sections Affected, which is revised monthly.

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Title	Price
1	$1.65
2 [Reserved]	
3	3.00
4	3.25
5	4.70
7 Parts:	
0–45	5.30
46–51	4.20
52	5.20
53–209	5.80
210–699	6.10
700–749	4.10
750–899	1.80
900–944	4.25
945–980	2.40
981–999	2.50
1000–1059	4.25
1060–1119	4.40
1120–1199	3.20
1200–1499	4.20
1500–end	7.25
8	2.60
9	6.80
10 Parts:	
0–199	4.40
200–end	4.60
11 (Rev. 5/1/77)	2.30
12 Parts:	
1–299	7.40
300-end	7.30
13	4.20
14 Parts:	
1–59	6.00
60–199	5.10
200–1199	6.20
1200–end	2.20
15	5.35
16 Parts:	
0–149	$5.50
150–999	4.25
1000–end	3.00

CFR Unit (Rev. as of April 1, 1977):

17	6.75
18 Parts:	
1–149	4.25
150–end	4.00
19	5.75
20 Parts:	
01–399	3.25
400–499	5.00
500–end	4.00
21 Parts:	
1–99	3.25
100–199	4.75
200–299	2.10
300–499	5.00
500–599	4.00
600–1299	3.50
1300–end	4.25
22	4.50
23	5.50
24 Parts:	
0–499	5.00
500–end	5.25
25	4.50
26 Parts:	
1 (§§ 1.0–1.169)	4.75
1 (§§ 1.170–1.300)	4.00
1 (§§ 1.301–1.400)	3.75
1 (§§ 1.401–1.500)	4.00
1 (§§ 1.501–1.640)	4.00
1 (§§ 1.641–1.850)	4.35
1 (§§ 1.851–1.1200)	5.25
1 (§§ 1.1201–end)	6.75
2–29	4.50
30–39	4.35
40–299	4.50
300–499	4.35
600–end	2.40
27	7.00

CFR Unit (Rev. as of July 1, 1977):

32 Parts:	
1–39 (V. I) (Rev. 7/1/76)	4.75
(V. III) (Rev. 7/1/76)	5.25
500–699	4.00
1000–1399	2.75
1600–end	2.75
32A	3.75
34	1.70
35	4.00
37	3.00
39	3.50
41 Chapters:	
1–2	5.25
7	2.75
8	2.30
19–100	4.50

CFR Unit (Rev. as of Oct. 1, 1976):

42	5.95
43 Parts:	
1–999	3.10
1000–end	6.00
44 [Reserved]	
45 Parts:	
1–99	3.45
100–199	10.00
200–499	3.15
500–end	6.40
46 Parts:	
1–29	2.15
30–40	2.20
41–69	4.00
70–89	2.10
90–109	1.95
110–139	1.90
140–165	$4.00
166–199	2.65
200–end	7.25
47 Parts:	
0–19	3.80
20–69	5.00
70–79	4.90
80–end	6.20
48 [Reserved]	
49 Parts:	
1–99	2.05
100–199 (Rev. 12/31/76)	6.50
200–999	7.55
1000–1199	3.95
1200–1299	7.40
1300–end	3.60
50	4.20

[3410–01]

Title 7—Agriculture

SUBTITLE A—OFFICE OF THE SECRETARY OF AGRICULTURE

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

Decision on Appeals Under Plant Variety Protection Act

AGENCY: Department of Agriculture.

ACTION: Final rule.

SUMMARY: This document delegates to the Judicial Officer of the Department of Agriculture the authority of the Secretary to decide appeals by applicants under the Plant Variety Protection Act.

Pursuant to the Plant Variety Protection Act when an application for plant variety protection has been refused by the Plant Variety Protection Office, the applicant may appeal to the Secretary. At present the Secretary has delegated the authority to decide such appeals to the Assistant Secretary for Marketing Services, who has redelegated the authority to the Administrator, Agricultural Marketing Service. Since the Plant Variety Protection Office is under the jurisdiction of the Administrator of the Agricultural Marketing Service it has been determined that the responsibility for deciding appeals from the Plant Variety Protection Office should be vested in an official who is not otherwise responsible for administering the Plant Variety Protection Act. Accordingly, it has been determined to vest such authority in the Judicial Officer.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Robert Siegler, Deputy Director, Research and Operations Division, Office of the General Counsel, U.S. Department of Agriculture, 202–447–6035.

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

Subpart C—Delegations of Authority to the Deputy Secretary, Assistant Secretaries, the Director of Economics, Policy Analysis and Budget, and the Director, Office of Congressional and Public Affairs

§ 2.17 [Amended]

In § 2.17, paragraph (a)(3)(xxv) is amended by changing the period at the end thereof to a comma and adding the words "except as delegated to the Judicial Officer."

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

Section 2.35 is amended by adding the following new paragraph (b) to read as follows:

§ 2.35 Delegations of authority to the Judicial Officer.

* * * * *

(b) Exercise the functions of the Secretary where an appeal is filed under section 63 of the Plant Variety Protection Act (7 U.S.C. 2443).

Subpart F—Delegations of Authority by the Assistant Secretary for Marketing Services

§ 2.50 [Amended]

In § 2.50, paragraph (a)(3)(xxv) is amended by changing the period at the end thereof to a comma and adding the words "except as delegated to the Judicial Officer."

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

For Subparts C and D.

Dated: November 22, 1977.

BOB BERGLAND,
Secretary of Agriculture.

For Subpart F.

Dated: November 22, 1977.

JERRY C. HILL,
Deputy Assistant Secretary for Marketing Services.

[FR Doc.77-34352 Filed 11-30-77;8:45 am]

[3410-02]

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

SUBCHAPTER E—WAREHOUSE REGULATIONS, U.S. WAREHOUSE ACT

PART 105—BROOMCORN WAREHOUSES

Revocation of Regulations

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This action revokes the regulations for broomcorn warehouses under the U.S. Warehouse Act because those regulations have not been in use since 1968 and there is no foreseeable need for them in the future.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Gerald L. Oien, Warehouse Service Branch, Transportation and Warehouse Division, Agricultural Marketing Service, Department of Agriculture, Washington, D.C. 20250, 202–447–3821.

SUPPLEMENTARY INFORMATION: Regulations for broomcorn warehouses were established in the early 1920's when there was a need to protect depositors of broomcorn in licensed public warehouses that specialized in the storage of broomcorn. The program was never large with only a few warehouses being licensed. The last remaining license was carried until 1968 when it dropped from the program. Since that date there has been no activity under the program and there is no foreseeable need for licensing broomcorn warehouses in the future. No warehouses are known to be in existence today which would qualify under the U.S. Warehouse Act as public storage broomcorn warehouses.

Accordingly, due to the lack of need, the subject regulations in Part 105, section 105.1–105.78 are hereby revoked.

It is hereby found impracticable and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure and postpone the effective date of this notice until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in view of obvious lack of need or interest by the public in the regulations. This change adds no requirements or restrictions on the public.

Done at Washington, D.C., November 28, 1977.

WILLIAM T. MANLEY,
Deputy Administrator, Program Operations.

[FR Doc.77-34458 Filed 11-30-77;8:45 am]

[3410-02]

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

[Navel Orange Reg. 417]

PART 907—NAVEL ORANGES GROWN IN ARIZONA AND DESIGNATED PART OF CALIFORNIA

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona navel oranges that may be shipped to market during the period December 2–8, 1977. Such action is needed to provide for orderly marketing of fresh navel oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: December 2, 1977.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202–447–3545.

SUPPLEMENTARY INFORMATION: *Findings.* Pursuant to the marketing agreement, as amended, and Order No. 907, as amended (7 CFR Part 907), regulating the handling of navel 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 the recommendations and information submitted by the Navel Orange Administrative Committee, established under this marketing order, and upon other information, it is found that the limitation of handling of navel oranges, as hereafter provided, will tend to effectuate the declared policy of the act.

The committee met on November 29, 1977, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of navel oranges deemed advisable to be handled during the specified week. The committee reports the demand for navel oranges continues to be good on large sizes, but weak on size 113's and smaller.

It is further found that it is impracticable and contrary to the public interest to give preliminary notice, engage in public rulemaking and postpone the effective date until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553), because of insufficient time between the date when information became available upon which this regulation is based and the effective date necessary to effectuate the declared policy of the act. Interested persons were given an opportunity to submit information and views on the regulation at an open meeting. It is necessary to effectuate the declared purposes of the act to make these regulatory provisions effective as specified, and handlers have been apprised of such provisions and the effective time.

§ 907.717 Navel Orange Regulation 417.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period December 2, 1977, through December 8, 1977, are established as follows:

(1) District 1: 945,000 cartons;

(2) District 2: unlimited movement;

(3) District 3: 105,000 cartons.

(b) As used in this section, "handled", "District 1", "District 2", "District 3", and "carton" mean the same as defined in the marketing order.

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

Dated: November 30, 1977.

D. S. KURYLOSKI,
Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc.77-34692 Filed 11-30-77;11:23 am]

[8025-01]

Title 13—Business Credit and Assistance

CHAPTER I—SMALL BUSINESS ADMINISTRATION

[Rev. 9, Amdt. 11]

PART 123—DISASTER LOANS

Physical Disaster Policy for Farmers Having a Crop or Livestock Loss

AGENCY: Small Business Administration.

ACTION: Final rule.

SUMMARY: These rules prescribe the criteria SBA uses to establish the physical damage when a farmer suffers a production loss (either complete or partial) and the procedure for applying for a disaster loan for agricultural loss. It also rescinds previously published criteria for establishing crop loss. This change is made because it has been determined that the previously published rule was too onerous and the simpler, more concise rules published herein will better serve the needs of those it is meant to benefit. It will also make loans available on a consistent and uniform basis to eligible applicants.

EFFECTIVE DATE: December 1, 1977.

ADDRESSES: John M. Trask Jr., Associate Administrator for Finance and Investment, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416.

FOR FURTHER INFORMATION CONTACT:

Richard L. Wray, Financial Analyst, Small Business Administration, 1441 L Street NW., Washington, D.C. 20416, 202-653-6470.

SUPPLEMENTARY INFORMATION: Section 123.0(a) advises that disaster policy may be changed without advance notice due to the emergency nature of disasters. This is a revision and redesignation of the rule published in 42 FR 39970. This change is made because it has been determined that the previously published rule was too onerous and the simpler, more concise rules published herein will better serve the needs of those it is meant to benefit. It will also make loans available on a consistent and uniform basis to eligible applicants. Consequently, § 123.2(a)(3)(ii) as amended on August 8, 1977 (42 FR 39970) is repealed.

SBA has determined that there is an immediate need for these rules in the agricultural industry and they are made effective immediately. Any interested person is, however, invited to send written comments, in duplicate, to the Associate Administrator for Finance and Investment at the address given under the "Addresses" heading.

This revision also incorporates as Appendix "A" the Memorandum of Understanding between the United States Department of Agriculture, Farmers Home Administration (FmHA), and SBA which explains the programs and working relationships of the two agencies as applied to physical disaster and related economic injury disaster loans.

Pursuant to the authority of Section 5(b)(6) of the Small Business Act (15 U.S.C. 634), Part 123, Chapter I, Title 13 of the Code of Federal Regulations, is amended as follows:

1. Section 123.0 is amended by adding a new paragraph (d) reading as follows:

§ 123.0 Explanation of regulations.

* * * * *

(d) Physical disaster loans and economic injury loans made to businesses engaged in agricultural enterprises will be made by SBA in accordance with the Memorandum of Understanding between SBA and the United States Department of Agriculture, Farmers Home Administration (FMHA) which is incorporated herein as Appendix "A" to this Part 123.

§ 123.2 [Amended]

2. Section 123.2 is amended by inserting the following as § 123.2(a)(2)(i), presently identified as [Reserved]:

(a) * * *

(1) * * *

(2)(i) Assistance may be extended for full or partial farm product losses (crop losses or dead livestock) which have been suffered as a result of a physical disaster.

3. Section 123.2(a)(3) is revised by repealing subdivision (ii), thus, reinstating the text of subparagraph (3) as it existed immediately prior to amendment on August 8, 1977 (42 FR 39970). Section 123.2(a)(3), as revised, shall read as follows:

* * * * *

(3) *Evidence of loss.* Assistance may be extended only to applicants determined by SBA to have suffered substantially the disaster loss (beneficial ownership as well as legal title may be considered in determining who suffered the loss); it will not be extended (i) if the applicant suffers flood loss as a result of action by a Federal agency which causes flooding of an area where the Government has been held harmless under a lease agreement covering a flowage easement, or (ii) where a substantial change of ownership occurred after the disaster. Substantial change of ownership does not include those instances in which a contract of sale had been entered into prior to the disaster and the transaction is completed after the disaster.

4. Section 123.5(b) is amended by numbering the existing paragraph (b) as subparagraph (1) and adding new subparagraphs (2) and (3) as follows:

§ 123.5 Amount of loan and interest rates.

* * * * *

(b)(1) * * *

(2) Computation of the loan amount for full or partial farm production losses is based on the following formula: Acres planted × established normal yield × percentage of loss × market price minus recovery (if known) = eligible loss. Normal yield is defined as the yield determined by Agricultural Stabilization and Conservation Service (ASCS) for programs crops, Statistical Reporting Service (SRS) (county average) for nonprogram crops: Alternate data sources may be approved by SBA if a normal yield has not been established by ASCS or SRS. Market price is defined as that price determined by Farmers Home Administration (FmHA) to be the average market price for the marketing period just prior to the disaster.

(3) Livestock loss is limited to the replacement cost of the livestock which died due to the disaster less any insurance proceeds.

5. Section 123.9(a)(1) is amended by numbering the existing subdivision (i) as subdivision (i) and adding subdivisions (ii) and (iii) as follows:

§ 123.9 Step-by-step procedure for disaster loan applicant.

(a) * * *

(1)(i) * * *

(ii) In the case of crops lost due to disaster, submit the number of acres of each crop actually planted and the established normal yield for the crop as determined by ASCS for program crops, or other recognized official sources approved by SBA, and evidence of actual yield or percentage of loss verified by FmHA, ASCS or other USDA unit if the loss has been verified by such unit. In the absence of such verification, SBA loss verifiers may be used.

(iii) Submit evidence of the death of livestock due to the disaster and its replacement cost.

6. Appendix "A" reading as follows shall be added at the end of Part 123 immediately following § 123.18 thereof:

APPENDIX (A)—MEMORANDUM OF UNDERSTANDING BETWEEN SMALL BUSINESS ADMINISTRATION AND THE UNITED STATES DEPARTMENT OF AGRICULTURE—FARMERS HOME ADMINISTRATION PERTAINING TO DISASTER TYPE LOAN ASSISTANCE

I. PREAMBLE

Pub. L. 94-305, which amended the Small Business Act, authorized the Small Business Administration (SBA) to assist small business engaged in farming and related activities under all of its programs including its physical and economic injury loan programs. This legislation did not create any new SBA loan programs but merely included the agricultural industries among the small businesses eligible for assistance under existing SBA programs. Neither did the legislation diminish, in any way, the responsibility of the Farmers Home Administration (FmHA) to meet the financial and other needs of farmers.

This joint memorandum reaffirms the mutual desire of SBA and FmHA to cooperate in the use of their respective loan making authorities to complement the activities of each other and, to the extent possible, to improve and expand the delivery of financial assistance to the agricultural segment of the country; all with the least possible degree of overlapping, confusing or duplicating activities.

II. DEFINITIONS

1. *Farming* is defined as the business of producing crops, livestock, livestock products, and aquatic organisms through the management of land, water, labor, capital

and basic raw materials, e.g., seed, feed, fertilizer and fuel.

2. *Natural Disaster* (As declared by the Secretary of Agriculture) is caused by such natural phenomena as hurricanes, tornadoes, cyclones, excessive rainfall, floods, earthquakes, blizzards, freezes, electrical storms, snowstorms, drought, excessively high temperatures, and hail; insects where abnormal weather contributed substantially to the spreading and flourishing of such insects; fire resulting from lightning, and fires of other origins which could not be controlled because of abnormal weather; and plant and animal diseases where abnormal weather contributed substantially to such diseases spreading into epidemic stages.

3. *Physical Disaster* (As declared by the Administrator of SBA) may be caused by a flood, riot, civil disorder, hurricane, tornado, storm, high water, wind-driven water, tidal wave, snowstorm, drought, fire, explosion or other catastrophic event.

4. *Major Disaster* (As declared by the President) may be caused by any catastrophic event of sufficient magnitude to warrant major disaster assistance by the Federal Government, under the Disaster Relief Act of 1974.

5. *Housing* losses refer to any real estate damage to the farm owner's home, tenant housing or farm labor housing and the contents and other personal property contained therein.

III. GENERAL GUIDELINES

1. The FmHA administers its financial assistance programs through its State, District and County offices.

The SBA administers its financial assistance programs through its Regional, District and Branch offices.

2. The FmHA National Office and SBA Central Office will immediately notify each other of areas where disaster financial assistance is made available.

3. FmHA State Directors and SBA District Directors will exchange addresses of their offices and identify the geographical area served by each. This information will be available in all field offices of both agencies so applicants can be referred to the appropriate offices. The FmHA will use local county offices to administer disaster programs. SBA will either establish special local offices for disaster assistance, or utilize permanent SBA offices, as appropriate.

IV. HOW LOANS ARE MADE AVAILABLE

1. How FmHA emergency (EM) loans are made available. EM loans will be made available in counties named by FDAA as eligible for Federal assistance under a major disaster or emergency declaration by the President; in counties where a natural disaster is designated by the Secretary of Agriculture; and in counties authorized by the State Director because of a natural disaster.

2. How SBA Disaster Loans are Made Available. SBA physical and economic injury disaster loans will, as determined to be necessary and appropriate, be made available in counties named by FDAA under the authority for a major disaster declaration by the President or a physical disaster declaration by the Administrator of SBA. An SBA declaration also includes adjacent counties. Also, Economic Injury Disaster loans are available to small business concerns in those counties named in a Natural Disaster declaration by Secretary of Agriculture.

3. FmHA and SBA will establish a liaison at both the State Director/District Director level and the National level and periodically coordinate their activities to: (a) Exchange detailed information concerning the disaster loan program, (b) define areas of cooperation between the two agencies, (c) assure that their programs are servicing the intended recipients, (d) establish new methods to serve the public more expeditiously, and (e) achieve maximum utilization of their respective resources.

4. The SBA and FmHA agree that the interests of agricultural industries will be best served and that each agency will achieve better utilization of available resources through the following operating guidelines in areas where both agencies offer disaster assistance.

a. In order to avoid a duplication of effort, potential applicants may contact either agency for an interview but may file an application with only one agency at a time except as provided in "h" below. However, SBA will encourage those potential applicants that have been or are borrowing through the FmHA to continue their relationship with that agency.

b. FmHA personnel will, at the time of initial interview, refer those disaster victims that are not eligible for FmHA assistance (such as corporations and partnerships not directly engaged in farming, subsistence farmers or aliens) to SBA if they appear to be eligible for SBA assistance.

c. Potential applicants are not to be referred back and forth between FmHA and SBA. Representatives of each agency must be reasonably certain that the disaster victim is eligible for assistance from the other agency before a referral is made.

d. Disaster victims filing for financial assistance from either agency will give written permission for FmHA and SBA to exchange whatever prior or current loan application and loan experience information, including appraisals, either may have in its file. The format for this permission must be developed to comply with the Privacy Act.

e. Applicants who are denied SBA or FmHA assistance for losses for any reason, including lack of funds, may contact the other Agency for assistance.

f. Applicants filing for financial assistance from either agency must use the forms and procedures of the agency being requested to provide the assistance. An applicant who is denied assistance by either agency must use a new application to file with the other in accordance with that agency's forms and procedures. However, the earliest date of filing applications for losses with either agency will constitute the filing date with regard to termination dates for receiving applications, for either agency: *Provided*, That not more than six months have elapsed since the termination date of the second agency contacted when that agency is requested to process an application.

g. Applicants should not have to apply to two Federal agencies to borrow funds for a single purpose. Therefore, if either FmHA or SBA can make the entire loan, the applicant should not be referred to the other agency for part of the funds needed. If either FmHA or SBA cannot make the entire loan, the applicant should be referred to the other agency for the full amount. Joint funding of a single loan with collateral shared between the agencies is not encouraged and should be used only as a last resort. However, SBA and FmHA will cooperate in making their respective loan, collateral requirements, repayment terms, etc. when necessary to assure that the disaster victim receives all appropriate assistance.

h. When an applicant has only housing losses in areas where SBA's physical loss loans are available, only the SBA will make loans for the restoration or replacement of housing losses as defined above. When a farmer has suffered production and farm losses, as well as housing losses, FmHA or SBA may make the loans for the housing losses and for nonhousing losses.

V. DESCRIPTION OF LENDING POLICIES

The FmHA makes guaranteed loans and insured emergency loans. Guaranteed emergency loans are loans where the lending institution advances the entire loan from its account and the FmHA guarantees repayment of a certain percentage of principal and interest. Insured emergency loans are those made from an FmHA insurance fund.

The SBA makes direct, immediate participation and guaranteed loans. Direct loans are made with SBA funds only. In immediate participation loans SBA agrees to purchase an agreed percentage of a loan from a lender immediately after disbursement. Guaranteed loans are made by a conventional lender from its own funds and SBA guarantees a percentage of the unpaid balance.

VI. LOAN PROGRAMS

The emergency and disaster loan programs of FmHA and SBA are outlined in Table I.

VII. ADMINISTRATIVE GUIDELINES

1. The services of FmHA and SBA to lenders and applicants are by mutual agreement services that each agency would provide any eligible applicant in the normal course of business, and there will be no reimbursement by either agency to the other for such services,

2. The National Office of FmHA and the Central Office of SBA will cooperate in counseling their field offices and in resolving problems in specific cases.

3. This Memorandum of Understanding in no way alters or supersedes the existing Memorandums between the two agencies covering FmHA regular farmer loan authorities and Business and Industrial Loan Program and all of SBA's regular loan programs. However, this Memorandum does supersede and replace the previous agreement on disaster type loan assistance.

4. This Agreement may be amended at any time by written agreement of both parties.

5. This agreement shall take effect upon the date of execution thereof.

Dated: July 21, 1977.

A. VERNON WEAVER,
Administrator,
Small Business Administration.

Dated: August 25, 1977.

GORDON CAVANAUGH,
Administrator,
Farmers Home Administration.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*

Farmers Home Administration	*Small Business Administration*
ELIGIBILITY	ELIGIBILITY
1. An applicant must be a citizen of the United States, if an individual. If the applicant is a partnership, the individual partners must be citizens. If the applicant is a corporation it must be incorporated under the laws of the United States or any State thereof and the principal stockholders must be citizens.	1. Citizenship is not required. However, use of disaster loan proceeds outside the United States or its possessions and territories is not permitted.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*—Continued

Farmers Home Administration	*Small Business Administration*
ELIGIBILITY	ELIGIBILITY
2. The applicant must be unable to obtain the necessary credit from other sources, exclusive of an SBA disaster loan.	2. Physical disaster loans are made without regard to the availability of other financing or resources. Also, the age of an applicant shall not be a consideration in making the loan provided the disaster victim is of legal age to contract.
3. The applicant must be an established farm, ranch or aquaculture operator, either tenant or owner-operator, who manages the operations. If the applicant is a partnership or corporation it must be primarily engaged in farming operations and the operation(s) must be managed by one or more of the partners or stockholders.	3. Most home owners, businesses and nonprofit institutions are eligible for physical disaster assistance.
4. The applicant must operate in a county or counties where EM loans have been authorized.	4. The applicant's physical loss must be within the disaster area as defined by the disaster declarations.
5. The applicant must have suffered qualifying property damage or production losses.	5. The applicant must have suffered real or personal property damage as a direct result of the disaster.
6. The applicant must be of good character and have necessary experience, ambition and managerial ability to carry out the proposed operation.	6. The applicant must be able to provide reasonable assurance of ability to repay the loan.
LOAN PURPOSES	LOAN PURPOSES
1. Cover actual losses and expenses for damaged or destroyed nonhousing farm property and production.	1. The purpose of these physical disaster loans is to restore the victim's home or business property, real or personal, as nearly as possible to predisaster condition. No upgrading is permitted.
2. Housing losses—only when SBA's physical disaster assistance is *not* available.	2. Housing losses—SBA will make all loans when the only losses are housing losses whether on farm housing, rural housing or urban housing.
3. Annual operating loans	3. Economic Injury Loans are similar.
4. Major adjustment loans	4. No comparable disaster loan programs.
TERMS	TERMS
1. Actual loss loans—5 percent interest for disasters occurring prior to July 1, 1976, disasters occurring on or after July 1, 1976, and prior to October 1, 1978—primary residence and personal property related to the residence 1 percent on the first $10,000, 3 percent on the balance not to exceed $40,000, and 5 percent on the amount over $40,000; and for all other actual loss loans, 3 percent on the first $250,000 and 5 percent on the amount over $250,000—for crop and livestock production and chattel losses up to 7 years with a 5 year renewal, in some cases up to 20 years and for real estate losses or damages up to 40 years.	1. Interest rate based on a statutory formula. Maturity based on the victim's ability to repay but cannot exceed 30 years.
2. Annual operating—at prevailing current market rate—paid when principal income from year's operation is received.	2. No comparable terms.
3. Major Adjustment Loans at prevailing current market rate—chattels up to 7 years with a 5 year renewal, and for real estate up to 40 years.	3. No comparable disaster loan program.
LOAN LIMITS	LOAN LIMITS
No statutory dollar limit; determined by amount of loss and credit factors.	No statutory dollar limit. However, administrative ceilings have been established as follows: a. Home Loans: $50,000 for real estate, $10,000 for personal property, $55,000 for combined purposes. b. Business Loans: $500,000; exception by the Administrator authorized to avoid substantial hardship.

TABLE 1.—*SBA/FmHA Memorandum of Understanding*—Continued

Farmers Home Administration	*Small Business Administration*
GRADUATION POLICY	GRADUATION POLICY
Reviewed to determine ability to receive credit from other credit sources after 5 years for operating type purposes and after 10 years for real estate purposes and every other year thereafter, if necessary. Refinancing when able is mandatory.	No such policy.
ECONOMIC INJURY LOANS	ECONOMIC INJURY LOANS
Emergency Loans for annual operating purposes are similar.	SBA is authorized to make Economic Injury Disaster loans to small business concerns that have suffered a cash flow problem that is related to the disaster. These loans are for working capital only and do not allow for any expansion. See paragraph IV, 2.

(Catalog of Federal Domestic Assistance Programs Nos. 59.002 (Physical Disaster) and 59.008 (Economic Injury) Small Business Loans.)

A. VERNON WEAVER,
Administrator.

Dated: November 21, 1977.

[FR Doc.77-34456 Filed 11-30-77;8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-WE-25-AD; Amdt. 39-3088]

PART 39—AIRWORTHINESS DIRECTIVES

Hiller Model UH-12; C, D, E (4-place), L, E-L and L-4s Converted From E-4s

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts an airworthiness directive (AD) which requires installation of a guard on the fuel shutoff control valve handle to preclude inadvertent movement to the "off" position.

DATES: Effective January 6, 1978.

Compliance required within the next 100 hours time in service after the effective date of this AD.

ADDRESSES: The applicable Service Bulletin No. 72-1 dated June 17, 1977 or later FAA approved revision, may be obtained from: Hiller Aviation, 2075 West Scranton Avenue, Porterville, Calif. 93257.

Also, a copy of the service bulletin may be reviewed at, or a copy obtained from: Rules Docket in room 916, FAA, 800 Independence Ave. SW., Washington, D.C. 20591, or Rules Docket in room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, Telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring installation of a guard on the fuel shutoff control valve handle of certain Hiller Model UH-12 helicopters was published in the FEDERAL REGISTER at 42 FR 43988.

Interested parties have been afforded an opportunity to participate in the making of the amendment.

One comment received suggested that the AD was unnecessary due to the fact that the service record in this area was satisfactory and a rare occurrence of inadvertent shutoff did not justify corrective action. Furthermore, any device which would restrict free movement of the valve handle would be a hindrance to safety in an emergency situation.

Another comment received indicated that one commercial operator concurred with the proposed rule and had a device installed on his fleet of helicopters to accomplish the same purpose prior to the issuance of the Notice of Proposed Rule Making.

After careful review of all available data including the comments above, the FAA believes that sufficient evidence exists in the public interest in aviation safety to adopt the proposed rule as published in the FEDERAL REGISTER at 42 FR 43988 as a final rule.

DRAFTING INFORMATION

The principal authors of this document are Henry R. Kulewicz, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Counsel.

ADOPTION OF THE AMENDMENT

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

HILLER HELICOPTERS: Applies to Hiller Model UH-12C, D, E (4 place), L, E-L, and L4's certificated in all categories incorporating control levers P/N 72229 or 72210. All aircraft serial numbers up to No. 5024 are included. S/N No. 5024 and subsequent will have the guard installed at the time of manufacture.

(a) To prevent hazardous engine power loss from inadvertent shutoff of the fuel control valve, within the next 100 hours time in service after the effective date of this AD, install a guard on the fuel shutoff valve handle in accordance with the instructions described in Paragraph 2B in Hiller Service Bulletin No. 72-1 dated June 17, 1977, or later FAA approved revision.

(b) Equivalent methods of fabrication and installation of a guard on the fuel shutoff valve handle may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(c) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate helicopters to a base for accomplishment of the modification required by Paragraph (a) of this AD.

(Secs. 313(a), 601, and 603, Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1421, and 1423); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 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 Los Angeles, Calif. on November 22, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-34391 Filed 11-30-77;8:45 am]

[4910-13]

[Docket No. 77-GL-5; Amdt. 39-3086]

PART 39—AIRWORTHINESS DIRECTIVES

McCauley Model 2AF34C55-() Series Propellers

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires periodic inspection of the McCauley Model 2AF34C55-() series propellers. The AD is needed to detect cracks and prevent failures of the hub which could result in separation of the blade(s). Since this condition is likely to exist or develop in other propellers of the same design, the airworthiness directive requires periodic inspection of the propeller hubs for fatigue cracking until replaced by McCauley oil-filled hubs containing a dyed oil crack detection system.

DATES: Effective December 6, 1977.

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

ADDRESSES: Information relating to the service documents referenced in the body of the AD may be obtained from McCauley Accessory Division, Cessna Aircraft Company, Box 7, Roosevelt Station, Dayton, Ohio 45417.

Copies of the service information incorporated in this AD are contained in the Rules Docket, Office of the Regional Counsel, 2300 East Devon Avenue, Des Plaines, Ill. 60018; and at FAA Headquarters, room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Henry L. Weiss, Engineering and Manufacturing Branch, Flight Standards Division, AGL-214, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone: 312-694-4500, extension 308.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations by adding an airworthiness directive applicable to the McCauley 2AF34C55-( ) series propellers was published in the FEDERAL REGISTER (42 FR 15914) March 24, 1977. The proposal which would require periodic inspection of the affected propeller hubs, was issued in conjunction with the National Transportation Safety Board's (NTSB) Recommendations of September 21, 1976. These Safety Recommendations were based in part on NTSB's Metallurgical Laboratory examination of several failed hubs, including a Model 2AF34C55-N propeller containing certain design improvements intended to decrease fatigue type failures. Therefore, the FAA has determined that an additional safeguard will be provided by the introduction of red-dyed oil into the hub which will warn the operator of hub cracking. The repetitive inspections of such hubs are no longer required, if they are modified to or replaced by McCauley oil-filled hubs.

Based on the few comments received about the proposed rule the following changes were adopted in the new airworthiness directive. The phrase "or Federal Aviation Administration approved revisions," was added following the reference to McCauley Service Letter No. 1974-3 dated March 29, 1974, under paragraph (d)(3). This change would eliminate the need to revise the AD in the event there were subsequent revisions of the service letter. Also, the propeller model designations were amplified and clarified by a footnote.

In accordance with Departmental Regulatory Reform, dated March 23, 1976, we have determined that the expected impact of this final regulation is so minimal that it does not warrant an evaluation.

DRAFTING INFORMATION

The principal authors of this document are H. L. Weiss, Flight Standards Division, Great Lakes Region, and J. K. McLaughlin, Office of the Regional Counsel, Great Lakes Region.

ADOPTION OF THE AMENDMENT

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

MCCAULEY PROPELLERS. Applies to the following two-bladed constant speed full feathering propellers installed on, but not limited to, Beech 95-55, -A55, -B55, -B55A, -B55B, -C55, -C55A, -D55, -D55A, -E55, and -E55A "Baron" aircraft.

Propeller Model

2AF34C55; 2AF34C55-A; 2AF34C55-B; 2AF34C55-C; 2AF34C55-D; 2AF34C55-E; 2AF34C55-F; 2AF34C55-G; 2AF34C55-H, or -HM; 2AF34C55-J, or -JM; 2AF34C55-K, or -KM; 2AF34C55-L, or -LM; 2AF34C55-M; 2AF34C55-N.

NOTE.—Some models have one or more (change) letters stamped at the end of the model designation, others have none.

Compliance required as indicated, unless already accomplished.

To prevent hub failures accomplish paragraphs (a), (b), (c), and (d) as applicable.

(a) All Model 2AF34C55, -A, -B, -C, -D, -E, -F, and -G propellers. (1) Propeller hubs with less than 500 hours time in service as of the effective date of this airworthiness directive, inspect in accordance with paragraph (d)(1) within 525 hours total time in service and reinspect every 100 hours from the last inspection in accordance with paragraph (d)(1) until 1200 hours time in service is reached at which time compliance with paragraph (d)(2) is required.

(2) Propeller hubs with 500 or more but less than 1175 hours total time in service as of the effective date of this airworthiness directive, inspect in accordance with paragraph (d)(1) within the next 25 hours time in service unless previously accomplished, and reinspect in accordance with paragraph (d)(1) every 100 hours time from the last inspection until 1200 hours time in service is reached at which time compliance with paragraph (d)(2) is required.

(3) Propellers with 1175 or more hours in service, or whose total time in service is unknown, as of the effective date of this airworthiness directive, must be replaced in accordance with paragraph (d)(2) within the next 25 hours time in service.

(b) All Model 2AF34C55-H, -J, -K, and -L propellers. (1) Propellers with less than 500 hours total time in service, as of the effective date of this airworthiness directive, inspect in accordance with paragraph (a)(1).

(2) Propellers with 500 or more but less than 1175 hours total time in service, as of the effective date of this airworthiness directive, inspect in accordance with paragraph (d)(1) within the next 25 hours time in service and reinspect in accordance with paragraph (d)(1) every 100 hours time from the last inspection until 1200 hours total time in service is reached at which time inspection in accordance with paragraph (d)(3) is required and reinspections in accordance with paragraph (d)(3) are required every 300 hours time in service from the last inspection.

(3) Propellers with 1175 or more hours in service, or whose total time in service is unknown, as of the effective date of this airworthiness directive, inspect in accordance with paragraph (d)(3) within the next 25 hours time in service, unless already accomplished within the last 300 hours time in service, and reinspect in accordance with paragraph (d)(3) every 300 hours time in service from the last inspection.

(c) All Model 2AF34C55-HM, -JM, -KM, -LM, -M, and -N propellers. (1) Propeller hubs with less than 1150 hours time in service as of the effective date of this airworthiness directive must be inspected in accordance with paragraph (d)(3) within 1200 hours total time in service, and reinspect in accordance with paragraph (d)(3) every 1200 hours time in service from the last inspection.

(2) Propeller hubs with 1150 hours or more, but less than 2350 hours in service as of the effective date of this airworthiness directive, inspect in accordance with paragraph (d)(3) within the next 50 hours time in service unless already accomplished, and reinspect in accordance with paragraph (d)(3) every 1200 hours time from the last inspection.

(3) Propeller hubs with 2350 hours or more time in service, or whose total time in service is unknown, as of the effective date of this airworthiness directive, inspect in accordance with paragraph (d)(3) within the next 50 hours time in service, unless already accomplished within the last 300 hours time in service and reinspect in accordance with paragraph (d)(3) every 300 hours time from the last inspection.

(d) *Action Required.* (1) Inspect all external surfaces of the propeller hub for cracks by dye penetrant method. Replace before further flight any cracked hub with an oil-filled hub as in paragraph (d)(2) or (d)(3).

(2) Remove propeller from the aircraft, disassemble, and inspect. Replace hub with an oil-filled Model 2AF34C55-HMO, -JMO, -KMO, -LMO, -MO, -NO, or -O hub in accordance with McCauley Service Bulletin No. 124, dated February 15, 1977, and Service Manual No. 710930, or later Federal Aviation Administration approved revisions.

(3) Remove propeller from aircraft and disassemble to allow complete inspection of hub. Inspect all internal and external hub surfaces for cracks by dye penetrant method in accordance with McCauley Service Letter No. 1974-3 dated March 29, 1974, or later Federal Aviation Administration approved revisions. Replace before further flight any cracked hub with an oil-filled Model 2AF34C55-HMO, -JMO, -KMO, -LMO, -MO, -NO, or -O hub in accordance with McCauley Service Bulletin No. 124 dated February 15, 1977, and Service Manual No. 710930, or later Federal Aviation Administration approved revisions.

(e) *Exemption.* The foregoing inspections may be discontinued after replacement of the above Model 2AF34C55-( ) series hubs with an oil-filled Model 2AF34C55-HMO, -JMO, -KMO, -LMO, -MO, -NO, or -O hub in accordance with McCauley Service Bulletin No. 124, dated February 15, 1977 and Service Manual No. 710930, or later Federal Aviation Administration approved revisions. (McCauley Service Bulletin No. 88 also pertains to this subject.)

The manufacturer's specifications and procedures identified in this directive are incorporated herein and made part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by the directive who have not already received these documents from the manufacturer, may obtain copies upon request to McCauley Accessory Division, Cessna Aircraft Co., Box 7, Roosevelt Station, Dayton, Ohio 45417. These documents may also be examined at the Great Lakes Regional Office, 2300 East Devon Avenue, Des Plaines, Ill. 60018, and at FAA Headquarters, 800 Independence Avenue SW.,

Washington, D.C. 20591. A historical file on this airworthiness directive which includes incorporated material in full is maintained by the FAA at its headquarters in Washington, D.C., and the Great Lakes Region.

This amendment becomes effective: December 6, 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 an Economic Impact Statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107.

Issued in Des Plaines, Ill. on November 21, 1977.

JOHN M. CYROCKI,
Director, Great Lakes Region.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the FEDERAL REGISTER on June 19, 1967.

[FR Doc.77-34387 Filed 11-30-77;8:45 am]

[4910-13]

[Docket No. 76-WE-12-AD; Amdt. 39-3087]

PART 39—AIRWORTHINESS DIRECTIVES

McDonnell Douglas Model DC-10 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) superseding AD 77-01-04 and requires modification of the air conditioning compartment access door handle in addition to the presently required one-time inspection and rigging procedure.

This AD is needed since service experience and laboratory tests reveal that the present AD does not, by itself, prevent in-flight separation of an air conditioning compartment access door.

DATES: Effective January 6, 1978.

Compliance schedule: (a) Inspect and rig the air conditioning compartment access doors within 2000 hours time in service after January 12, 1977. (b) Modify the air conditioning compartment access door handles within 2000 hours of the effective date of this AD.

ADDRESSES: Persons affected by this AD may obtain copies of the applicable service bulletins by writing to: McDonnell Douglas Corp., 3855 Lakewood Boulevard, Long Beach, Calif. 90846. Attention: L. A. Eisenbert, C1-750, 54-60.

Also, copies of the service bulletins may be reviewed at, or copies obtained from: Rules Docket in room 916, FAA, 800 Independence Ave. SW., Washington, D.C. 20591, or Rules Docket in room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, Calif. 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include a new airworthiness directive superseding AD 77-01-04 was published in the FEDERAL REGISTER at 42 FR 5429. The proposal was prompted by the in-flight loss of air conditioning doors on a DC-10 airplane subsequent to compliance with AD 77-01-04, which was adopted to relieve the problem of door loss; and requires modification of the air conditioning compartment access door handles in addition to the presently required one-time inspection and rigging procedure.

Interested persons have been afforded an opportunity to participate in the making of the amendment. Although no objections were received, the FAA has reevaluated the need for the proposed amendment and decided that it should be adopted as originally proposed.

DRAFTING INFORMATION

The principal authors of this document are Douglas T. Sharman, Aircraft Engineering Division, and Richard G. Wittry, Office of the Regional Council.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) Amendment 39-2802 (42 FR 2053) AD 77-01-04 is superseded by adding the following new airworthiness directive:

MCDONNELL DOUGLAS: Applies to Model DC-10-10, DC-10-10F, DC-10-30, DC-10-30F, and DC-10-40 airplanes, certificated in all categories.

Compliance required as indicated.

To prevent in-flight separation of an air conditioning compartment access door accomplish the following:

(a) Unless already accomplished, within 2000 flight hours after January 12, 1977, (the effective date of AD 77-01-04) accomplish the inspection and rigging procedure specified in the DC-10 Maintenance Manual, Chapter 52-42-01, Temporary Revision 52-231, dated September 17, 1976, Paragraph 3, or later FAA approved revision with the following manual amendments:

(1) Steps outlined in 3.A.(1), (a) through (d) and 3.A.(2) may be omitted.

(2) Before accomplishing steps 3.A.(3), (a), and (b) and (3a), (a) through (g) inspect the doors to verify that when the upper edge of the door makes contact with the door jamb the clearance does not exceed 1.2 inches between the lower edge of the door and door jamb. If this dimension is not exceeded, steps 3.A.(3), (a) and (b) and (3a), (a) through (g) may be omitted. Otherwise, those steps must be performed.

(b) Unless already accomplished, within the next 2000 flight hours after the effective date of this AD modify the air conditioning compartment access door handle as follows:

(1) Install a Camloc stud (fastener) in accordance with McDonnell Douglas DC-10 Service Bulletin No. 52-116, dated July 2, 1974, or later FAA approved revision, or

(2) Install a handle catch in accordance with McDonnell Douglas DC-10 Service Bulletin No. 52-168, dated June 7, 1977, or later FAA approved revision.

(3) If the air conditioning compartment access door is removed to accomplish the handle modification, verify the door handle position and loads are in accordance with paragraphs 3.A(11) and 3.A(18) of the DC-10 Maintenance Manual, Chapter 52-42-01, Temporary Revision 52-231, dated September 17, 1976, or later FAA approved revision.

(c) Equivalent procedures or modifications may be approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(d) Special flight permits may be issued in accordance with FAR's 21.197 and 21.199 to operate airplanes to a base for the accomplishment of this AD.

This amendment becomes effective January 6, 1978.

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

Issued in Los Angeles, California on November 21, 1977.

ROBERT H. STANTON,
Director, FAA Western Region.

[FR Doc.77-34390 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-65]

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

Alteration of Control Zone: Texarkana, Ark.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the effective hours of operation of the Texarkana Ark., (Municipal Airport), control zone to coincide with the hours of operation of the Texarkana Airport Traffic Control Tower (ATCT) which are reduced from continuous to 0600 to 2200 local time daily. This reduces the availability of special weather observations accordingly and necessitates the change in the control zone hours of operation to conform to the airport traffic control tower hours of operation.

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION: In Subpart F, 71.171 (42 FR 355) of FAR

Part 71, Texarkana, Ark., control zone is designated as continuous (through the omission of any reference to specific dates and times of operation). This conforms with the airport traffic control tower hours of operation. Special weather observations are provided on a 24-hour basis which is one of the requirements for a continuous control zone operation.

A traffic survey was completed on March 31, 1977, which indicated insufficient activity to retain the continuous control tower operation. On January 26, 1978, the airport traffic control tower hours of operation will be reduced to 0600 to 2200 local time daily. This will necessitate a similar reduction in the control zone hours of operation.

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

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart F of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 355) is amended, effective 0901 GMT, January 26, 1978, as follows:

In Subpart F, 71.171 (42 FR 355), the Texarkana, Ark., control zone is amended by adding the following sentence:

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

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

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

Issued in Fort Worth, Tex., November 22, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-34380 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-37]

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

Alteration of Transition Area: Buffalo, Okla.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Buffalo, Okla., transition area to provide controlled airspace for aircraft executing the new NDB instrument approach procedure to the Buffalo Municipal Airport.

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

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

On September 8, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 45010) stating that the Federal Aviation Administration proposed to alter the Buffalo, Okla., transition area to provide controlled airspace for aircraft executing a newly established NDB instrument approach procedure to Buffalo Municipal Airport.

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

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 GMT, January 26, 1978, as hereinafter set forth.

In Subpart G, 71.181 (42 FR 440), the Buffalo, Okla., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within a 6-mile radius of the Buffalo Municipal Airport, Buffalo, Okla., (latitude 36°51'45" N., longitude 99°37'00" W.) within 3.5 miles each side of the 290° bearing from the Buffalo NDB (latitude 36°51'48" N., longitude 99°37'05" W.) extending from the 6-mile radius to 11.5 miles east of the NDB.

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

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

Issued in Fort Worth, Tex., on November 17, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-34382 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-50]

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

Alteration of Transition Area: Shawnee, Okla.

AGENCY: Federal Aviation Administration FAA, DOT.

ACTION: Final rule.

SUMMARY: This alters the transition area at Shawnee, Okla., to provide additional controlled airspace for aircraft executing instrument approach procedures to the Shawnee and Seminole Municipal Airports.

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box Fort Worth, Tex. 76101; telephone: 817-624-4911, extension 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 17, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 55480) stating that the Federal Aviation Administration proposed to alter the Shawnee, Okla., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Four comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) alters the Shawnee, Okla., transition area. This action provides additional controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Shawnee and Seminole Municipal Airports.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 GMT, January 26, 1978, as follows:

In Subpart G, 71.181 (42 CFR 440), the Shawnee, Okla., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within an 8.5-mile radius of Shawnee Municipal Airport (latitude 35°21'16" N., longitude 96°56'33" W.); within 3.5 miles each side of the 007° bearing

from the Shawnee NDB (latitude 35°20'51" N., longitude 96°56'48" W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB; within an 8.5-mile radius of Seminole Municipal Airport (latitude 35°16' 15" N., longitude 96°40'30" W.); and within 3.5 miles each side of the 353° bearing from the Seminole NDB (latitude 35°16'08" N., longitude 96°40'30" W.) extending from the 8.5-mile radius area to 11.5 miles north of the NDB.

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

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

Issued in Fort Worth, Tex., on November 22, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-34388 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-47]

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

Designation of Transition Area: Andrews, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This designates a transition area at Andrews, Tex., to provide controlled airspace for aircraft executing instrument approach procedures to Andrews County Airport, using the newly established NDB located on the airport.

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

David Gonzalez, Airspace and Procedures Branch (ASW-536), Air Traffic Division, Southwest Region, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101; telephone: 817-624-4911, ext. 302.

SUPPLEMENTARY INFORMATION:

HISTORY

On October 17, 1977, a notice of proposed rulemaking was published in the FEDERAL REGISTER (42 FR 55478) stating that the Federal Aviation Administration proposed to designate the Andrews, Tex., transition area. Interested persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the Federal Aviation Administration. Four comments were received without objections. Except for editorial changes this amendment is that proposed in the notice.

THE RULE

This amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR 71) designates the Andrews, Tex., transition area. This action provides controlled airspace from 700 feet above the ground for the protection of aircraft executing instrument approach procedures to the Andrews County Airport.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administration, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 440) is amended, effective 0901 G.m.t., January 26, 1978, as follows.

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

ANDREWS, TEX.

That airspace extending upward from 700 feet above the surface within a 9-mile radius of the Andrews County Airport (latitude 32°20'00" N., longitude 102°31'31" W.) and within 3.5 miles each side of the 355° bearing from the Andrews RBN (latitude 32°20'45" N., longitude 102°32'07" W.) extending from the 9-mile radius area to 11.5 miles north of the RBN.

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

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

Issued in Fort Worth, Tex., on November 22, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-34381 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-SW-43]

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

Alteration of Transition Area: Bay City, Tex.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Bay City, Tex., transition area to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to the Bay City Municipal Airport, using the newly established NDB located on the airport.

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

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

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

On October 13, 1977, a notice of proposed rule making was published in the FEDERAL REGISTER (42 FR 55104) stating that the Federal Aviation Administration proposed to alter the Bay City, Tex., transition area to provide controlled airspace for aircraft executing the newly established NDB instrument approach procedure to the Bay City Municipal Airport.

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

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71), as republished (42 FR 440) is amended, effective 0901 GMT, January 26, 1978, as hereinafter set forth.

In Subpart G, 71.181 (42 FR 440), the Bay City, Tex., transition area is amended as follows:

That airspace extending upward from 700 feet above the surface within a 5-mile radius of the Bay City Municipal Airport (latitude 28°58'23" N., longitude 95°51'48" W.), and within 3.5 miles either side of the 313° bearing from the NDB extending from the 5-mile radius to 11.5 miles northwest of the airport.

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

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

Issued in Fort Worth, Tex., on November 22, 1977.

PAUL J. BAKER,
Acting Director, Southwest Region.

[FR Doc.77-34389 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-SO-44]

PART 73—SPECIAL USE AIRSPACE

Alteration and Revocation of Restricted Areas

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment revokes Restricted Area R-5306B Cherry Point, N.C., and alters Restricted Area R-5306C by raising the floor from the surface to 1200 feet MSL. This action is necessary

to restore restricted airspace to public use.

EFFECTIVE DATE: January 26, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. John Watterson, Airspace Regulations Branch (ATT-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 revoke Restricted Area R-5306B, and to alter Restricted Area R-5306C Cherry Point, N.C., by raising the floor of R-5306C from the surface to 1200 feet MSL. A review of Restricted Area R-5306 Complex conducted by the FAA indicated that R-5306 B should be revoked and that the floor of R-5306C should be raised from the surface to 1200 feet MSL on the basis that continued designation of those portions of the Restricted Area R-5306 Cherry Point Complex are no longer justified. The FAA and the United States Marine Corps, Cherry Point, N.C., are in agreement that, by definition, hazardous operations are not conducted within R-5306B. However, to inform pilots of the high volume of air activity being conducted within R-5306B, the FAA is taking separate nonregulatory action to establish an alert area to replace R-5306B concurrent with the effective date of this airspace action. Since this amendment restores airspace to public use and it is a minor matter upon which the public should have no particular reason to comment, notice and public procedures thereon are deemed unnecessary.

DRAFTING INFORMATION

The principal authors of this document are Mr. John Watterson, 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, § 73.53 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (42 FR 690) is amended, effective 0901 G.m.t., January 26, 1978, as follows:

1. R-5306B Cherry Point, N.C., is revoked.
2. In the description of R-5306C, "Designation altitudes. Surface to, but not including FL 180" is deleted and "Designated altitudes. From 1200 feet MSL to, but not including FL 180" is substituted therefor.

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

NOTE.—The FAA has determined that this 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 November 22, 1977.

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

[FR Doc.77-34383 Filed 11-30-77;8:45 am]

[4910-13]

[Airspace Docket No. 77-RM-5]

PART 75—ESTABLISHMENT OF JET ROUTES AND AREA HIGH ROUTES

Alteration of a Jet Route

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment will realign High Altitude Jet Route (J-13) in part from Cheyenne, Wyo., to Billings, Mont., via Casper, Wyo. This jet route realignment is designed to better accommodate the airspace users in this area, resulting in fuel/time savings and reduced controller workload.

EFFECTIVE DATE: January 26, 1978.

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 July 14, 1977, the FAA proposed to amend Part 75 of the Federal Aviation Regulations (14 CFR Part 75) to realign High Altitude Jet Route (J-13) in part from Cheyenne, Wyo., to Billings, Mont., via Casper, Wyo., (42 FR 36271). Interested persons were invited to participate in this rulemaking procedure by submitting written comments on the proposal to the FAA. Two comments were received with no objections. Section 75.100 was republished in the FEDERAL REGISTER on January 3, 1977, (42 FR 707).

THE RULE

This amendment to Part 75 of the Federal Aviation Regulations (FARs) will realign High Altitude Jet Route (J-13) in part from Cheyenne, Wyo., to Billings, Mont., via Casper, Wyo. This jet route realignment is designed to better accommodate the airspace users in this area, resulting in fuel/time savings and reduced controller workload.

DISCUSSION OF COMMENTS

The Air Line Pilots Association (ALPA) suggested a slight alteration in the proposed alignment and recommended that a new jet route be designated along the existing arrival route to Denver. However, the ALPA subsequently withdrew their suggestion after being informed of an additional proposal contained in Airspace Docket No. 77-RM-10 (42 FR 57971) which proposes a realignment of J-170.

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, § 75.100 of Part 75 of the Federal Aviation Regulations (14 CFR Part 75) as republished (42 FR 707) is amended, effective 0901 G.m.t., January 26, 1978, as follows:

In Jet Route No. 13 "Crazy Woman, Wyo." is deleted and "Casper, Wyo." is substituted therefor.

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

NOTE.—The FAA has determined that this 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 November 25, 1977.

B. KEITH POTTS,
Acting Chief, Airspace and Air Traffic Rules Division.

[FR Doc.77-34384 Filed 11-30-77;8:45 am]

[4910-13]

[Docket No. 17406; Amdt. No. 1099]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination—1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue SW., Washington,

D.C. 20591; 2. The FAA Regional Office of the region in which the affected airport is located; or 3. The Flight Inspection Field Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from: 1. FAA Public Information Center (APA-430), FAA Headquarters Building, 800 Independence Avenue SW., Washington, D.C. 20591; or 2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription—Copies of all SIAPs, mailed once every 2 weeks, may be ordered from Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. The annual subscription price is $135.

FOR FURTHER INFORMATION CONTACT:

William L. Bersch, Flight Procedures and Airspace Branch (AFS-730), Aircraft Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone: 202-426-8277.

SUPPLEMENTARY INFORMATION: This amendment to Part 97 of the Federal Aviation Regulations (14 CFR Part 97) prescribes new, amended, suspended, or revoked Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR Part 51, and § 97.20 of the Federal Aviation Regulations (FARs). The applicable FAA forms are identified as FAA Forms 8260-3, 8260-4 and 8260-5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the FEDERAL REGISTER expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form document is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to Part 97 is effective on the date of publication and contains separate SIAPs which have compliance dates stated as effective dates based on related changes in the National Airspace System or the application of new or revised criteria. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPs). In developing these SIAPs, the TERPs criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs is unnecessary, impracticable, or contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The principal authors of this document are Rudolph L. Fioretti, Flight Standards Service, and Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me, Part 97 of the Federal Aviation Regulations (14 CFR Part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective on the dates specified, as follows:

1. By amending § 97.23 VOR-VOR/DME SIAPs identified as follows:

* * * *Effective February 9, 1978.*

Alamosa, CO—Alamosa Municipal, VOR-A, Amdt. 4.
Alamosa, CO—Alamosa Municipal, VOR/DME-B, Amdt. 2.
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR Rwy 13, Amdt. 13.
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR Rwy 22, Amdt. 6.
Sarasota (Bradenton), FL—Sarasota-Bradenton, VOR Rwy 31, Amdt. 4.
Mount Holly, NJ—Burlington County Airpark, VOR-A, Amdt. 1.
Marshal, Tx—Harrison County, VOR/DME-A, Amdt. 1.
Pasco, WA—Tri-Cities, VOR Rwy 21R, Amdt. 2.
Pasco, WA—Tri-Cities, VOR Rwy 30, Amdt. 5.
Richland, WA—Richland, VOR Rwy 25, Amdt. 1.

* * * *Effective January 26, 1978.*

San Francisco, CA—San Francisco International, VOR Rwy 19L, Amdt. 4.
San Francisco, CA—San Francisco International, VOR Rwy 28L/R, Amdt. 17.
San Francisco, CA—San Francisco International, VOR-B, Amdt. 4.
Atlantic City, NJ—Atlantic City Municipal/Bader Field, VOR Rwy 16, Amdt. 2.
Atlantic City, NJ—NAFEC Atlantic City, VOR Rwy 31, Amdt. 11.
Fargo, ND—Hector Field, VOR Rwy 35, Amdt. 7.
Clarksville, TN—Outlaw Field, VOR Rwy 34, Amdt. 9.
Norfolk, VA—Norfolk International, VOR/DME Rwy 5, Amdt. 1.
Norfolk, VA—Norfolk International, VOR/DME Rwy 31, Amdt. 2.

* * * *Effective January 12, 1978.*

Davis, CA—University, VOR Rwy 16, Original.
Davis, CA—University, VOR-A, Amdt. 1.
South Haven, MI—South Haven Municipal, VOR Rwy 22, Amdt. 4.
Keene, NH—Dillant-Hopkins, VOR Rwy 2, Amdt. 5.
Clinton, NC—Sampson County, VOR/DME-A, Amdt. 1.
Honesdale, PA—Cherry Ridge, VOR-A, Amdt. 1.
Sulphur Springs, TX—Sulphur Springs Municipal, VOR-A, Amdt. 1.
Sulphur Springs, TX—Sulphur Springs Municipal, VOR/DME-B, Amdt. 2.

* * * *Effective December 29, 1977.*

Indianapolis, IN—Indianapolis International, VOR Rwy 13, Amdt. 18.
Midland, TX—Midland Regional Air Terminal, VOR Rwy 16R, Amdt. 20.

* * * *Effective December 15, 1978.*

Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 2L, Original.
Nashville, TN—Nashville Metropolitan, VOR/DME Rwy 20R, Original.

* * * *Effective November 18, 1977.*

Hayward, CA—Hayward Air Terminal, VOR-A, Amdt. 5.

NOTE.—The FAA published an amendment in Docket No. 17330, Amdt. No. 1097 to part 97 of the Federal Aviation Regulations (42 FR 57449; November 3, 1977) under section 97.23 effective January 26, 1978, which is hereby amended as follows: Dayton, IN—Mark Anton, VOR/DME-A, original is rescinded.

2. By amending § 97.25 SDF-LOC-LDA SIAPs identified as follows:

* * * *Effective February 9, 1978.*

Sarasota (Bradenton), FL—Sarasota-Bradenton, LOC/DME (BC) Rwy 13, Amdt. 2.

* * * *Effective January 26, 1978.*

San Francisco, CA—San Francisco International, LOC BC-A, Amdt. 4.
Fargo, ND—Hector Field, LOC BC Rwy 17, Amdt. 7.

* * * *Effective January 12, 1978.*

Pensacola, FL—Pensacola Regional, LOC BC Rwy 34, Amdt. 6.

* * * *Effective December 29, 1977.*

Indianapolis, IN—Indianapolis International, LOC (BC) Rwy 13, Amdt. 7.

* * * *Effective December 15, 1977.*

Colorado Springs, CO—City of Colorado Springs Municipal, LOC (BC) Rwy 17, Original.

3. By amending § 97.27 NDB/ADF SIAPs identified as follows:

* * * *Effective February 9, 1978.*

Sarasota (Bradenton), FL—Sarasota-Bradenton, NDB Rwy 31, Amdt. 2.

* * * *Effective January 26, 1978.*

San Francisco, CA—San Francisco International, NDB Rwy 19L, Amdt. 6, cancelled.
San Francisco, CA—San Francisco International, NDB Rwy 28L, Amdt. 4, cancelled.
Fargo, ND—Hector Field, NDB Rwy 17, Amdt. 8.
Andrews, SC—Andrews Municipal, NDB Rwy 36, Original.
Clarksville, TN—Outlaw Field, NDB Rwy 16, Amdt. 1.
Corpus Christi, TX—Corpus Christi International, NDB Rwy 13, Amdt. 18.

* * * *Effective January 12, 1978.*

Pensacola, FL—Pensacola Regional, NDB Rwy 16, Amdt. 19.
Pensacola, FL—Pensacola Regional, NDB Rwy 34, Amdt. 11.
Claremont, NH—Claremont Municipal, NDB-A, Amdt. 2.
Williamsport, PA—Williamsport-Lycoming County, NDB-A, Amdt. 3.
Greenville, SC—Greenville-Downtown, NDB Rwy 36, Amdt. 16.

* * * *Effective December 29, 1977.*

Indianapolis, IN—Indianapolis International, NDB Rwy 4L, Amdt. 14.
Indianapolis, IN—Indianapolis International, NDB Rwy 31, Amdt. 7.

* * * *Effective December 15, 1977.*

Buffalo, NY—Greater Buffalo International, NDB Rwy 5, Amdt. 8.
Nashville, TN—Nashville Metropolitan, NDB Rwy 2L, Original.
Nashville, TN—Nashville Metropolitan, NDB Rwy 20R, Original.

4. By amending § 97.29 ILS-MLS SIAPs identified as follows:

* * * *Effective February 9, 1978.*

Sarasota(Bradenton), FL—Sarasota-Bradenton, ILS Rwy 31, Amdt. 1.
Pasco, WA—Tri-Cities, ILS Rwy 21R, Amdt. 8.

* * * *Effective January 26, 1978.*

San Francisco, CA—San Francisco International, ILS Rwy 19L, Amdt. 12.
San Francisco, CA—San Francisco International, ILS Rwy 28L, Amdt. 13.
San Francisco, CA—San Francisco International, ILS Rwy 28R, Amdt. 2.
Fargo, ND—Hector Field, ILS Rwy 35, Amdt. 25.
Jackson, MS—Allen C. Thompson Field, ILS Rwy 15L, Amdt. 1.
Norfolk, VA—Norfolk International, ILS Rwy 5, Amdt. 17.

* * * *Effective January 12, 1978.*

Denver, CO—Stapleton International, ILS Rwy 26L, Amdt. 39.
Denver, CO—Stapleton International, ILS (BC) Rwy 8R, Amdt. 5.
Pensacola, FL—Pensacola Regional, ILS Rwy 16, Amdt. 6.
Keene, NH—Dillant-Hopkins, ILS Rwy 2, Amdt. 7.
Greenville, SC—Greenville Downtown, ILS Rwy 36, Amdt. 21.

* * * *Effective December 29, 1977.*

Indianapolis, IN—Indianapolis International, ILS Rwy 4L, Amdt. 18.
Indianapolis, IN—Indianapolis International, ILS Rwy 22R, Amdt. 2.
Indianapolis, IN—Indianapolis International, ILS Rwy 31, Amdt. 9.
Boston, MA—General Edward Lawrence Logan International, ILS/DME Rwy 27, Original.

* * * *Effective December 15, 1977.*

Buffalo, NY—Greater Buffalo International, ILS Rwy 5, Amdt. 11.

5. By amending § 97.31 RADAR SIAPs identified as follows:

* * * *Effective January 26, 1978.*

Fargo, ND—Hector Field, RADAR-1, Amdt. 2.

* * * *Effective January 12, 1978.*

Pensacola, FL—Pensacola Regional, RADAR-1, Original.
Pensacola, FL—Pensacola Regional, RADAR-1, Amdt. 2, cancelled.

* * * *Effective December 29, 1977.*

Indianapolis, IN—Indianapolis International, RADAR-1, Amdt. 22.
Sioux City, IA—Sioux City Municipal, RADAR-1, Amdt. 1, cancelled.

6. By amending § 97.33 RNAV SIAPs identified as follows:

* * * *Effective February 9, 1978.*

Charleston, SC—Johns Island, RNAV Rwy 9, Original.

* * * *Effective January 26, 1978.*

Madison, MS—Bruce Campbell, RNAV Rwy 17, Amdt. 2.
Atlantic City, NJ—Atlantic City Municipal/Bader Field, RNAV Rwy 11, Amdt. 2.
Fargo, ND—Hector Field, RNAV Rwy 13, Amdt. 2.

* * * *Effective January 12, 1978.*

Denver, CO—Arapahoe County, RNAV Rwy 28, Original.

* * * *Effective December 29, 1977.*

Indianapolis, IN—Indianapolis International, RNAV Rwy 4L, Amdt. 5.

(Secs. 307, 313(a), 601, and 1110, Federal Aviation Act of 1958 (49 U.S.C. §§ 1348, 1354(a), 1421, and 1510); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Delegation: 25 FR 6489 and Paragraph 802 of Order FS P 1100.1, as amended March 9, 1973.)

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 November 25, 1977.

JAMES M. VINES,
Chief, Aircraft Programs Division.

NOTE.—The incorporation by reference in the preceding document was approved by the Director of the Federal Register on May 12, 1969.

[FR Doc.77-34386 Filed 11-30-77;8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-228]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

AIWW, Mile 846.5, New Smyrna Beach, Fla.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes restrictive periods for the operation of the Harris Saxon drawbridge across the Atlantic Intracoastal Waterway at New Smyrna Beach. The times covered are from 3 p.m. to 6 p.m. on Saturdays, Sundays, and national holidays from March 15 through October 15. These restrictive periods are established in an attempt to relieve vehicle traffic congestions during the periods concerned.

EFFECTIVE DATE: This amendment is effective on December 28, 1977.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), Room 7300, Nassif Building, 400 Seventh Street, SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On December 20, 1976, the Coast Guard published a proposed rule (41 FR 55367) concerning this amendment. The Commander (oan), Seventh Coast Guard District, also published a public notice on this proposal on December 20, 1976. Interested persons were given until January 25, 1977 and January 21, 1977, respectively, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Twenty-seven comments were received. Four supported the proposal. Twenty-two individuals and a petition with 26 signatures opposed the proposal on the grounds that the proposed regulations were neither necessary nor desirable at this time. These objections have validity and were seriously considered. However, the drawtender's logs showed a number of multiple draw openings within the time frame concerned. It is the position of the Coast Guard, at this time, that these regulations will not unduly hamper navigation, and that they will provide a smoother flow of vehicular traffic. This case will be closely monitored and if these regulations are found to be inequitable, they may be modified or rescinded.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations is amended by adding a new § 117.433a immediately after § 117.433 to read as follows:

§ 117.433a Harris Saxon bridge, AIWW, New Smyrna Beach, Florida.

(a) Except as provided in paragraph (b) of this section, on Saturdays, Sundays, and national holidays, from March 15 through October 15, from 3 p.m. to 6 p.m., the draw need not open for the passage of vessels except on the hour and half-hour. At all other times the draw shall open on signal.

(b) The draw shall open at any time for passage of public vessels of the United States, tugs with tows, and vessels in distress. The opening signal from these vessels is four blasts of a whistle, horn, or by shouting.

(c) The owner of or agency controlling this bridge shall conspicuously post notices containing the substance of these regulations, both upstream and downstream, in such a manner that they may be easily read from an approaching vessel.

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 40 CFR 1.46(c)(5).)

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

Dated: November 22, 1977.

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

[FR Doc.77-34252 Filed 11-30-77;8:45 am]

[4910-14]

[CGD 77-079]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Bayou Terrebonne, La.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment changes the regulations for the drawbridge across Bayou Terrebonne, mile 31.3, to allow the bridge to be maintained in a fixed position. The bridge has not been opened for navigation in the past ten years. This part of Bayou Terrebonne has silted to a normal depth of two to three feet; and alternate routes to other waterways are available.

EFFECTIVE DATE: This amendment is effective on January 1, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G-WBR/73), U.S. Coast Guard, 400 Seventh St. SW., Washington, D.C. 20590, 202-426-0942.

SUPPLEMENTARY INFORMATION: On June 13, 1977, the Coast Guard published a proposed rule (42 FR 30217) concerning this amendment. The Commander, Eighth Coast Guard District, also published a public notice on this proposal on June 20, 1977. Interested persons were given until July 15, 1977, and July 19, 1977, respectively, to submit comments.

Drafting information: The principal persons involved in drafting this rule are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Project Attorney, Office of the Chief Counsel.

DISCUSSION OF COMMENTS

Three comments were received. Two comments had no objection to the proposal. The third respondent withdrew their objections when equally convenient, alternate routes were found to exist.

In consideration of the foregoing, Part 117 of Title 33 of the Code of Federal Regulations, is amended by revising § 117.245(j)(2) to read as follows:

§ 117.245 Navigable waters discharging into the Atlantic Ocean south of and including Chesapeake Bay and into the Gulf of Mexico, except the Mississippi River and its tributaries and outlets; bridges where constant attendance of drawtenders is not required.

* * * * *

(j) * * *

(2) Bayou Terrebonne, La.; Louisiana Department of Highways drawbridge near Presquille. The draw need not open for the passage of vessels and paragraphs (b) through (e) of this section shall not apply to this bridge.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937 (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

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

Dated: November 28, 1977.

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

[FR Doc.77-34453 Filed 11-30-77;8:45 am]

[4310-70]

Title 36—Parks, Forests, and Public Property

CHAPTER I—NATIONAL PARK SERVICE, DEPARTMENT OF THE INTERIOR

PART 2—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

Blue Ridge Parkway

AGENCY: National Park Service, Interior.

ACTION: Special Regulation Change.

SUMMARY: This regulation change will remove Price Lake from and include Camp Creek in the Special Regulations established for certain streams and lakes within the boundaries of the Blue Ridge Parkway in North Carolina. This action is supported by research and management studies conducted by Fishery Biologists, U.S. Fish and Wildlife Service. The regulation change will provide for increased visitor enjoyment of the fishing resources on the Parkway at Price Lake and will provide added protection for the native trout population in Camp Creek.

DATES: In order to establish the recommended management changes and to provide timely additional protection needed during the months of reproduction on Camp Creek, the effective date of the regulation change will be December 1, 1977. Public comment on the management changes will be accepted by the Superintendent's Office on or before January 3, 1977. Any comments received during this period will be used when analyzing this and future regulation change proposals.

ADDRESS: Send comments to: Superintendent, Blue Ridge Parkway, 700 Northwestern Bank Building, Asheville, N.C. 28801.

FOR FURTHER INFORMATION CONTACT:

Gary Everhardt, Superintendent, Blue Ridge Parkway, 700 Northwestern Bank Building, Asheville, N.C. 28801, 704-258-2850, Ext. 0718.

SUPPLEMENTARY INFORMATION: For many years Price Lake has been managed as a trout fishery. Routine stocking schedules have been established and followed. Fishing has been permitted with single-hook artificial lures.

During recent years, a rapid population growth of pan and rough fish has been noted. At present, these fish consume a major portion of the food supply and almost totally avoid population control by fishermen as they are not readily caught on artificial lures.

Since there is a good population of trout in the lake, undesirable fish eradication by chemical or other means is impossible. The reasonable alternative in establishing population control on these undesirable species is to allow fishermen to use natural bait, with the exclusion of any live fish or nonpreserved fish eggs. Fishing pressure would therefore be placed on the heretofore unexposed pan and rough fish populations and moderate control exercised. The trout population would be affected only slightly by the regulation change. If warranted, the stocking schedule could be altered to compensate for any additional pressure on the trout population.

In Camp Creek, similar stocking programs have been followed to supplement the population of native or "wild" trout. This small stream was once almost entirely exposed to sunlight and only marginal reproduction was found in the stream. In recent years, however, the brush and trees have grown extensively along the stream banks and now the stream is almost entirely overgrown and shaded. This increase in vegetative cover not only offers good protection but has substantially lowered the water temperature and increased the food supply in and along the stream. The stream raised trout have responded to these favorable changes in a very positive manner and are presently reproducing at a very good rate.

In past years, proper management of the stream was to allow fishermen to use natural bait and take the stocked fish from the stream as water conditions allowed only a short survival time. This type management is not needed now as the stream conditions have extensively changed and the stream raised trout population has and is continuing to expand and the stream needs no further supplemental stocking.

Proper management for the stream at present and the foreseeable future is to restrict the manner of taking fish to a single-hook artificial lure. The use of natural bait should not be allowed.

Accordingly, it is proposed to revise 36 CFR 7.34, paragraph (b) (3) (i) as follows:

§ 7.34 Blue Ridge Parkway.

* * * * *

(b) * * *

(3) * * *

(i) *North Carolina.* Basin Creek and its tributaries in Doughton Park; Trout Lake in Moses H. Cone Memorial Park; Ash Bear Pen Pond, Boone Fork River, Cold Prong Branch, Laurel Creek, Sims

Creek, Sims Pond in Julian Price Memorial Park, and Camp Creek.

* * * * *

JAMES R. BROTHERTON,
Acting Superintendent,
Blue Ridge Parkway.

[FR Doc.77-34454 Filed 11-30-77;8:45 am]

[8320-01]

Title 41—Public Contracts and Property Management

CHAPTER 8—VETERANS ADMINISTRATION

PART 8-5—SPECIAL AND DIRECTED SOURCES OF SUPPLY

Subpart 8-5.50—Procurement Under the Economy Act From or Through Another Federal Agency

AGENCY: Veterans Administration.

ACTION: Final regulation.

SUMMARY: This subpart prescribes the policy and procedures incident to procurement of support services from or another Government department or agency pursuant to the authority of the Economy Act of June 30, 1932, as amended. This agency implementation of support services under the Economy Act will be of interest to other Government departments and agencies.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Delia S. Danzig, Policy and Interagency Staff, Supply Service, Veterans Administration, Washington, D.C. 20420, 202-389-3882.

SUPPLEMENTARY INFORMATION: Section 8-5.5000 prescribes the VA policy in placing orders with another Government department or agency pursuant to the Economy Act. Section 8-5.5001 outlines determinations to be made prior to placing orders with other Government departments or agencies.

Compliance with the provisions of 38 CFR 1.12, as to notice of proposed regulatory development and delayed effective date, is unnecessary in this instance and would serve no useful purpose. This subpart only involves agency procedures and practices.

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 No. A-107.

Approved: November 23, 1977.

By direction of the Administrator:

RUFUS H. WILSON,
Deputy Administrator.

A new Part 8-5 is added to read as follows:

Subpart 8-5.50—Procurement Under the Economy Act From or Through Another Federal Agency

Sec.

8-5.5000 Scope.
8-5.5001 Authorization and policy relating to placing and filling orders.
8-5.5002 Interagency support agreement.

AUTHORITY: The provisions of this Part 8-5 issued under 72 Stat. 1114, sec. 205(c), 63 Stat. 389; 38 U.S.C. 210, 40 U.S.C. 486(c).

Subpart 8-5.50—Procurement Under the Economy Act From or Through Another Federal Agency

§ 8-5.5000 Scope.

This subpart prescribes the Veterans Administration policy and procedures in placing orders with another Government department or agency for materials, supplies, equipment, work or services of any kind pursuant to the authority of the Economy Act of June 30, 1932, as amended (31 U.S.C. 686). This subpart is not applicable to established sources of supply prescribed in FPMR 101-26 (41 CFR 101-26).

§ 8-5.5001 Authorization and policy relating to placing and filling orders.

In furtherance of the general policy of the Government not to compete with private enterprise, OMB Circular No. A-76, revised August 30, 1967, as amended, provides the guidelines under which Government agencies may provide themselves commercial and industrial products and services. Government agencies are responsible for compliance with this directive, and are therefore approved sources for products and services that may be available pursuant to the Economy Act. Accordingly, if needed products or services are known to be available as conveniently or more economically from another Government department or agency, a determination as to whether or not to obtain them from that source must be made prior to soliciting proposals from commercial sources. Solicitations for this purpose will not be sent to Government departments or agencies. Current market prices or recent procurement prices may be used to ascertain whether or not procurement can be made more economically from commercial sources, except the medical services as provided in Chapter 17 of Title 38, United States Code.

§ 8-5.5002 Interagency support agreement.

(a) An interagency support agreement is a written instrument of understanding executed between the parties to the agreement. The agreement should state clearly the accord which has been reached between the two parties involved, especially the obligations assumed by the rights granted each. The agreement will be specific with respect to resources to be provided by both the supplying and receiving activities. It will also provide for funding and reimbursement arrangements, and clauses permitting revisions, modifications thereto, or cancellation thereof, will be included.

(b) Requirements for support services available from any other Government department or agency will be obtained on the basis of an approved negotiated interagency support agreement.

(c) Proposed interagency support agreements with any other Government department or agency involving the expenditures of Veterans Administration funds of $5,000 or more will be forwarded by the approving official to the Director, Supply Service, for legal review and approval, as required by § 8-1.403-52(a)(3).

[FR Doc.77-34466 Filed 11-30-77;8:45 am]

[1505-01]

CHAPTER 101—FEDERAL PROPERTY MANAGEMENT REGULATIONS

SUBCHAPTER H—UTILIZATION AND DISPOSAL

[FPMR Amdt. H-108]

PART 101-44—DONATION OF PERSONAL PROPERTY

Correction

In FR Doc. 77-30617, appearing at page 56000 in the issue for Thursday, October 20, 1977, on page 56012, middle column, transfer the tenth line of § 101-44.202(c)(12), reading "public accountant or independent li-", above the ninth line, which reads "censed public accountant who is certi-".

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 178—STUDENT CONSUMER INFORMATION SERVICES

AGENCY: Office of Education, DHEW.

ACTION: Final regulation.

SUMMARY: The Commissioner of Education is issuing final regulations to implement the Student Consumer Information Requirements, established by Title I of the Education Amendments of 1976, Pub. L. 94-482. The regulations establish rules and procedures whereby institutions of postsecondary education which receive administrative payments under Title IV of the Higher Education Act of 1965, as amended, will disseminate information to students concerning the academic programs of the institution and the financial assistance programs available to students for attendance at the institution.

EFFECTIVE DATE: Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232(d)), this regulation has been transmitted to the Congress concurently with its publication in the FEDERAL REGISTER. That section provides that rules subject

thereto shall become effective on the 45th day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Mr. Leo L. Kornfeld, Deputy Commissioner for Student Financial Assistance, Regional Office Building 3, Room 4682, 7th and D Streets, SW., Washington, D.C., telephone 202–245–8595.

SUPPLEMENTARY INFORMATION: A notice of proposed rule making was published in the FEDERAL REGISTER on April 8, 1977 (42 FR 18747–18750) proposing regulations governing the implementation of student consumer information services required by the amendments made to the Higher Education Act by the Education Amendments of 1976. The Commissioner invited interested persons to submit comments concerning the proposed regulations. Additionally, six public meetings were held from May 2–6, 1977 in various locations throughout the country for the purpose of soliciting public comment. The following is a summary of the comments received and the Office of Education's response.

DISCUSSION OF MAJOR COMMENTS

USE OF TERM "ACADEMIC YEAR"

Comments. Several commenters suggested that a term other than "academic year" be used to denote the twelve-month period beginning each July 1 and ending on the next June 30, since this is not the usual connotation of the term "academic year." Suggested terms were "fiscal year" and "award period."

Response. The Commissioner agrees to change the term to "award period." The Commissioner used the term "academic year" to refer to the twelve-month period because the term is so defined in the regulations for the Basic Educational Opportunity Grant Program. "Award period" was selected because it corresponds with the use of that term on award documents for the three campus-based programs—Supplemental Educational Opportunity Grants, College Work-Study, and National Direct Student Loans—and has no other connotation in the financial aid field. "Fiscal Year" was not used because the Federal fiscal year begins on October 1 and ends the following September 30.

SCOPE OF FINANCIAL AID PROGRAMS TO BE DESCRIBED

Comments. Many commenters objected to the inclusion of private programs in the list of student financial aid programs about which institutions must provide information; some felt that this was an unwarranted Federal intrusion, while others believed that the term is ambiguous. A few commenters objected to the inclusion of State programs in the list as well. Finally, a few commenters objected to the requirement that an institution must list each of its institutional student aid programs, particularly in the case of the institutions having a great many categorial restricted awards.

Response. The Commissioner concurs with the objections expressed about including information on private programs not operated by the institution and has omitted that requirement; however, he considers it reasonable to require information about State programs and has retained that requirement. He has revised the regulation to permit an institution to describe all its own student financial aid programs in a single listing.

DEFINITION OF "PROSPECTIVE STUDENT"

Comment. One commenter suggested that the term "prospective student" be redefined as a person who has actually applied for admission at an institution.

Response. The statute specifically defined the term "prospective student"; therefore, the Commissioner used that definition.

AWARD PERIOD FOR USE OF ADMINISTRATIVE COST ALLOWANCE

Comments. Several commenters requested that an institution be allowed to use the administrative expense allowance claimed for one award period to meet the requirements of Part 178 in the next succeeding award period.

Response. The Commissioner has decided that an institution may not use funds received for one award period to meet the requirements of this part for a succeeding award period because of the possibility that all the funds would be used in the subsequent period and that none would be used for the current period. However, because questions received in one period may refer to succeeding periods, the costs incurred in responding to those questions will be allowable in the current year. For example, if a prospective student in the fall of 1977 requests information concerning financial aid in the 1978–79 academic year, the costs of responding to that question, including the preparation of material, would be an allowable expense against the funds received for the 1977–78 award period.

CLARIFICATION OF TO WHOM INFORMATION MUST BE PROVIDED

Comments. A few commenters questioned whether it would be required to provide the information specified in § 178.4 to all prospective students or only to those who request it.

Response. The Commissioner's interpretation of the statute is that the information specified in § 178.4 must be provided *only* to persons who request it, whether they are prospective students or enrolled students. Further, only that portion of the information that is requested need be provided. The first sentence of § 178.3 has been reworded in order to clarify these distinctions.

DEFINITION OF "APPROPRIATE PUBLICATION OR MAILING"

Comments. Several commenters objected to the provision in § 178.3(b) of the proposed regulation that an appropriate publication or mailing must be available at no cost to the student or at a charge not to exceed its actual unreimbursed cost of preparation and publication. One commenter stated that this requirement constitutes over-regulation, since the statute does not state that an institution may not charge for the publication. Some commenters thought that the precise identification of costs attributable to the requirements of Part 178 would be very difficult, since this information would frequently be part of a general catalogue that contained other information not required by Part 178. Finally, a few commenters requested, if such a requirement were retained, that institutions be allowed to include the cost of mailing publications in determining the unreimbursed cost.

Response. In view of the many practical difficulties raised by the commenters and in consideration of the possibility of overregulation, the Commissioner has omitted in the final regulation a specific requirement that the charge to a student for information cannot exceed the unreimbursed cost of preparation and publication.

SPECIFIC FINANCIAL CONDITIONS FOR CONTINUED ELIGIBILITY

Comments. A few commenters objected to the requirement that the information to be disseminated must include the financial conditions which must be met, for a student to remain eligible for each student financial aid program. They pointed out that the precise income and asset levels under which a family would qualify for assistance under various student financial aid programs changes from year to year. They also mentioned that the ratio of their funds available for student financial aid to the number of eligible student financial aid applicants varies from year to year. Therefore, it might be very misleading to distribute information concerning precise financial conditions under which a student would continue to qualify for financial aid.

Response. The Commissioner acknowledges these difficulties and the resultant possibility of misinformation and has deleted the phrase regarding financial conditions from the final regulation.

PROVISION OF LOAN REPAYMENT SCHEDULES

Comments. Several commenters stated that it was unnecessary and misleading to give a student copies of loan repayment schedules when he or she first inquires about financial aid, since this is a level of detailed information that is not likely to be useful at that time and since the statutory and regulatory conditions for repayment change from time to time.

Response. The Commissioner concurs with these comments and has modified that provision to require representative sample cases. For example, an institution may use as a sample a $1,000 National Direct Student Loan or Guaranteed Student Loan and provide the student with a repayment schedule for those loans.

ESTIMATES OF OFF-CAMPUS LIVING COSTS

Comments. Several commenters objected to the requirement that an institution must provide estimates of typical room and board costs, especially for students who live off-campus.

Response. This requirement was derived from the statute and therefore cannot be removed from the regulation. Furthermore, the Commissioner believes that institutions reasonably should have such information available, for the purposes of making individual student financial aid packages and, in the case of some institutions, applying for Federal funds to operate the campus-based programs.

RETENTION DATA

Comments. Many commenters objected to the provisions in the proposed regulation regarding retention data, expressing a variety of concerns. First, many believed that students would misconstrue the meaning and implications of any retention data that were provided. Some suggested that these data not be required. Second, many comments raised questions about how to compute the retention data described in the proposed regulation, specifically with respect to whether various types of students (half-time, non-degree, graduate vs. undergraduate, etc.) should be included, and how students who move from program to program should be handled. Third, many interpreted the requirement of three years of retention data as a retroactive one and objected to it on that basis. Fourth, several commenters suggested that the Commissioner seek advice from the Association of Collegiate Registrars and Admissions Officers in developing a statement of the required retention information. Fifth, the single most frequent suggestion concerning the retention requirement is that the regulation state only that each institution should provide retention data which best describes that institution's retention rate taking into account the institution's enrollment pattern.

Response. The statute requires that retention data be provided; therefore, a provision for retention information is retained in the final regulation. In view of the many difficulties raised by the commenters in implementing the requirement for retention data as stated in the proposed regulation, the Commissioner has adopted the phrase suggested by many commenters listed as the fifth concern in the comment. He is requiring in addition only that the institution include a description of which types of students were included and excluded in compiling the retention information. However, the Commissioner remains concerned that the retention data be useful to students and that it enable them to make meaningful comparisons among institutions, to the extent possible. If experience reveals that the retention information provided by institutions to students is not useful, then the Commissioner will reconsider whether a more extensive statement about retention is necessary.

COMPLETION DATA

Comments. A few commenters objected to the requirement that institutions provide data on the number of students completing a program because the extensive number of students who change programs or majors makes compiling this information very difficult.

Response. The Commissioner's regulation is derived directly from the statute and cannot be omitted. However, it should be pointed out that these provisions required only that completion data be provided to requesters if such data are available at the institution, but do not require that completion data be compiled specifically for the purpose of answering student inquiries.

NAMES OF PERSONS TO CONTACT

Comments. Many commenters stated that the regulation should require only the titles, but not the names, of persons who may be contacted for information dissemination purposes, because of the relatively frequent turnover of personnel.

Response. The Commissioner concurs, and has changed the regulation accordingly.

WAIVER OF FULL-TIME AVAILABILITY OF AN EMPLOYEE OR GROUP OF EMPLOYEES

Comments. A few commenters objected to the proposed conditons under which the Commissioner would grant a waiver of the requirement that an employee or a group of employees be available on a full-time basis to carry out the specified information dissemination activities. Others suggested that the Commissioner's criteria should also include the amount of funds spent by the institution in the Basic Grant and campus-based programs.

Response. The Commissioner has reevaluated this requirement and has concluded that it would be preferable not to state specific conditions under which waivers will automatically be granted. After some experience in evaluating requests for waivers has been obtained, the Commissioner will reconsider whether such a provision is desirable.

HOURS OF AVAILABILITY

Comment. One commenter stated that the provision concerning hours of availability of the employee or group of employees designated for information dissemination purposes is too directive and constitutes an unwarranted intrusion into internal administration.

Response. The Commissioner does not concur; he considers his statement a reasonable interpretation of the statutory requirement of full-time availability.

IDENTIFICATION OF EXPENDITURES FOR ADMINISTRATIVE COST ALLOWANCES

Comments. Several commenters questioned whether it was necessary to require that funds received for administrative expenses be used to carry out the specified consumer information activities. In their view, it would be sufficient for the Commissioner to assure compliance with the student consumer information requirements, and not to be concerned with the source of funds for carrying out those requirements.

Response. The Commissioner's regulatory provision is derived directly from the statute; therefore § 178.6 of the proposed regulations has not been substantially changed. However, the Commissioner's interpretation of that requirement is that the institution's fiscal records must be able to demonstrate (1) that the amount spent to carry out the student consumer information activities during any award period equals or exceeds the administrative cost allowances received for that period, or (2) that, if the amount required to carry out student consumer information activities is less than the administrative cost allowances received, an amount at least equal to the difference was spent for other costs of administering Title IV student financial aid programs at that institution.

ACCESS TO RECORDS

Comments. Two commenters objected to the provision in § 178.7(c) that Federal officials have access to "any other pertinent documents, papers, and records of the institution" because they found it unnecessarily broad and potentially intrusive.

Response. This language is copied from equivalent sections of the regulations for the campus-based programs and is considered necessary to insure that Federal officials will have access to any pertinent documents for the purpose of audit and examination.

SCOPE OF AUDIT

Comments. Many commenters stated that no audit examines all transactions and that the language of § 178.8 should be changed.

Response. The Commissioner concurs and has changed this language.

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 13.539, Basic Educational Opportunity Grant Program; 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; 13.471, National Direct Student Loan Program; and 13.460, Guaranteed Student Loan Program.)

Dated: September 1, 1977.

JOHN ELLIS,
Acting Commissioner of Education.

Approved: November 18, 1977.

HALE CHAMPION,
Acting Secretary of Health, Education, and Welfare.

1. Chapter I of Title 45 of the Code of Federal Regulations is amended by adding a new Part 178, which reads as follows:

Sec.
178.1 Purpose and scope.
178.2 Definitions.

Sec.
178.3 Information dissemination requirements.
178.4 Information dissemination topics.
178.5 Availability of employees for information dissemination purposes.
178.6 Use of funds.
178.7 Compliance procedures and records.
178.8 Audits—non-Federal.

AUTHORITY: Sec. 493A of Title IV of the Higher Education Act of 1965 as added by sec. 131 of Pub. L. 94-482, 90 Stat. 2148-2149 (20 U.S.C. 1088b-1), unless otherwise noted.

§ 178.1 Purpose and scope.

This part establishes rules for the dissemination of information required by section 493A of the Higher Education Act of 1965. It applies to any institution or school which receives a payment under section 411(d), 428(e), or 493 of that Act (20 U.S.C. 1070a(d), 1078(e) and 1088b). Section 411(d) refers to payments made to an institution of higher education under the Basic Grant Program. Section 428(e) refers to payments to an eligible institution under the Guaranteed Student Loan Program. Section 493 refers to payments received by an institution of higher education because of its participation in the Supplemental Educational Opportunity Grant, College Work-Study, or National Direct Student Loan Programs and to payments received by an area vocational school because of its participation in the College Work-Study Program.

(20 U.S.C. 1088b-1.)

§ 178.2 Definitions.

As used in this part: (a) "Act" means the Higher Education Act of 1965, as amended.

(b) "Administrative cost allowance" means the payment to any institution pursuant to section 411(d), 428(e), or 493 of the Act.

(c) "Award period" means the period of time between July 1 of one year and June 30 of the subsequent year.

(d) "Institution" means an institution of higher education as defined in section 1201(a) of the Act, a proprietary institution of higher education as defined in section 491(b) of the Act, an eligible institution as defined in section 435 of the Act, or an area vocational school as defined in section 195(2) of the Vocational Education Act of 1963.

(e) "Prospective student" means any individual who has contacted an institution requesting information for the purpose of enrolling at that institution.

(20 U.S.C. 1088b-1.)

§ 178.3 Information dissemination requirements.

Each institution which receives an administrative cost allowance for any award period shall, for that award period, (a) prepare material, if necessary, on the topics set forth in § 178.4 and (b) disseminate that information, or any requested portions of that information, to enrolled or prospective students who request all or part of that material.

(20 U.S.C. 1088b-1.)

§ 178.4 Information dissemination topics.

The information to be prepared and disseminated to students includes:

(a) (1) A description of all student financial aid programs available to students who enroll at that institution that provide assistance to students to meet the cost of attending that institution. These programs include the Guaranteed Student Loan type program and programs for which the primary criterion of student eligibility is demonstrated financial need for the assistance because of the financial condition of the student or the student's family.

(2) For purposes of compliance with this section, the institution must describe:

(i) Programs authorized under Title IV of the Act,

(ii) Programs administered by the State in which the institution is located, and

(iii) The institution's own programs of student financial aid. The institution may, at its option, describe its own programs by listing them by general categories.

(3) The institution must describe for these programs the procedures and forms for applying for such aid, the student eligibility requirements, the criteria for selecting recipients from the group of eligible applicants, and the criteria for determining the amount of a student's award;

(b) A statement of the rights and responsibilities of students receiving financial aid under the Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan, or Guaranteed Student Loan Programs. This information includes:

(1) Criteria for continued eligibility for each program;

(2) Criteria for determining that a student is in good standing and maintaining satisfactory progress in his course of study, as required by Section 497(e)(1) of the Act for the purposes of receiving financial aid payments, and the criteria by which a student who has failed to maintain satisfactory progress or good standing may reestablish his eligibility for payment;

(3) The means by which payment of awards will be made to students and the frequency of such payments;

(4) The terms of any loan received by a student as part of his student financial aid and sample loan repayment schedules for sample loans; and

(5) The general conditions and terms applicable to any employment provided to a student as part of his financial aid;

(c) The cost of attending the institution, including tuition and fees, books and supplies, estimates of typical room and board and transportation costs for students living on-campus, off-campus, or at home, and any additional cost of the program in which the student is enrolled or expresses a specific interest;

(d) The refund policy of the institution for the return of unearned tuition and fees or other refundable portion of cost paid to that institution as described in paragraph (c) of this section;

(e) The academic program of the institution, including the current degree programs and other educational and training programs; the instructional, laboratory, and other physical facilities which relate to the academic program; and the faculty and other instructional personnel;

(f) Data regarding student retention which takes into account the enrollment pattern of that institution, including a description of the types of students that were included and excluded in compiling the retention information;

(g) The number and percentage of students completing the program in which a student is enrolled or expresses interest, if such data are available at the institution; and

(h) The titles of persons designated under § 178.5 and information regarding how and where such persons may be contacted.

(20 U.S.C. 1088b-1.)

§ 178.5 Availability of employees for information dissemination purposes.

(a) Except as provided in paragraph (b) of this section, each institution which receives an administrative cost allowance for any award period shall designate, for that award period, an employee or group of employees who shall be available on a full-time basis to assist students or prospective students in obtaining the information specified in § 178.4. If the institution designates one person, that person shall be available, upon reasonable notice, to any interested student or prospective student throughout the normal administrative working hours of that institution. If more than one person is designated, their combined schedules shall be arranged in such a manner that at least one of them is available, upon reasonable notice, throughout the normal administrative working hours of that institution.

(b) *Waiver.* (1) The Commissioner may waive the requirement set out in paragraph (a) of this section for an institution that submits a timely application for the waiver when the total enrollment, or the portion of the enrollment participating in student financial aid programs authorized under Title IV of the Act (the Basic Educational Opportunity Grant, Supplemental Educational Opportunity Grant, College Work-Study, National Direct Student Loan, Guaranteed Student Loan, and State Student Incentive Grant Programs), is too small to necessitate the availability of an employee or group of employees on a full-time basis. In determining whether an institution's total enrollment or the number of recipients of Title IV assistance is too small, the Commissioner will consider whether there will be an insufficient demand for information dissemination services among its students or prospective students to necessitate the full-time availability of an employee or group of employees.

(2) The granting of a waiver under subparagraph (1) of this paragraph does not exempt an institution from designating a specific employee or group of employees to carry out the provisions of this section.

(20 U.S.C. 1008b–1.)

§ 178.6 Use of funds.

Any institution which receives an administrative cost allowance for any award period shall first use such funds to carry out the provisions of this part for that award period. If any funds remain, the institution shall use those funds for other costs of administering the student financial aid programs authorized under Title IV of the Act for that award period.

(20 U.S.C. 1088b–1.)

§ 178.7 Compliance procedures and records.

(a) *Retention of records.* Each institution which receives an administrative cost allowance for any award period shall keep intact and accessible all records relating to the receipt and expenditure of Federal funds in accordance with Section 434(a), General Education Provisions Act (20 U.S.C. 1232c), including all accounting records and related original and supporting documents that substantiate costs, for a period of five years after the close of the award period for which the payments were received, except as provided in paragraph (b) of this section.

(b) *Audit questions.* The records involved in any claim or expenditure which has been questioned by audit shall be further retained until resolution of any such audit questions: *Provided, however,* That records need not be retained if they relate to a payment with respect to which actions by the United States to recover for diversion of Federal funds are barred by the statute of limitations in 20 U.S.C. 2415(b).

(c) *Audit and examination.* The Secretary of Health, Education, and Welfare and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to the records specified in paragraph (a) of this section and to any other pertinent documents, paper, and records of the institution.

(20 U.S.C. 1088b–1, 1232c.)

§ 178.8 Audits—non-Federal.

(a) A comprehensive audit of an institution's transactions relating to its use of administrative cost allowances received shall be performed by the institution or at the institution's direction to determine, at a minimum, the fiscal integrity of financial transactions and reports and whether such transactions are in compliance with applicable laws and regulations. Such audits shall be performed in accordance with the Department of Health, Education, and Welfare "Audit Guide" for student financial aid programs. If the institution participates in the Supplemental Educational Opportunity Grant, College Work-Study, or National Direct Student Loan Programs, then the audit required by this part shall be included as part of an audit performed for any of those programs. If the institution does not participate in any of the above three programs, then the audit required by this part shall be performed at least once every two years.

(b) Audit report shall be submitted to the HEW Audit Agency at the regional office of the Department of Health, Education, and Welfare serving the region in which the institution is located for its review. The Audit Agency and the Commissioner shall also be given access to records or other documents as may be necessary to review the results of such audits.

(20 U.S.C. 1088b–1, 1232c.)

[FR Doc.77–34100 Filed 11–30–77;8:45 am]

[6730–01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

SUBCHAPTER B—REGULATIONS AFFECTING MARITIME CARRIERS AND REGULATED ACTIVITIES

[Docket No. 72–19; General Order No. 13]

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Correction

AGENCY: Federal Maritime Commission.

ACTION: Correction of typographical and editorial errors appearing in General Order 13 Report served November 10, 1977 (42 FR 59265).

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: The Commission's Order in Docket No. 72–19 (as it appeared in 42 FR 59265, November 16, 1977) contained the following errors and omissions

1. Initial page, Summary, Line 5 (Page 59265, column 2, summary, line 7): The word "Petitioners" should read "Petitioners'" [possessive].

2. Page 8, line 20 (Page 59266, column 3, line 66): The rule cited as "Section 536.4(a)(1) should read "Section 536.4(a)(4)(i)."

3. Appendix, page 2, line 17 (Page 59267, column 3, line 6): the word "contents" should read "content." [singular].

4. Appendix, page 3, line 19 (Page 59267, column 3, line 43): The carriage of mail (41 F.R. 26573, June 28, 1976) and certain activities of Incan Superior, Ltd., (40 FR 54790, November 26, 1975) were omitted from the list of Shipping Act section 18(b) exemptions contained in section 536.1(a). Additional subparagraphs numbered (a)(3) and (a)(4) should be inserted which read:

"(3) Transportation of mail to and from the United States and foreign countries."

"(4) Transportation by Incan Superior, Ltd., of cargo moving in railroad cars between Thunder Bay, Ontario, and Superior, Wisconsin; Provided, that (1) the through rates are filed with the Interstate Commerce Commission and/or the Canadian Transport Commission; (2) certified true copies of the rate divisions and of all agreements, arrangements, or concurrences entered into in connection with the transportation of such cargo within 30 days of the effectiveness of such rate divisions, agreements, arrangements or concurrences; and Provided, further, that this exemption is inapplicable to cargo originating in or destined to foreign countries other than Canada."

5. Appendix, page 7, line 9 (Page 59268, column 2, line 9): the word "and" should be deleted and the word "or" substituted therefor.

6. Appendix, page 11, line 12 (Page 59269, column 1, line 4): the word "sections" should read "section." [singular].

7. Appendix, page 11, line 21 (Page 59269, column 1, line 17): the word "any" should be deleted and the word "new" should be capitalized.

8. Appendix, page 22, line 25 (Page 59270, column 2, section 536.5(d)(12), line 1): the words "Ad Volorem" should read "Ad Valorem."

9. Appendix, page 25, line 16 (Page 59270, column 3, section 536.5(d)(19), line 3): the citation to "section 526.6" should read "section 527.6."

10. Appendix, page 33, line 18 (Page 59272, column 1, section 536.9(c), line 5): the word "the" should be deleted the first time it appears in the line.

11. Appendix, page 47, line 9 (Page 59274, column 1, section 536.14(a), line 3): the word "transferred" should be deleted from the end of the line.

Therefore, it is ordered, That General order 13 (46 CFR Part 536) is corrected to read in accordance with the above.

FRANCIS C. HURNEY,
Secretary.

[FR Doc.77–34399 Filed 11–30–77;8:45 am]

[1505–01]

[Docket No. 72–19; General Order No. 13]

PART 536—PUBLISHING AND FILING TARIFFS BY COMMON CARRIERS IN THE FOREIGN COMMERCE OF THE UNITED STATES

Correction

In FR Doc. 77–33118, appearing at page 59265 in the issue for Wednesday, November 16, 1977:

1. On page 59267, in paragraph (b)(1)(i) of § 536.1, "Exact" should be "exact".

2. On page 59268, in the fifth line of paragraph (g) of § 536.2, the word "profit" should read "point".

3. On page 59269, in the first line of paragraph (c) of § 536.4, the word "or" should read "of".

4. On page 59272, third column, twelfth line from the top, the word "initail" should read "initial".

5. On page 59274, in § 536.15, lines three and four of paragraph (c) reading "carrier in whose name the special permission is requested." should be deleted.

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.

[4910–13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 21]

[Docket No. 17147; Notice 77–19A]

PARTS MANUFACTURER APPROVALS-EXPORT AIRWORTHINESS APPROVALS

Reopening of Comment Period

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice reopening comment period.

SUMMARY: This Notice reopens the period for submission of comments in response to certain proposals contained in Notice 77–19. Reopening the comment period will allow additional persons and organizations to submit their comments to the Docket. This action was requested by Superior Air Parts, Inc.

DATES: Comments must be received on or before January 4, 1978.

ADDRESSES: Send comments on the proposals in duplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC–24), Docket No. 17147, 800 Independence Avenue SW., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

Raymond E. Ramakis, Regulatory Projects Branch, Safety Regulations Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone: 202–755–8716.

SUPPLEMENTARY INFORMATION: The Federal Aviation Administration (FAA) proposed in Notice 77–19, published in the FEDERAL REGISTER on September 1, 1977 (42 FR 43985), to amend certain provisions of Part 21 of the Federal Aviation Regulations (FARs) that are applicable to Parts Manufacturer Approvals (PMA) and Export Airworthiness Approvals. It was indicated in Notice 77–19 that communications received on or before November 1, 1977, would be considered by the Administrator before taking action on the proposed rules.

With respect to PMA, Notice 77–19, proposed to amend § 21.303 of the FARs by revising the application and reporting requirements applicable to PMA, and by clarifying the means by which an applicant for a PMA can show that the design of the applicant's part is identical to the design of a part that is covered under a type certificate.

By letter dated October 21, 1977, Superior Air Parts, Inc., (Superior) requested a 90-day extension of the time provided in Notice 77–19 for the submission of comments. Superior stated that it has been in the business of supplying replacement parts for aircraft piston engines since 1967 by virtue of PMA and that in view of the far-reaching consequences of the proposed rule, it was not possible for it to perform the research necessary to prepare and file adequate comments by November 1, 1977. The FAA believes that Superior Air Parts, Inc. has shown a substantive interest in the proposals to amend § 21.303 of the FARs and that good cause exists for reopening the comment period for those proposals. The FAA further believes that reopening the comment period is consistent with the public interest. However, the FAA believes that reopening the comment period until January 4, 1978, instead of for 90 days as requested by the petitioner, would be adequate.

Therefore, the period for submission of comments in response to the proposals to amend § 21.303 of the FARs that were contained in Notice 77–19, is hereby reopened and will close on January 4, 1978. All communications received on or before that date will be considered by the Administrator before taking action on those proposals.

DRAFTING INFORMATION

The principal authors of this document are J. Zahringer, Flight Standards Service, and K. May, Office of the Chief Counsel.

(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) of the Department of Transportation Act (49 U.S.C. 1655(c)); 14 CFR 11.45.)

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 November 25, 1977.

R. P. SKULLY,
Director, Flight Standards Service.

[FR Doc.77–34450 Filed 11–30–77;8:45 am]

[4910–13]

[14 CFR Part 39]

[Docket No. 77–WE–7–AD]

AIRWORTHINESS DIRECTIVES

McDonnell Douglas DC–9 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Withdrawal of Notice of Proposed Rulemaking.

SUMMARY: This notice withdraws the proposed airworthiness directive (AD) that was published in the FEDERAL REGISTER on April 18, 1977 (42 FR 20146). That proposed AD would have required modifications to the flight spoiler actuation and control system on certain McDonnell Douglas Model DC–9 Series airplanes.

DATES: Effective date—December 6, 1977.

FOR FURTHER INFORMATION CONTACT:

Jerry J. Presba, Executive Secretary, Airworthiness Directives Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, Worldway Postal Center, Los Angeles, California 90009, telephone: 213–536–6351.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring modifications to the flight spoiler actuation and control system on certain McDonnell Douglas Model DC–9 airplanes was published in the FEDERAL REGISTER on April 18, 1977 (42 FR 21046).

Upon further consideration, and in light of comments received in response to the Notice of Proposed Rule Making, the FAA has determined that the adoption of the proposed AD would unduly penalize operators who are already adequately handling these service problems and would not adequately address the overall problem of a spoiler being stuck in the extended position without the pilot's knowledge. Therefore, the proposed AD is being withdrawn in favor of a comprehensive review of the operators' in-service experience with the DC–9 spoiler system. Based on the findings from this study, further action may be indicated, both for existing DC–9 airplanes and for requirements to be incorporated into any future DC–9 versions.

Withdrawal of this notice of proposed rulemaking constitutes only such action, and does not preclude the FAA from issuing another Notice in the future, or commit the FAA to any course of action in the future.

DRAFTING INFORMATION

The principal authors of this document are Everett W. Pittman, Aircraft Engineering Division, and Mark T. McDermott, Office of the Regional Counsel.

THE WITHDRAWAL

In consideration of the foregoing, and pursuant to the authority delegated to me by the Administrator, the proposed

airworthiness directive published in the FEDERAL REGISTER on April 18, 1977 (42 FR 20146), is hereby withdrawn.

(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 11.85.)

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

Issued in Los Angeles, California on November 21, 1977.

ROBERT H. STANTON,
Director,
FAA Western Region.

[FR Doc.77-34392 Filed 11-30-77;8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-SW-62]

FEDERAL AIRWAYS

Proposed Alteration

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to alter VOR federal airways identified as V-76 and V-306 in the vicinity of Austin, Tex. This proposed amendment would simplify air traffic control instructions being issued to aircraft arriving into the Austin, Tex., terminal area.

DATES: Comments must be received on or before December 30, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southwest Region, Attention: Chief, Air Traffic Division, Docket No. 77-SW-62, Federal Aviation Administration, P.O. Box 1689, Forth Worth, Tex. 76101.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket (AGC-24), Room 916, 800 Independence Avenue, SW., Washington, D.C. 20591.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southwest Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex. 76101. All communications received on or before Dec. 30, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

THE PROPOSAL

The FAA is considering an amendment to Subpart C of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to alter two federal airways (V-76 and V-306) in the vicinity of Austin, Tex. This proposed amendment would realign the north alternate of V-76 between Austin, Tex., and Industry, Tex. VORTAC via the INT of Austin 081°M/090°T and Industry 302°M/310°T and designate a south alternate in V-306 east of Austin, Tex., VORTAC via Austin, Tex., the INT of Austin 100°M/109°T and College Station, Tex., 232°M/240°T; INT College Station 232°M/240°T and Industry, Tex., 302°M/310°T. These actions would align the above airways along the present routings being provided to arrivals into the Austin, Tex., terminal area.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (42 FR 307) as follows:

In V-76 "Industry 305°" would be deleted and "Industry 310°" would be substituted therefor.

In V-306 between "Navasota, Tex.;" and "INT Navasota" "including a south alternate from Austin via INT Austin 109° and College Station, Tex., 240° radials;" would be added.

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

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

Issued in Washington, D.C., on November 22, 1977.

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

[FR Doc.77-34394 Filed 11-30-77;8:45 am]

[4910-13]

[14 CFR Part 73]

[Airspace Docket No. 77-SO-53]

TEMPORARY RESTRICTED AREAS

Proposed Establishment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to designate three temporary restricted areas near the southern coastline of Puerto Rico identified as R-7105A, R-7105B and R-7105C to contain a major joint service military exercise called "SOLID SHIELD 78." This proposed action would provide for the safe and efficient use of the navigable airspace by prohibiting unauthorized flight operations of nonparticipating aircraft within the restricted areas during the time they are in use for the exercise.

DATES: Comments must be received on or before December 30, 1977.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Southern Region, Attention: Chief, Air Traffic Division, Docket No. 77-SO-53, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320.

The official docket may be examined at the following location: FAA Office of the Chief Counsel, Rules Docket, (AGC-24), room 916, 800 Independence Avenue SW., Washington, D.C. 20591.

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

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rule making by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Southern Region, Attention: Chief, Air

Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Ga. 30320. All communications received on or before December 30, 1977 will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

THE PROPOSAL

The FAA is considering amendments to Subpart B of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) which would designate three temporary restricted areas identified as R-7105A, R-7105B and R-7105C near the southern coastline of Puerto Rico to contain a major joint service military exercise known as "SOLID SHIELD 78." Exercise areas would include portions of the southcentral coastal area of Puerto Rico (from Ponce east to Patillas) and adjacent waters, and the island of Vieques and adjacent waters. Establishment of a temporary warning area W-372 would be established south of the temporary restricted areas through nonrulemaking procedures.

Exercise plans provide for airborne and amphibious operations within the Puerto Rico area and airborne operations on Vieques. Land and naval based aircraft, both fixed and rotary wing, will support all phases of the exercise. Ground forces will be continuously supported and resupplied by aircraft employing a variety of delivery means. Jet fighter and attack aircraft will conduct extensive close air support missions including simulated bombing, rocket, and strafing attacks. Jet reconnaissance aircraft will conduct missions throughout the exercise area. Total exercise sorties from all the military services are estimated at 248 daily for fixed wing and 623 daily for helicopters. Exercise activity will be of such intensity that entry of nonexercise aircraft into the areas would seriously degrade aircraft safety. Pilots engaged in this type activity may not be able to properly clear the area to avoid nonparticipating aircraft, and a hazardous situation could exist if nonexercise aircraft were permitted in the areas while the exercise is in progress. There will be no live ordnance expended nor supersonic flights conducted within the exercise airspace.

The Commander in Chief, U.S. Atlantic Fleet, will designate an exercise airspace manager who will issue notices in pictorial and textual form announcing and describing air activity within the approved exercise airspace. These notices will be in addition to NOTAMS published by the FAA. The designated airspace manager will establish communications with appropriate air route traffic control centers so that nonexercise aircraft may be cleared through the restricted/warning areas when not being used for exercise purposes.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (42 FR 657) as follows:

In § 73.71 (42 FR 704) the following temporary restricted areas are added:

1. R-7105A Ponce, Puerto Rico. Boundaries. Beginning at Lat. 18°15'00"N., Long. 66°30'-00"W.; to Lat. 18°15'00"N., Long. 66°01'-00"W.; to Lat. 18°07'00"N., Long. 65°59'20"-W.; to Lat. 18°07'00"N., Long. 66°30'00"W.; thence to point of beginning.

Altitudes. 8,000 feet MSL to but not including FL 250.

Time of use. Continuous, May 10, 1978, through May 23, 1978.

Controlling agency. FAA, San Juan ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

2. R-7105B Ponce, Puerto Rico. Boundaries. Beginning at Lat. 18°07'00"N., Long. 66°30'-00"W.; to Lat. 18°07'00"N., Long. 65°59'-20"W.; to Lat. 17°55'30"N., Long. 65°56'-30"W.; thence west 3 NM from and parallel to the shoreline to Lat. 17°56'30"N., Long. 66°30'00"W.; thence to point of beginning.

Altitudes. Surface to but not including FL 250.

Time of use. Continuous, May 10, 1978, through May 23, 1978.

Controlling agency. FAA, San Juan ARTC Center.

Using agency. United States Atlantic Command, Norfolk Va.

3. R-7105C Ponce, Puerto Rico. Boundaries. Beginning at Lat. 18°15'00"N., Long. 66°45'-00"W.; to Lat. 18°15'00"N., Long. 66°30'00"W.; to Lat. 17°48'00"N., Long. 66°30'00"W.; thence northwest and west along Warning Area W-371B to Lat. 17°55'00"N., Long. 66°-45'00"W.; thence to point of beginning.

Altitudes. Surface to but not including FL 250.

Time of use. 0100 to 1000 local time, May 15, 1978, through May 17, 1978.

Controlling agency. FAA, San Juan ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

Following is the proposed description of temporary Warning Area W-372. This is included herein for information purposes only, since its establishment would be processed through nonrulemaking procedures.

W-372 PONCE, PUERTO RICO

Boundaries. Beginning at Lat. 17°56'30" N., Long. 66°30'00" W.; thence east, 3 NM from and parallel to the shoreline to Lat. 17°55'-30" N., Long. 65°56'30" W.; to Lat. 17°50'00" N., Long. 65°56'30" W.; to Lat. 17°50'00" N., Long. 66°17'00" W.; to Lat. 17°46'15" N., Long. 66°18'30" W.; to Lat. 17°47'50" N., Long. 66°23'00" W.; to Lat. 17°47'00" N., Long. 66°23'00" W.; to Lat. 17°48'00" N., Long. 66°30'00" W.; thence to point of beginning.

Altitudes: Surface to FL 250.

Time of use. Continuous, May 10-23, 1978.

Controlling agency. FAA, San Juan ARTC Center.

Using agency. United States Atlantic Command, Norfolk, Va.

The Commander in Chief, Atlantic (CINCLANT) will serve as the lead agency for the purpose of compliance with National Environmental Protection Act (NEPA).

Address comments concerning environmental aspects to: Captain E. G. Smith, USN, CINCLANT N-37, Norfolk, Va. 23511, phone: 804-444-6575.

Address comments concerning land use aspects to: Mr. Robert R. Stafford, Jr., Jacksonville District Corps of Engineers, P.O. Box 4970, Jacksonville, Fla. 32201, phone: 904-791-3725/3727.

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

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

Issued in Washington, D.C., on November 22, 1977.

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

[FR Doc.77-34393 Filed 11-30-77;8:45 am]

[4910-22]

Federal Highway Administration

[23 CFR Part 620]

[FHWA Docket No. 76-18]

VALUE ENGINEERING

Withdrawal of Notice of Proposed Rulemaking

AGENCY: Federal Highway Administration, DOT.

ACTION: Withdrawal of notice of proposed rulemaking.

SUMMARY: This document closes FHWA Docket No. 76-18 concerning the application of value engineering for Federal aid project (42 FR 56207), as there is insufficient mandatory material which would justify publication as a final rule.

EFFECTIVE DATE: December 1, 1977.

FOR FURTHER INFORMATION CONTACT:

Edward Johnson, Special Procedures Branch, Office of Engineering, 202-

426–0334; or Wilbert Baccus, Office of the Chief Counsel, 202–426–0786; Federal Highway Administration, 400 Seventh Street SW., Washington, D.C. 20590. Office hours are from 7:45 a.m. to 4:15 p.m. ET, Monday through Friday.

SUPPLEMENTARY INFORMATION: On December 27, 1976 (41 FR 56207), the Federal Highway Administrator issued a notice of proposed rulemaking to solicit comments on a proposed addition to Chapter I of Title 23, Code of Federal Regulations, which would have encouraged the application of value engineering for Federal-aid projects. Comments were received and considered.

Upon reconsideration of the proposed regulation, the Federal Highway Administration has determined that a final rule is not needed. Consequently, the proposed regulation is hereby withdrawn.

(Authority: 23 U.S.C. § 315; 49 CFR 1.48(b).)

Issued on: November 18, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc.77-34473 Filed 11-30-77;8:45 am]

[7708–01]

PENSION BENEFIT GUARANTY CORPORATION

[29 CFR Part 2617]

EMPLOYEE RETIREMENT INCOME SECURITY ACT

Reporting and Notification Requirements for Reportable Events; Correction

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Correction to proposed rule.

SUMMARY: This corrects two errors in the text of the proposed rule published in the FEDERAL REGISTER on November 16, 1977, 42 FR 59285.

DATES: Inapplicable.

ADDRESSES: Comments should be addressed to the Office of the General Counsel, Pension Benefit Guaranty Corporation, Suite 7200, 2020 K Street NW., Washington, D.C. 20006. Each person submitting comments should include his or her name and address, identify this notice and give reasons for any recommendations.

Copies of written comments will be available for examination in the Office of Communications of the Pension Benefit Guaranty Corporation, Suite 7100, at the above address, between the hours of 9 a.m. and 4 p.m.

FOR FURTHER INFORMATION CONTACT:

David Weingarten, Staff Attorney Office of the General Counsel, Pension Benefit Guaranty Corp., 2020 K Street NW., Washington, D.C. 20006, 202–254–3010.

SUPPLEMENTARY INFORMATION:

Section 2617.6 *Active participant reduction.* In paragraph (b) (1), third line, following the semi-colon, delete the word "or" and substitute the word "and"

Section 2617.14 *Change in employer-sponsor of single employer plans.* In paragraph (b), between lines 7 and 8, add the words "PBGC after the transaction is the same as the employer liable to the"

MATTHEW M. LIND,
Executive Director,
Pension Benefit Guaranty Corp.

[FR Doc.77-34455 Filed 11-30-77;8:45 am]

[4910–14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[33 CFR Part 117]

[CGD 77–185]

DRAWBRIDGE OPERATION REGULATIONS

Fox River, Wis.

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: At the request of the City of Green Bay, Wisconsin, the Coast Guard is considering revising the drawbridge operation regulations for the Main Street, Walnut Street and Mason Street bridges across the Fox River in Green Bay to provide for more restrictive closed periods. This is being considered to possibly eliminate vehicle traffic tie-ups during peak traffic hours. There has been a significant increase in vehicular traffic in the past three years.

DATE: Comments must be received on or before December 28, 1977.

ADDRESS: Comments should be submitted to and are available for examination at the office of the Commander (oan), Ninth Coast Guard District, 1240 East Ninth Street, Cleveland, Ohio 44199.

FOR FURTHER INFORMATION CONTACT:

Frank L. Teuton, Jr., Chief, Drawbridge Regulations Branch (G–WBR/73), Room 7300, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590, 202–426–0942.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this proposed rulemaking by submitting written views, comments, data or arguments. Each person submitting comments should include his name and address, identify the bridge, and give reasons for concurrence with or any recommended change in the proposal.

The Commander, Ninth Coast Guard District, will forward any comments received with his recommendations to the Chief, Office of Marine Environment and Systems, U.S. Coast Guard Headquarters, Washington, D.C., who will evaluate all communications received and recommend a course of final action to the Commandant on this proposal. The proposed regulations may be changed in the light of comments received.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Frank L. Teuton, Jr., Project Manager, Office of Marine Environment and Systems, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

In consideration of the foregoing, it is proposed that Part 117 of Title 33 of the Code of Federal Regulations be amended by revising § 117.643(a) to read as follows:

§ 117.643 Fox River and Portage Canal, Wis.

(a) Main Street, Walnut Street, and Mason Street bridges, Fox River, Green Bay. The draws shall open on signal except that Monday through Saturday, except legal holidays, from 7 a.m. to 8 a.m., from 12 noon to 1 p.m., and from 4 p.m. to 5 p.m. the draws need not open. However, the draws shall open immediately, at any time, for public vessels of the United States, vessels of 300 short tons or over engaged in commercial transportation, and tugs or fireboats responding to emergency calls.

* * * * *

(Sec. 5, 28 Stat. 362, as amended, sec. 6(g)(2), 80 Stat. 937; (33 U.S.C. 499, 49 U.S.C. 1655(g)(2)); 49 CFR 1.46(c)(5).)

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

Dated: November 22, 1977.

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

[FR Doc.77-34251 Filed 11-30-77;8:45 am]

[1410–03]

LIBRARY OF CONGRESS

Copyright Office

[37 CFR Part 201]

[Docket RM 77–2]

COMPULSORY LICENSE FOR CABLE SYSTEMS

Proposed Rulemaking

AGENCY: Library of Congress, Copyright Office.

ACTION: Proposed rule.

SUMMARY: This notice of proposed rulemaking is issued to inform the public that the Copyright Office of the Library of Congress is considering the adoption of new regulations to implement portions of section 111 of the Act for General Revision of the Copyright Law pertaining to the secondary transmission of copyrighted works by cable systems. Section 111 prescribes various conditions

under which cable systems may obtain a compulsory license to retransmit copyrighted works, including the filing of certain notices and statements of account. The effect of the proposed regulations is to establish requirements governing the form, content and filing of such notices and statements.

DATES: Initial comments should be received on or before December 15, 1977; reply comments on or before December 23, 1977.

ADDRESSES: Interested persons should submit five copies of their written comments, if by mail to: Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Caller No. 2999, Arlington, Va. 22202.

or, if by hand to: Office of the General Counsel, Copyright Office, Library of Congress, Room 519, Crystal Mall Building No. 2, 1921 Jefferson Davis Highway, Arlington, Va.

FOR FURTHER INFORMATION CONTACT:

Jon Baumgarten, General Counsel, Copyright Office, Library of Congress, Washington, D.C. 20559, 703–557–8731.

SUPPLEMENTARY INFORMATION: Section 111(c) of the first section of Pub. L. 94–553 (90 Stat. 2541) establishes a compulsory licensing system under which cable systems may make secondary transmissions of copyrighted works. The compulsory license is subject to, among other conditions, requirements that the cable system comply with certain provisions regarding recordation of notices under section 111(d)(1) and deposit of statements of account under section 111(d)(2).

I. SECTION 111(d)(1) NOTICES

Section 111(d)(1) of the Act provides:

(d) Compulsory License For Secondary Transmissions By Cable Systems.—

(1) For any secondary transmission to be subject to compulsory licensing under subsection (c), the cable system shall, at least one month before the date of the commencement of operations of the cable system or within one hundred and eighty days after the enactment of this Act, whichever is later, and thereafter within thirty days after each occasion on which the ownership or control or the signal carriage complement of the cable system changes, record in the Copyright Office a notice including a statement of the identity and address of the person who owns or operates the secondary transmission service or has power to exercise primary control over it, together with the name and location of the primary transmitter or primary transmitters whose signals are regularly carried by the cable system, and thereafter, from time to time, such further information as the Register of Copyrights, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), shall prescribe by regulation to carry out the purpose of this clause.

On March 18, 1977 (42 FR 15065) we adopted an interim regulation § 201.11 to enable cable systems to comply with their immediate obligations under this section. At that time we referred to the need for further proceedings before issuing final regulations pertaining to section 111(d)(1) and other provisions of the Act regarding cable television. On April 12 and 13, 1977 pursuant to an Advance Notice of Proposed Rulemaking in this proceeding and docket (42 FR 15431; March 22, 1977), we held a public hearing on the various regulatory issues involved in implementing section 111. At that time we heard testimony on, among other matters, the possible modification of interim regulation § 201.11. We now propose to amend § 201.11 in light of the comments received at the hearing. The proposed amendments are also heavily influenced by the Office's experience in recording section 111(d)(1) notices over the past several months, and by inquiries and problems raised by cable systems which sought to comply with the interim provision.

1. *General approach Section 111(d)(1) "As a Whole".* The proposed amendments reflect our view that section 111(d)(1) must be considered in its entirety in establishing workable recording requirements. Specifically, we believe that the portion of section 111(d)(1) permitting the Register to require recordation of "further information" does authorize the Office to require that, at least after January 1, 1978, Initial Notices of Identity and Notices of Change include information which is not specified in the earlier clauses of the section. A contrary view would require the Office to impose an unnecessary burden of multiple filings on cable systems in order to obtain such information. Accordingly, the proposed amendments to § 201.11 do require section 111(d)(1) notices to include information which was merely "suggested" in the interim regulation. However, with one exception related to the secondary transmission of "all-band" FM signals, cable systems which record or recorded notices before January 1, 1978 will not be required to make corrective or amendatory filings.

2. *A Workable Recording System: Designating the "Owner" of the Cable System.* Section 11(d)(1) of the Act provides that the notices required by that section shall include "a statement of the identity and address of the persons who owns or operates the secondary transmission service or has power to exercise primary control over it." The meaning of these terms has caused confusion among cable systems. Moreover, the appearance of three options ("owner" or "operator" or "person (having) the power to exercise primary control") will cause substantial problems to the Office, the Copyright Royalty Tribunal, copywright owners, and members of the public in creating and using a workable recording system which will permit the tracing, identification, and connection of the various documents to be recorded and deposited by cable systems under section 111. Accordingly, under authority of the "further information" clause of section 111(d)(1), the proposed amendments would require all cable systems which record Initial Notices of Identity or Notices of Change on or after January 1, 1978 to identify the owner of the cable system. The use of "ownership" as the keystone of the filing system is repeated in other proposals regarding the filing of amendments and statements of account.

This decision to require identification of the owner of the cable system does affect the circumstances under which a Notice of Change must be filed. Section 111(d)(1) of the Act provides that a Notice of Change shall be recorded "within thirty days after the ownership or control * * * of the cable system changes * * *." The requirement that a Notice of Change be recorded upon a change in "control" was apparently intended to complement the possibility that an Initial Notice would give the name of the person or entity "exercising primary control" over the system. Since Initial Notices recorded on or after January 1, 1978 will be required to identify the "owner" of the system, paragraph (d)(2) of proposed § 201.11 would eliminate the necessity of recording a Notice of Change after a change in control which is not accompanied by a change in ownership.

This does leave open the possibility of a "gap" in our records in the case of a cable system which recorded an Initial Notice before January 1, 1978 giving the name of the controlling party, rather than the owner, and which changes control but not ownership after that date. However, this "gap" will generally be closed by the deposit of statements of account under the owner's name. In any event, we are not convinced that the potential gap is of such significance as to warrant the imposition of a special recording requirement. Proposed § 201.11(d)(2) also makes clear that Notices of Change are not required when certain other information contained in the Initial Notice later changes. Although these other items of information are useful in establishing an initial record of the system's existence and reliance on section 111, we do not believe that their importance is such as to justify the burden of additional recording requirements. Changes in these elements will be picked up in statements of account which can be tied to the section 111(d)(1) notices through ownership.

3. *"Cable System".* During the hearing in this proceeding the question of what constitutes a single or "individual" cable system was raised. After considering several alternatives, we have decided to propose that the rules and practices of the Federal Communications Commission be followed. This consistency with F.C.C. procedure should minimize confusion and benefit all interested parties. However, because the F.C.C. has adopted certain exclusions from its definition of "cable system" which are not relevant under the Copyright Act (namely, systems having less than a certain number of subscribers or which serve only certain classes of subscribers), proposed § 201.11(a)(3) states that "any rule, regulation or practice of the Federal Communications Commission which ex-

cludes facilities from consideration as a 'cable system' because of the number or nature of subscribers or nature of the secondary transmissions made" shall not be given effect for copyright purposes.

A particular aspect of this issue related to the proper reading of the final sentence of the definition of "cable system" in section 111(f) of the Act. Since the legislative history of the Act indicates that the purpose of this sentence is to avoid artificial fragmentation of cable systems, § 201.11(3) proposes an interpretation of this sentence which is most consistent with that purpose.

4. *"All-Band FM" Carriage.* During the hearing in this proceeding considerable attention was focused on the issue of signal identification when FM radio signals are carried in secondary transmissions on an all-band basis. As in the interim proceeding, cable systems argued that where they carry the entire FM band, specific identification of individual FM signals is rendered virtually impossible, or at the least very burdensome, because of the intervention of changing technological, climatic, atmospheric, or similar conditions. Representatives of copyright owners, however, pointed out that they required some means of identifying the carriage of their works in secondary transmissions of FM signals for the purpose of calculating and claiming compensation. Both sides appeared to acknowledge the problems posed in this area, and to agree that FM signals which "dropped in" to a system's carriage infrequently need not be identified. There was also considerable support from both sides for a reasonable interpretative regulation in connection with all-band FM carriage. Proposed § 201.11(a)(4) and (c)(iv)(B) attempt to deal with this issue by providing an essentially objective standard of when an FM signal secondarily carried by an "all-band" system must be identified. Because, in many cases, the standard cannot be applied before a cable system must file an Initial Notice, proposed § 201.11(c)(iv)(B) and (e)(3) would require the filing of a later "Special Amendment" to the Notice in such cases. A "Special Amendment" would also be required of "all-band" cable systems which recorded Initial Notices before January 1, 1978 without identifying individual primary transmitters of FM signals. Also, proposed § 201.11(d)(3) would adjust the time for filing a Notice of Change in all-band FM signals to accommodate such amendments.

5. *"Regular Carriage".* We have considered the comments made during the interim proceeding, and at the hearing in this proceeding, regarding the concept of "regular carriage" for the purposes of section 111(d)(1). There was general consensus that some certainty in this area was desirable, and proposed § 201.11(a)(5) adopts an objective definition of "regular carriage." It must be recognized that the definition is only relevant for the purposes of notices filed under section 111(d)(1). For the purpose of accounting for and calculating royalties, proposed § 201.17 will require identification of all primary transmitters, subject to a limited exception for "all-band" FM carriage.

6. *Repeated information in notices of change.* Both section 111(d)(1) of the Act and the interim regulation left it unclear as to whether, in recording a Notice of Change, all of the information required to be given in an Initial Notice, whether changed or not, must be given. We do not believe it is necessary to require a cable system recording a Notice of Change affecting ownership to repeat its signal carriage complement, or to require a system recording a Notice reflecting a change in its signal carriage complement to identify that portion of its carriage which has not been changed. Accordingly, the proposed amendments to § 201.11 would only require information reflecting the changes which underlie the Notice, together with certain additional identifying information.

7. *Amendment to correct errors or omissions.* Several cable systems which recorded Notices under the interim regulation have asked whether they might record "amendments" to correct mistakes. Although the statute does not expressly provide for such amendments, we do not believe we should close our records to corrections. Proposed § 201.11(e)(1) does provide for the recordation of "amendments to Initial Notices or Notices of Change submitted to correct an error or omission in the information given in the earlier document", and adds that an amendment under that paragraph "is not appropriate to reflect developments or changes in facts occurring after the date of signature of an Initial Notice of Change." Since the statute does not itself provide for amendment and does condition the compulsory license upon proper and timely recording, the proposed section also states that "the recordation of an amendment shall have only such effect as may be attributed to it by a court of competent jurisdiction." This will permit questions as to whether omissions or errors were willful or inadvertent, or isolated or repeated, and their effect on the compulsory license, to be resolved in the proper forum.

8. *Fees.* As the Act does not expressly impose a fee for the recordation of section 111(d)(1) notices, the only authority for a recording fee would be section 708(a)(11). The latter section permits the Register to establish a fee "for any other special services requiring a substantial amount of time or expense." Fees under this section are, however, to be fixed "on the basis of the cost of providing the service." Since section 111(d) requires the Register to "deduct the reasonable costs incurred by the Copyright Office" in administering the cable provisions from statutory royalties paid under the Act, we do not believe we can require a fee to be paid by cable systems for recording notices required by the statute or our regulations.

As noted earlier, however, the proposed regulation would permit cable systems to record amendments to correct errors or omissions in previously-recorded documents. This is proposed essentially as an accommodation to the cable systems themselves and may properly be considered a "special service" for their benefit. It would not be equitable or reasonable to require the costs of processing such amendments to be borne by copyright owners through deduction from the royalties available for distribution. Accordingly, we have proposed a fee of $10.00 for the filing of these permissive amendments.

II. Section 111(d)(2) Statements of Account

Section 111(d)(2)(A) of the Act provides:

> (2) A cable system whose secondary transmissions have been subject to compulsory licensing under subsection (c) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), prescribe by regulation—
>
> (A) a statement of account, covering the six months next preceding, specifying the number of channels on which the cable system made secondary transmissions to its subscribers, the names and locations of all primary transmitters whose transmissions were further transmitted by the cable system, the total number of subscribers, the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal (if and when the Tribunal has been constituted), from time to time prescribe by regulation. Such statement shall also include a special statement of account covering any nonnetwork television programming that was carired by the cable system in whole or in part beyond the local service area of the primary transmitter, under rules, regulations, or authorizations of the Federal Communications Commission permitting the substitution or addition of signals under certain circumstances, together with logs showing the times, dates, stations, and programs involved in such substituted or added carriage;

Additionally, section 111(d)(2)(B), (C), and (D) require deposit of certain royalty fees for the period covered by the statement.

We propose to implement these sections by the addition of a new § 201.17 to the regulations of the Copyright Office. The proposed section would establish requirements governing the content of statements of account, the time periods covered by the statements, and the dates they are to be deposited in the Copyright Office. In developing this proposal we have fully considered the record of the April hearing. A discussion of the principal issues follows.

1. *Definitions.* For the purposes of clarity and uniformity of filings, proposed § 201.17(b)(1) provides a definition of "amounts attributable to the 'basic service of providing secondary transmissions of primary broadcast transmitters.'" We believe that this definition accurately reflects the intent of the Act. See House Rep. 94–1476, 94th Cong., 2d Sess., Sept. 3, 1976 at 96.

Proposed § 201.17(b)(6) reflects our view that translator stations are to be considered "primary transmitters" for purposes of section 111 of the Act. Accordingly, where a cable system secondarily transmits signals emanating from a translator station, the identity of the primary transmitter, and whether it is "distant", would be determined only by reference to that translator station. When a cable system makes separate secondary transmissions of the signals emanating from a translator station and its "parent" station, two primary transmitters are involved, and both translator and parent should be separately given and categorized.

Proposed § 201.17(b) also incorporates the definitions of "cable system" and "generally receivable FM signals" discussed in connection with the proposed amendments to § 201.11.

2. *Accounting Periods.* Section 111(d)(2) requires the deposit of statements of account on a "semiannual basis". The legislative history of this section states that the "dates for filing such statements of account and the six month period which they are to cover" are to be determined by Copyright Office regulations. H.R. Rep. 94–1476, 94th Cong., 2d Sess., Sept. 3, 1976 at 95. After considering a number of alternatives, we have proposed (§ 201.17(c)) that the statements cover the periods January 1 through June 30 and July 1 through December 31, and that they may be deposited in the Copyright Office within sixty days from the expiration of the accounting period. This proposal is based on the operational needs of the Copyright Office with respect to workflow and balancing of the operations of our new Licensing Division, and on our desire not to impose unusual reporting requirements on cable systems which must also prepare reports for other agencies and authorities.

This proposal does raise issues concerning claims to compulsory license fees which are to be filed with the Copyright Royalty Tribunal "during the month of July in each year" under section 111(d)(5) of the Act. We anticipate that the Tribunal will adopt such procedures as may be necessary to safeguard the interests of copyright owners in proper compensation for the secondary transmission of their works.

3. *Forms.* We agree with the views expressed at the hearing that the use of standard printed forms prescribed by the Copyright Office will promote uniform and accurate reporting, assist cable operators in meeting their obligations under the Act and regulations, and aid copyright owners, the Copyright Office, and the Copyright Royalty Tribunal in reviewing and using the information provided. The purpose of this proceeding is to establish the contents of statements of account. We will continue exploring the adoption of a form for statements of account and will make our final decision on a form well before the expiration of the first accounting period in 1978.

4. *"Subscriber Information", "Gross Receipts", and "Total Actual Receipts".* Section 111(d)(2) of the Act requires a statement of account to include "the total number of subscribers" to the system, the gross amounts paid to the system for basic secondary transmission services, and "such further information as the Register of Copyrights * * * shall prescribe by regulation" to carry out the purpose of this section.

The "number of subscribers" alone will serve no real purpose. We believe this item was intended to provide copyright owners with a basis for a comparison with the reported gross receipts. Accordingly, we have proposed (§ 201.17(e)(6)) that the number of subscribers be accompanied by certain related information concerning subscriber categories and charges in order reasonably to accomplish this purpose. We recognize that the specified information will not provide a definitive or detailed comparison with the reported gross receipts, but on the present record we are not persuaded that more information or detail should be required.

Although section 111(d)(2) does not expressly refer to the reporting of receipts from activities other than "the basic service of providing secondary transmissions of primary broadcast transmitters", copyright owners have urged that the statements include a detailed accounting of all of the cable system's receipts during the period covered by the statement. We believe that copyright owners and the Copyright Royalty Tribunal should have some basis for comparing the gross receipts upon which royalties are calculated with the cable system's total receipts; however, on this record and for present purposes, we are not convinced that a detailed accounting is necessary. Accordingly, proposed § 201.17(e)(8) requires that statements of account for the period July 1 through December 31 include "the total actual receipts paid to the cable system for all services performed or rendered to its subscribers during the full calendar year immediately preceeding deposit of the statement." Although "total actual receipts" are to be given for the full calendar year, they are required to be reported under this proposal only in statements of account prepared for the last six months of that year. We believe that, in general, cable systems will have the necessary information available at the time the second-half statements are being prepared.

5. *Television Primary Transmitter and Carriage Information.* Proposed § 201.17(e) requires cable systems to include in the statement of account information related to the identification of primary transmitters, and the nature and basis of carriage of their transmissions by the system. Although representatives of cable systems suggested that the carriage information (that is, whether the primary transmitter is "local" or "distant", and the legal basis of carriage in certain cases) should be obtained independently by copyright owners, we do not agree. Most cable systems are required to know, or will know, this information in the normal course of operating their business. In these circumstances there is no reason to impose the substantial burden of independent research on copyright owners or the Copyright Royalty Tribunal. As noted more fully below, certain small systems will be exempt from these requirements. On balance, we believe that the obligation of disclosure should rest with the cable television industry.

During the hearing in this proceeding, representatives of cable systems urged that information concerning carriage of television signals should not be required for systems whose gross receipts for the period are less than $160,000. It was argued that, since these systems would not compute royalties on the basis of "distant signal equivalents", information related to the nature and basis of carriage was irrelevant. Copyright owners responded that such information might still be required for purposes of allocation and distribution of royalty fees. We have concluded that we cannot, in this proceeding, omit the collection of information which may well be of use to copyright owners and the Copyright Royalty Tribunal in allocating and distributing royalties.

Accordingly, we have not exempted all systems grossing less than $160,000 from providing this information. However, proposed § 201.17(e)(9)(i)(G) does provide such an exemption for systems whose gross receipts for basic secondary transmission services during the accounting period total less than $40,000. Such systems will pay a royalty fee of $15. It may reasonably be anticipated that the proportion of the total royalty pool attributable to all such systems, and the impact on allocation and distribution of royalties will not be significant.

6. *Radio Primary Transmitter and Carriage Information.* Proposed § 201.17(e) does not require the same information for secondary transmission of radio signals as is required for television signals. Information pertaining to whether a primary radio transmitter is distant or local, and the legal basis of carriage in certain cases, is not required for computation of royalties. The distant or local character of the primary transmitter is relevant to the allocation of royalties among copyright owners. However, we understand that the operators of cable systems generally do not know, and normally are not required to know, the "primary service area" of radio transmitters in the normal course of their business. This information is publicly available through the FCC and can be independently matched to the identity of particular cable systems to determine the local or distant character of the primary transmitter. In this situation, we believe that the obligation of obtaining the information may be more readily and appropriately borne by the interested copyright owners.

7. *Issues related to calculation of royalties.* As noted in item 3, above, we are continuing to explore the question of forms to be prescribed for statements of account. We anticipate that any such form will include more specific instruc-

tions for the calculation of royalties than set forth in proposed § 201.17(e)(11). In this connection, we invite comment on the following interpretative issues:

(a) Section 111(d)(2)(B) of the Act states that in computing certain royalties, "in the case of any cable system located partly within and partly without the local service area of a primary transmitter, gross receipts shall be limited to those gross receipts derived from subscribers located without the local service area of such primary transmitter." What is the proper application of this proviso, particularly where a cable system carries the signals of more than one such "partially distant" station and different groups of subscribers are "distant" as to different stations?

(b) Under section 111(f) of the Act, where several programs are carried on the same day pursuant to the permissive substitution rules of the F.C.C., should the number of substitute programs be used in calculating the appropriate distant signal equivalent?

PROPOSED REGULATIONS

We propose to amend Part 201 of 37 CFR Chapter II by amending § 201.11 and adding a new § 201.17 to read as follows:

§ 201.11 Notices of identity and signal carriage complement of cable systems.

(a) *Definitions.* (1) An "Initial Notice of Identity and Signal Carriage Complement" or "Initial Notice" is a notice under section 111(d)(1) of title 17 of the United States Code as amended by Pub. L. 94–553 and required by that section to be recorded in the Copyright Office "at least one month before the date of commencement of operations of the cable system or within one hundred and eighty days after (October 19, 1976), whichever is later", for any secondary transmission by the cable system to be subject to compulsory licensing.

(2) A "Notice of Change of Identity or Signal Carriage Complement" or "Notice of Change" is a notice under section 111(d)(1) of title 17 of the United States Code as amended by Pub. L. 94–553 and required by that section to be recorded in the Copyright Office "within thirty days after each occasion on which the ownership or control or signal carriage complement of the cable system changes" for any secondary transmission by the cable system to be subject to compulsory licensing.

(3) A "cable system" is a facility, located in any State, Territory, Trust Territory, or Possession, that in whole or in part receives signals transmitted or programs broadcast by one or more television broadcast stations licensed by the Federal Communications Commission, and makes secondary transmissions of such signals or programs by wires, cables, or other communications channels to subscribing members of the public who pay for such service. The Notices required to be recorded by this section, and the statements of account and royalty fees to be deposited under § 201.17 of these regulations, shall be recorded and deposited by each individual cable system desiring its secondary transmissions to be subject to compulsory licensing. For these purposes, and the purpose of § 201.17 of these regulations, an "individual" cable system means each cable system recognized as a distinct entity under the rules, regulations, and practices of the Federal Communications Commission in effect on the date of recordation or deposit. *Provided*, That (i) any rule, regulation, or practice of the Federal Communications Commission which excludes facilities from consideration as a "cable system" because of the number or nature of subscribers or nature of the secondary transmissions made shall not be given effect for the purposes of this section or § 201.17 of these regulations; and (ii) two or more cable facilities (A) in contiguous communities under common ownership or control or (B) operating from one headend shall be considered as one individual cable system.

(4) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and discrete signals, an FM radio signal is "generally receivable" if (i) it is usually carried by the system whenever it is received at the system's headend, and (ii) it can be received at the system's headend, with the system's FM antenna, at least three consecutive hours each day at the same time each day, five or more days a week, for four or more weeks during any calendar quarter, with a strength of not less than fifty microvolts per meter measured at the foot of the tower or pole to which the antenna is attached.

(5) The signals of a primary transmitter are "regularly carried" if they are carried by the cable system for at least one hour each week for thirteen or more consecutive weeks, or if, in the cases described in paragraph (a)(4) of this section, they comprise generally available FM radio signals.

(b) *Forms.* The Copyright Office does not provide printed forms for the use of persons recording Initial Notices or Notices of Change.

(c) *Initial Notices.* (1) An Initial Notice of Identity and Signal Carriage Complement shall be identified as such by prominent caption or heading, and shall include the following:

(i) The designation "Owner", followed by: (A) The full legal name of the person who, or entity which, owns the cable system; (B) any fictitious or assumed name used by that person or entity for the purpose of conducting the business of the cable system; and (C) the full mailing address of that person or entity.

(ii) The ddesignation "System", followed by: (A) All corporate, trade, or business names or styles used to identify the business and operation of the cable system; and (B) the full mailing address of the system. To the extent any portion of this information is identical to the information given in response to paragraph (c)(1)(i) of this section it need not be repeated. If all of the information called for by this paragraph is identical to the information given in response to paragraph (c)(1)(i) of this section, the designation "System" shall be followed by the statement "as given above", or like reference.

(iii) The designation "Area Served", followed by the name of the community or communities served by the system.

(iv) The designation "Signal Carriage Complement", followed by the name and location of the primary transmitter or primary transmitters whose signals are, or are expected to be, regularly carried by the cable system.

(A) The "name" of the primary transmitter(s) shall be given by station call sign, accompanied by a brief statement of the type of signal carried (for example, "TV", "FM", or "AM"). The "location" of the primary transmitter(s) shall be given as the name of the community to which the transmitter is licensed by the Federal Communications Commission (in the case of domestic signals) or with which the transmitter is identified (in the case of foreign signals).

(B) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and discrete signals, the Notice shall identify that portion of its signal carriage as "all-band FM" or the like, and shall separately identify the name and location of each primary transmitter of such signals whose signals are generally receivable by the system. In any case where such generally receivable FM signals cannot be accurately determined at the time of recording of the Initial Notice, they shall be subsequently identified in a Special Amendment recorded in compliance with paragraph (e)(3) of this section.

(v) The individual signature of the person identified as the person who owns the cable system, or of a duly authorized representative of that person; or, if an entity is identified as the owner, the signature of an officer if the entity is a corporation, or of a partner if the entity is a partnership. In any case, the date of signature shall also be given.

(2) The requirements of this paragraph (c)(1) of this section shall apply only to Initial Notices of Identity and Signal Carriage Complement recorded on or after January 1, 1978. Initial Notices recorded before January 1, 1978 shall be governed by the applicable Copyright Office regulations in effect on the date of recordation.

(d) *Notices of change.* (1) A Notice of Change of Identity or Signal Carriage Complement shall be identified as such by prominent caption or heading, and shall include the following:

(i) In the case of a change of ownership: (A) The designation "Former Owner", followed by the full legal name

of the person who, or entity which, owned the cable system as given in the Initial Notice recorded by the cable system or, if an earlier Notice of Change affecting ownership has been recorded by the cable system, as given in the last such Notice;[1] (B) the designation "New Owner", followed by the full legal name of the person who, or entity which, now owns the cable system, toegther with any fictitious or assumed name used by that person or entity for the purpose of conducting the business of the cable system and the full mailing address of that person or entity; (C) the designation "System", followed by the information required by paragraph (c)(1)(ii) of this section; and (D) the effective date of the change of ownership.

(ii) In the case of a change of signal carriage complement: (A) The designation "Owner", followed by the information called for by paragraph (c)(1)(i) or (d)(1)(i)(B) of this section, as given in the Initial Notice recorded by the cable system or, if an earlier Notice of Change affecting ownership has been recorded by the cable system, as given in the last such Notice;[2] (B) the designation "System," followed by the information required by paragraph (c)(1)(ii) of this section; (C) the names and locations of the primary transmitter or primary transmitters whose signals have been added to or deleted (as shall be stated in the Notice) from the system's signal carriage complement, given as set forth in paragraphs (c)(1)(iv) (A) and (B) of this section; and (D) the approximate date of each such addition or deletion.

(iii) In the case of either a change in ownership or in signal carriage complement, the Notice of Change shall be signed and dated in accordance with paragraph (s)(1)(iv) of this section.

(2) Unless accompanying a change in ownership and required to be given by paragraph (d)(1)(i) of this section, a Notice of Change is not required to be recorded to reflect changes occurring on or after January 1, 1978 in: (i) Fictitious or assumed names used by the owner of a cable system for the purpose of conducting the business of the cable system; (ii) corporate, trade or business names or styles used to identify the business and operation of the cable system; (iii) mailing addresses of the owner of the cable system or of the system; (iv) the name of the operator of the cable system; or (v) the name of the person or entity exercising primary control over the system. A Notice of Change is not required to be recorded to reflect changes in, or in the names of, the community or communities served by the cable system.

(3) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and discrete signals, and which have not recorded an Initial Notice identifying the primary transmitters of FM signals generally receivable by the system, a Notice of Change shall not be required to be recorded to reflect changes in the complement of such signals until the expiration of one hundred and twenty days from the date of recordation of a Special Amendment under paragraph (e)(2) or (e)(3) of this section.

(4) The provisions of paragraphs (d)(1) and (d)(2) of this section shall apply only to Notices of Change recorded on or after January 1, 1978. Notices of Change recorded before January 1, 1978 shall be governed by the applicable Copyright Office regulations in effect on the date of recordation.

(5) Notice of change in ownership and in signal carriage complement may be combined in one Notice of Change, if the information required under paragraph (d)(1) of this section is given for each change.

(e) *Amendment of Notices*—(1) *General (Permissive) Amendments to Correct Errors or Omissions.* The Copyright Office will record amendments to Initial Notices or Notices of Change submitted to correct an error or omission in the information given in the earlier document. An amendment is not appropriate to reflect developments or changes in facts occuring after the date of signature of an Initial Notice or Notice of Change. An amendment shall (i) be clearly and prominently identified as an "Amendment to Initial Notice of Identity and Signal Carriage Complement" or "Amendment to Notice of Change of Identity or Signal Carriage Complement"; (ii) identify the specific Notice intended to be amended so that it may be readily located in the records of the Copyright Office; (iii) clearly specify the nature of the amendment to be made; and (iv) be signed and dated in accordance with paragraph (c)(1)(v) of this section. The signature shall be accompanied by the printed or typewritten name of the owner of the system as given in the Notice sought to be amended.[3] The recordation of an amendment under this paragraph shall have only such effect as may be attributed to it by a court of competent jurisdiction.

(2) *Special (Required) Amendments for Certain Systems which Recorded Initial Notices before January 1, 1978.* Any cable system which, before January 1, 1978, recorded an Initial Notice of Identity and Signal Carriage Complement which identified all or a portion of its signal carriage complement as "all-band FM", "broad-band FM" or the like, or which otherwise did not identify individual primary transmitters of FM signals generally receivable by the system, shall, no later than June 30, 1978, record an amendment to that Notice identifying the primary transmitter or primary transmitters of FM signals generally receivable by the system as of the date of the amendment in accordance with paragraphs (c)(1)(iv) (A) and (B) of this section. Such amendment shall: (i) Be clearly and prominently identified as an "Amendment to Initial Notice of Identity and Signal Carriage Complement"; (ii) specifically identify the Initial Notice intended to be amended so that it may be readily located in the records of the Copyright Office; and (iii) be signed and dated in accordance with paragraph (c)(1)(v) of this section. The signature shall be accompanied by the printed or typewritten name of the owner of the system as given in the Notice sought to be amended.[3]

(3) *Special (Required) Amendments for Certain Cable Systems which Record Initial Notices on or after January 1, 1978.* Any cable system which records an Initial Notice of Identity and Signal Carriage Complement on or after January 1, 1978 and is required by the last sentence of paragraph (c)(1)(iv)(B) of this section to record a special amendment shall, no later than one hundred and twenty days after recordation of the Initial Notice, record an amendment to that Notice identifying the primary transmitter or primary transmitters of FM signals generally receivable by the system as of the date of the amendment in accordance with paragraphs (c)(1)(iv) (A) and (B) of this section. Such amendment shall: (i) be clearly and prominently identified as an "Amendment to Initial Notice of Identity and Signal Carriage Complement"; (ii) specifically identify the Initial Notice intended to be amended so that it may be readily located in the records of the Copyright Office; and (iii) be signed and

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[1] In the case of a change of ownership (i) which occurred or occurs on or after December 2, 1977 (ii) for which a Notice of Change was not recorded before January 1, 1978 and (iii) which involves a cable system that recorded an Initial Notice or Notice of Change before January 1, 1978 without identifying the owner of the system, the designation "Former Owner" shall be followed by the name of the person who, or entity which, was given as the operator or person or entity exercising primary control in the Initial Notice or last Notice of Change.

[2] In the case of a change of signal carriage complement (i) which occurred or occurs on or after December 2, 1977 (ii) for which a Notice of Change was not recorded before January 1, 1978 and (iii) which involves a cable system that recorded an Initial Notice or Notice of Change before January 1, 1978 without identifying the owner of the system, the designation "Owner" shall be followed by the name of the person who, or entity which, was given as the operator or person or entity exercising primary control in the Initial Notice or last Notice of change.

[3] In the case of an amendment to an Initial Notice or Notice of Change recorded before January 1, 1978 which did not identify the owner of the system, the signature shall be accompanied by the printed or typewritten name of the operator, or person or entity exercising primary control over the system, as given in the Notice sought to be amended.

dated in accordance with paragraph (c)(1)(v) of this section. The signature shall be accompanied by the printed or typewritten name of the owner of the system as given in the Notice sought to be amended.

(f) *Recordation.* (1) The Copyright Office will record the Notices and amendments described in this section by placing them in the appropriate public files of the Office.

(2) No fee shall be required for the recording of Initial Notices, Notices of Change, or the Special Amendments identified in paragraphs (e)(2) and (e)(3) of this section. A fee of $10 shall accompany any General Amendment permitted by paragraph (e)(1) of this section.

(3) Upon request and payment of a fee of $3. the Copyright Office will furnish a certified receipt for any Notice or amendment recorded under this section.

§ 201.17 Statements of account covering compulsory licenses for secondary transmissions by cable systems.

(a) *General.* This section prescribes rules pertaining to the deposit of statements of account and royalty fees in the Copyright Office as required by section 111(d)(2) of title 17 of the United States Code, as amended by Pub. L. 94–553, in order for secondary transmissions of cable systems to be subject to compulsory licensing.

(b) *Definitions.* (1) Amounts attributable to the "basic service of providing secondary transmissions of primary broadcast transmitters" include monthly (or other periodic) service fees for television and radio retransmission service and additional set fees. They do not include installation (including connection, relocation, disconnection, or reconnection) fees, charges for pay-cable, security, alarm or facsimile services, or charges for late payments.

(2) A "cable system" and "individual cable system" have the meanings set forth in § 201.11(a)(3) of these regulations.

(3) "F.C.C." means the Federal Communications Commission.

(4) In the case of cable systems which make secondary transmissions of all available FM radio signals, which signals are not electronically processed by the system as separate and discrete signals, an FM radio signal is "generally receivable" under the conditions set forth in § 201.11(a)(4) of these regulations.

(5) The terms "primary transmission," "secondary transmission," "local service area of a primary transmitter," "distant signal equivalent," "network station," "independent station," and "non-commercial educational station" have the meanings set forth in section 111(f) of title 17 of the United States Code, as amended by Pub. L. 94–553.

(6) A translator station is, with respect to programs both originally transmitted and re-transmitted by it, a primary transmitter for the purposes of this section and § 201.11 of these regulations.

(c) *Accounting Periods and Deposit.* (1) Statements of account shall cover semiannual accounting periods of (i) January 1 through June 30 and (ii) July 1 through December 31, and shall be deposited in the Copyright Office, together with the total royalty fee for such accounting periods as prescribed by section 111(d)(2)(B), (C), or (D) of title 17, within sixty calendar days from the expiration of each such accounting period.

(2) The date of deposit will be the date when both a proper statement of account and appropriate royalty fee are received in the Copyright Office.

(d) *Forms.* [Reserved]

(e) *Contents.* A Statement of Account shall be clearly and prominently identified as a "Statement of Account for Secondary Transmissions By Cable Systems," and shall include the following information:

(1) A clear designation of the accounting period covered by the statement.

(2) The designation "Owner," followed by: (A) The full legal name of the person who, or entity which, owns the cable system; (B) any fictitious or assumed name used by that person or entity for the purpose of conducting the business of the cable system; and (C) the full mailing address of that person or entity.[4]

(3) The designation "System," followed by: (A) All corporate, trade, or business names or styles used to identify the business and operation of the cable system; and (B) the full mailing address of the system. To the extent any portion of this information is identical to the information given in response to paragraph (e)(2) it need not be repeated. If all of the information called for by this paragraph is identical to the information given in response to paragraph (e)(2) of this section, the designation "System" shall be followed by the statement "as given above," or like reference.

(4) The designation "Area Served", followed by the name of the community or communities served by the system.

(5) The designation "Channels", followed by the number of channels on which the cable system made secondary transmissions to its subscribers during the period covered by the statement.

(6) The designation "Subscriber Information", followed by: (i) A brief description of each subscriber category for which a charge is made by the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters; (ii) the number of subscribers to the cable system in each such subscriber category; and (iii) the charge or charges made per subscriber to each such subscriber category for the basic service of providing such secondary transmissions. For these purposes (A) the description, the number of subscribers, and the charge or charges made shall reflect the facts existing on the last day of the period covered by the statement; and (B) each entity (for example, the owner of a private home, the resident of an apartment, the owner of a motel, or the owner of an apartment house) which is charged by the cable system for the basic service of providing secondary transmissions shall be considered one subscriber.

(7) The designation "Gross Receipts", followed by the gross amount paid to the cable system by subscribers, during the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters.

(8) In the case of semiannual statements of account covering the period July 1 through December 31, the statement of account shall also include the designation "Total Actual Receipts", followed by the total actual receipts paid to the cable system for all services performed or rendered to its subscribers during the full calendar year immediately preceding deposit of the statement.

(9) The designation "Primary Transmitters", followed by an identification of all primary transmitters whose signals were carried by the cable system, other than the primary transmitters of programs required to be specially identified in paragraph (e)(10) of this section, in form and together with the information listed below:

(i) For each primary transmitter which is a television station:

(A) The station call sign of the primary transmitter.

(B) The name of the community to which that primary transmitter is licensed by the F.C.C. (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(C) The number of the channel upon which that primary transmitter broadcasts in the community to which that primary transmitter is licensed by the F.C.C. (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(D) A designation as to whether that primary transmitter is a "network station", an "independent station", or a "noncommercial educational station".

(E) A designation as to whether that primary transmitter is a distant station. For this purpose, a primary transmitter is a "distant" station if the programming of such transmitter is carried by the cable system in whole or in part beyond the local service area of such primary transmitter.

(F) If that primary transmitter is a "distant" station a specification of whether the signals of that primary transmitter are (*1*) carried pursuant to

[4] In the case of the first statement of account deposited by a cable system which has not earlier filed an Initial Notice or Notice of Change under § 201.11 of these regulations identifying the owner of the system, that statement of account shall also give the name of the person who, or entity which, was given as the operator or person or entity exercising primary control in the Initial Notice or last Notice of Change.

the part-time specialty programming rules of the F.C.C.; or (2) carried pursuant to the late-night programming rules of the F.C.C.; or (3) carried on a part-time basis where full-time carriage is not possible because the cable system lacks the activated channel capacity to retransmit on a full-time basis all signals which it is authorized to carry.

(G) The information indicated by paragraphs (e)(9)(i) (E) and (F) of this section is not required to be given by any cable system whose gross receipts from subscribers for the period covered by the statement, for the basic service of providing secondary transmissions of primary broadcast transmitters, total less than $40,000.

(ii) For each primary transmitter which is an AM radio station, or an FM radio station the signals of which were electronically processed by the system as separate and discrete signals:

(A) The station call sign of the primary transmitter, and whether it is AM or FM.

(B) The name of the community to which that primary transmitter is licensed by the F.C.C. (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(iii) In the case of cable systems which made secondary transmissions of all available FM radio signals, which signals were not electronically processed by the system as separate and discrete signals, the statement shall identify that portion of its signal carriage as "all-band FM" or the like, and shall separately identify the station call sign and community of license (or, in the case of foreign signals, of identification) of each primary transmitter of such signals whose signals were generally receivable by the system during the period covered by the statement.

(10) A special statement and program log, which shall consist of the information indicated below for all nonnetwork television programming that, during the period covered by the statement, was carried in whole or in part beyond the local service area of the primary transmitter of such programming under (i) rules or regulations of the F.C.C. requiring a cable system to omit the further transmission of a particular program and permitting the substitution of another program in place of the omitted transmission; or (ii) rules, regulations or authorizations of the F.C.C. in effect on October 19, 1976 permitting a cable system, at its election, to omit the further transmission of a particular program and permitting the substitution of another program in place of the omitted transmission:

(A) The name or title of the substitute program.

(B) Whether the substitute progrem was transmitted live by its primary transmitter.

(C) The station call sign of the primary transmitter of the substitute program.

(D) The name of the community to which the primary transmitter of the substitute program is licensed by the F.C.C. (in the case of domestic signals) or with which that primary transmitter is identified (in the case of foreign signals).

(E) The full date when the secondary transmission of the substitute program occurred, and the hours during which such secondary transmission occurred on that date.

(F) A designation as to (1) whether deletion of the omitted program was required by the rules or regulations of the F.C.C., or was permitted by the rules, regulations, or authorizations of the F.C.C. in effect on October 19, 1976; and (2) a brief statement clearly describing the legal basis for such deletion (for example: "Syndicated program exclusivity", or "program primarily of local interest to distant community").

(11) A statement of the total royalty fee payable for the period covered by the statement of account, together with a royalty fee analysis which gives a clear, complete and detailed presentation of the determination of such fee. This analysis shall present in appropriate sequence all facts, figures and mathematical processes used in determining such fee, and shall do so in such manner as will permit the Copyright Office to readily verify, from the face of the statement of account, the accuracy of such determination and fee.

(f) *Certification and Signature.* The statement of account shall be signed on its last page by the individual person identified as the person who owns the cable system, or by a duly authorized representative of such person; or, if an entity is identified as the owner, by an officer if the entity is a corporation, or by a partner if the entity is a partnership. The signature shall (1) be accompanied by the printed or typewritten name of the person signing the notice, and by the date of signature; and (2) shall be immediately preceded by the following printed or typewritten statement:

I certify that I have examined this statement of account and that all statements of fact contained herein are true, complete, and correct to the best of my knowledge, information, and belief, and are made in good faith.

(17 U.S.C. 207, and under the following sections of Title 17 of the United States Code as amended by Pub. L. 94–553; secs. 111; 702; 708(11).)

Dated: November 25, 1977.

BARBARA RINGER,
Register of Copyrights.

Approved:

DANIEL J. BOORSTIN,
Librarian of Congress.

[FR Doc.77-34467 Filed 11-30-77;8:45 am]

[1505-01]

DEPARTMENT OF THE TREASURY

Comptroller of the Currency

[12 CFR Part 7]

LEASING OF PERSONAL PROPERTY

Limitations on National Banks

Correction

In FR Doc. 77-34241, appearing at page 60749, in the issue for Tuesday, November 29, 1977, in § 7.3400 on page 60751, paragraph (h) should have read as follows:

(h) This section shall not apply to any leases executed prior to _____ (30 days after publication of the final ruling in the FEDERAL REGISTER). Any lease which was entered into in good faith prior to such date which does not satisfy the requirements of the ruling may be renewed without violating this section only if there is a binding agreement in the expiring lease which requires the bank to renew it at the lessee's option, and the bank cannot otherwise reasonably or properly avoid its commitment to do so.

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.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

LICKING RIVER UNIT

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 Linking River Unit Plan, Daniel Boone National Forest, USDA-FS-R8-DES-(Adm.)78-04.

This unit coverts 116,693 acres of National Forest land located in Bath, Menifee, Morgan, and Rowan Counties, Ky. Major actions proposed are the management of human resources, environmental protection, national resources management, and protection and administration of the Licking River unit.

This draft environmental statement was transmitted to CEQ November 21, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, P.O. Box 2417, Washington, D.C. 20013.

USDA, Forest Service, 1720 Peachtree Road NW., Room 804, Atlanta, Ga. 30309.

USDA, Forest Service, Daniel Boone National Forest, 100 Vaught Road, Winchester, Ky. 40391.

A limited number of single copies are available upon request to Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Ky. 40391.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically.

Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor, Daniel Boone National Forest, 100 Vaught Road, Winchester, Ky. 40391. Comments must be received by January 20, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: November 21, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc. 77-34355 Filed 11-30-77; 8:45 am]

[3410-11]

TIMBER MANAGEMENT PLAN, JEFFERSON NATIONAL FOREST, VA.

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 Timber Management Plan, Jefferson National Forest, Va., USDA-FS-R8-DES (Adm) 78-03.

The environmental statement concerns a proposed implementation of a revised 10-Year Timber Management Plan for the Jefferson National Forest. The unit contains 672,200 acres of National Forest land in Wise, Buchanan, Scott, Lee, Montgomery, Roanoke, Craig, Giles, Pulaski, Botetourt, Bedford, Washington, Smyth, Bland, Grayson, Carroll, Wythe, Russell, Rockbridge, Dickenson, and Tazewell Counties in Virginia, Monroe County in West Virginia, Letcher and Pike Counties in Kentucky.

This draft environmental statement was transmitted to CEQ on November 21, 1977. Copies are available for inspection during regular working hours at the following locations:

USDA, Forest Service, South Agriculture Building, Room 3210, P.O. Box 2417, Washington, D.C. 20013.

USDA, Forest Service, 1720 Peachtree Road NW., Room 804, Atlanta, Ga. 30309.

USDA, Forest Service, Forest Supervisor, 310 Franklin Road SW., Room 954, Roanoke, Va. 24011.

USDA, Forest Service, Forest Supervisor, 210 Franklin Road SW., Room 954, Roanoke, Va. 24011.

A limited number of single copies are available upon request to Forest Supervisor Mike Penfold, Jefferson National Forest, 210 Franklin Road SW., Room 954, Roanoke, Va. 24011.

Copies of the environmental statement have been sent to various Federal, State, and local agencies as outlined in the Council on Environmental Quality guidelines.

Comments are invited from the public, and from State and local agencies which are authorized to develop and enforce environmental standards, and from Federal agencies having jurisdiction by law or special expertise with respect to any environmental impact involved for which comments have not been requested specifically. Comments concerning the proposed action and requests for additional information should be addressed to Forest Supervisor Mike Penfold, Jefferson National Forest, 210 Franklin Road SW., Room 954, Roanoke, Va. 24011. Comments must be received by January 20, 1977, in order to be considered in the preparation of the final environmental statement.

Dated: November 21, 1977.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc. 77-34356 Filed 11-30-77; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Rel. No. 31526; Order 77-11-134]

SOCIETE ANONYME BELGE D'EXPLOITATION DE LA NAVIGATION AERIENNE

Proposed Transatlantic Super-APEX Fares; Order Vacating Suspension

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November, 1977.

By order 77-10-124, October 14, 1977, the Board suspended, pending investigation, super-APEX (advance-purchase excursion) fares proposed by Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA) and other carriers for use between the United States, on the one hand, and Belgium and the Netherlands, on the other. The Board stated that it was suspending the fares because the United States had been unable to secure an ad hoc agreement with Belgium or the Netherlands which would permit us to suspend the fares after they became effective, and in those circumstances, failure to suspend the fares before they became effective might foreclose any future action by this Government with regard to such fares between the United States and those countries.

On November 16, 1977, the Government of Belgium signed an ad hoc agreement confirming the right of the United States to take action against

the super-APEX fares after they became effective. Thus there is no reason for SABENA's fares to Belgium and the Netherlands, whose Government signed October 31, 1977, to remain under suspension, and this order will vacate our previous action in that respect.[1]

Accordingly, pursuant to sections 102, 204(a), 403, 801, and 1002(j) of the Federal Aviation Act of 1958.

It is ordered, That:

1. Orders 77-10-124 and 77-10-139 are hereby vacated, insofar as they suspend and investigate the following Advance Purchase Excursion Fares:

To/From Belgium:

1. Filed by Pan American, K.L.M. and SABENA in tariff CAB No. 44 issued by Air Tariffs Corp., Agent.
2. Filed by TWA in its tariff CAB No. 37.
3. Filed by British Airways in tariff CAB No. 22, issued by John M. Sampson, agent.

To/From Netherlands:

1. Filed by SABENA in tariff CAB No. 44.

NOTE.—(Suspension of these fares for certain other carriers were previously vacated in the Board's order 77-11-59 of November 2, 1977.

2. This order shall be submitted to the President[2] and shall be effective on November 28, 1977; and

3. Copies of this order shall be filed in the tariffs named in ordering paragraph one above and served upon Societe Anonyme Belge d'Exploitation de la Navigation Aerienne, Pan American World Airways, Inc., K.L.M. Royal Dutch Airlines, Trans-World Airlines, Inc., and British Airways.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board:[3]

CRAIG LINDSAY,
Acting Secretary.

[FR Doc. 77-34481 Filed 11-30-77; 8:45 am]

[6320-01]

[Docket No. 31739; Order 77-11-123]

TRANS WORLD AIRLINES, INC.

Order of Suspension and Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of November, 1977.

By tariff revisions[1] issued October 25 and marked to become effective November 24, 1977, Trans World Airlines, Inc. (TWA), proposes to add new individual tour-basing, or "Super-Jackpot," fares to Las Vegas from Boston, Chicago, Detroit, New York, Philadelphia, and Pittsburgh. The proposal consists of three levels of fares—peak, with a discount from basic coach fares of about 20 percent; shoulder, with discounts of 32 to 41 percent; and off-peak, with discounts of 38 to 46 percent.[2] The fares would apply for the period December 1, 1977, to May 31, 1978. Reservations must be made and tickets purchased at least 14 days in advance; a minimum stay of two nights is required, and a ground package of at least $25.00 must be purchased. The plan is subject to capacity control which limits the seats available per week for "Super-Jackpot" passengers to 50 percent of all nonstop seats between Las Vegas and cities designated as Las Vegas gateways. These include the six named cities where the fares apply and also those cities over which convenient routings to Las Vegas are available. In effect, the carrier can make available more than 50 percent of the seats on a given flight, on a particular day or from a particular city, provided that "Super-Jackpot" seats in all markets combined do not exceed 50 percent of capacity in any one week.

TWA claims the purpose of the fares is to reverse deteriorating levels of passenger traffic which have caused it to suffer significant losses; and to counter a continuing shift of passengers to charter service, which, according to TWA, now accounts for over 52 percent of the total Las Vegas traffic. TWA projects a profit improvement of $1.6 million annually in the six markets, using the profit-impact test (i.e., incremental costing) and assuming a 45/55 generation/diversion ratio.

In support of its proposal, and in answer to complaints, TWA claims that the proposal is designed to be charter competitive; that OTC's in the affected markets currently carry over 50 percent of the traffic; that these OTC track programs virtually constitute scheduled service; that the proposed "Super-Jackpot" fares will not cut into the charter market enough to affect the viability of charter service because (1) the total package price, including air fares and minimum ground accommodations, will exceed OTC prices for any given day; (2) "Super-Jackpot" tickets must be purchased 14 days in advance, whereas there is no longer any advance purchase requirement for OTC's; and (3) 60 percent of TWA's current traffic in these markets purchases tickets less than 15 days before flight; that it has used incremental costing in assessing the profit impact of the proposal because it is designed as a promotional fare to generate additional traffic; that incremental costing will not burden the full-fare passenger due to the Board's discount fare adjustment, and is fully justified under the standards of the DPFI; that a minimum off-peak discount of 45 percent is needed to generated traffic; that TWA has no real promotional advantage over tour operators, since the price-conscious traveler will thoroughly investigate the full provisions and requirements of both OTC and "Super-Jackpot" programs; that, contrary to the implication by Miller Tours, Inc. (Miller), TWA does not hold a monoply over charter capacity in Las Vegas markets, as evidenced by Miller's contract with Delta Air Lines, Inc., to perform a series of 104 Sunday/Thursday charters in 1978; and that its current charter cancellation penalties are reasonable, since cancellation of the penalties would increase the number of charters cancelled on short notice, where TWA cannot profitably resell the reserved capacity, and since the penalties provide needed revenue when such cancellations do occur.

Complaints requesting suspension and investigation have been filed by Miller, International Leisure Time Association of Rochester, New York (ILTA), OTC Tours, Inc.,[3] and the Air Charter Tour Operators of America (ACTOA). The complaints variously contend that: TWA compares its proposed fares with 1977 OTC prices, but because of increased charter prices to tour operators, OTC prices will be higher in 1978; TWA has restricted charter equipment availability on Sunday/Thursday tracks, and will only offer charters on Monday/Friday tracks; since TWA has increased the proposed discount on Mondays and Fridays from its original filing, it would thus force tour operators to compete directly against heavily discounted fares, which in many cases

[1] We will also vacate the suspension of matching tariffs filed by British Airways, Pan American World Airways, Inc., Trans-World Airlines, Inc., and K.L.M. Royal Dutch Airlines.

[2] This order was submitted to the President on November 17, 1977.

[3] All members concurred.

[1] Revisions to Airline Tariff Publishing Co., agent, tariffs CAB Nos. 142 and 259.

[2] Sunday and Thursday are designated peak days; Monday and Friday shoulder days; and Tuesday, Wednesday, and Saturday off-peak days.

[3] The complaint of OTC Tours, Inc., was filed two days late, together with a motion for leave to file an otherwise unauthorized document. The tour operator claims it did not learn of TWA's proposal until the day complaints were due because, unlike TWA's original "Super-Jackpot," it was filed without announcement by the carrier in the trade press, and because TWA did not notify OTC Tours of the refiling. (OTC tours was one of the complainants against TWA's original filing.) In view of the above circumstances, we will grant the request to file a late complaint. In addition, ILTA and Miller have filed motions for leave to amend their complaints, citing facts which only came to their attention after the original complaints were filed. We will grant these motions as well.

will be lower than OTC prices; TWA will be able to advertise its "Super-Jackpot" fares heavily, while only mentioning the tour package requirement in passing, whereas tour operators are prohibited in their advertising from separating the costs of air transportation from those of ground accommodations; Sundays/Thursdays are peak traffic days primarily because of equipment availability, not passenger preference; traffic in these markets is highly price sensitive, and traffic patterns will change to take advantage of the lowest prices; hotel availability will also switch tracks in response to any traffic shifts; and that all the above are evidence of a predatory pricing scheme to drive tour operators out of business. The complainants also allege that current "Super-Saver" and "Super-Apex" fares have already caused a high rate of casualties among ABC operators; that, since TWA's original "Super-Jackpot" proposal, two major OTC operators have announced cessation of activities in the affected markets; that "Super-Jackpot" fares will cause many more shutdowns of charter-tour operations; that the Board should call a halt to deep discounting of fares before the Board's OTC and ABC experiments are themselves eliminated by such predatory pricing by the airlines; and that the proposal, in conjunction with order 77-10-68, which suspended TWA's previous "Super-Jackpot" filing, constitutes prescription of rates and rules without notice and hearing, contravening the findings of *Moss* v. *CAB*.[4] Finally, ILTA requests the privilege of oral argument before the Board.

ILTA and Miller have also filed amendments to their complaints, asserting that: TWA, in advertisements published November 14 and 15, 1977, has advertised total package prices of $24.00 to $34.00 less than indicated in its justification; the advertisements show a $30.00 package for three nights at the Flamingo Hilton Hotel; the lowest commercially available package price at the Flamingo Hilton is $40.16 per person, which is available only to long-term customers under contract; until recently, TWA had no contract with the Flamingo Hilton; TWA is, therefore, selling ground packages below cost; this is further accentuated by the inclusion in the package of other items such as books and show tickets; and that the advertisements support complainants' allegations that TWA's advertisements will give off-peak fares prominence, while only referring to shoulder and peak fares and package requirements in passing.

The Board has determined that the proposed fares may be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and should be investigated. The Board further concludes that the proposal should be suspended pending investigation. Finally, we will consolidate the investigation with the one ordered in docket 31521 for TWA's previous "Super-Jackpot" proposal.

In order 77-10-68, suspending the original "Super-Jackpot" proposal, we stated our view that fare competition should be given free rein. We are determined to pursue this philosophy. We recognize that some measure of caution may be required if we are to avoid severe disruption of the charter industry, which, clearly in this instance, has provided the competitive stimulus for the proposed low fares. How to balance the preservation of an effective low-fare charter service as a competitive spur toward lower scheduled fares against the immediate advantage to consumers of particular low fares on scheduled service is a difficult problem. This balance can be accomplished by liberalizing charter restrictions or by moderating price competition on scheduled service which in particular instances appears predatory or designed particularly to harm charter services. Consistent with our policy of encouraging more price competition, however, we are generally most reluctant to opt for the latter alternative.

In particular, we are loath to interfere with competitive responses by scheduled carriers to charter service under circumstances where there is reason to believe that the scheduled fares will improve the economics of the scheduled service. The simple fact is that, at this juncture, we cannot assume that the tour operators and charter carriers will be unable to make suitable competitive responses of their own, or that they will be unable to find other charter markets to exploit. In view of these uncertainties, we are now persuaded that we should permit a large degree of discretion to scheduled carriers in responding to charter services over their routes. We will, of course, monitor the results of this policy very closely and we have ample power to step in should it develop that the policy is producing undesirable results.

Turning to the present filing, we believe that the elimination of the impact of "Super-Jackpot" fares on peak days should enable charter/tour operators to carry out tours already programed without extensive cancellations. The six-month limit on the availability of the fares will provide an early opportunity to assess their results.[5]

We remain extremely concerned, however, about TWA's failure to provide any relief whatsoever from its charter cancellation penalties for tour operators who may be adversely affected by the proposed fares. We do not dispute that tour operators are risk takers, or that TWA's charter cancellation provisions may be reasonable in ordinary circumstances. We disagree, however, with TWA's characterization that charter penalties have nothing to do with the lawfulness of "Super-Jackpot" fares. The proposed fares are admittedly aimed at the charter market, and if they succeed in attracting that market, tour operators who have contracted charters with TWA in good faith are placed in an untenable position. If they cannot compete with "Super-Jackpot," they either stand to take a loss on their charter programs, or cancel and lose not only the cancellation penalty but also their investment in those programs. We have no desire or intention of insulating tour operators from ordinary price competition or of protecting them from enforcement of the contracts they have entered into with direct air carriers. However, the cancellation provisions are also included in tariffs filed with the Board and are thus binding as a matter of law. The provisions might be successfully challenged as a matter of private contract law because of changed circumstances since the contracts were entered into. Our concern is that the inclusion of the cancellation provisions in the applicable tariffs deprives the tour operators of an opportunity to make that challenge. Moreover, looking to the longer term, the financial burden of the cancellation penalty, in addition to the cost of promoting aborted charter programs, may well be a prohibitive roadblock to expanded charter competition in these or other markets in the future, competition necessary to encourage continued low fares on scheduled service. In view of the foregoing, we find that TWA's "Super-Jackpot," in conjunction with the cancellation penalty provisions in its charter tariff, may be unjust and unreasonable and we will therefore suspend. Should TWA amend its charter tariff to relieve tour operators of the penalty for cancellations which stem from the new "Super-Jackpot" competition we will vacate this suspension. If not, we will set the matter for expedited investigation.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002,

[4] *Moss et al.* v. *Civil Aeronautics Board*, 139 U.S. App. D.C. 150, 430 F. 2d 891 (1970).

[5] We are aware, of course, that TWA has reduced the off-peak discount to only 45 percent and has actually increased the shoulder discount. Despite concern that these discounts may cause excessive shifting of traffic and create new peaking tendencies, the likelihood that excessive peaks will occur is not sufficiently clear to justify preclusion of a test of the tariff by actual experience. We will require special reports so experience with the fares can be evaluated in connection with any request to extend them.

It is ordered, That:

1. An investigation be instituted to determine whether the fares and provisions described in appendix A attached hereto, and rules, regulations, and practices affecting such fares and provisions, are or will be unjust, unreasonable, unjustly discriminatory, unduly preferential, unduly prejudicial, or otherwise unlawful, and, if found to be unlawful, to determine and prescribe the lawful fares and provisions, and rules, regulations, or practices affecting such fares and provisions;

2. Pending hearing and decision by the Board, the fares and provisions scribed in appendix A hereto are suspended and their use deferred to and including February 21, 1978, unless otherwise ordered by the Board, and that no changes be made therein during the period of suspension except by order or special permission of the Board;

3. The investigation instituted herein is consolidated into docket 31521;

4. The motions of OTC Tours, Inc., Miller Tours, Inc., and the International Leisure Time Association, Inc., for leave to file otherwise unauthorized documents are granted;

5. Except to the extent granted herein, the complaints of Miller Tours, Inc., in docket 31612; International Leisure Time Association, Inc., in docket 31638; the Air Charter Tour Operators of America in docket 31640; and OTC Tours, Inc., in docket 31655 are dismissed; and

6. Copies of this order shall be filed with the tariffs, and served upon Trans World Airlines, Inc.; Miller Tours, Inc.; International Leisure Time Association, Inc.; the Air Charter Tour Operators of America; and OTC Tours, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board: [1]

PHYLLIS T. KAYLOR,
Secretary.

APPENDIX

TARIFF CAB NO. 142 ISSUED BY AIRLINE TARIFF PUBLISHING CO., AGENT

On 25th Revised Pages 117 and 118, Rule 256.

TARIFF CAB NO. 259 ISSUED BY AIRLINE TARIFF PUBLISHING CO., AGENT

On 23d, 24th, 25th, and 26th revised pages 648-A, the YOE43 and YWE83 fare class applications.

On 23d, 24th, and 25th revised pages 648-B, the YXE83 fare class application.

On 63d, 64th, 65th, 66th, and 67th revised pages 650, the reference mark "p" and the explanation thereof.

All YWE83, YOE83, and YXE83 class fares on the following pages:

On 49th and 50th revised pages 655, between Boston and Las Vegas.

On 46th revised page 657, between Chicago and Las Vegas.

On 40th and 41st revised pages 663, between Detroit and Las Vegas.

On 55th, 56th, 57th, and 58th revised pages 667, between Las Vegas, on the one hand, and New York/Newark, Philadelphia, and Pittsburgh on the other.

[FR Doc. 34480 Filed 11-30-77; 8:45 am]

[1] All members concurred except Vice Chairman O'Melia who was not present.

[6320-01]

[Docket 31422; Order 77-11-70]

UNION SPEDITIONS—GESELLSCHAFT m.b.H. (GERMANY)

Application for Renewal and Amendment of its Foreign Air Carrier Permit; Order to Show Cause; Correction

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 16th day of November 1977.

Order 77-11-70 issued in Docket 31422 (42 FR 60194, November 25, 1977) inadvertently excluded the attached specimen permit. Accordingly, the attached specimen permit should accompany Order 77-11-70.

By the Civil Aeronautics Board.

Dated: November 21, 1977.

CRAIG LINDSAY,
Acting Secretary.

SPECIMEN PERMIT

PERMIT TO FOREIGN INDIRECT AIR CARRIER

Union Air Transport G.m.b.H. (Germany) is hereby authorized, subject to the provisions hereinafter set forth the provisions of the Federal Aviation Act of 1958, and the orders, rules, and regulations issued thereunder, to engage indirectly in foreign air transportation of property from any point or points in the United States to any point or points outside the United States.

This permit shall be subject to all applicable provisions of any treaty, convention, or agreement affecting the right to engage in indirect air transportation of property now in effect, or that may become effective during the period this permit remains in effect, to which the United States and the Federal Republic of Germany shall be parties.

This permit shall be subject to the condition that in the event that any practice develops which the Board regards as inimical to sound economic conditions, the holder and the Board will consult with respect thereto and will use their best efforts to agree upon modifications thereof satisfactory to the Board and the holder.

The exercise of the privileges granted hereby shall be subject to the terms, conditions, and limitations set forth in Order ———— dated ———— and to such other reasonable terms, conditions, and limitations required by the public interest as may from time to time be prescribed by the Board.

By accepting this permit the holder waives any right it may possess to assert any defense of sovereign immunity from suit in any action or proceeding instituted against the holder in any court or other tribunal in the United States (or its territories or possessions) based upon any claim arising out of operations by the holder under this permit.

This permit shall become effective on ———— and shall terminate 5 years thereafter: *Provided, however,* That if during said period the operation of the foreign air transportation herein authorized becomes the subject of any treaty, convention, or agreement to which the United States and the Federal Republic of Germany are or shall become parties, then and in that event this permit is continued in effect during the period provided in such treaty, convention, or agreement.

In witness whereof, the Civil Aeronautics Board has caused this permit to be executed by the Secretary of the Board, and the seal of the Board to be affixed hereto, on the ————.

————,
Secretary.

Issuance of this permit to the holder approved by the President of the United States, on ————, in ————.

[FR Doc. 77-34479 Filed 11-30-77; 8:45 am]

[6320-01]

[Docket No. 31556; Order 77-11-124]

DELTA AIR LINES, INC., ET AL.

Proposed Aero-Bus and Super No-Frills Fares in the New York-Miami/Fort Lauderdale Markets; Order Vacating Suspension and Terminating Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 23rd day of November, 1977.

By order 77-10-98 dated October 21, 1977, the Board suspended proposals by Delta Air Lines, Inc. (Delta), Eastern Air Lines, Inc. (Eastern), and National Airlines, Inc. (National), to establish reduced one-way fares of $55 (tax included) for travel Monday through Wednesday and $75 for travel Thursday through Sunday between New York and Miami/Fort Lauderdale. The normal one-way coach fare is $109. Delta calls its proposal Aero-Bus, and the fares are premised on the operation of DC-8-61 aircraft, reconfigured with high-density, single-class service, which will be provided in lieu of its present coach service. The fare levels proposed by Delta are allegedly based on the fully allocated cost of its reconfigured DC-8-61 aircraft, operated at a 54.9 percent load factor.

Eastern countered with a proposal which it calls Super No-Frills (which has been matched by National). The fare levels proposed are the same as Aero-Bus, but these carriers offer the fares on aircraft in their existing configuration. The carriers would place a limit on the number of seats they would sell daily (approximately 50 percent of total seats) at the Super No-Frills fare. This proposal is based on incremental costing and the short-

term profit-impact test. Delta has also filed to match Eastern's proposal for defensive purposes.

Nine complaints were filed against either the Aero-Bus or Super No-Frills proposals. A summary of those complaints and the answers to them are set forth in Apendix A.[1]

The Board suspended the proposals to allow for briefing by interested parties on several major policy issues raised by them. These issues were set out at page 2 of order 77-10-98. The Board received briefs from 15 parties.[2] Relatively little has been added by the briefs to the points made in the original complaints and answers. The predominant theme of the scheduled air carrier responses (except Delta) is that carriers have a legal right to make the competitive fare response to Aero-Bus, that if the Super No-Frills fares are permitted it will abandon Aero-Bus, and the public will have lost a cost-justified low-fare service which would provide passengers greater long-term benefits than Super No-Frills.

The charter parties challenge the Board's procedures, which they characterize as seeking to determine an important ratemaking principle without following rulemaking procedures.[3] They also argue again that Aero-Bus and Super No-Frills are predatory. Dade County supports the fare proposals, while Philadelphia claims it will be discriminated against if the Board allows the fares only between New York and Florida.

Upon consideration of the proposals, the complaints and answers and the briefs filed in Docket 31556, the Board has decided to vacate the suspension of the Aero-Bus and Super No-Frills fares earlier ordered, and to terminate the investigation in Docket 31556.

Delta's Aero-Bus proposal is a clear departure from the existing fare regime. Under that regime, normal fares are based on industry average costs for the mileage block involved. The coach fare is the basic fare, and the DPFI standards stipulate that the differences between it and the fares for other classes of service be established on the basis of the differences in the cost of providing them. The basic fare level assumes a "standard" load factor, which varies with mileage and averages 55 percent for the system as a whole.

Delta proposes Aero-Bus not as a discount fare, but as a new class of service, and bases the fare level on the fully-allocated cost of operating its DC-8-61 equipment reconfigured with high-density seating.

Aero-Bus cost savings are not sufficient in themselves to justify the proposed discount from the regular coach fare in this market.[4] Rather, Delta justifies the proposed fare level on the basis of these costs savings plus the benefits of Aero-Bus not being subject to the same dilution factors (e.g., joint fares, circuity) as the normal coach fare, and from an anticipated attainment of a load factor very close to 60 percent. We conclude that this load factor is attainable, and that Aero-Bus can stand on its own in this market. While we acknowledge that this service represents a break with established fare policy, it is not the first: a similar departure was implicit in our approval earlier this year of TWA's "Super-Coach" high-seating density service in the Chicago-Los Angeles market. Moreover, we are not in any event prepared to foreclose such low-fare experiments—at least not until we have reassessed our overall fare policies in PSDR-49—Domestic Passenger-Fare Level Policies and Domestic Passenger-Fare Structure Policies.

What makes this case extremely difficult is not Aero-Bus, but Eastern's Super No-Frills counterproposal, which has been matched by National. Whereas there is little question in our minds that high-density, low unit-cost services such as Delta's offer genuine promise of lower fares that are sustainable over longer term, there is a real possibility that if we permit other carriers to offer matching fares on standard coach services, this could render the former services noncompetitive.

On the other hand, Eastern's counterproposal, aimed at preserving its market share, is the one it believes is best suited to its circumstances. If we were to suspend Super No-Frills and not Aero-Bus, this might force Eastern and National to reconfigure their aircraft, to remain competitive with Delta. Possibly because there is already abundant capacity in the New York-Miami market—load factors are 46 percent for Delta, 54 percent for Eastern, and 40 percent for National—the managements of Eastern and National have decided not to take that route, which would involve adding seats in their aircraft. Under the circumstances present here, we are reluctant to second-guess them, especially when, as we will observe, the costs under their present seating configurations compare favorably with Aero-Bus.

Super No-Frills is by no means obviously unjustified on a cost basis. It is proposed essentially as a discount fare, justified in terms of marginal cost, and we are prepared to accept it on that basis. It is capacity-controlled, and while the limit on capacity is set so high that virtually all of the traffic currently moving in this market can be accommodated at the fare, the limitation will undoubtedly come into play during peak-travel periods, and quite possibly, depending on the degree of traffic generation, at other times as well. In effect, the capacity-control feature is not unlike an advance-purchase discount fare requiring early booking to assure a seat and intended primarily to fill seats that would otherwise go empty.

Indeed, our calculations show very little difference in unit cost between Delta's Aero-Bus and Super No-Frills even on a fully allocated basis. For example, the total economic cost per passenger-mile at a 60 percent load factor for Eastern's L-1011 aircraft is only 4.3 percent and National's DC-10 only 2.8 percent higher than for Delta's reconfigured DC-8-61 aircraft. The cost of the carriers' B-727 (stretch) equipment (which is widely used in this market) is at or slightly less than Delta's DC-8-61.

Although we recognize that a failure to protect the high-density Aero-Bus service from discount fares on regular, more luxurious service could discourage the former kind of experimentation in the future, this result is by no means inevitable. Delta may or may not withdraw its offering; it may instead find ways of keeping it competitive.[5] Moreover, our decision here is

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[1] Appendix A filed as part of the original.

[2] Briefs were received from nine air carriers; four charter interests including the National Air Carrier Association; and two civic parties—Philadelphia and Dade County, Fla. In addition, over 100 letters have been received urging approval of the proposed fares.

[3] The Board disagrees entirely with this characterization. The manner in which we process such matters is not so rigidly defined as the charter parties allege, and we think they are placing form over substance. Here, the Board suspended the proposals simply because it needed more time in this instance than the constraints of the customary tariff-filing period provide. The fact that this case involves difficult fare policy decisions does not dictate the use of a more formal procedure. The Board has on numerous occasions in the past decided fare policy questions in orders dismissing complaints or suspending tariff filings, neither of which go to hearing or are subject to rulemaking procedures.

[4] We estimate at less than 20 percent the true savings in industry cost that would be produced by maximum seating density for the types of aircraft operating at the New York-Miami stage length of 1,090 miles.

[5] Although Delta has represented that it will withdraw Aero-Bus if Super No-Frills is permitted, we are not convinced that this need be so. An important factor here may be the fact that Delta's DC-8-61, being a longer range aircraft, is not ideally suited to this market and has very little cost advantage over its competitor's equipment. In any event, it is not clear that Delta is foreclosed from offering discount fares on its Aero-Bus service (such as fill-up, advance purchase and night fares) at lower levels than Super No-Frills.

based on the special facts before us in this particular case, and does not mean we will not offer protection for future high-density fare initiatives, should it be required. Our long-term policy is still in process of being developed, and the experience of Aero-Bus and Super No-Frills in the marketplace should help us in that effort.

We are not persuaded by the charter parties that the fares are predatory. As indicated above, the Aero-Bus fare is reasonably related to cost, and the Super No-Frills fares are similarly justifiable as a competitive response. Moreover, we question the charter parties' assertions that existing OTC prices in this market will not, and by inference cannot, be priced to be competitive with the scheduled-service fares in question. It is also pertinent that a major restriction—the 15-day advance-purchase requirement—has recently been eliminated for OTC's.

Finally, two complainants request that the Board suspend the fares in question because they could be combined with international local fares out of Miami to construct through fares from New York to points in South America which undercut published through fares. In the alternative, it is requested that our approval be conditioned to preclude their application in foreign air transportation. We will deny these requests. There are numerous instances in this and other markets where reduced domestic fares used in combination with local international fares undercut the published through fare. We see no difference in this case, and we will not deny international passengers the opportunity to use the Aero-Bus or Super No-Frills for the domestic portion of their international journey.

Accordingly, pursuant to the Federal Aviation Act of 1958, and particularly sections 204(a), 403, 404, and 1002 thereof,

It is ordered that:

1. The suspension ordered in paragraph 2 of Order 77-10-98 be vacated;

2. The investigation in Docket 31556 be terminated;

3. The complaints in Dockets 31442, 31443, 31444, 31478, 31482, 31484, 31485, 31516, and 31537 be dismissed; and

4. Air carriers who have on file with the Board valid tariffs containing the fares approved by this order shall submit revenue passenger data in the format shown in Appendix B* to the Reports Control and Administration Division (B-46) of the Board's Bureau of Accounts and Statistics.

5. Copies of this order be served upon Aerovias Nacionales de Columbia, S.A., Aerovias Condor de Colombia, S.A., Air Charter Tour Operators of America, Adventure Holidays International Wholesale Tours, Inc. American Airlines, Inc., Braniff Airways, Inc., Continental Air Lines, Inc., Dade County, Fla. and the Greater Miami Traffic Association, David Travels, Inc. and Carefree Travel, Inc., Delta Air Lines, Inc., Eastern Air Lines, Inc., the National Air Carrier Association, National Airlines, Inc., the City of Philadelphia, Pa., Trans World Airlines, Inc., and United Air Lines, Inc.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[1]

PHYLLIS T. KAYLOR,
Secretary.

*Appendix B filed as part of the original.

[3510-25]

DEPARTMENT OF COMMERCE

Domestic and International Business Administration

DUTY-FREE ENTRY OF SCIENTIFIC ARTICLES

Applications

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 (Pub. L. 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, by December 21, 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. 78-00038. Applicant: University of Pennsylvania, Department of Biochemistry and Biophysics, 37th Street and Hamilton Walk, Philadelphia, Pa. 19104. Article: 510 Nanosecond Lamp, complete with Power Supply and Accessories. Manufacturer: Photochemical Research Association, Canada. Intended use of article: The article is intended to be used to study the interaction of light biological material. Specific experiments to be conducted will include: (1) The study of muscle structure; and (2) The study of mitochondrial structure. The ultimate aim of this research will be to describe the organization of molecules in a living cell and to correlate this organization with life processes. The article will also be used in independent research (undergraduate), and graduate research to teach students about nanosecond fluorescence measurements. Application received by Commissioner of Customs: November 3, 1977.

Docket No. 78-00040. Applicant: National Bureau of Standards, Washington, D.C. 20234. Article: Power and Energy Standard (Thermal Instrument). Manufacturer: Physikalisch-Technische Bundesanstalt, West Germany. Intended use of article: The article is intended to be used as a transfer standard for power and energy measurements as part of the National Measurement System. Specifically, the article will be used to develop a more rapid and accurate calibration system for solid state devices. Application received by Commissioner of Customs: November 7, 1977.

Docket No. 78-00041. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: TEA 103-2 CO_2 Laser and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to demonstrate the scientific and economic feasibility of laser-induced separation of uranium isotopes. The article will be the basic tool for generating the necessary wavelengths for a selective photoseparation process.. Application received by Commissioner of Customs: November 8, 1977.

Docket No. 78-00042. Applicant: Rome Air Development Center, Deputy for Electronic Technology, RADC/ESM, Hanscom AFB, Mass. 01731. Article: Electron Microscope, Model JEM-100CX/SEG/ASID-4D and accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for studies of electromagnetic and electro-optic crystalline and non-crystalline solids including semiconducting materials, glasses and thin films. The investigations will include determination of crystal structure orientation, identification of secondary phases, and degree of crystalline perfection, detection and characterization of lattice defects such as dislocations, stacking faults, and precipitates, the search for defects of atomic dimensions and the study of surface microstructure on glasses and other materials. Application received by Commission of Customs: November 8, 1977.

Docket No. 78-00043. Applicant: New York University Medical Center, 550

[1]All Members concurred except Vice Chairman O'Melia who was not present.

[FR Doc. 77-34478 Filed 11-30-77; 8:45 am]

First Avenue, New York, N.Y. 10016. Article: Electron Microscope, Model JEM-100CX (standard side entry type), and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for the following research objectives: (1) High resolution EM examination of the structural details of synaptic membranes in the vertebrate retina; (2) Identification of the sequence of events that occur during vesicle recycling at the photoreceptor terminal; and (3) Characterization of the nature of interreceptoral junctions in the vertebrate retina. Other studies and ultrastructural techniques to be employed involve negative staining procedures, autoradiography of labelled neurotransmitter agent, Golgi-EM for the identification of neuronal processes in synaptic organization of the retina. The educational uses to which the article will be put are limited to post-doctoral trainees working in the department's (Ophthalmology and Physiology), research laboratories. Application received by Commissioner of Customs: November 8, 1977.

Docket No. 78-00046. Applicant: Texas A&M University, Soil and Crop Sciences, College Station, Tex. 77843. Article: Isotope ratio mass-spectrometer Model 602D and accessories. Manufacturer: VG Micromass, United Kingdom. Intended use of article: The article is intended to be used for studying biological nitrogen fixation and the nitrogen cycle. Plant and soil samples will be digested and introduced into the mass spectrometer as gas samples. Investigations will be conducted to: (1) Determine conditions needed for improvement of efficiency of fertilizer nitrogen in crop production; and (2) To determine conditions and strains of rhizobia needed for maximizing nitrogen fixation by nodules on legume roots. Application received by Commissioner of Customs: November 10, 1977.

Docket No. 78-00048. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Laser, TEA, CO_2, Type 103-2 and Accessories. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: The article is intended to be used to optically pump gas samples to investigate the scalable potential of a 15.9 micron system. Investigations will be conducted to demonstrate the scientific and economic feasibility of the separation of uranium isotopes by laser methods. Application received by Commissioner of Customs: November 10, 1977.

Docket No. 78-00047. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Laser, Multigas, Lumonics Model TEA-203-2, and Accessories. Manufacturer: Lumonics Research, Canada. Intended use of article: In order to extend the capability of already ongoing efforts in the studies of polyatomic molecular multiphoton photodissociation, laser induced chemistry, isotopically selective photochemical processes and laser induced fluorence, the article will be used to excite specific infrared energy transmissions in molecules such as UF_6, SF_6, Cl_2, NOCl, CRO, CF_2Cl_2, BCl_3, SF_5CL, MOF_6, etc. As a result of these studies chemical reaction rates with reaction partners in known vibrational quantum states will be determined. Application received by Commissioner of Customs: November 10, 1977.

Docket No. 78-00049. Applicant: University of California—Los Alamos Scientific Laboratory, P.O. Box 990, Los Alamos, N. Mex. 87545. Article: Laser, Multigas, Model TEA-203-2. Manufacturer: Lumonics Research Ltd., Canada. Intended use of article: In order to extend the capability of already ongoing efforts in the studies of polyatomic molecular multiphoton photodissociation, laser induced chemistry, isotopically selective photochemical processes and laser induced fluorence, the article will be used to excite specific infrared energy transmitions in molecules such as UF_6, SF_6, Cl_2, NOCl, CRO, CF_2Cl_2, BCl_3, SF_5CL, MOF_6, etc. As a result of these studies chemical reaction rates with reaction partners in known vibrational quantum states will be determined. Application received by Commissioner of Customs: November 10, 1977.

Docket Number: 78-00050. Applicant. The University of Michigan, Department of Biological Chemistry, Medical Science Building, I, Ann Arbor, Mich. 48109. Article: MCD-1B Electromagnet. Manufacturer: Japan Spectroscopic Co., Ltd., Japan. Intended use of article: The article is intended to be used for studies of metal complexes, peptides, nucleic acids, and proteins, including metalloproteins. Experiments will be conducted to obtain circular dichroism spectra of the molecules both free and in complex with other substances. The objectives of these measurements are to relate the circular dichroism and magnetic circular dichroism spectra to the arrangement of molecular groups in three-dimensional space. Application received by Commissioner of Customs: November 10, 1977.

Docket Number: 78-00051. Applicant: The University of Texas Health Science Center at Dallas, 5323 Harry Hines Boulevard, Dallas, Tex. 75235. Article: Electron Microscope, Model JEM-100CX and Accessories. Manufacturer: JEOL Ltd., Japan. Intended use of article: The article is intended to be used for further experiments on the low density lipoprotein (LDL) membrane receptor which will include the following: (1) Studies on the turnover of LDL receptors and where on the surface do the receptors appear; (2) effects of various drugs on the location and turnover of LDL receptors; and (3) Interaction of the LDL receptor with other surface membrane receptors, e.g., conconavalin-A. Application received by Commissioner of Customs: November 10, 1977.

Docket Number: 78-00052. Applicant: University of Rhode Island, Graduate School of Oceanography, Kingston, R.I. 02881. Article: VG Micromass 30B Surface Ionization Mass Spectrometer and Accessories. Manufacturer: VG Micromass Ltd., United Kingdom. Intended use of article: The article is intended to be used for multieducational and research purposes. The research projects will include the following:

(1) Geochemical and Isotopic Variations along Mid-Ocean Ridges and origin of shallow oceanic platforms.—Study of the nature of the source material, the factors which control the modes of emplacement, and development of the final mineral and rock assemblages.

(2) Trace metal and nutrient geochemistry in spore waters and bottom waters at MANOP BOM sites.—Study of marine geological and geochemical processes which lead to the formation of manganese nodules.

(3) Anamolously Enriched Elements in the Marine Atmosphere.—Investigations of the processes which transfer pollutants from land sources to the oceans, as well as the movement and concentration of these pollutants in the oceans.

(4) Radiometric age determinations of igneous and metamorphic rocks from the southeastern New England Region, by the RB-Sr and U-Pb radiometric method. The age determinations will be made in conjunction with several MS degree thesis studies dealing with mapping and indepth understanding of the geology of the southeastern New England Region, as a part of a overall long term commitment by this department to this effect.

(5) Spacial and Temporal variation from miocene to present.—Studying in detail radiogenic Nd-Sm, U-Th-Pb and Rb-Sr isotopic ratio variations with time of Iceland lava erupted some 13 million years ago to the most recent lavas.

(6) Influence of dredge spoils and sewage sludge on pollutant assimilation by organisms.—Investigations to (1) gather information needed for developing guidelines for dredge spoil and sewage sludge disposal which will minimize the environmental impact of these wastes with regard to heavy metal and organic chemical pollutants, and (2) to determine circumstances under which the pollution of sediments inhibits regeneration of nutrients.

The article will also be used as an integral part of graduate education, i.e. to enhance the graduate student's knowledge in the use of radiogenic isotopes and isotopic applications in Oceanography and Earth Sciences, as well as train the students in the practical use of such sophisticated instruments. In addition, the article will be used in courses containing basic science material and direct application of research results obtained by the professor in their specialized field of oceanography or geology. Application received by Commissioner of Customs: November 10, 1977.

Docket Number: 78-00045. Applicant: Massachusetts Institute of Technology, 77 Massachusetts Avenue, Cambridge, Mass. 02139. Article: Calorimetric experimental furnace with 20 water cooled steel elements, including burner, front and chimney end sections and accessories. Manufacturer: International Flame Research Foundation, The Netherlands. Intended use of article: The article is intended to be used for studies of fossil fuels including coal, coal derived fuels, petroleum fuels and synthetic fuels. The experiments to be conducted will involve the preparation and combustion of various fuels in a pilot scale combustion research facility, equipped to provide detail information on combustion, heat transfer and pollutant emission characteristics. The Department of Chemical Enginerring Graduate and Undergraduate programs in Fuel Engineering and Principles of Combustion will involve laboratory and experimental courses which make use of the article. Application received by Commissioner of Customs: November 8, 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. 77-34401 Filed 11-30-77; 8:45 am]

[3510-12]

National Oceanic and Atmospheric Administration

COASTAL ZONE MANAGEMENT PROGRAM OF STATE OF RHODE ISLAND

Public Hearings on Draft Environmental Impact Statement

Notice is hereby given that the Office of Coastal Zone Management, National Oceanic and Atmospheric Administration (NOAA), U.S. Department of Commerce, will hold public hearings for the purpose of receiving comments on the draft environmental impact statement for the Coastal Management Program of the State of Rhode Island.

The hearings will be held on Wednesday, December 14, 1977, at the State House in room 313 in Providence, R.I.; and on Thursday, December 15, 1977, at the University of Rhode Island at Independence Hall in Kingston, R.I. Each of the hearings will begin at 7:30 p.m.

The views of interested persons and organizations are solicited. These may be expressed orally or in written statements.

Presentations will be scheduled on a first-come, first-served basis, but may be limited to a maximum of ten minutes or as otherwise appropriate. Priority will be given to those with written statements. Time will be available at the end of the meeting for persons without statements to present their views orally. The Office of Coastal Zone Management staff may question any speaker following presentation of his/her statement. No verbatim transcript of the hearing will be maintained, but staff present will record the general thrust of the remarks.

Persons or organizations wishing to be heard on this matter should contact the Office of Coastal Zone Management as soon as possible so that an appearance schedule may be drawn up and definite times established for presentations. Please contact:

June Cradick, National Oceanic and Atmospheric Administration, Office of Coastal Zone Management, 3300 Whitehaven Street NW., Washington, D.C. 20235, 202-634-4242.

Written comments may also be submitted by mail to the Office of Coastal Zone Management. Such comments should be received before January 10, 1978, to assure adequate consideration for inclusion in the final environmental impact statement.

Copies of the draft environmental impact statement may be obtained by contacting the Office of Coastal Zone Management or:

Daniel Varin, Statewide Planning Program, Department of Administration, 265 Melrose Street, Providence, R.I. 02907.

Comments may address the adequacy of the impact statement and/or the nature of the Rhode Island Coastal Management Program.

Following consideration of the comments received at these hearings, as well as written comments submitted, the Office of Coastal Zone Management will prepare the final environmental impact statement pursuant to the National Environmental Policy Act of 1969 and implementing guidelines.

Dated: November 22, 1977.

R. L. CARNAHAN,
Acting Assistant Administrator for Administration.

[FR Doc. 77-34398 Filed 11-30-77; 8:45 am]

[3510-17]

Office of the Secretary

ADVISORY PANELS FOR THE NEW ENGLAND AND MID ATLANTIC FISHERY MANAGEMENT COUNCILS

Establishment

In accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I (Supp. V., 1975)), and the Office of Management and Budget Circular A-63 of March 1974, and after consultation with the OMB, the Department of Commerce has determined that the establishment of the Advisory Panels for the New England and Mid Atlantic Fishery Management Councils is in the public interest in connection with the performance of duties imposed on the Department by the Fishery Conservation and Management Act of 1976, Pub. L. 94-265 (16 U.S.C. 1852).

Each Panel will provide its parent Council with pragmatic advice in counsel of the people most affected by the Council's management activities on matters of fishery management policy, on the preparation of fishery management plans, on their views prior to submission to the Secretary, and on their effectiveness in operation.

Each Panel will consist of approximately 125 members who are either actually engaged in the harvest, process or consumption of, who are knowledgeable and interested in the conservation and management of fishery resources. Members of each Panel will be appointed by their respective Council.

The Panels will function solely as advisory bodies, and in compliance with the provisions of the Federal Advisory Committee Act. Copies of each Panel's Charter will be filed under the Act with the concerned congressional committees. Inquiries regarding this notice may be addressed to the Committee Liaison Officer, National Oceanic and Atmospheric Administration, U.S. Department of Commerce, Rockville, Md. 20852.

Dated: November 25, 1977.

G. W. CHAMBERLIN, Jr.,
Assistant Secretary for Administration.

[FR Doc. 77-34572 Filed 11-30-77; 8:45 am]

[3125-01]

COUNCIL ON ENVIRONMENTAL QUALITY

NATIONAL ENVIRONMENTAL POLICY ACT

Administrative Interpretation

NOVEMBER 28, 1977.

AGENCY: Council on Environmental Quality, Executive Office of the President.

ACTION: Information Only: Publication of Memoranda to Heads of Agencies Interpreting the National Environmental Policy Act.

SUMMARY: The Council on Environmental Quality has periodically issued Memoranda to Heads of Agencies, containing the Council's legal views on specific questions involving the National Environmental Policy Act (42 U.S.C. 4321 et seq.). These memoranda represent the considered views of the Council, which is the agency having the principal responsibility for providing administrative interpretation of NEPA to all federal agencies. Executive Order 11514 as amended by Executive Order 11991 (May 24, 1977). Certain of these memoranda have been the subject of considerable public demand. In order efficiently to respond to such public requests, the most requested memoranda to heads of agencies (issued by the Council between August, 1976 and August, 1977) are reprinted in this issue of the FEDERAL REGISTER.

FOR FURTHER INFORMATION CONTACT:

Nicholas C. Yost, Acting General Counsel, Council on Environmental Quality, 722 Jackson Place NW., Washington, D.C. 20006; 202-633-7032.

NICHOLAS C. YOST,
Acting General Counsel.

AUGUST 11, 1977.

MEMORANDUM

To: Heads of All Agencies.

Subject: Interim Guidance to Federal Agencies on Referrals to the Council of Proposed Federal Actions Found to Be Environmentally Unsatisfactory.

Under Section 309 of the Clean Air Act, the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of proposed federal actions, including actions for which environmental impact statements are prepared under the National Environmental Policy Act. The scope of the Administrator's review extends to any impact addressed in legislation administered by EPA. If at the conclusion of this review the Administrator determines that the proposed action is "unsatisfactory from the standpoint of public health or welfare or environmental quality," he is directed by Section 309 to refer the matter to the Council on Environmental Quality.

Similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts, are made by other federal agencies under Section 102(2)(C) of NEPA and the Council's Section 102(2)(C) guidelines, 40 CFR 1500.9-1500.11. Under NEPA, these reviews must be made available to the President, the Council and the public. Thus, while EPA is given a mandatory responsibility to refer certain matters to the Council, authority to refer matters to the Council is available to all agencies with relevant expertise under the National Environmental Policy Act.

The Council has never adopted procedures for receiving and handling referrals to it of proposed federal actions which have been found to be environmentally unsatisfactory by EPA or another federal agency. It is our intention to do so now, initially in the form of the interim guidance which is attached. As you know, in compliance with Executive Order No. 11991 (May 24, 1977), we are in the process of developing regulations implementing NEPA generally. More formal referral procedures will be included in such regulations.

The interim procedures in the attached memorandum thus have two purposes:

1. They are intended to guide the process until the adoption of formal regulations.

2. They are presented for use by all agencies so that the final regulations, when adopted, will reflect our experience and collective wisdom.

In Executive Order No. 11991, the President directed the Council to develop procedures in its NEPA regulations "for the referral to the Council of conflicts between agencies concerning the implementation of the National Environmental Policy Act of 1969, as amended, and Section 309 of the Clean Air Act, as amended, for the Council's recommendation as to their prompt resolution." The procedures in the interim guidance for Section 309 referrals by EPA and similar referrals by other agencies are a first step in fulfilling the President's directive.

We appreciate your anticipated cooperation in making the procedures in the interim guidance work and in aiding us in developing the final regulations.

CHARLES WARREN.
Chairman.

AUGUST 11, 1977.

INTERIM GUIDANCE TO FEDERAL AGENCIES ON REFERRALS TO THE COUNCIL OF PROPOSED FEDERAL ACTIONS FOUND TO BE ENVIRONMENTALLY UNSATISFACTORY

1. *Purpose.* This guidance establishes procedures for the referral to the Council on Environmental Quality of interagency disagreements over proposed major federal actions that might cause unsatisfactory environmental effects. The purpose of this guidance is to provide a basis for the early resolution of such disagreements.

Under Section 309 of the Clean Air Act, the Administrator of the Environmental Protection Agency is directed to review and comment publicly on the environmental impacts of proposed federal actions, including actions for which environmental impact statements are prepared under the National Environmental Policy Act. If at the conclusion of this review the Administrator determines that the proposed action is "unsatisfactory from the standpoint of public health or welfare or environmental quality," he is directed by Section 309 to refer the matter to the Council on Environmental Quality.

Similar reviews of environmental impact statements, including judgments on the acceptability of anticipated environmental impacts, are made by other federal agencies under Section 102(2)(C) of NEPA and the Council's section 102(2)(C) guidelines, 40 CFR 1500.9-1500.11. Under NEPA, these reviews must be made available to the President, the Council and the public.

This guidance provides procedures for EPA or other federal agencies to refer to the Council proposed major federal actions which the referring agency believes to be environmentally unsatisfactory. The guidance establishes procedures for the early notice of possible referral, for the timing and content of referrals, for any response by the proposing agency, and for Council action.

It is the Council's policy that these environmental referrals should reflect an agency's careful determination that the proposed action raises significant environmental issues of national importance. In determining what kinds of environmental objections to a proposal are appropriate to refer to the Council, agencies should weigh the proposal's feared environmental impacts in terms of their possible violation of national environmental standards and policies (where they exist) and their severity, geographical scope, duration and precedential importance. Referrals should only be made to the Council after concerted, timely, but unsuccessful attempts to resolve differences with the proposing agency. The nature of the Council's response to referrals will be commensurate with the significance of the proposed actions and their possible impacts.

2. *Definitions.* The following definitions apply to these guidelines:

(a) "Council" means the Council on Environmental Quality.

(b) "Lead agency" means the federal agency which has prepared or has taken the lead role among federal agencies in preparing the environmental impact statement (EIS).

(c) "Referring agency" means the federal agency which has referred any proposal to the Council after a determination that the proposal is unsatisfactory from the standpoint of public health or welfare or environmental quality.

(d) "Proposal" includes:

(1) With respect to the Environmental Protection Agency, any proposed legislation, project, action, or regulation as those terms are used in Section 309(a) of the Clean Air Act, and

(2) With respect to all other agencies, any proposed major Federal action to which section 102(2)(C) of the National Environmental Policy Act applies.

3. *Procedure for referrals and response.* All agencies subject to NEPA or section 309 of the Clean Air Act shall comply with the following procedures in making referrals to the Council:

(a) The referring agency shall advise the lead agency at the earliest possible time that it intends to refer a proposal to the Council unless the proposal is changed as the referring agency recommends. Such advice shall be included in the referring agency's comments on the lead agency's draft EIS in all cases except where the draft EIS contains insufficient information to permit an assessment of the proposal's environmental acceptability. (Where such needed information is not contained in the draft EIS, the referring agency shall identify the needed information and request that it be made available by the lead agency at the earliest possible time.) Copies of such advice shall be sent to the Council.

(b) The referring agency shall deliver its referral to the Council not later than twenty-five (25) days after the final EIS has been made available to the Council, commenting agencies, and the public. Except where an extension has been granted by the lead agency, the Council will not accept a referral subsequent to that date.

(c) The referral shall consist of:

(i) A copy of the letter signed by the head of the referring agency which has been delivered to the lead agency informing the lead agency of the referral, the reasons for it, and requesting the lead agency take no action to implement the proposal until the referral is acted upon by the Council. The letter shall include a copy of the document referred to in paragraph 3(c)(ii) below.

(ii) A statement supported by evidence as to the specific facts, or controverted facts, leading to the conclusion that the proposal is unsatisfactory from the standpoint of public health or welfare or environmental quality. The statement shall (A) identify any material facts in controversy as well as incorporate (by reference if appropriate) agreed upon facts, (B) identify any existing environmental laws or policies which would be violated by the proposal, (C) present the reasons the referring agency believes the proposal is environmentally unsatisfactory, (D) contain a finding by the agency as to whether the issue raised is one of national importance because of the threat to national environmental resources or policies or for some other reason, (E) review the steps taken by the referring agency to bring its concerns to the attention of the lead agency at the earliest possible time, and (F) give the referring agency's recommendations as to what mitigation, alternatives, further study, or other course of action (including abandonment of the proposal) are necessary to remedy the situation.

(d) Not later than twenty (20) days after the delivery of the referral to the Council, the lead agency may deliver a response to the Council and the referring agency. Upon application to the Council by the lead agency and upon assurance that the proposal will not go forward in the interim, the Council may extend this period of time. The response shall address fully the issues raised in the referral, shall be supported by evidence, and shall give the lead agency's response to the referring agency's recommendations.

(f) After receipt of the referral and any response, the Council may take one or more of the following actions:

(i) Conclude that the process of referral and response has successfully resolved the problem;

(ii) Initiate discussions with the agencies with the objective of mediation with referring and lead agencies;

(iii) Hold public meetings or hearings to obtain additional views and information;

(iv) Publish its findings and recommendations (including where appropriate a finding that the submitted evidence does not support the position of an agency); or

(v) On matters of clear national importance, submit the referral and the response together with the Council's recommendations to the President for decision.

MEMORANDUM TO HEADS OF AGENCIES ON APPLYING THE EIS REQUIREMENT TO ENVIRONMENTAL IMPACTS ABROAD

SEPTEMBER 24, 1976.

In recent months the Council has been involved in discussions with several agencies concerning the application of the EIS requirement in NEPA to U.S. actions with significant environmental impacts abroad (the high seas, the atmosphere, and other areas outside the jurisdiction of any nation; and other countries). We have noted different interpretations and practices among several agencies on this issue, and consequently have seen impact statements filed which reflect varying degrees of consideration of the impacts abroad of U.S. actions (whether the actions are taken or the decisions made in the United States or abroad).

In order to encourage a consistent application of NEPA to all major federal actions, the Council is issuing the attached Memorandum on the Application of the EIS Requirement to Environmental Impacts Abroad. In it, we advise that NEPA requires analysis and disclosure in environmental statements of significant impacts of federal actions on the human environment—in the United States, in other countries, and in areas outside the jurisdiction of any country.

We believe that by taking account of likely impacts abroad before deciding on a proposal for action, federal agencies can obtain the same benefits of NEPA review that accompany the development of projects or actions with domestic impacts. Moreover, we believe such analyses can be accomplished without imposing U.S. environmental standards on other countries, and without interfering with the execution of foreign policy. To the contrary, such analysis and disclosure can provide useful information to cooperating governments. Finally, if agencies undertake these analyses in cooperation with involved foreign governments, U.S. agencies can promote international approaches to environmental protection as recommended in the Stockholm Declaration and elsewhere.

We recommend that agencies which take actions abroad and/or which take actions in the United States with potential significant environmental impacts abroad consult as necessary with the Council or the Council's staff concerning specific procedures, proposals or programs which may be affected.

RUSSELL W. PETERSON,
Chairman.

MEMORANDUM ON THE APPLICATION OF THE EIS REQUIREMENT TO ENVIRONMENTAL IMPACTS ABROAD OF MAJOR FEDERAL ACTIONS

SEPTEMBER 24, 1976.

NEPA requires analysis of significant environmental impacts of proposed major federal actions on the quality of the human environment. The "human environment" is not limited to the United States, but includes other countries and areas outside the jurisdiction of any country (e.g., the high seas, the atmosphere). The Act contains no express or implied geographic limitation of environmental impacts to the United States or to any other area. Indeed, such a limitation would be inconsistent with the plain language of NEPA, its legislative purpose, the Council's Guidelines, and judicial precedents.

In a statute which in other sections refer specifically to the national environment,[1] use of the term human environment in section 102(2)(c) reflects an intent to cover environmental impacts beyond U.S. borders. This interpretation is consistent with NEPA's stated purpose, declared in the preamble to the Act, to "encourage productive and enjoyable harmony between man and his environment; to promote efforts which will prevent or eliminate damage to the environment and biosphere and stimulate the health and welfare of man." It is also consistent with Congress' recognition in section 101 of "the profound impact of man's activity on the interrelations of all components of the natural environment * * * and * * * the critical importance of restoring and maintaining environmental quality to the overall welfare and development of man." Applying the EIS requirement to impacts abroad also implements the mandate in section 102 to all agencies to "recognize the worldwide and long range character of environmental problems." In sum, the broad language of section 102(2)(C) as well as the explicit congressional determination that our national environmental policy must have a global perspective gives section 102(2)(C) a wide scope.

The legislative history of NEPA supports the inclusion of impacts globally and in other countries within the scope of the EIS requirement. A 1968 "Congressional White Paper on a National Policy for the Environment," summarizing the joint House-Senate colloquium on national environmental policy that led to NEPA's introduction, and inserted into the record by Senator Jackson during debate, stated, "[a]lthough the influence of the U.S. policy will be limited outside its own borders, the global character of ecological relationships must be the guide for domestic activities."[2] Both the House and the Senate reports on NEPA, reflecting the testimony of numerous witnesses at the hearings, recognized the statute's global perspective.[3] Statements to the same effect were made during the floor debates, including an explanation by Senator Jackson of NEPA's statement of environmental Policy:

"What is involved [in NEPA] is a congressional declaration that we do not intend, as a government or as a people, to initiate actions which endanger the continued existence or the health of mankind: That we will not intentionally initiate action which will do irreparable damage to the air, land and water which support life on earth."[4]

The House Merchant Marine and Fisheries Committee during oversight hearings specifically rejected the argument that NEPA should not be applied to actions occurring within the jurisdiction of another nation:

"Stated most charitably, the committee disagrees with this interpretation of NEPA. The history of the act makes it quite clear that the global effects of environmental decisions are inevitably a part of the decisionmaking process and must be considered in that context."[5]

The Council has consistently applied NEPA to U.S. international activities and has urged federal agencies to recognize the Act's global perspective. In its first Annual Report, for example, the Council pointed out that NEPA "directed all agencies of the Federal Government to recognize the worldwide and long-range character of environmental problems."[6] In 1971 the Council's Legal Advisory Committee specifically urged federal agencies to apply NEPA to their actions in foreign countries.[7] The

[1] See, e.g., secs. 101(b)(2), 101(b)(4), 201.

[2] 115 Cong. Rec. 29082 (Oct. 8, 1969).

[3] See, e.g., Sen. Rep. No. 91-296, 91st Cong., 1st sess., at 17, 43-45 (1969); H.R. Rep. No. 91-378, 91st Cong., 1st sess., at 5, 7 (1969).

[4] 115 Cong. Rec. 19009 (July 10, 1969); see also 115 Cong. Rec. 14347 (May 29, 1969); 115 Cong. Rec. 26575-16476 (Sept. 23, 1969); 115 Cong. Rec. 29056 (Oct. 8, 1969).

[5] H.R. Rep. 92-316, 92nd Cong., 1st sess., at 32-33 (1971).

[6] CEQ, Environmental Quality—1970, at 200 (1970).

[7] Legal Advisory Committee Report to the President's Council on Environmental Quality, at 13-17 (December 1971).

Council's 1973 Guidelines require the assessment of "both the national and international environment."[8] The Fifth Annual Report reviewed agencies' experience in applying the EIS process to U.S. actions abroad.[9] In 1976 the Council reported on one of the benefits of this experience—the growth of environmental impact assessment procedures in other countries.[10]

Accordingly, some federal agencies have provided in their NEPA procedures for the preparation of environmental statements when agency actions cause significant environmental impacts beyond U.S. borders,[11] and impact statements have been prepared on U.S. actions in foreign countries.[12] Moreover, the courts[13] and virtually every legal commentary addressing the subject[14] have supported the Council's belief that an environmental statement is required whenever U.S. actions would have significant environmental impacts on the U.S., on global resources, or on foreign countries.

Of course, significant indirect as well as direct impacts must be considered. 40 CFR 1500.8(a)(3)(ii) (1975); *City of Davis* v. *Coleman*, 521 F. 2d 661, (9th Cir., 1975); see CEQ, Environmental Quality—1974, at 410-11 (1974).

The policies underlying NEPA reinforce the interpretation suggested by its language and legislative history, judicial precedents and administrative practice. Analysis and disclosure in an EIS of significant environmental effects provide U.S. decisionmakers a fuller picture of the foreseeable environmental consequences of their decisions. Impact statements do not dictate actions on foreign soil or impose U.S. requirements on foreign countries; instead, they guide U.S. decisionmakers in determining U.S. policies and actions.

In addition, EISs provide information to cooperating governments which they then could use in making decisions about projects within, or which may affect, their countries. Far from being an imposition, this information can enhance the value of U.S. assistance or participation. This full disclosure by the United States contributes to the integrity of cooperating governments' policy making, and thus lends support to international environmental cooperation as directed in 102(2)(F),[15] the Stockholm Declaration, and other international agreements.[16]

To the extent national security or essential foreign policy considerations make controlled circulation of environmental statements necessary, NEPA provides sufficient procedural flexibility to accomplish this. Section 102(2)(C) provides exceptions to public circulation of documents by incorporating the Freedom of Information Act and its exemptions by reference. Environmental statement or portions of them have been classified, for example, when necessary to protect national security.[17] Presumably, if public examination of a proposed U.S. action in another country would jeopardize U.S. foreign policy in a given instance, circulation of the environmental statement could be restricted in accordance with these statutory procedures.[18] In general, however, Congress has mandated that environmental statements are public documents.

In summary, the Council believes that the impact statement requirement in § 102(2)(C) of NEPA applies to all significant effects of proposed federal actions on the quality of the human environment—in the United States, in other countries, and in areas outside the jurisdiction of any country. Accordingly, agency officials responsible for analyzing the potential environmental effects of proposed actions should fully assess the potential impacts outside the United States, as well as those within it; if any of these potential impacts are likely to be significant, an impact statement should be prepared.

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[8] 40 CFR sec. 1500, 8(a)(3)(i) (1975).

[9] CEQ, Environmental Quality—1974, at 399-400 (1974).

[10] CEQ, Environmental Quality—1975, at 653-54 (1976).

[11] See, e.g., 38 FR 34135-46 (1973) (Coast Guard); 37 FR 19167-68 (1972) (Department of State); 41 FR 26913-26919 (1976) (Agency for International Development).

[12] See, e.g., Department of Transportation, draft EIS, Darien Gap Highway (March 1976); Department of the Interior, final EIS, Alaska natural gas transportation system (March 1975).

[13] In *Wilderness Society* v. *Morton*, 463 G. 2d 1261 (D.C. Cir. 1972), the court granted standing to Canadian intervenors concerned with the trans-Alaska pipeline, holding that the intervenors' interest in the significant impacts of the pipeline in Canada were within the zone protected by sec. 102(2)(c). In *Sierra Club* v. *Coleman*, 405 F. Supp. 53 (D.D.C. 1975), the court held, inter alia, that DOT's impact assessment on portions of the Pan-American Highway was deficient because it failed to address the environmental impacts of alternative highway corridors through Panama and Columbia. Since the significant impacts of corridor alternatives lay exclusively in Panama and Columbia, the case necessarily holds that impacts in foreign national territory are within the scope of sec. 102(2)(C).

[14] See, e.g., Committee on Environmental Law of the Section on International and Comparative Law of the American Bar Association, Opinion on the International Scope of NEPA (July 1971); Strausberg, the National Environmental Policy Act and the Agency for International Development, 7 Int'l. Law. 46 (1972); Robinson, Extraterritorial Environmental Protection Obligations of Foreign Affairs Agencies: The Unfulfilled Mandate of NEPA, 7 Int'l. Law. Pol. 257 (1974) Note, the Extraterritorial Scope of NEPA's Environmental Impact Statement Requirement, 74 Mich. L. Rev. 349 (1975); Appelbaum, Controlling the Hazards of International Development, 5 Ecol. L.Q. 321 (1976).

[15] See H.R. Rep. 92-316, 92nd Cong., 1st sess., at 33 (1971).

[16] See, e.g., Convention Concerning the Protection of the World Cultural and Natural Heritage, Nov. 23, 1972; Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere, Oct. 12, 1940.

[17] See, e.g., U.S. Navy, final EIS, Transit Satellite (June 1972).

[18] Thus, NEPA incorporates a procedure for ensuring that the execution of U.S. foreign policy and U.S. environmental policy are consistent. Of course, no agency has the authority otherwise to deviate from NEPA's requirements, on foreign policy or other grounds. *Calvert Cliffs' Coordinating Comm.* v. *AEC*, 449 F. 2d 1109 (D.C. Cir. 1971).

MEMORANDUM TO HEADS OF AGENCIES ON "KLEPPE V. SIERRA CLUB" AND "FLINT RIDGE V. SCENIC RIVERS"

SEPTEMBER 16, 1976.

In June, the Supreme Court decided two cases on NEPA, *Kleppe* v. *Sierra Club* and *Flint Ridge Development Co.* v. *Scenic Rivers Association*. These are the only opinions on NEPA the Court has issued since *Aberdeen and Rockfish R. Co.* v. (*SCRAP II*), decided last year. Moreover, these two cases—but particularly *Kleppe*—represent the first extensive interpretation of NEPA by the Supreme Court.

Last November the Council issued a memorandum to agency heads on *SCRAP II*, following our past practice of issuing memoranda on important court decisions and other significant NEPA issues and developments. The attached memorandum on *Kleppe* and *Flint Ridge* continues this practice, and provides briefing and analysis of these decisions in the context of the Council's Guidelines, existing case law, other sources of NEPA guidance, and agency activities.

Most of the Court's rulings deal with program environmental statements, labeled comprehensive statements by the Court: under what conditions they must be prepared, what their scope should be, and what actions can proceed before a comprehensive statement is complete. The principal points which emerge from the opinion are:

(1) Comprehensive statements are necessary, among other circumstances, on coherent Federal programs and on related Federal activities or concurrent proposals with cumulative environmental impacts; and

(2) Comprehensive statements should reflect consideration of future program-related activities, sequential steps or phases, or other proposals which may compound the effects of a present action.

The Court also touched on agencies' responsibilities beyond the EIS requirement. It emphasized the need for early and thorough integration of environmental factors into agencies' planning and analysis. It also said that agencies have authority and responsibility to implement NEPA in areas of activity to which the EIS requirement may not apply.

If agencies have questions concerning possible specific effects of these decisions on their activities, we recommend consulting with the Council's staff before taking action. For the Council's part, we stand ready to meet with agency officials to discuss these decisions, the Council's memo, and agencies' general approaches to NEPA implementation.

RUSSELL W. PETERSON,
Chairman.

SEPTEMBER 16, 1976.

MEMORANDUM ON "KLEPPE V. SIERRA CLUB" AND "FLINT RIDGE DEVELOPMENT CO. V. SCENIC RIVERS ASSN. OF OKLAHOMA"

Two Supreme Court cases on NEPA were decided in late June. These opinions, issued in tandem, constitute the first extensive Supreme Court interpretation of NEPA.

"KLEPPE V. SIERRA CLUB"[1]

The more significant decision was the Supreme Court's reversal of the Court of Appeals for the District of Columbia in *Kleppe* v. *Sierra Club*, the *Northern Great Plains* case.

The Sierra Club sued the Department of the Interior and other agencies responsible

See footnotes at end of article.

for controlling the development of federal coal reserves in the West. The Sierra Club claimed that the federal defendants were taking coal-related actions (e.g., issuing coal leases, approving rights-of-way, authorizing water diversions) in a region they identified as the Northern Great Plains,[3] and that these actions were so closely related in function and in environmental effects that a program environmental impact statement was required by NEPA.

The Government claimed that there was no plan or proposal for development in the Northern Great Plains, and hence there was no action on which an EIS could be prepared. The Interior Department had undertaken a broad study of potential social, economic, and environmental effects of alternative coal development scenarios in a five-state region which included the area defined by the Sierra Club. The Department had also prepared a program EIS of national scope as part of a general restructuring of Interior's coal leasing program. At the regional level, the Secretary had announced the Department's intention to prepare program statements when coal-related actions were proposed in the same river basin or other common area, and one such EIS had been prepared for mining plans in the Powder River Basin. Finally, Interior planned to prepare individual impact statements for leases or mining plans if they had not been analyzed in a regional EIS, and had prepared statements on several individual leases or mining plans. What Interior was not planning to do, however, was an EIS for coal-related actions across the area defined by the Sierra Club as the Northern Great Plains.

The District Court found there was "no existing or planned Federal program or action in the area defined by the plaintiffs as the 'Northern Great Plains regions,'"[3] and granted judgment for the Government. On appeal, the Court of Appeals disagreed with the Sierra Club and the Government, as well as the District Court. The court held that the Federal defendants "contemplated" controlling coal development on the Northern Great Plains, and said further that attempting to control development in this region would be a major federal action if it went forward.[4] Uncertain whether or when a program statement would ultimately be required for the Northern Great Plains, however, the court remanded the case to enable the Interior Department to decide whether it would proceed with its "contemplated" attempts to control coal development on the Northern Great Plains, and if so, whether it intended to do a comprehensive EIS.

The Government then sought review by the Supreme Court, continuing to urge that no program or proposal existed for federal coal-related action on the Northern Great Plains, and hence nothing existed to do an EIS on.

The Supreme Court's Decision

The Supreme Court reversed the Court of Appeals. The Court first reviewed the studies and the national, regional, and individual impact statements the Department had prepared, comparing their scope with the area defined by the Sierra Club. Then, in a decision confined largely to factual issues, the Court held:

1. "[T]here is no evidence in the record of an action or a proposal for an action of regional scope (in the Northern Great Plains region defined by the plaintiffs, and) * * * no evidence that the * * * coal development projects undertaken or proposed * * * are integrated into a plan or otherwise interrelated."[5]

2. "[T]he Court (of Appeals) was mistaken * * * in concluding, on the record before it, that the petitioners (Interior Department) were 'contemplating' a regional development plan or program (in the Northern Great Plains region)."[6]

3. The decision by the Secretary of Interior not to propose a coal program or actions for the Northern Great Plains region was not arbitrary, and therefore could not be disturbed by a federal court.[7]

In short, the Supreme Court held that the Interior Department was neither acting nor contemplating acting across the Northern Great Plains region, as such, and that Interior's decision was not arbitrary. The Court based its decision on the actions of national, regional and local scope which Interior had proposed, and on the national, regional and local impact statements which Interior had accordingly prepared or announced its intent to prepare. In this series of holdings the Court confirmed existing principles of NEPA: agencies have primary responsibility for determining the scope and timing of their actions, and courts will set aside such decisions if they are shown to be arbitrary or without a rational basis.[8]

Other Rulings by the Court

Although the Court's decision was confined, the Court went on in its opinion to discuss NEPA's application to programmatic agency actions and the federal courts' role in reviewing such actions. This discussion provides additional guidance on NEPA, probably more so than the actual decision.

First, the Court affirmed that NEPA requires comprehensive impact statements on coherent federal programs[9] or when federal plans or proposals involve "cumulative or synergistic environmental impacts."[10] It noted the Interior Department's preparation of a national coal program EIS, and observed that the statement was legally required since the Department was planning a program of national scale.[11] Similarly, the Court noted with approval the Secretary's plans to prepare statements on cumulative effects of related multi-agency actions in regions determined by "basin boundaries, drainage areas, areas of common reclamation problems, administrative boundaries, areas of economic interdependence, and other relevant factors."[12]

The Court's recitation that comprehensive statements are necessary for proposed programs underscores its holding in *SCRAP II*[13] that the scope of an EIS should be tailored to the scope of a proposed action. When a "responsible official" develops a proposal for a program, he should develop a comprehensive EIS concurrently.[14] Thus, for example, when agencies propose to develop new technologies,[15] or consider authorizing their commercial use,[16] comprehensive statements are necessary to assess the cumulative environmental effects of full development or commercialization.

The Court's "cumulative or synergistic environmental impacts" standard for comprehensive statements echoes both the Council's Guidelines and many lower court decisions.[17] In discussing otherwise independent coal leases, mining plans, and other proposed actions, the Court said:

[W]hen several proposals for coal-related actions that will have cumulative or synergistic environmental impact upon a region are pending concurrently before an agency, their environmental consequences must be considered together."[18]

This rule confirms previous guidance that the likelihood of closely related environmental effects is often enough reason to group otherwise separate actions together for comprehensive analysis.[19] For example, segments of highways,[20] components of related flood control or other water resource projects,[21] or related urban renewal projects[22] should be grouped together if cumulative effects may occur along a common corridor, in a common drainage system, or in a common community. Following *SCRAP II*, the "federal proposal" in these circumstances is the entire multi-phased project, not segments of it.[23]

Other typical occasions for comprehensive statements include multi-agency actions with common objectives and related impacts (such as the related mining leases, rights-of-way and water use approvals noted in *Kleppe* for which regional EISs would be prepared) and generically similar actions with pervasive impacts over time and area (e.g., licensing activities which affect classes of public or private action, operation and maintenance activities, grant or other financial assistance activities.)[24]

The Court's rule may also require grouping and comprehensive analysis of separate actions even if some of the individual actions have independent utility.[25] At a minimum, when agencies consider currently pending proposal which may have cumulative effects, a comprehensive statement will be needed, even though construction schedules[26] and agency sponsors of the projects may differ. Agencies which may be considering such projects may wish to consult with CEQ staff more specifically in defining the scope of impact statements for these actions.

Second, the Court remarked in a footnote that in preparing comprehensive statements, agencies need not look to "contemplated projects" or "less imminent" actions when preparing the statement.[27] The focus should be on proposals. This guidance also supports prevailing NEPA principles. CEQ's Guidelines and earlier court decisions have established that NEPA requires reasonable forecasting and prediction of actions, impacts, and alternatives.[28] This does not mean that agencies must look into crystal balls,[29] but neither does it mean that agencies can avoid NEPA responsibilities by labeling discussions of future projects or impacts as "crystal ball inquiry."[30] In sum, a rule of reason pervades the Act's application to predictive analysis.

One question raised by the footnote is whether the Court has shortened how far agencies must look ahead in a comprehensive EIS. Distinguishing between a "contemplated" federal action (which need not be covered in a comprehensive EIS according to the Court) and a "proposed" action (which must be) is not a simple or clearcut task. Squarely addressing this task raises a host of additional issues, including identifying the levels of responsibility where significant decisions are made in developing actions, determining when enough information is available to permit coherent analysis, determining how much uncertainty is appropriate to responsible decisionmaking, and others. But the Court's opinion does not address these other problems. It thus provides limited guidance for agencies to use in approaching the long recognized[31] and continually difficult question of deter-

See footnotes at end of article.

mining the proper scope of a comprehensive EIS, and the considerations which should guide agencies' decisions on scope.

The Council believes that these considerations remain the most useful principles for defining the scope of comprehensive environmental statements:

(1) Precedent-setting effect (what future actions may be significantly influenced by decisions to go forward on a present action or actions? What significant alternatives may be foreclosed or prejudiced?);

(2) Interdependence (does a present action or actions depend significantly on future actions also going forward?);

(3) Cumulation of impact (will future actions have effects which may compound the effects of a present action or actions?);

(4) Availability of information (is enough information available on the future actions and alternatives and their effects to permit a meaningful analysis?);

If future actions fall within any of the first three categories, they should be included within the scope of the comprehensive EIS to the extent information is available.

Other existing guidance—in agencies' own procedures,[32] in CEQ's Guidelines[33] and other Council guidance,[34] and in the case law[35]—rounds out these principles. The Council believes that these existing sources of guidance continue to provide a sound and stable basis for decisionmaking, consistent with the Supreme Court's opinion.

Third, in two other notes,[36] the Court indicated that in certain circumstances—when approval of one proposal or action is independent of other proposed actions to be covered in a comprehensive impact statement—the single action may proceed before the final comprehensive EIS is complete if an impact statement is prepared on the single action and its effects are analyzed cumulatively, along with the likely effects of the other actions, in the comprehensive statement.

The context for these notes was the Court of Appeals' injunction against approval of four mining plans (for which a regional EIS had been prepared), and the Sierra Club's argument that a single EIS was required for all coal-related actions on the Northern Great Plains. The Court relied on the District Court's findings that lease and mining plan approvals across the Northern Great Plains were not closely connected, and on the multiplicity of national, regional and local EISs which Interior had already prepared or was planning to prepare.

The Court said in general that individual lease or mining plan approvals might proceed if they were independent of other leases or mining plans to be covered in a comprehensive EIS, if the individual actions were the subjects of adequate EISs, and if their impacts were considered in the comprehensive statement. In particular, the four plans covered in the Powder River Basin statement were unconnected to other plans in other areas across the Northern Great Plains, and the adequacy of this regional EIS was not challenged; the Court said the injunction against these approvals was therefore improper.

This three-part standard for interim action—no significant interdependence between the individual action and the other actions to be covered in the comprehensive EIS, an adequate EIS for the interim action, and analysis of it in the comprehensive statement—provides useful clarification in this previously murky area. It provides the opportunity for action to proceed before the comprehensive EIS is complete in appropriate circumstances without prejudicing future choices, and ensures feedback from the interim action into the comprehensive analysis.[37]

Fourth, the Court noted that 102(2)(C) imposes duties on officials prior to their making a "report or recommendation on a proposal" for action.[38] Justice Marshall underscored this duty in his concurring and dissenting opinion:

> * * * (A)n early start on the statement is more than a procedural necessity. Early consideration of environmental consequences through production of an environmental impact statement is the whole point of NEPA, as the Court recognizes. The legislative history of NEPA demonstrates that '(b)y requiring an impact statement Congress intended to assure (environmental) considerations during the development of a proposal * * *' (Citation omitted.) Compliance with this duty allows the decisionmaker to take environmental factors into account when he is making decisions, at a time when he has an open mind and is more likely to be receptive to such considerations. Thus, the final impact statement itself is but the 'tip of an iceberg, the visible evidence of an underlying planning and decisionmaking process that is usually unnoticed by the public.' (Citation omitted.) Slip. op., Marshall Concurrence and Dissent, at 34. (Emphasis in original.)

This underscoring of the need for early and continuous environmental analysis in agency organization and planning, coupled with the Court's invitation in "Flint Ridge"[39] that agencies consider rulemaking to implement other provisions of NEPA,[40] suggests that agencies which do not have regulations applying NEPA to their planning activities should take a hard look at this possibility. Agencies which have adopted a NEPA based planning approach have reported its benefits.[41] The Council stands ready to assist any agency interested in exploring this approach.

Finally, the Court addressed federal courts' roles in reviewing NEPA compliance. In a ruling that sparked dissent from two Justices, the Court disapproved the Court of Appeals' test for determining when courts could intervene to require an EIS during the development of a Federal proposal. The majority said the balancing test the Court used went beyond courts' authority to intervene in Federal planning. It stated that agencies have a duty to study environmental factors and consult with other agencies during evolution of a proposal but that courts do not enter the process until an agency official makes a "report or recommendation" and a plaintiff challenges the absence or the adequacy of a final impact statement.[42]

The Court did not clarify, however, the meaning of "report or recommendation." The Court seemed to assume that Federal planning and decisionmaking is a rational, ordered process which produces a tangible report before any significant decision is made on an action (much like a lawsuit). In practice, reports and recommendations are often made orally and in writing by officials at different levels during the course of developing a Federal action. The Council believes that keying the "report or recommendation" by a "responsible Federal official" to the first significant point of decision in the agency review process[43] is a usable approach that meets the purposes of NEPA and the requirements of the Supreme Court.

See footnotes at end of article.

Flint Ridge

In the second case, the Supreme Court held in *Flint Ridge Development Co.* v. *Scenic Rivers Association*[44] that the EIS requirement of section 102(2)(C) was inapplicable to HUD's receipt and review of property information statements filed by developers under the Interstate Land Sales Full Disclosure Act. Property statements become automatically effective 30 days after filing with HUD unless they are deficient on their face. If they are, HUD can suspend them until the deficiencies are corrected, but HUD has no substantive authority to approve or disapprove the developer's project. The Act is a disclosure law, and HUD's authority is limited to ensuring that developers' statements are complete and accurate.

The Court reasoned, based on CEQ reports,[45] that HUD could not prepare draft and final impact statements within thirty days, and ruled that HUD did not have authority to extend the thirty day period solely for the purpose of preparing and circulating impact statements. The Court's decision may exempt from the EIS requirement of section 102(2)(C) other types of Federal actions, where a statutory time limit makes EIS preparation impossible and agency approval authority is limited. Failure by the SEC to suspend registration statements filed under the 1933 Securities Act[46] is an example of such an exemption; Department of Commerce approval of local government projects under the Public Works Employment Act may be another.[47]

At the same time, the Court pointed out that HUD had other duties under NEPA, and could require developers to submit a wide range of environmental information in property statements based on other sections of NEPA. This ruling serves to reaffirm that NEPA supplements the jurisdiction and authority of all agencies,[48] and that sections other than 102(2)(C) authorize agency regulations and other actions necessary to implement the Act to the fullest extent possible.

Footnotes

[1] 424 U.S. ——, 44 U.S.L.W. 5104 (U.S. June 28, 1976).

[2] "'The Northern Great Plains Region' identified in respondent's complaint encompasses portions of four States—Northeastern Wyoming, Eastern Montana, Western North Dakota and Western South Dakota." Slip Op., at 3.

[3] *Sierra Club* v. *Morton*, No. 1182-73, Fdg. 25 (D.D.C., February 14, 1974).

[4] *Sierra Club* v. *Morton*, 514 F.2d 856, 875, 878, (D.C. Cir. 1975).

[5] *Kleppe*, Slip Op., at 7, 8. The Court went on to say that had the Interior Department contemplated regional action, its regional EIS would have been required when a responsible official made a report or recommendation on the proposal. Slip Op., at 11-13.

[6] *Id.*, at 10-11.

[7] *Id.*, at 19.

[8] *Citizens to Preserve Overton Park* v. *Volpe*, 401 U.S. 402 (1971); *Hanly* v. *Kleindienst*, 471 F.2d 823 (2d Cir. 1972) (Hanly II); *Scientists' Inst. for Pub. Info., Inc.* v. *AEC*, 481 F.2d 1079 (D.C. Cir. 1973) (SIPI).

[9] *Kleppe*, Slip Op., at 7.

[10] *Id.*, at 16-17.

[11] *Id.*, at 7.

[12] *Id.*, at 21-22.

[13] *Aberdeen & Rockfish R. Co.* v. *SCRAP*, 422 U.S. 289 (1973).

[14] See *Swain* v. *Brinegar*, —— F.2d ——, 9 ERC 1086, 1088-90 (7th Cir. 1976), and cases cited.

[15] E.g., *SIPI, supra*, n. 8.
[16] E.g., *NRDC* v. *NRC*, —— F.2d ——, 8 ERC 2065 (2d Cir. 1976).
[17] CEQ Guidelines, 40 CFR 1500.6(a) (1975); e.g., *SIPI, supra*, n. 8; *Jones* v. *Lynn*, 477 F.2d 885 (1st Cir. 1973); *City of Davis* v. *Coleman*, 521 F.2d 661 (9th Cir. 1975); *NRDC* v. *Callaway*, 524 F.2d 79 (2d Cir. 1975); *Indiana Lookout Alliance* v. *Volpe*, 484 F.2d 11 (8th Cir. 1973); *Atcheson, Topeka and Santa Fe R. Co.* v. *Callaway*, 382 F. Supp. 610 (D.D.C. 1974).
[18] *Kleppe*, Slip Op., at 17.
[19] See cases cited at n. 17, *supra*, nn. 23-24, *infra*.
[20] E.g., *Indian Lookout Alliance* v. *Volpe*, *supra*, n. 17.
[21] E.g., *Atcheson, Topeka & Santa Fe R. Co.* v. *Callaway, supra*, n. 17.
[22] E.g., *Jones* v. *Lynn, supra*, n. 17.
[23] *Swain* v. *Brinegar, supra*, n. 14.
[24] See, e.g., *Sierra Club* v. *AEC*, No. 1867-73, 6 ERC 1980 (D.D.C. Aug. 3, 1974).
[25] Cf. *Sierra Club* v. *Callaway*, 499 F.2d 982 (5th Cir. 1974); *Sierra Club* v. *Stamm*, 507 F.2d 788 (10th Cir. 1974); *Trout Unlimited* v. *Morton*, 509 F.2d 1276 (9th Cir. 1974).
[26] E.g., components of the Bonneville Unit involved in *Sierra Club* v. *Stamm, supra*, n. 25.
[27] *Kleppe*, Slip Op., at 17 n. 20.
[28] 40 CFR 1500.6(d) (1975); *NRDC* v. *Morton*, 458 F.2d 827, 837-38 (D.D.C. Cir. 1972); *SIPI, supra*, n. 8, 481 F.2d at 1091-92.
[29] *NRDC* v. *Morton, supra*, n. 28, 458 F.2d at 837-38.
[30] *SIPI, supra*, n. 8, 481 F.2d at 1092.
[31] See CEQ Guidelines, 40 CFR 1500.6(d) (1975); CEQ Memorandum on Procedures for Improving Environmental Impact Statements, 3 E.R.-Cur. Dev'ts. 82, 87 (1972); *Indian Lookout Alliance, supra*, n. 17, 484 F.2d at 14-17; *SIPI, supra*, n. 8, 481 F.2d at 1093-1098; *Silva* v. *Romney*, 473, F.2d 287, 290-92 (1st Cir. 1973).
[32] See, e.g., Forest Service Guidelines for Preparation of Environmental Statements, 39 FR 38244 (1974).
[33] 40 CFR 1500.6 (1975).
[34] CEQ, Environmental Impacts Statements: An Analysis of Six Years Experience By 70 Federal Agencies, 12-16 (1976); CEQ, Environmental Quality—1975, 640-46 (1976); CEQ, Memorandum on Improving Impact Statements, *supra*, n. 31.
[35] E.g., *Jones* v. *Lynn, supra*, n. 17, 477 F.2d at 890-91; *NRDC* v. *Callaway*, 524 F.2d 79, 87-90 (2d Cir. 1974); *Named Individual Members of San Antonio Conservation Society* v. *Texas Highway Dept.*, 446 F.2d 1013, 1022-25 (5th Cir. 1971); *Sierra Club* v. *Callaway, supra*, n. 25, 499 F.2d at 986-990; *Indian Lookout Alliance, supra*, n. 17, 484 F.2d at 14-20; *Swain* v. *Brinegar, supra*, n. 14, 9 ERC at 1088-90.
[36] *Kleppe*, Slip Op., at 15 n. 16, 22 n. 26.
[37] In *NRDC* v. *NRC*, Nos. 75-4276 75-4278, 8 ERC 2065 (2d Cir. May 26, 1976), reh. den., Nos. 963, 1051 (2d Cir. Sept. 8, 1976), the court applied the *Kleppe* rule on interim action and reaffirmed an earlier injunction against interim licensing by the NRC of facilities to reprocess spent nuclear fuel and of transporting and using mixed oxide (mox), fuel in nuclear reactors. The court's initial decision (which preceded *Kleppe* by about a month), was based on the court's finding that interim licensing of reprocessing and mox fuel use could severely prejudice the NRC's generic decision on whether or not to authorize wide-scale spent fuel reprocessing, and could effectively foreclose alternative methods for safeguarding this sensitive technology. In reaffirming this decision, the court contrasted the lack of connection among mining leases and plans across the Northern Great Plains with the close tie-in between interim licensing and anticipated wide-scale reprocessing. This recent decision, the first to apply *Kleppe's* interim licensing rule, confirms the need for interim action to have independent utility and substantial independence from the actions and alternatives covered in a comprehensive statement before it can proceed.
[38] *Kleppe*, Slip Op., at 13, n. 15.
[39] *Flint Ridge Development Co.* v. *Scenic Rivers Assn.*, 424 U.S. ——, 44 U.S.L.W. 4954 (U.S., June 24, 1976).
[40] *Id.*, Slip Op., at 15-16.
[41] The Forest Service, for example, revised its multiple use and land use planning system to merge it with the requirements of NEPA. See CEQ, Environmental Quality—1974 387-381 (1974).
[42] *Kleppe*, Slip Op., at 13 n. 15.
[43] 40 CFR 1500.7(a) (1975); *Calvert Cliffs' Coordinating Committee* v. *AEC*, 449 F.2d 1109 (1971).
[44] 424 U.S. ——, 44 U.S.L.W. 4954 (U.S. June 24, 1974).
[45] Slip Op., at 12 n. 10.
[46] 15 U.S.C. 77a et seq.
[47] Pub. L. 94-369, 90 Stat. 999.
[48] See, e.g., NEPA section 105; *Zabel* v. *Tabb*, 430 F.2d 199 (5th Cir., 1970), cert. den., 401 U.S. 910 (1971); *NRDC* v. *SEC*, 389 F. Supp. 689 (D.D.C. 1974); *EDF* v. *Matthews*, —— F. Supp. ——, 8 ERC 1877 (D.D.C. 1976).

AUGUST 30, 1976.

MEMORANDUM FOR HEADS OF AGENCIES

Subject: Analysis of Impacts on Prime and Unique Farmland in Environmental Impact Statements.

This memorandum provides guidance to Federal agencies on how to carry out evaluation of the impact of major agency actions on prime and unique farmland in the course of preparing environmental impact statements (EIS).[1]

Paragraph 101(b)(4) of National Environmental Policy Act (NEPA), establishes a Federal policy to preserve important historic, cultural, and natural aspects of our national heritage and maintain, wherever possible, an environment which supports diversity and variety of individual choice. This policy should be understood to include highly productive farmlands.

Efforts should be made to assure that such farmlands are not irreversibly converted to other uses unless other national interests override the importance of preservation or otherwise outweigh the environmental benefits derived from their protection. These benefits stem from the capacity of such farmland to produce relatively more food with less erosion and with lower demands for fertilizer, energy, and other resources. In addition, the preservation of farmland in general provides the benefits of open space, protection of scenery, wildlife habitat and, in some cases, recreation opportunities and controls on urban sprawl.

As part of its policy to preserve the Nation's prime farm, range, and forest lands, the Department of Agriculture (USDA), has recently announced a general policy to establish and keep current an inventory of prime and unique farmland. Recent estimates conclude that of 1.4 billion acres of privately owned lands in the United States, approximately 275 million are classed as prime farmlands.

Federal agencies should attempt to determine the existence of prime and unique farmlands in the areas of impact analyzed in environmental impact statements prepared in compliance with Section 102(2)(C) of the NEPA. This should include threats to the continued use and viability of these farmlands not only from direct construction activities, but also from urbanization or other changes in land use that might be induced by the Federal action.

The Depart ment of Agriculture, at its field locations throughout the country, is committed to assisting Federal agencies in the Identifications of prime or unique farmlands, and in nearly all cases has complete information on land areas which may be impacted. This should simplify and reduce the burden on other agencies in carrying out their impact analysis. Initial contact should be made with the USDA Land Use Committee in the state where the lands under consideration are situated. This Committee can be located by contacting either the Chairman of the USDA Rural Development Committee in the state, or any nearby USDA office. The State Land Use Committee will then help facilitate contacts with the appropriate USDA office and personnel so that all available information on prime and unique farmland within the project area is accessible to the agency preparing an EIS.

Finally, the Department of Agriculture has agreed to place a major new emphasis on the review and evaluation of draft environmental impact statements with respect to impacts on prime and unique farmland. In undertaking these reviews, USDA will use soil, range, forest, water resource, and other surveys and information which may be applicable. This service of the Department should help improve the quality of all EISs.

Further information on where agencies may obtain assistance in identifying prime and unique farmland and analyzing significant impacts on it from agency activities can be obtained from State Soil Conservation Service (SCS), offices shown on the attachment. Information on new USDA procedures to review impact on prime and unique farmlands in draft EISs can also be obtained from these sources.

RUSSELL W. PETERSON,
Chairman.

[FR Doc. 77-34423 Filed 11-30-77; 8:45 am]

[1] Prime farmlands are those whose value derives from their general advantage as cropland due to soil and water conditions. Unique farmlands are those whose value derives from their particular advantages for growing specialty crops.

[3710-05]

DEPARTMENT OF DEFENSE

Defense Communications Agency

SCIENTIFIC ADVISORY GROUP

Closed Meeting

The DCA Scientific Advisory Group will hold a closed meeting on January 19 and 20, 1978. The January 19 and 20 meetings will be at the Defense Communications Agency, Director's Management Information Center at Headquarters, Defense Communica-

tions Agency, 8th Street and South Courthouse Road, Arlington, Va.

The agenda items will be Digital Technical Control, System Control, Real Time Adaptive Control, Utility of Automated Data Processing, Adaptive High Frequency, and group discussions.

Any person desiring information about the advisory group may telephone area code 202-692-1765, or write Chief Scientist-Associate Director, Technology, Headquarters, Defense Communications Agency, 8th Street and South Courthouse Road, Arlington, Va. 22204.

This meeting is closed because the material to be discussed is classified requiring protection in the interest of National Defense. (Freedom of Information Act 5 U.S.C. 552b(c)(5).)

MARGARET E. ANDERSON,
Committee Management Officer.

[FR Doc. 77-34357 Filed 11-30-77; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

TIMBER MANAGEMENT PLAN, SAVANNAH RIVER PLANT, AIKEN, S.C.

Preparation of Environmental Impact Statement

Notice is hereby given that, in accordance with the National Environmental Policy Act, the U.S. Department of Energy (DOE) is commencing the preparation of a draft environmental impact statement pertaining to the timber management plan at the Savannah River plant (SRP) in Aiken and Barnwell Counties, S.C. The U.S. Forest Service (USFS) unit deployed at the SRP is responsible for forest management of the site as stipulated in an interagency agreement between USFS and DOE.

The environmental impacts associated with a total, ten-year timber management program will be assessed in the draft environmental impact statement. The plan proposes even-aged forest management with an estimated annual yield of four million board feet of saw timber and 79,000 cords of small roundwood products from an annual average cut area of 10,350 acres. In addition to commercial harvest and intermediate cuts, silviculture treatments including site preparation measures, noncommercial thinnings, release of seedlings, and reforestation will be covered in the statement. Coordination between timber management and other activities at SRP will be discussed.

The environmental impacts to be assessed include: water and air quality, soil, aesthetics, timber wildlife and fish, special interest areas, and effect of the program on the local economy.

The purpose of this Notice is to present pertinent background information regarding the proposed scope and content of the statement and to solicit comments and suggestions for consideration in its preparation. When completed, the draft statement will be circulated for review to Federal, State, and local agencies as well as to interested public organizations and individuals. The comments received on the draft statement will be considered in the preparation of the final statement, which will provide environmental input into DOE and USFS decisions affecting the SRP timber management plan.

Copies of documents to be utilized in the preparation of this draft environmental impact statement will be available for public inspection at the U.S. Department of Energy, Savannah River Operations Office, Savannah River Plant, Aiken, S.C.

A bibliography of documents will be available at the DOE public document room, 20 Massachusetts Avenue NW., Washington, D.C. 20545.

All interested agencies, organizations, or persons desiring to submit comments or suggestions for consideration in connection with the preparation of the draft environmental impact statement should submit them to W. H. Pennington, Director, Office of NEPA Coordination, U.S. Department of Energy, Washington, D.C. 20545, telephone 301-353-4241, by January 1, 1978. Those desiring a copy of the draft environmental impact statement when it is issued should notify Mr. Pennington.

Dated at Washington, D.C., this 28 day of November 1977.

For the U.S. Department of Energy.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 77-34490 Filed 11-30-77; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. ER 76-709]

CINCINNATI GAS & ELECTRIC CO.

Order Acknowledging Statement of Acceptance, Ordering the Filing of Rates for Georgetown, and Granting in Part Motion Requesting Conditions

NOVEMBER 23, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (Aug. 4, 1977) and Executive Order No. 12009, 42 FR 46267 (Sept. 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled: "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On July 25, 1977, the Federal Power Commission ordered the Village of Georgetown (Georgetown) to file a written statement of its election to accept or reject a rate equal to the settlement rates applicable to Union Light, Heat, & Power Co. (Union), as approved in the Commission's order of July 25, 1977, in addition to the applicable Ohio excise tax generated by the sales of Cincinnati Gas & Electric Co. (CG&E) to Georgetown in the State of Ohio. On August 22, 1977, Georgetown sought clarification of that order and on August 24, 1977, Georgetown requested rehearing of the order. The Federal Power Commission again specified what would be deemed acceptable compliance with the Commission's rules, regulations and policies and denied Georgetown's request for rehearing by the order granting in part and denying in part motion for clarification and denying application for rehearing, issued on September 22, 1977.

On October 11, 1977, Georgetown filed its statement of acceptance of a rate equal to the settlement rate in addition to the applicable Ohio excise tax. Georgetown requests the Commission to include in the order approving this rate for Georgetown a provision requiring CG&E to eliminate the tax from its tariff and to flow through to Georgetown any refunds received from the State of Ohio in the event that it is determined that the Ohio excise tax should not have been applied to CG&E's sales to Georgetown. Georgetown asserts that the Federal Power Commission applied a similar

condition in Opinion No. 644,[1] in which the Commission determined that Ohio excise taxes are properly includable in a cost of service.

The Commission shall accordingly attach the following condition to this order:

In the event that it is determined by a court of competent jurisdiction or other entity with legal authorization that CG&E is not legally required to pay the Ohio excise tax on revenues derived from sales to Georgetown, CG&E shall within 30 days from the date of such determination file appropriate tariff sheets reflecting rates eliminating this tax. To the extent that CG&E receives any refunds from the State of Ohio, including any interest which may be paid on those amounts by the State of Ohio as a result of that determination, CG&E shall flow through to its Ohio customers their proportionate share of these refunds, together with interest thereon, computed at the annual rate of interest required by the Commission's rules at that time and calculated from the date of receipt of refunds from the State of Ohio until the date of flow-through of these amounts to Georgetown. CG&E shall file with this Commission and the Ohio State Commission a report of refunds made to its Ohio customers, within thirty days of the flow-through of these refunds. This provision shall apply only in the event that Georgetown initiates an action before a court of competent jurisdiction or other entity with legal authorization within one hundred and eighty days of the issuance of this order.

The Federal Energy Regulatory Commission hereby approves this rate for Georgetown, subject to the condition cited above, in keeping with Opinion No. 644.

Georgetown requests the Federal Energy Regulatory Commission to approve this rate subject to additional conditions:

Georgetown respectfully requests the Commission to condition its order to require CG&E to cooperate with Georgetown in its action to obtain judicial determination of the applicability of the Ohio Excise Taxes to the sale by CG&E to Georgetown as follows:

1. CG&E shall cooperate with Georgetown and not oppose Georgetown in such action.

2. CG&E shall supply the necessary data to establish, among other things, the interstate character of the sale by CG&E to Georgetown.

3. CG&E shall file the necessary pleadings in the event Georgetown does not have standing to bring such action.

Georgetown has failed to show good cause why this Commission should impose the three conditions it requests. The Commission accordingly denies Georgetown's request to order CG&E to comply with the conditions proposed by Georgetown.

The Commission finds: Georgetown's motion requesting conditions should be granted in part and denied in part, in keeping with the terms and conditions of this order.

The Commission orders: (A) Georgetown's motion requesting conditions is hereby granted in part and denied in part, in keeping with the terms and conditions of this order.

(B) Within 75 days of the issuance of this order, CG&E shall file revised tariff sheets pertaining to rates applicable to Georgetown, in accordance with the findings and conclusions of this decision and the Federal Power Commission's order of July 25, 1977, and with this Commission's rules and regulations.

(C) Within 30 days of the Commission's approval of CG&E's substitute tariff sheets filed pursuant to Paragraph (B) above, CG&E shall report to the Commission refunds made to Georgetown for the period beginning on August 25, 1976, when these proposed rates became effective, with interest at 9 percent per annum from the date of payment to date of refund, in accordance with the Commission's rules and regulations. A copy of the refund report shall also be sent to the State Commission within whose jurisdiction the wholesale customer distributes and sells electric energy at retail.

(D) This order, to the extent that it approves the settlement of issues agreed to by Georgetown and CG&E, 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 CG&E or any person or party.

(E) The rates to Georgetown are accepted subject to the following provision:

In the event that it is determined by a court of competent jurisdiction or other entity with legal authorization that CG&E is not legally required to pay the Ohio excise tax on revenues derived from sales to Georgetown, CG&E shall within 30 days from the date of such determination file appropriate tariff sheets reflecting rates eliminating this tax. To the extent that CG&E receives any refunds from the State of Ohio, including any interest which may be paid on those amounts by the State of Ohio as a result of that determination, CG&E shall flow through to its Ohio customers their proportionate share of these refunds, together with interest thereon, computed at the annual rate of interest required by the Commission's rules at that time and calculated from the date of receipt of refunds from the State of Ohio until the date of flow-through of these amounts to Georgetown. CG&E shall file with this Commission and the Ohio State Commission a report of refunds made to its Ohio customers, within thirty days of the flow-through of these refunds. This provision shall apply only in the event that Georgetown initiates an action before a court of competent jurisdiction or other entity with legal authorization within one hundred and eighty days of the issuance of this order.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-34430 Filed 11-30-77; 8:45 am]

[1] *City of Cleveland, Ohio* v. *Cleveland Electric Illuminating Co.*, Docket Nos. E-7631 and E-7633; and *City of Cleveland*, Docket No. E-7713, Opinion No. 644, issued on January 11, 1973.

[6740-02]

[Docket Nos. CP70-196 and CP74-227
Docket Nos. CP73-135 and CP74-137]

DISTRIGAS CORP., AND DISTRIGAS OF MASSACHUSETTS CORP.

Order Clarifying Previous Order

NOVEMBER 23, 1977.

On June 22, 1977, Distrigas Corp. (Distrigas) and Distrigas of Massachusetts Corp. (DOMAC), filed in Docket No. CP70-196, et al., a motion for clarification of the Commission's[1] order of June 14, 1977, issued in this proceeding, which inter alia granted a certificate of public convenience and necessity to DOMAC for the operation of its Everett, Mass. terminal with certain attached conditions. By notice issued June 15, 1977, the Commission stayed the effectiveness of its June 14, 1977, order pending the resolution of the Applicant's motion for clarification.

The Applicants request clarification of ordering paragraph (E) in the Commission's June 14, 1977, order which conditioned the certificate granted to DOMAC for operation of the Everett terminal upon favorable resolution of the pending environmental and safety issues in this proceeding "before becoming effective". Applicants worry that the language "before becoming effective" can be read as a condition precedent to the effectiveness of certificate and therefore since the Commission's order also found the facilities jurisdictional, DOMAC could not operate the terminal until this condition was satisfied, without being in violation of the Natural Gas Act. Furthermore, Distrigas and DOMAC point out that since July 1975, Distrigas has been importing LNG into the Everett terminal on a regular basis; and that a requirement to shut down the termi-

[1] The "Commission" when used in the context of an action taken prior to October 1, 1977, refers to the FPC; when used otherwise, the reference is to the FERC.

nal would imperil the continued importation of its previously authorized import volumes by Commission Opinion No. 613 (47 FPC 752).

We believe that clarification of our order of June 14, 1977, is appropriate. It was never our intention to require DOMAC to shut down its Everett LNG terminal operations by this condition. The Commission has not been presented with evidence upon which it could conclude that the operation of the DOMAC facility should be halted until a final environmental and safety review is made. Furthermore, the safety and environmental issues in this proceeding have been fully briefed and now are before decisionmakers for resolution. The condition in our June 14, 1977, order was intended to indicate that until Federal authorities have fully addressed the safety and environmental issues related to the Everett facilities no final authorization would be given for the construction and operation of the terminal.[2] We will therefore amend our previous order to more clearly specify our intent.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act). Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provided that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of this proceeding were specifically transferred to the FERC by section 402(a)(1) or 402(a)(2) of the DOE Act.

The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this aspect of this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

[2] Cf. *George Silentman* v. *FPC*, Case No. 76-1192, issued August 26, 1977 (D.C. Cir.).

The Commission finds: It is appropriate to amend our order of June 14, 1977, to clarify the environmental condition placed upon the certificate issued to DOMAC for operation of the Everett terminal.

The Commission orders: (A) Paragraph (E) of our June 14, 1977, order in this proceeding is hereby amended to read:

"The authorization granted in paragraph (B) above is further conditioned upon subsequent resolution of the pending environmental and safety issues in this proceeding."

(B) The stay previously imposed on our June 14, 1977, order is hereby dissolved.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-34431 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. ES78-8]

EL PASO ELECTRIC CO.

Application

NOVEMBER 22, 1977.

Take notice that on November 4, 1977, El Paso Electric Co. ("Applicant") filed a petition with the Federal Energy Regulatory Commission seeking an order declaring that the Applicant, as a result of the transaction described below, will not involve the issue of any security, or assumption of any obligation or liability as a guarantor, endorser, surety, or otherwise in respect of any security of another person, within the meaning of section 204 of the Federal Power Act, or alternatively, that the Commission authorize the Applicant to enter into the transaction if the Commission concludes that approval under section 204 is warranted.

The Applicant states that it plans to construct a new peaking combustion turbine power plant (the "Copper Station") for commencement of service in 1980. The generating unit will be a simple cycle Westinghouse 501B combustion turbine rated at approximately 73 megawatts peak output (the "Unit"). The construction of Cooper Station is not scheduled to commence until 1979. The Applicant states that it has entered into a letter of intent with Westinghouse to purchase the unit and believes that a favorable price is obtainable if it is purchased at this time. However, the unit will not be bondable under the Applicant's Indenture of Mortgage until Applicant receives requisite regulatory approvals and until construction commences.

The Applicant states that in order to purchase the unit at a favorable price, while regulatory proceedings are pending, the Applicant proposes to arrange for the establishment of an independent trust which would purchase the unit from Westinghouse and sell it to the Applicant after appropriate regulatory approvals are obtained. Should the Applicant fail to obtain the regulatory approvals it would still be obligated to purchase the unit from the Trust but Westinghouse will agree at that point to repurchase the unit from the Applicant. The Trust would finance the purchase and ownership of the unit by issuing a thirty-month note to a lending institution or institutions.

According to Applicant, it is anticipated that the creator of the Trust will be Shannon Financial Corp., of San Francisco, Calif., or its affiliate, and the trustee will be Michael McCune, of San Francisco, President of Shannon Financial Corp. Neither the trustor nor the trustee are or will be affiliates of the Applicant or any of its officers or directors. The trust will be known as the Cooper Trust and the following procedure will be followed to consummate the transaction:

(a) The Trust and Westinghouse will enter into a contract whereby the Trust will purchase the combustion turbine from Westinghouse and will agree to make all payments to Westinghouse required by the purchase contract, and Westinghouse will agree to perform all remaining work necessary to complete and install the combustion turbine.

(b) The Applicant will enter into a purchase contract with the Trust unconditionally obligating the Applicant to purchase the turbine. At such time as the Applicant purchases the turbine the Trust will transfer title to the turbine to the Applicant and will assign all of its rights in its contract with Westinghouse to the Applicant.

(c) The contract between Westinghouse and the Trust will contain a provision obligating Westinghouse to repurchase the unit should the Applicant fail to obtain the requisite regulatory approvals. Accordingly, should the applicant fail to obtain regulatory approvals and thus purchase the turbine from the Trust, Westinghouse will be obligated to repurchase the turbine from the Applicant.

(d) When the Applicant purchases the turbine from the Trust, and when Westinghouse repurchases the turbine from the Applicant if the requisite regulatory approvals are not obtained, in either event the price paid by the Applicant to the Trust or the repurchase price paid by Westinghouse to the Applicant will include all of the Trust's costs incurred, including the original purchase price, interest, trustee's fees, legal fees of the Trust and the lenders, and all other costs and expenses incurred by the Trust. However, if the Applicant elects to extend

the period for obtaining regulatory approvals beyond April 30, 1978, the Applicant and Westinghouse will share equally the interest and other expenses incurred by the Trust during the extension period.

(e) The Trust will issue a thirty-month note or notes to an institutional investor or investors in the amount of approximately $6,600,000. Interest will be accrued semi-annually and added to principal, with the full amount of principal and accrued interest being due at maturity. The note may be prepaid in the event Westinghouse repurchases the generator as described herein. The note will be secured by security interests in the generator, the purchase agreement between the Trust and the Applicant, and the agreements between the Trust and Westinghouse described above. The funds obtained from the issuance of the note or notes, plus additional funds borrowed by the Trust from commercial banks, if needed, will be used to purchase and hold the combustion turbine until either delivery to the Applicant or repurchased by Westinghouse, and to pay all other costs incurred by the Trust. The Trust's costs will include the purchase price, interest, any payments made in respect to administration expenses, taxes, fees of the trustee, legal fees and expenses of the trustee and the lender(s), and other costs and expenses incurred under the credit arrangement between the Trust and the lender or lenders. The Applicant will not guarantee the debt securities issued by the Trust.

The Applicant states that the proposed arrangement is advantageous to it for the following reasons:

(1) The Applicant will acquire the combustion turbine generator at a current price which is substantially more favorable than the price for the unit if obtained later.

(2) By utilizing the Trust, the combustion turbine will not be subject to the lien of the Indenture of Mortgage, and a security interest therein may be given to the lender to secure the note or notes given by the Trust to the lender.

(3) Interest and other expenses related to holding the generator until delivered to the Applicant in 1980 may be capitalized.

(4) The Applicant will obtain a fixed interest rate and known costs on the interim financing.

(5) The arrangement diminishes, by the amount of this financing, the necessity for the Applicant's line banks to provide funds under existing credit lines, which is attractive to both the Applicant and its banks.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 9, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8, 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 proceedings. Persons wishing to become parties to the proceedings or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34432 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. ES78-9]

IDAHO POWER CO.

Application

NOVEMBER 22, 1977.

Take notice that on November 4, 1977, Idaho Power Co. (Applicant), a corporation organized under the laws of the State of Maine and qualified to transact business in the States of Idaho, Oregon, Nevada, and Wyoming, with its principal business office at Boise, Idaho, filed an application with the Federal Energy Regulatory Commission, pursuant to Section 204 of the Federal Power Act, seeking an order authorizing the issuance, not to exceed $150,000,000 in principal amount at any one time outstanding, of unsecured promissory notes:

(1) Pursuant to Lines of Credit with certain banks; and

(2) In form of commercial paper.

Applicant indicates that notes in the sum of not to exceed $99,500,000 in an aggregate amount would be issued as bank loans, evidenced by unsecured notes, probably for a maturity of three months after date, and not to exceed one year after date thereof, and of the total borrowing, $85,000,000 will be made pursuant to the Lines of Credit with five major banks. Applicant further indicates that the remainder of $14,500,000 will be borrowed from a group of banks in Idaho which will loan money at the prime rate, which interest rate at the present time is 7½ percent. Applicant requests that the authorization include the right to renew such of said short-term notes as expire prior to one year from the date of authorization; and that the principal amount of such renewals, if made, either of notes issued under the authorization herein required, or of notes issued under the exemptions set forth in 204(e) of the Federal Power Act, shall not be considered as applying against, or a reduction of, the $125,100,000 authorization requested herein.

Applicant further requests authority to substitute commercial paper borrowings for the Line of Credit borrowings up to the limits imposed by any applicable statute, rule or regulation.

Applicant states that unsecured promissory notes in an aggregate principal amount of not to exceed twenty-five (25) percent of operating revenues for the most recent twelve month period would be issued and sold by Applicant to one or more commercial paper dealers. Applicant further states that each note issued as commercial paper would be dated the date of issuance, have a maturity date of not more than 270 days from the date thereof and be discounted at the rate prevailing at the time of issuance for commercial paper of comparable quality and maturity.

Applicant indicates that proceeds from the borrowing will be used in the further financing of Applicant's construction expenditures, and other corporate purposes.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 9, 1977, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or 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 proceedings. Persons wishing to become parties 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. This application is on file with the Commission and available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34425 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-533]

LOUISIANA POWER & LIGHT CO.

Order Denying in Part and Granting in Part Motions for Reconsideration and Motion To Strike

NOVEMBER 21, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to

exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this procceding in accordance with the above mentioned authorities.

Procedural History

On July 29, 1977, Louisiana Power & Light Co. (LP&L) tendered for filing proposed increased rates and charges for jurisdictional sales, which were designated as schedule No. 8-A.[1] In addition, LP&L tendered an alternative proposed rate schedule with the rate level established by including all of its construction work in progress (CWIP) in its rate base.

The cities of Winnfield, Vidalia, and Jonesville, La. (Cities) jointly filed a petition to intervene and a motion to reject the filing as violative of the Mobile-Sierra doctrine, inter alia.[2] On August 23, 1977, Cajun Electric Power Co-operative, Inc., Dixie Electric Membership Corp., Pointe Coupee Electric Membership Corp. and Washington-St. Tammany electric Co-operative, Inc. (hereinafter referred to collectively as Cajun), jointly filed, inter alia, a motion to reject the filing and a motion to suspend the proposed rates for the maximum statutory period.

By order issued August 26, 1977, the FPC, inter alia, suspended schedule No. 8-A for two months and set for hearing Schedule No. 8-A and LP&L's alternative rate proposal. The order also deferred ruling on the motion to reject LP&L's section 205 filing as violative of the Mobile-Sierra doctrine.

On September 30, 1977, the FPC issued an order which rejected LP&L's filing under section 205 of the Federal Power Act as to all eight customers and instituted an investigation under section 206 of the act whereby all proposed rate changes would be prospective in application.

LP&L filed applications for rehearing of both the August 26, 1977, and September 30, 1977, orders.[3] Further, Cities filed an application for rehearing of the September 30, 1977 order and a motion to strike portions of LP&L's application for rehearing of the August 26, 1977 order. On October 14, 1977, LP&L filed an answer to Cities' motion to strike. On October 25, 1977, we issued an order granting rehearing of the August 26th order solely for the purpose of further consideration of LP&L's allegations.

On November 14, 1977, LP&L filed a supplement to its application for rehearing of the August 26th order of the FPC. LP&L in this filing provided additional evidence as to its financial situation all of which will be considered during the Commission's hearing on the company's application for inclusion of CWIP in its rate base.

We note that there is considerable similarity and interrelationship of the issues raised by the parties' Motions for Reconsideration of our prior orders in this docket. Accordingly, we will rule on all the issues raised in the various motions for reconsideration.

Reconsideration of August 26, 1977 Order

LP&L's application for rehearing consisted of two allegations—that the record only supports a one-month suspension period and that the Commission may not summarily dispose of its alternative rate proposal.

The Company requested a one month suspension period whereby the rates would become effective October 1, 1977 subject to refund. In support of the one-month suspension period, the Company cited escalating operational and fuel costs and its substantially deteriorated financial conditions.

It is well established that decisions regarding the necessity and length of rate increase suspensions lie within the sound discretion of the Commission. A review of the record in this proceeding reveals that the FPC acted properly in ordering a two-month suspension period in its August 26, 1977 order. *Municipal Light Boards* v. *FPC* 450 F. 2d, 1349-1352 (D.C. Cir. 1971), cert. denied 405 U.S. 989 (1972).

Additionally, LP&L averred that the Commission may not suspend for more than 5 months the effectiveness of its alternative rates which are based on the inclusion of all CWIP in the rate base. The company bottoms this argument on the premise that the Commission, by granting the possibility of only a prospective rate increase, has effectively denied to LP&L its rights under section 205.

The Cities on September 28, 1977, filed a motion to strike that part of LP&L's application for rehearing which argues that the FPC's Order No. 555 was defective in setting up a procedure which suspends rate applications for more than the period permitted under section 205 of the Act.

Order No. 555 provides that all CWIP except that portion which relates to pollution control equipment and fuel conversion facilities must be excluded from rate base unless there is a clear showing by the Company of "severe financial difficulty which cannot be otherwise alleviated without materially increasing the cost of electricity to consumers."[4]

LP&L's argument ignores the FPC's right to change a rate-making policy when it is found that such change is in the public interest. The case law underpinning the FPC's authority to prescribe the manner in which a company must make its rate filing in order to be consistent with Commission policy is legion.[5] In Order No. 555, the FPC found it consistent with the public interest to adopt the financial difficulty exception in which the inclusion of CWIP in the rate base only can be permitted after a hearing on the relevant facts and circumstances.

Further, the FPC stated in *Public Service Co. of Indiana, Inc.*, Docket Nos. ER76-419 and E-5537, order issued September 30, 1977, that the Commission is authorized to summarily dispose of the CWIP issue. Commission regulations authorize summary rejection of "any material submitted for filing with the Commission which patently fails to substantially comply with the applicable requirements set forth in this part, or the Commission's rules of practice and procedure." 18

[1] This filing would increase the company's revenues $4,372,951 for the 12-month period ending Aug. 31, 1978. Moreover, the application was predicated on including pollution control equipment and fuel conversion facilities in the rate base account—Construction Work In Progress.

[2] *United Gas Pipeline Co.* v. *Mobile Gas Service Corp.*, 350 U.S. 332 (1956); and *FPC* v. *Sierra Pacific Power Co.*, 350 U.S. 348 (1956).

[3] Petitions for Rehearing of interlocutory orders do not lie, consequently the Commission will treat the Cities' and LP&L's filings as Motions for Reconsideration.

[4] Order No. 555, Docket No. RM75-13, issued November 8, 1976, at pp. 16. See, Commission Order in *Utah Power & Light Co.*, Docket No. ER77-311, issued June 23, 1977.

[5] *American Public Power Association, et al.* v. *FPC*, 522 F. 2d (D.C. Cir. 1975); *Consolidated Gas Supply Corp., et al.* v. *FPC*, 570 F. 2d 1176 (D.C. Cir. 1975); *Permian Basin Area Rate Cases*, 390 U.S. 747 (1968); *FPC* v. *Hope Natural Gas Co.*, 320 U.S. 591 (1944).

CFR 35.5. The courts have upheld this provision as being within the Commission's statutory authority. *Municipal Light Boards, supra.* We reaffirm the decision in the August 26th order to deny LP&L's application for inclusion of all CWIP in the rate base.

In any event, the FPC's September 30, 1977, order in this docket moots LP&L's application for rehearing the Cities' motion to strike. In that order, the FPC rejected LP&L's filing under Section 205 and terminated the proceedings heretofore initiated under that Section of the Act. Accordingly, LP&L's motion for reconsideration is denied and the Cities' motion to strike is denied.

RECONSIDERATION OF SEPTEMBER 30, 1977 ORDER

The FPC, in its September 30th order, held that the contract between LP&L and the Cities was an agreement that allowed the company to seek a rate change pursuant only to section 206.[6] Further, the FPC, sua sponte, reviewed the contracts between LP&L and Cajun and found those contract provisions to prohibit the Company from making a Section 205 filing.[7] Accordingly, the FPC instituted a Section 206 proceeding as to all eight jurisdictional customers whereby all changes would be prospective in application.

LP&L argues in its application for rehearing that the FPC erred in rejecting its filing under Section 205 of the Act and in holding that it did not have the contractual right to make a unilateral filing. On the other hand, Cities argues in its application for rehearing that the FPC improperly held that LP&L had only to meet the just and reasonable burden of proof during the Section 206 proceeding.

The cornerstone of LP&L's application is the argument that the FPC "accepted" and "agreed" with the Company's interpretation of its contracts with Cajun by its failure to challenge the underlying contractual provisions during the proceedings in Docket No. E-8615. Implicit in this assertion is the notion that the Commission cannot in the instant case read the contracts differently that is, to prohibit a unilateral filing pursuant to Section 205 of this proceeding.

This sub silentio argument misses the mark completely. Admittedly, the FPC in Docket No. E-8615 did not address the issue of whether the contracts prohibited a Section 205 filing. However, once alerted to the possibility that the contracts may prohibit a unilateral filing, the FPC must exercise its authority to interpret the contracts in accord with the public interest. The Commission is statutorily empowered to "issue such orders * * * as it may find appropriate to carry out the provisions of" the Act. Federal Power Act, Section 309, 16 U.S.C., Section 825 h (1970).

Another primary LP&L argument is that a provision inserted in the rate schedule filing in Docket No. E-8615 reserves for the Company the right to file unilaterally pursuant to Section 205.[8] The provision underpinning this argument reads:

> Service hereunder is subject to the orders of regulatory bodies having jurisdiction and either the company or customer may request lawful change in rate or contract in accordance with such jurisdiction.

Moreover, in posturing this argument, the company incorrectly characterizes the FPC's interpretation of this provision in the September 30th order as allowing the company to file unilaterally pursuant to Section 205. This was not the proper reading of the provision then, nor is it now.

Contractual provisions containing similar language have consistently been held not to reserve the right to make a Section 205 rate filings. Most recently in *Illinois Power Co.* Docket No. ER77-411, et al., order issued September 23, 1977, the FPC interpreted a contractual provision containing a more explicit reservation of the right to file unilaterally than in the instant case to preclude the filing of a proposed rate increase pursuant to Section 205.[9]

We now turn to LP&L's other argument in this vein. The company asserts that the FPC's acceptance of the company's new rate schedule and the subsequent issuance of Opinion No. 813 without any objection to the provisions in question, makes it "clear that the Commission has approved the inclusion of this language in LP&L's rate schedule." Even assuming, arguendo, that the language in the filed rate schedule reserves to LP&L the right to file pursuant to Section 205, the company's argument on this point is unpersuasive.[10]

This provision cannot be read to amend the prior bilateral agreement between the parties. We cannot rely upon an unexecuted, unilaterally filed rate schedule as a substitute for a validly executed contract amendment. *Richmond Power & Light of Richmond, Ind.* v. *FPC*, 481 F.2d 490, 493 (D.C. 1973).

Finally, the company contends that the Commission must rely upon the intentions of the company and that we must infer from Cajun's silence on this issue in both the prior docket and in these proceedings as evidence of Cajun's concurrence with the company as to its contractual reservation of the right to file pursuant to Section 205. The company holds up statements it made in its comments dated May 31, 1974, regarding the proposed rulemaking in Docket No. RM74-15 as evidence of its contractual intent. These statements are of no import in this proceeding.

Generally, the exigencies of consistent regulation require us to interpret the contract provisions governing LP&L and Cajun in the same manner as the nearly identical provisions governing LP&L and Cities. However, we recognize that the intent of the parties may not be completely set forth in the context of contract provisions that are not artfully drafted as those herein under consideration. Accordingly, the Commission is concerned that its examination of only the contract provisions may result in dismantling an agreement entered into by the parties. Therefore, to assure the correctness of our interpretation of the contract, we will permit LP&L's filing, insofar as it applies to Cajun, to become effective subject to refund under Section 205 of the Federal Power Act unless Cajun within thirty (30) days from the date of the issuance of this order specifically notifies the Commission that our interpretation of the contract to preclude a Section 205 filing is the intent of the parties..

[6] The Cities argued that the Company was prohibited by the contract from filing unilaterally pursuant to Section 205. The key language in the contract was: The terms and conditions of this agreement and the rate schedule are subject to amendment or alteration as a result of and in accordance with a valid applicable order of any governmental regulatory authority having jurisdiction hereof.

[7] In a prior docket, LP&L filed pursuant to Section 205. Neither Cajun nor the Commission raised the contract provision in question in that proceeding (Docket No. E-8615). The salient language in the Cajun contracts reads as follows: The terms and conditions of the agreement and the rate schedule are subject to approval or acceptance for filing by any governmental regulatory authority having jurisdiction hereof and the amendment or alteration as a result of and in accordance with a valid applicable order of any such governmental regulatory authority.

[8] The company refers to Rate Schedule REA 7-A and REA 8-A, filed in Docket No. E-8615. Further, the Company points to the fuel clause filings in Docket Nos. ER76-410 and ER76-411 where the company had inserted identical language as in Rate Schedules REA 7-A and REA 8-A.

[9] The provision in the Illinois Power case allow either party to "unilaterally take action * * *." We held the type of Commission proceeding intended by the parties is that provided by Section 206. Also see *Appalachian Power Co.*, Docket Nos. ER76-799, 800, order issued November 8, 1976, rehearing denied February 25, 1977 appeal pending sub nom. *Appalachian Power Co.* v. *FPC* (D.C. Cir. No. 77-1231).

[10] Section 35.4 of the Commission's Rules and Regulations states: "The fact that the Commission permits a rate schedule * * * to become effective shall not constitute approval by the Commission of such rate schedule * * *."

Cities contends that the proper burden of proof should be the heavier *Sierra* burden in which LP&L must show that "the rate is so low as to adversely affect the public interest—as where it might impair the financial ability of the public utility to continue its service, cast upon other consumers an excessive burden or be unduly discriminatory * * *."[11]

We reject Cities' argument as to burden of proof. The Cities' reading of this salient provision is incongruent with the discernible meaning of the contract. Clearly, the Company did not bargain for a Scetion 205 proceeding with the Sierra burden of proof because this standard is a right guaranteed by law. More consistent with the contract language is the holding that the company bargained for the right to file for prospective rate relief pursuant to Section 206 with the just and reasonable burden of proof as the standard for determining its needs.

For the above stated reasons, we deny Cities' Motion for Reconsideration of the September 30th order in this proceeding.

The Commission finds: (1) Good cause exists to deny LP&L's motion for reconsideration of the FPC's order of August 26, 1977.

(2) Good cause exists to grant in part and deny in part LP&L's motion for reconsideration of the FPC's order of September 30, 1977.

(3) Good cause exists to deny Cities' motion for reconsideration of the FPC's order of September 30, 1977.

(4) Good cause exists to deny Cities' motion to strike.

The Commission orders: (A) The motion for reconsideration of the August 26th order of the FPC filed by LP&L is hereby denied.

(B) LP&L's motion for reconsideration of the September 30th order of the FPC as it pertains to Cities is hereby denied.

(C) LP&L's motion for reconsideration of the September 30th order of the FPC as it pertains to Cajun is hereby granted, whereby LP&L's filing is permitted to become effective as of November 1, 1977, subject to refund, under Section 205 of the Act.

(D) If Cajun notifies the Commission within thirty (30) days of the issuance of this order and states with specificity that its interpretation of the contract provisions in question is to preclude LP&L from making a Section 205 filing, then this order insofar as it grants LP&L's motion for reconsideration and permits LP&L to file pursuant to Section 205 will be voided and the September 30th order as it pertains to Cajun will be reinstated.

(E) The Cities' motion for reconsideration of the FPC's September 30th order and motion to strike are hereby denied.

[11] *Sierra Pacific Power Co.*, supra at 355.

(F) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-34426 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-530]

OHIO EDISON CO.

Order Granting Motion for Leave to File Supplemental Protest, Denying Motion to Strike and Instituting Price-Squeeze Hearing

NOVEMBER 23, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Public Law 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 Fed. Reg. 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of Section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by Section 402 (a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On October 11, 1977, Ohio Cities[1] (Cities) filed a motion for leave to file supplemental protest to Ohio Edison Co.'s (Edison) July 29, 1977 rate filing.

Edison's rate increase, filed on July 29, 1977, was noticed by the Commission on August 9, 1977, with protests or petitions to intervene due by August 19, 1977. On August 19, 1977, the Cities filed a protest which they state did not contain specific cost-of-service criticisms nor any allegations of "price squeeze". The Cities maintain that their initial protest of August 19, 1977, was not more detailed due to what they characterize as an abbreviated time schedule.

In their supplemental protest, the Cities allege that the rates filed by Edison in this docket create a "price squeeze" against its wholesale customers. The Cities state that the excess of the proposed wholesale rate over the retail rate totals over $3,000,000 for all of the Cities. They maintain that a rate differential of this magnitude would seriously impair competition between Edison and the Cities. The Cities also appended a portion of the Initial Decision issued January 6, 1977, by an Atomic Safety and Licensing Board of the Nuclear Regulatory Commission in Toledo Edison Co., et al., NRC Docket No. 50-346A et al., where the Cities state were found a number of anticompetitive practices by Edison which excluded and impaired competition by the Cities.

On October 25, 1977, Edison filed a motion to extend the time for filing its answers to the Cities' motion. On October 26, 1977, the Secretary of the Commission issued a notice extending the date for the filing of Edison's answer to October 31, 1977.

On October 31, 1977, Edison filed a combined answer to the Cities' motion and a motion to strike the cities' supplemental protest. Edison states that the cities threaten the orderly conduct of this proceeding by now seeking to introduce the price squeeze issue. Although Edison acknowledges the Commission's authority to permit amendments to initial pleadings for the purpose of introducing new issues, it maintains that good cause exists to deny permission for the requested amendment.

Edison states that the Cities' October 11, 1977 pleadings offer no explanation as to why the price squeeze issue had not been raised previously, except that the period for intervention was insufficent. Edison asserts that the Cities had ample opportunity to allege price squeeze because a detailed price-squeeze analysis was unnecessary to lodge their initial protest.

Edison also argues that the Cities' price squeeze allegation is devoid of any reasonable basis for proceeding with the price squeeze issue. It states that the retail rates used by the Cities in their comparison with the proposed rates herein have been superseded by new higher retail rates; thus, the comparison does not establish the existence or non-existence of present anticompetitive effect. Edison posits that

[1] Amherst, Beach City, Brewster, Columbiana, Cuyahoga Falls, Galion, Grafton, Hubbard, Hudson, Lodi, Lucas, Milan, Monroeville, Newton Falls, Niles, Oberlin, Prospect, Seville, South Vienna, Wadsworth, and Wellington.

the Initial Decision in Toledo Edison Co., et al., NRC Docket No. 50-346 A, et al. provides no factual or legal basis to support the Cities' price squeeze allegation. It maintains that no finding of fact in that proceeding is pertinent to the issue of the justness and reasonableness of Edison's proposed wholesale rates.

Finally, Edison argues that the Cities' introduction of the price squeeze issue in this proceeding is prejudicial and should not be allowed.

After carefully considering the arguments made in the Cities' motion and supplemental protest and Edison's answer and motion to strike thereto, the Commission finds it appropriate and in the public interest to grant the Cities' motion and allow it to raise the price squeeze issue in this proceeding. Edison's arguments to the contrary are not persuasive. The proceeding herein is still in its preliminary stages. Staff's topsheets are not to be served until January 16, 1978. The Commission does not believe that Edison is in any way prejudiced by allowing the price squeeze issue to be raised at this time. Edison's arguments going to the existence or non-existence of a price squeeze are factual in nature and should be properly made in the price squeeze hearing to be ordered herein. Accordingly, Edison's motion to strike the Cities' supplemental protest raising the price squeeze issue should be denied.

After careful consideration of the arguments made in the Cities' motion and supplemental protest and Edison's answer and motion to strike thereto, the Commission finds it appropriate and in the public interest to grant the Cities' motion and allow it to raise the price squeeze issue in this proceeding. Price squeeze allegations are a very serious matter; they could be indicative of an unduly anticompetitive and injurious relationship between a wholesale supplier and its wholesale customers who compete in the same market. The Supreme Court in *Federal Power Commission* v. *Conway Corp.*, 426 US 271 (1976), affirming 510 F. 2d 1264 (D.C. Cir. 1975) held that the Commission's jurisdiction to set aside or reduce a public utility's wholesale electric rate increase allows consideration of the utility's alleged design to forestall its wholesale customers from competing with it at retail. While the Commission is without authority to set retail rates, it may consider those rates when it establishes the rates for interstate wholesale sales which are subject to its jurisdiction.

Section 1.11(a) of the Commission's Rules of Practice and Procedure allows parties to amend their pleadings without leave of the Commission where the amendment is made at least five (5) days prior to the commencement of a hearing. However, if good cause is established, the Commission may strike in whole or part, any amendment. Edison has not presented any new facts or principles of law which justify striking any part of the Cities' supplemental protest. Because the proceeding in this docket is in its initial stages, the Commission does not believe that Edison is prejudiced by allowing the price squeeze issue to be raised at this time. Staff's top sheets are not due until January 16, 1978. Edison's arguments going to the existence or non-existence of a price squeeze are factual and should be made in the price squeeze hearing to be ordered herein. Accordingly, Edison's motion to strike the Cities' supplemental protest raising the price squeeze issue should be denied.

We will direct the Administrative Law Judge to convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Cities' request for data necessary to present its prima facie showing on the price-squeeze issue.

The Commission finds:

(1) Good cause exists to grant the cities' motion and allow them to raise the price squeeze issue in this proceeding.

(2) Good cause exists to deny Edison's motion to strike the Cities, supplemental protest.

(3) Good cause exists to establish "price squeeze" proceedings to implement the Commission's policy announced in Order No. 563.

The Commission orders:

(A) The Cities' motion to file a supplemental protest raising the price squeeze issue in this proceeding is hereby granted.

(B) Edison's motion to strike the Cities' supplemental protest is hereby denied.

(C) The Administrative Law Judge shall convene a prehearing conference within 15 days from the date of this order for the purpose of hearing the Cities' request for data required to present their case, including a prima facie showing, on the price squeeze issue. Edison shall be required to respond to the discovery requests authorized by the Administrative Law Judge within 30 days, and the Cities shall file its case-in-chief on the price squeeze issue within 30 days of Edison's response.

(D) In all other respects, our order issued herein on August 31, 1977, remains in full force and effect.

(E) The Secretary shall cause the prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-34434 Filed 11-30-77; 8:45 am]

[6740-02]

[Project No. 2661]

PACIFIC GAS & ELECTRIC CO.

Extension of Time

NOVEMBER 25, 1977.

On October 31, 1977, Pacific Gas & Electric Co. (PG&E) filed a motion to extend the time for complying with Article 32 of the License for Project No. 2661, issued by the Federal Power Commission October 29, 1975. Compliance with Article 32 was to be completed within 1 year of issuance of the license.

The instant motion states that PG&E previously requested by letter dated October 18, 1976, a 1-year extension of time for complying with Article 32. However, the Commission's records indicate that no such request was received by the Commission, nor was any extension granted for compliance with said article.

In its October 31, 1977 motion, PG&E states that an extension of time is necessary to complete the required consultation with the California Department of Fish and Game.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977) and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary of Energy and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977. The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. The joint regulation adopted on October 1, 1977, by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC.

Notice is hereby given that the time within which PG&E shall comply with the provisions of Article 32 of the License for Project No. 2661 is extended to and including April 18, 1978.

By direction of the Commission. Chairman Curtis not participating.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34435 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-277]

PENNSYLVANIA POWER CO.

Order Granting, in Part, Motion for Summary Disposition and Requiring Adherence to Initial Submittal

NOVEMBER 21, 1977.

On October 1, 1977, pursuant to the provisions of the Department of Energy Organization Act (DOE Act), Pub. L. 95-91, 91 Stat. 565 (August 4, 1977), and Executive Order No. 12009, 42 FR 46267 (September 15, 1977), the Federal Power Commission ceased to exist and its functions and regulatory responsibilities were transferred to the Secretary and the Federal Energy Regulatory Commission (FERC) which, as an independent commission within the Department of Energy, was activated on October 1, 1977.

The "savings provisions" of section 705(b) of the DOE Act provide that proceedings pending before the FPC on the date the DOE Act takes effect shall not be affected and that orders shall be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings shall be continued and further actions shall be taken by the appropriate component of DOE now responsible for the function under the DOE Act and regulations promulgated thereunder. The functions which are the subject of these proceedings were specifically transferred to the FERC by section 402(a)(1) of the DOE Act.

The joint regulation adopted on October 1, 1977 by the Secretary and the FERC entitled "Transfer of Proceedings to the Secretary of Energy and the FERC," 10 CFR ——, provided that this proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

On April 1, 1977, Pennsylvania Power Co. (Penn Power) submitted for filing a proposed change in existing rate schedules for electric service to the Boroughs of Ellwood City, Grove City, New Wilmington, Wampum, and Zelienople, Pa. (Boroughs.)

The submittal contained a $10 kVA monthly capacity charge and a 0.382¢ kWh energy charge. The submittal, however, was deficient. Penn Power failed to provide complete work papers and certain Period II data. By July 11, 1977, the deficiency was cured but in addition, Penn Power alleged that it had inadvertently omitted $18,801,287 from Statement D (8 Electric Plant in Service) although this figure was reflected on Statement B (Balance Sheet account). In order to reflect what Penn Power perceived as an accurate amount of plant in service, Penn Power revised its capacity charge[1] from $10 to $10.30 per kVA per month.

By order of August 1, 1977, the Commission accepted for filing and suspended the proposed increased rates for two months subject to refund. By order issued September 2, 1977, the Commission, inter alia, (1) denied Boroughs' motion to reject, (2) granted intervention, (3) established Price-Squeeze Procedures, (4) denied Boroughs' Motion for Reconsideration and (5) scheduled a prehearing conference date.

On October 3, 1977, Boroughs received a billing from Penn Power which included inter alia, a $10.30 per kVA capacity charge.

On October 20, 1977, Boroughs filed a document entitled "Motion For Summary Disposition By the Boroughs of Ellwood City, Grove City, New Wilmington, Wampum and Zelienople, Pennsylvania." Boroughs contend that, in the July response to Staff's deficiency letter, Penn Power attempts to unilaterally extract (without adequate notice to the intervenors) $10.30 per kVA capacity charge resulting in a $55,000 additional increase over the $10 capacity charge originally filed on April 1, 1977. Conjunctively, Boroughs contend that the revised capacity charge ($10.30 kVA) does not conform to the Commission's regulations in that:

1. Penn Power made no requests for modification of its original rate filing of April 1.
2. Penn Power did not submit any testimony to support the revised capacity charge.
3. There was no amended sales comparison as required by the Commission for new filing.

Hence, Boroughs surmises that the proposed rate increase suspended by the August 1st order relates to the $10 capacity charge originally filed on April 1, 1977. As a proposed remedy, Boroughs request immediate refund.

On October 31, 1977, Penn Power responded to Boroughs' Motion for summary disposition with a document entitled "Answer of Pennsylvania Power Company To The Motion For Summary Disposition By The Boroughs of Ellwood City, Grove City, New Wilmington, Wampum and Zelienople, Pennsylvania." In that document, Penn Power stated:

> It is clear from the Company's transmittal letter, its revised tariff sheet and the revised Statements (all received by the Boroughs) that contrary to the Boroughs' assertion, the Company had clearly asked for the appropriate revision to its proposed tariff and set forth the appropriate justification in its July 11th submission. Moreover, on August 1, 1977 the Commission issued its order accepting the Company's submission for filing and establishing the suspension period. That order clearly entitled the Company to charge the Boroughs as of September 11, 1977 subject to refund on the basis of the revised tariff including the $10.30 monthly capacity charge per kVA since the order itself specifically noted that the increase sought was $1,353,614 rather than the $1,317,600 proposed in the April 1st filing.
>
> Finally, the Boroughs' latest filing questions the propriety of the Commission's failure to issue any notice prior to its order of August 1, 1977 to give the Boroughs an opportunity to submit comments on the Company's July 11, 1977 submission. Aside from the fact, as noted above, that the Boroughs received copies of the Company's July submission, on August 8, 1977, the Boroughs moved for reconsideration of the Commission's August 1, 1977 order and specifically made the argument in that filing as to the absence of any opportunity to comment upon the Company's July submission—precisely the same argument urged in support of the instant motion. On September 2, 1977 the Commission issued an order which, inter alia, denied the Boroughs' Petition for Reconsideration. It is submitted that the Boroughs' present filing, although denominated a Motion for Summary Disposition, is tantamount to a motion to reconsider the Commission's earlier denial of reconsideration.

Although Penn Power's July submittal of a revised tariff sheet and revised statement indicate that on the surface a good-faith attempt was made to justify the revised capacity charge, the sum total of this and of all submittals (from April to July), falls short of the requirements of § 35.13 in so far as supporting a $10.30 capacity charge.[2]

Specifically, there is neither revised testimony in support of the revised capacity charge ", revised revenue comparisons, additional form of notice to reflect the changed capacity charge," nor additional filing fee for the increased revenues (see § 36.2 of the Commission's regulations). Consequently, the August 1st suspension order improperly accepted for filing and suspended the revised rates, including the revised capacity charge in the July 11, 1977 filing, because the rates set forth in the July 11th filing did not have legally sufficient supporting data. Also Penn Power did not request waiver of the applicable regulations. Section 1.14(a)(2) provides:

> There will be accepted for filing only such applications, pleadings, and other papers as conform to the requirements of this Part and any other applicable rule, regulation, or order of the Commission or applicable statute; applications, pleadings or other papers tendered for filing which, because of the particular rule, regulation, or requirement involved, patently fail so to conform will be considered defective and will be rejected unless accompanied by a request, pursuant to § 1.7(b), for waiver of, or exception to, any rule, regulation or requirement with which the document tendered is in conflict

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[1] Penn Power also revised its July submittal which changed the energy charge of 0.382 cents per kWh (the April submittal) to 0.352 cents per kWh. Apparently the Intervenors do not object to that decrease in energy charge.

[2] However, the support for the $10 capacity charge does conform with the Commission's regulations.

or does not conform. Such request shall show the nature of the waiver or exception desired and set forth the reasons in support thereof. Unacceptable filings may be returned by the Secretary with an indication of the deficiencies thereof and the reasons for nonacceptance and return. Acceptance for filing shall not waive any failure to comply with the rules and such failure may be cause for striking all or any part of such filings.

Secondly, in contrast to Penn Power's argument, the $1,353,614 revenue amount indicated in the Commission's order relates to the 12 month period ending May 31, 1978, twelve months succeeding the proposed effective date indicated in the April 1st submittal. The revenue amount is derived from the Company's proposed tariff indicating a rate of $10 kVA monthly capacity charge and an energy charge of 0.382 cents per kW.

Accordingly, we will grant, in part, the Boroughs' motion for summary disposition without prejudice. Penn Power is free to file revised rates and supportive data pursuant to § 205 of the Federal Power Act and § 35.13 of the Commission's regulations. Penn Power will be required to bill under the rates of its initial (April) submittal, including the higher energy charge as well as the lower capacity charge.

The Commission finds: The motion for summary disposition filed on October 20, 1977 should be granted, in part, and Penn Power should adhere to the charges submitted for filing in April.

The Commission orders: (A) The motion filed on October 20, 1977, for summary disposition is hereby granted, in part.

(B) Penn Power shall adjust its billing so as to adhere to the charges submitted for filing on April 1, 1977, and is hereby required to refund any amounts collected in excess of the adjusted billing.

(C) Within 30 days from the date of this order, Penn Power shall file with the Commission a report showing compliance with this order.

(D) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 77-34427 Filed 11-30-77 8:45 am]

[6740-02]

[Docket No. CP78-78]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

NOVEMBER 22, 1977.

Take notice that on November 11, 1977, Transcontinental Gas Pipe Line Corp. (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-78 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 basis, for 2 years of up to 200 Mcf of natural gas per day (at 14.65 psia) for Reynolds Metals Co. (Reynolds), an existing industrial customer of the City of Richmond, Va. (Richmond), which is supplied by CNG Transmission Co. (CNG), one of applicant's resale customers served under rate schedule CD-2, all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Reynolds has purchased from Chapman Oil Co. et al. (Chapman), up to 200 Mcf of natural gas per day to be produced from Earl No. 1 Well, Wharton County, Tex. It is indicated that Reynolds would pay Chapman $2.25 per Mcf for the subject gas for the 2-year term of the contract. It is further indicated that the subject gas is not available to the interstate market.

Applicant states that Reynolds would arrange to have such quantities of gas delivered to a mutually agreeable point on applicant's system in Wharton County, Tex., and that pursuant to an agreement dated October 17, 1977, among applicant, Reynolds and CNG, application would redeliver the transportation quantities to existing points of delivery to CNG for the account of Reynolds. CNG would transport such gas delivered to it by applicant for the account of Reynolds to Richmond for redelivery to Reynolds' Richmond, Va., facility.

It is indicated that Reynolds would use the gas transported hereunder in its North and South plant located in Richmond, Va., for priority 2 uses. Natural gas is used in the North plant in three direct fired ovens which cure coatings on aluminum coils, and the end use of the coated material is primarily for food packaging products and pharmaceutical products, it is said. It is stated that other fuels cannot be used because of product contamination. The South plant in Richmond manufactures Reynolds Wrap, insulation foil, cigarette foil, cereal box innerliners, sandwich wrap, and drug packaging, and it uses natural gas for 12 annealing ovens, 9 inert gas generators, and 14 glue, wax, or color, it is said.

Applicant states that it would charge Reynolds, initially, 29.8 cents per Dekatherm (dt) for all quantities delivered hereunder, which rate is to be applicable to similar transportation services providing for deliveries in its rate zone 2. Applicant further states that it would also retain, initially 3.8 percent of the quantities received for transportation as make-up for compressor fuel and line loss, which percentage is based on applicant's company use factor for pipeline throughout to and within its rate zone 2 in which the transportation deliveries proposed herein would be made.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1977, file with the Federal Energy Regulatory 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 Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on 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. 77-34428 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. CP78-77]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

NOVEMBER 22, 1977.

Take notice that on November 11, 1977, Transcontinental Gas Pipe Line Corp., (applicant), P.O. Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-77 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 200 Mcf of natural gas per day, on an interruptible basis, for two years for Interbake Foods, Inc. (Interbake), an existing industrial customer of the city of Richmond, Va., which is supplied by CNG Transmission Co. (CNG), one of applicant's resale customers served under rate schedule CD-2, all as more fully set forth in the application on file with the Federal Energy Regulatory Commission and open to public inspection.

The application states that Interbake has contracted to purchase from Chapman Oil Co., et al. (Chapman), up to 200 Mcf of natural gas per day (at 14.65 psia) to be produced from Earl No. 1 Well, Wharton County, Tex. It is indicated that Interbake would pay Chapman $2.25 per Mcf for the subject gas for the term of the contract. It is further indicated that the gas is not available for resale to the interstate market.

Applicant states that Interbake would arrange to have the subject gas delivered to a mutually agreeable point on applicant's system in Wharton County, Tex., and that pursuant to a transportation agreement dated October 17, 1977, among applicant, Interbake, and CNG, applicant would redeliver the transportation quantities to existing points of delivery to CNG for the account of Reynolds. Applicant further states that CNG would transport such quantities of natural gas delivered to it be applicant for the account of Interbake to Richmond for redelivery to Interbake's Richmond, Va., facility.

The application states that Interbake would use the gas at its Richmond, Va., food plant for priority 2 uses, specifically for use in baking ovens for baking of crackers and cookies and for which there is no other known feasible alternative fuel.

Applicant indicates that it would charge Interbake, initially, 29.8 cents per Dekatherm (dt) for all quantities delivered hereunder, which rate is to be applicable to similar transportation services providing for deliveries in its rate zone 2. Applicant further indicates that it would retain, initially, 3.8 percent of the quantities received for transportation as make-up for compressor fuel and line loss, which percentage is based on applicant's company use factor for pipeline throughput to and within its rate zone 2 in which the transportation deliveries proposed herein would be made.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 6, 1977, file with the Federal Energy Regulatory 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 Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's rules of practice and procedure, a hearing will be held without further notice before the Commission on 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. 77-34429 Filed 11-30-77; 8:45 am]

[6740-02]

[Docket No. ER77-566]

NEW ENGLAND POWER CO.

Notice of Extension of Time

NOVEMBER 23, 1977.

On November 17, 1977, Staff Counsel filed a motion to extend the time for filing its testimony in the above referenced proceeding. The motion states that counsel for all parties do not object to the requested extension.

Upon consideration, notice is hereby given that the date within which Staff Counsel and intervenors shall file testimony is extended to and including November 23, 1977. Accordingly, the date for filing of rebuttal testimony is extended to and including December 7, 1977.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 77-34433 Filed 11-30-77; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

RADIO TECHNICAL COMMISSION FOR MARINE SERVICES

Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedule of future Radio Technical Commission for Marine Services (RTCM) meetings is as follows:

EXECUTIVE COMMITTEE MEETING, TUESDAY, DECEMBER 20, 1977

The next Executive Committee Meeting will be at 9:30 a.m., on Tuesday, December 20, in Conference Room 847, 1919 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of the Minutes of Executive Committee Meetings.
4. Committee Reports.
5. Approval of new Membership Applications.
6. Whether or not to establish a Special Committee on "U.S. Marine Coastal Radiotelegraph Service."
7. Discussion on National Marine Electronics Association proposal for RTCM Group Membership.
8. Report on 1978 Assembly Meeting.
9. Summary Reports and Announcements.
10. New business.
11. Establishment of next meeting date.

Special Committee No. 72

"Numerical Identification of Stations in Maritime Telecommunications Systems."

Notice of 4th Meeting: Tuesday, December 20, 1977—1 p.m., Conference Room 7327, 2025 M Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.
2. Introduction of Attendees; Confirmation of Secretary.
3. Adoption of Agenda.
4. Acceptance of SC-72 Summary Records.
5. Chairman's further Report on Interim Working Party Deliberations, Geneva, Switzerland, November 1-3, 1977.
6. Discussion of Views regarding Final Meeting, International Study Group 8, Geneva, Switzerland, January, 1978.
7. Discussion of Work Assignments.
8. Other Business.
9. Establishment of next meeting date. (Proposed: Wednesday, January 4, 1978).

Fra ncis K. Williams, Chairman, SC-72, Federal Communications Commission, Washington, D.C. 20554, phone 202-632-7054.

Special Committee No. 71

"VHF Automated Radiotelephone Systems."

Notice of 6th Meeting: Wednesday, December 21, 1977—10 a.m. (full day meeting), Conference Room A-110, 1229 20th Street NW., Washington, D.C.

AGENDA

1. Call to Order; Chairman's Report.

2. Introduction of Attendees; Adoption of Agenda.
3. Acceptance of SC-71 Summary Record.
4. Morning Session (10 a.m. to 11:45 a.m.). Afternoon Session (1:45 p.m. to 3:45 p.m.). Report of U.S. participation in IWP 5 Meeting, London, November 23-25. Presentation and discussion of matters relating to use of Public Telephone Network.
5. Other business.
6. Establishment of next meeting date.

John J. Renner, Chairman, Advanced Technology Systems, Inc., 2425 Wilson Boulevard, Arlington, Va. 22201, phone 703-525-2664.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat, phone 202-632-6490.

For the Federal Communications Commission.

WILLIAM J. TRICARICO,
Acting Secretary.

[FR Doc. 77-34475 Filed 11-30-77; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

FIRST FINANCIAL BANCSHARES, INC.

Formation of Bank Holding Company

First Financial Bancshares, Inc., Nevada, Mo., 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 94.5 percent of the voting shares of Mountain Grove National Bank, National Grove, Mo. The factors 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 St. Louis. 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 December 23, 1977.

Board of Governors of the Federal Reserve System, November 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34482 Filed 11-30-77; 8:45 am]

[6210-01]

OLD CAPITOL BANCORPORATION, INC.

Formation of Bank Holding Company

Old Capitol Bancorporation, Inc., Vandalia, Ill., 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 percent of the voting shares of the Farmers & Merchants Bank of Vandalia, Vandalia, Ill. The factors 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 St. Louis. 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 December 15, 1977.

Board of Governors of the Federal Reserve System, November 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board

[FR Doc. 77-34483 Filed 11-30-77; 8:45 am]

[6210-01]

UNITED MISSOURI BANCSHARES, INC.

Proposed Acquisition of United Missouri Bancshares, Inc.

United Missouri Bancshares, Inc., Kansas City, Mo., 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 acquire voting shares of City Bond & Mortgage Co., Kansas City, Mo., and indirect ownership of 50 percent of Central Management, Inc., Minneapolis, Minn. Notice of the application was published on September 22, 1977, in the Kansas City Star, a newspaper circulated in Kansas City, Mo., and on November 2, 1977, in the Minneapolis Star and Minneapolis Tribune, newspapers circulated in Minneapolis, Minn.

Applicant states that the proposed subsidiary would engage in the following activities: Making, acquiring, selling, and servicing first mortgages on one to four family residential dwellings, apartment complexes, commercial and industrial structures, construction loans, nursing home loans, FHA and VA financing, and servicing second and third mortgage loans, acting as insurance agent with respect to credit life insurance, credit health and accident insurance, mortgage protection life insurance and morgage protection disability insurance which is directly related to an extension of credit by City Bond & Mortgage Co. and its subsidiary companies; and to acquire indirect ownership of 50 percent of Central Management, Inc., Minneapolis, Minn., which acts as an investment and financial advisor for a real estate investment trust. 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 Bank of Kansas City.

Any views or requests for hearing should be submitted in writing and received by the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, not later than December 23, 1977.

Board of Governors of the Federal Reserve System, November 25, 1977.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 77-34484 Filed 11-30-77; 8:45 am]

[6820-27]

GENERAL SERVICES ADMINISTRATION

National Archives and Records Service

RETURN OF PERSONAL PROPERTY

Notice is hereby given that, in accordance with section 104(a)(7) of Title I of the Presidential Recordings and Materials Preservation Act, this agency has identified, inventoried, and prepared for shipment portions of materials in the custody of the National Archives and Records Service which are deemed to be the personal property of former President Richard M. Nixon or members of his family and not further subject to the requirements of the Preservation Act.

These materials include: 54 large crates and boxes labelled "Pre-Presidential" which are found to contain miscellaneous items of personal property created, acquired, or received by Mr. Nixon or members of his family before January 20, 1969; and 24 large

crates and boxes labelled "Archives Special" which have been found to contain nondocumentary items of personal property with special personal significance to Mr. Nixon or members of his family such as items of clothing and personal memorabilia.

The items contained in these large cartons and crates have been found not to relate in any way to the abuses of governmental power popularly identified under the generic term "Watergate" and not to have other general historical significance to an extent that outweighs their personal significance.

These materials will be delivered to former President Nixon, or his designated agent, on or after December 31, 1977.

Issued in Washington, D.C., on November 30, 1977.

JAMES E. O'NEILL,
Acting Archivist of the United States.

[FR Doc. 77-34693 Filed 11-30-77; 11:31 am]

[4110-85]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Assistant Secretary for Health

SEXUALLY TRANSMITTED DISEASES

Hearing

Announcement is made of a public hearing to elicit federal and non-federal perspectives on DHEW activities in the area of sexually transmitted diseases. The purpose of the public hearings is to identify problems, concerns, improvements in DHEW programming with regard to sexually transmitted diseases. Areas of special interest are reporting; research; prevention, control, treatment; resources development and allocation; and, education and outreach.

Date: January 11, 1978.
Place: Department of Health, Education, and Welfare, North Building Auditorium, 330 Independence Avenue SW., Washington, D.C.
Time: 9 a.m. to 5 p.m.

Any member of the public may file a written statement with staff before, during or after the hearing, but no later than January 12, 1978. Individuals desiring to make oral presentations should so indicate by December 30, 1977. All communications regarding this hearing should be addressed to:

Ms. Barbara Julian, Program Analyst, Office of Health Policy, Research, and Statistics, Office of the Assistant Secretary for Health, DHEW, Room 703H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., phone area code 202-245-6983.

This hearing is open to the public; however, public attendance is limited to space available.

Dated: November 22, 1977.

PEARL E. COHEN,
Administrative Officer, Office of Health Policy, Research, and Statistics, OASH, DHEW.

[FR Doc. 77-34359 Filed 11-30-77; 8:45 am]

[4110-85]

SEXUALLY TRANSMITTED DISEASES

Workshop

Announcement is made of the following workshop to elicit federal and non-federal perspectives on DHEW activities in the area of sexually transmitted diseases. Topics included in the working papers are research; prevention, control, and treatment; resources development; reporting and data collection; and public education and outreach.

Date: January 10, 1978.
Place: Department of Health, Education, and Welfare, North Building Auditorium, 330 Independence Avenue SW., Washington, D.C.
Time: 9 a.m. to 5 p.m.

Any member of the public may file a written statement with staff before, during, or after the workshop, but no later that January 11, 1978. All communications regarding this meeting should be addressed to:

Ms. Barbara Julian, Program Analyst, Office of Health Policy, Research, and Statistics, Office of the Assistant Secretary for Health, DHEW, Room 703H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., phone area code 202-245-6983.

The workshop is open to the public; however, public attendance is limited to space available.

Dated: November 22, 1977.

PEARL E. COHEN,
Administrative Officer, Office of Health Policy, Research, and Statistics, OASH, DHEW.

[FR Doc. 77-34358 Filed 11-31-77; 8:45 am]

[4110-85]

SEXUALLY TRANSMITTED DISEASES

Workshop

Announcement is made of a workshop to elicit Federal and non-Federal involvement in the analysis on public testimony and written presentations in the area of sexually transmitted diseases.

DATE: January 12, 1978.

PLACE: Hubert H. Humphrey Bldg., DHEW, Conference Room 727A, 200 Independence Avenue SW., Washington, D.C.

TIME: 9 a.m. to 5 p.m.

Any member of the public may file a written statement with staff before, during or after the workshop, but no later than January 13, 1978. All communications regarding this workshop should be addressed to:

Ms. Barbara Julian, Program Analyst, Office of Health Policy, Research, and Statistics, OASH, Room 703H, Hubert H. Humphrey Building, 200 Independence Avenue SW., Washington, D.C., Phone: Area Code 202-245-6983.

The workshop is open to the public; however, public attendance is limited to space available.

Dated: November 22, 1977.

PEARL E. COHEN,
Administrative Officer, Office of Health Policy, Research, and Statistics, OASH, DHEW.

[FR Doc. 77-34360 Filed 11-31-77; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 61550]

WYOMING

Application

NOVEMBER 18, 1977.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Northwest Pipeline Corp., of Salt Lake City, Utah, filed an application for a right-of-way to construct a 4½-inch O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 14 N., R. 102 W.,
Sec. 9, N½SE¼, SW¼SE¼,
Sec. 10, N½SW¼, SE¼,
Sec. 11, SW¼SW¼, N½S½,
Sec. 12, NW¼SW¼,
Sec. 17, N½N½,
Sec. 18, lot 5, N½NE¼, NE¼NW¼.
T. 14 N., R. 103 W.,
Sec. 13, N½NE¼, NE¼NW¼, S½NW¼,
Sec. 14, S½N½,
Sec. 15, S½NE¼, NE¼SW¼, NW¼SE¼.

The pipeline will transport natural gas within T. 14 N., R. 102 and 103 W., in Sweetwater County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send to the District Manager, Bureau of Land Management, High-

way 187 North, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-34361 Filed 11-30-77; 8:45 am]

[4310-84]

[W-61578]

WYOMING

Application

NOVEMBER 22, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Co. of Colorado Springs, Colo., filed an application for a right-of-way to construct a 2⅜ O.D. pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 19 N., R. 94 W.,
Sec. 22, NE¼NE¼.

The pipeline will transport natural gas from a well in the SW¼ of Section 23, T. 19 N., R. 94 W., to Colorado Interstate Gas Co.'s existing pipeline in the NE¼ of Section 15, T. 19 N., R. 94 W., Sweetwater County, Wyo.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 670, Rawlins, Wyo. 82301.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-34362 Filed 11-30-77; 8:45 am]

[4310-84]

[Wyoming 61833]

WYOMING

Application

NOVEMBER 22, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 15 N., R. 98 W.,
Sec. 6, lot 1, SE¼NE¼.
T. 16 N., R. 98 W.,
Sec. 30, SE¼SE¼;
Sec. 32, NW¼NW¼.

The pipeline will extend from the Champlin 538—Amoco A-1 well in the SW¼ of section 5, T. 15 N., R. 98 W., Sweetwater County, in a northerly direction to connect with Cities Service Gas Co.'s proposed 4-inch gathering line in section 29, T. 16 N., R. 98 W., Sweetwater County, which Cities Service Gas Co. made application for on November 9, 1977.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-34363 Filed 11-30-77; 8:45 am]

[4310-84]

[Wyoming 61830]

WYOMING

Application

NOVEMBER 22, 1977.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Co. of Oklahoma City, Okla. filed an application for a right-of-way to construct a 4-inch pipeline for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 16 N., R. 98 W.,
Sec. 30, lot 1, NW¼NE¼, S½NE¼, NE¼NW¼.
T. 16 N., R. 99 W.,
Sec. 22, NE¼NE¼;
Sec. 24, N½SW¼, SE¼SW¼, S½SE¼.

The pipeline will extend from the Champlin 273—Amoco A-1 well in section 29, T. 16 N., R. 98 W., to connect with an existing pipeline in section 22, T. 16 N., R. 99 W., Sweetwater County.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments shuld include their name and address and send them to the District Manager, Bureau of Land Management, P.O. Box 1869, Rock Springs, Wyo. 82901.

WILLIAM S. GILMER,
Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 77-34364 Filed 11-30-77; 8:45 am]

[4310-84]

Bureau of Land Management

QUALIFIED JOINT BIDDERS

As a convenience to the public, and pursuant to his authority under 43 CFR 3300, the Director of the Bureau of Land Management hereby publishes a list of all persons who have timely filed a Statement of Production in accordance with 43 CFR 3302.3-2(a) which has qualified them to bid jointly during the bidding period November 1, 1977, through April 30, 1978. This publication is not required by law or regulations; it includes the names of all possible bidders whose statements have been received in this office by the date this notice is prepared.

The following companies have filed sworn Statements of Production as required by 43 CFR 3302.3-2(a) attesting to average daily production not in excess of 1.6 million barrels of crude oil, natural gas and liquified petroleum products during the production period of January 1, 1977, through June 30, 1977.

A. G. Hill, Al-Aquitaine Exploration, Ltd., Alaskco U.S.A., Ltd., Allied Chemical Corp., Alminex U.S.A., Inc., AMAX Petroleum Corp., Amerada Hess Corp., American Natural Gas Production Co., American Petrofina Company of Texas, American Petrofina Exploration Co., Aminoil Development, Inc., Aminoil USA, Inc., Anadarko Production Co., Apache Corp., Ashland Exploration, Inc., Ashland Oil, Inc., Atlantic Distributors Exploration Co., Atlantic Richfield Co., Austral Oil Company Inc., Aztec Oil & Gas Co., Belco Petroleum Corp., Bethlehem Steel Corp., Brooklyn Union Gas Co. (The), Cabot Corp., Canadian Occidental of California, Inc., Canadian Superior Oil (U.S.) Ltd., CanDel Oil (U.S.) Inc., Canso Oil & Gas, Inc., Caroline Hunt Schoellkopf, Caroline Hunt Trust Estate, Case-Pomeroy Oil Corp., Central Hudson Gas & Electric Corp., Challenger Minerals Inc., Champlin Petroleum Co., Chanslor-Western Oil and Development Co., Cities Service Co., C & K Marine Production Co., C & K Offshore Co., C & K Petroleum, Inc., CNG Producing Co., Colorado Oil Company, Inc., Columbia Gas Development Corp., Columbia Gas of New York, Inc., Consolidated Edison Company of New York, Inc., Continental Group, Inc. (The), Continental Oil Co., Corning Natural Gas Corp., Cotton Petroleum Corp., CRA Oil Exploration Co., Davis Oil Co., DEPCO, Inc., Diamond Shamrock Corp., Dow Chemical Co. (The), Eason Oil Co., ECEE, Inc., El Paso Natural Gas Co., Energy Development Corp., Energy Reserves Group, Inc., Energy Ventures, Inc., Equity Oil Co., Exchange Oil & Gas Corp., Farmland Industries, Inc., Farmland International Energy Co., Felmont Oil Corp., Florida Gas Exploration

Co., Fluor Oil and Gas Corp., Flying Diamond Oil Corp., Forest Oil Corp., Four M Properties, Ltd., Frank K. Young, Freeport Minerals Co., Freeport Oil Co., Freeport Petroleum Co., Furth Oil Co., Gas Producing Enterprises, Inc., General American Oil Co. of Texas, General Crude Oil Co., Getty Oil Co., Golden Eagle Refining Company, Inc., Great Basins Petroleum Co., Greenbrier Operating Co., H. W. Bass & Sons, Inc., Halbouty Alaska Oil Co., Hamilton Brothers Exploration Co., Hamilton Brothers Oil and Gas Corp., Hamilton Brothers Oil Co., Hassie Hunt Exploration Co., Hassie Hunt, Inc., Highland Resources, Inc., Houston Oil & Minerals Corp., Hudbay Exploration, Inc., Hunt Energy Corp., Hunt Industries, Hunt Investment Corp., Hunt Oil Co., Hunt Petroleum Corp., Husky Oil Co., ICI Delaware Inc., Idemitsu Alaska Oil Development Corp., ISCO, Inc.,

Jack O. McCall, Jenny Oil Company, Inc., Kerr-McGee Corp., Knob Hill Oil & Gas Company, Inc., Koch Industries, Inc., Ladd Petroleum Corp., Lamar Hunt, Lamar Hunt Trust Estate, Long Island Lighting Co., Louisiana Land and Exploration Co. (The), Louisiana Land Offshore Exploration Company, Inc., MAPCO Inc., Marathon Oil Co., Margaret Hunt Trust Estate, Maruzen Oil of Alaska, Inc., McCulloch Oil and Gas Corp., McMoRan Exploration Co., Mesa Petroleum Co., Mitchell Energy Offshore Corp., Mono Power Co., Monsanto Co., Murphy Oil Corp., National Fuel Gas Distribution Corp., Natomas Offshore Exploration, Inc., NATRESCO Inc., Natural Gas Corporation of California, Nelson B. Hunt, Nelson Bunker Hunt Trust Estate, Nepco Exploration Corp., New England Energy Inc., Newmont Oil Co., New York State Electric & Gas Corp., NICOR Exploration Co., Norcen Petroleum Inc., Northern Michigan Exploration Co., Northern Natural Gas Co., North Oil Inc., Northwestern Mutual Life Insurance Co. (The), Ocean Oil and Gas Co., Ocean Production Co., Offshore Company (The), Ogle Development Corp., Ogle Petroleum Inc., Oil Development Company of Texas, Orange and Rockland Utilities, Inc., OXY Petroleum, Inc., PanCanadian Petroleum Co., Pan Eastern Exploration Co., Pavilion Natural Gas Co. (The), Pennzoil Co., Pennzoil Louisiana and Texas Offshore, Inc., Pennzoil Oil & Gas, Inc., Pennzoil Producing Co., Phillips Petroleum Co., Pinto, Inc., Pioneer Production Corp., Placid Oil Co., Pogo Producing Co., Quintana Offshore, Inc., Reading & Bates Oil and Gas Co., Reserve Oil, Inc., Rochester Gas and Electric Corp., Rosewood Corporation (The), Rowan Petroleum, Inc., Sabine Production Co., Samedan Offshore Corp., Samedan Oil Corp., Santa Fe Minerals Co.—U.S., Sohio Petroleum Co., Sonat Exploration Co., South Coast Corporation (The), Southern Natural Gas Co., Southland Royalty Co., St. Joe Petroleum (U.S.) Corp., St. Lawrence Gas Company, Inc., Sun Oil Co. (Delaware), Superior Oil Co. (The), Syracuse Suburban Gas Company, Inc., Terra Resources, Inc., Tesoro Petroleum Corp., Tenneco Oil Co., Tenneco Exploration, Ltd., Tenneco Exploration II, Ltd., Tenneco OCS Co., Tenneco OCS Limited Partnership, Tenneco Offshore Company, Inc., Texas Eastern Exploration Co., Texas Gas Exploration Corp., Texasgulf Inc., Texas Pacific Oil Company, Inc., Texas Production Co., Total Petroleum, Inc., Transco Exploration Co., TransOcean Oil, Inc., Union Oil Co. of California, United Energy Resources, Inc., United Gas Pipe Line Co., United States Steel Corp., Vsea, Inc., W. H. Hunt, W. R. Grace & Co., Weeks Petroleum Corp., William Herbert Hunt Trust Estate, Williams Exploration Company.

In addition, Statements of Production have been received from nine companies which produced a daily average of 1.6 million or more barrels of crude oil, natural gas and liquified petroleum products during the previously mentioned production period, and are therefore restricted from bidding jointly with each other during the bidding period of November 1, 1977, through April 30, 1978. This list appeared in the FEDERAL REGISTERS of October 11, 1977, and October 14, 1977, cited as 42 FR 54881, and 42 FR 55280.

GEORGE L. TURCOTT,
Acting Director,
Bureau of Land Management.

NOVEMBER 25, 1977.

[FR Doc. 77-34354 Filed 11-30-77; 8:45 am]

[4310-84]

[NM 32206 and 32211]

NEW MEXICO

Applications

NOVEMBER 25, 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 two 4½-inch natural gas pipelines rights-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, N. MEX.

T. 24 S., R. 26 E.,
Sec. 4, S½NE¼, N½SW¼ and NW¼SE¼;
Sec. 5, lots 7 and 8;
Sec. 33, S½N½;
Sec. 34, NW¼SW¼.

These pipelines will convey natural gas across 2.72 miles of public land in Eddy County, N. Mex.

The purposes 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 1397, Roswell, N. Mex. 88201.

RAUL E. MARTINEZ,
Acting Chief, Branch of
Lands and Minerals Operations.

[FR Doc. 77-34400 Filed 11-30-77; 8:45 am]

[4310-70]

National Park Service

NORTHWEST TRADING POST INC.

Intention To Negotiate Concession Contract

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that by January 3, 1978, the Department of the Interior, through the Director of the National Park Service, proposes to negotiate a concession contract with Northwest Trading Post, Inc., authorizing it to continue to provide concession facilities and services for the public on the Blue Ridge Parkway for a period of five (5) years from January 1, 1978, through December 31, 1982.

An assessment of the environmental impact of this proposed action has been made and it has been determined that it will not significantly affect the quality of the environment, and that it is not a major Federal action having a significant impact on the environment under the National Environmental Policy Act of 1969. The environmental assessment may be reviewed in the Regional Office, 1895 Phoenix Boulevard, Atlanta, Ga. 30349.

The foregoing concessioner has performed its obligations to the satisfaction of the Secretary under an existing contract which expires by limitation of time on December 31, 1977, and therefore, pursuant to the Act of October 9, 1965, as cited above, is entitled to be given preference in the renewal of the contract and in the negotiation of a new contract. This provision, in effect, grants Northwest Trading Post, Inc., as the present satisfactory concessioner, the right to meet the terms of responsive offers for the proposed new contract and a preference in the award of the contract, if the offer of Northwest Trading Post, Inc., is substantially equal to others received. The Secretary is also required to consider and evaluate all proposals received as a result of this notice. Any proposal to be considered and evaluated must be submitted within thirty (30) days after the publication date of this notice.

Interested parties should contact the Assistant Director, Special Services, National Park Service, Washington, D.C. 20240, for information as to the requirements of the proposed contract.

Dated: November 11, 1977.

WILLIAM J. WHALEN,
Director, National Park Service.

[FR Doc. 77-34395 Filed 11-30-77; 8:45 am]

[4410-01]

DEPARTMENT OF JUSTICE

U.S. v. A. W. LOGGING, INC. ET AL.

Consent Decrees in Actions to Enforce Compliance with Terms of NPDES Permits and to Impose Penalties for Violations of Those Permits

In accordance with Departmental Policy, 28 C.F.R. 50.7, 38 FR 19029, notice is hereby given that on November 14, 1977 proposed consent decrees in *United States* v. *A. W. Logging, Inc., et al.* and *United States* v. *Campbell Construction and Logging Co., et al.*, were lodged with the United States District Court for the District of Alaska. Each decree contains a compliance schedule that requires each defendant to comply with the terms of its permit or cease discharge by a date certain. The decrees also provide that each defendant will pay a $25 per day penalty from July 1, 1977 until defendant either achieves compliance with its permit limitations or ceases discharge.

The Department of Justice will receive on or before January 3, 1978, written comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States* v. *A. W. Logging, Inc., et al.*, D.J. Ref. 90-5-1-1-847, and *United States* v. *Campbell Construction and Logging Co., et al.*, D.J. Ref. 90-5-1-1-846.

The consent decrees may be examined at the office of the United States Attorney, District of Alaska, Post Office Box 680, Anchorage, Alaska, 99701, at the Region X office of the Environmental Protection Agency, Enforcement Division, 1200 Sixth Avenue, Seattle, Wash., 98101, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2625, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. 20530. A copy of the proposed consent decrees may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77-34365 Filed 11-30-77; 8:45 am]

[4410-01]

U.S. v. CITY OF KANSAS CITY, KANS.

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants

In accordance with Departmental Policy, 28 CFR 50.7, 38 FR 19029, a notice is hereby given that on November 18, 1977, a proposed amended consent decree in United States v. City of Kansas City, Kans., was lodged with the United States District Court for the District of Kansas. The proposed decree amends the consent decree previously filed in this action on October 2, 1974, by extending the construction deadlines on five of the eleven sewage treatment and conveyance projects required to be completed by the city under the original consent decree.

The Department of Justice will receive for 30 days from the date of publication of this notice written comments relating to the proposed judgment. Comments should be addressed to the Assistant Attorney General for the Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and refer to "United States v. City of Kansas City, Kans.," D.J. Ref. 90-5-1-1-275.

The proposed consent decree may be examined at the office of the United States Attorney, District of Kansas, U.S. Courthouse, Kansas City, Kans.; the Clerk of the District Court, District of Kansas, U.S. Courthouse, Kansas City, Kans.; and the Pollution Control Section, Land and Natural Resources Division, Department of Justice, room 2623, Department of Justice Building, Ninth Street and Pennsylvania Avenue NW., Washington, D.C. A copy of the proposed amended consent judgment may be obtained in person or by mail from the Pollution Control Section.

JAMES W. MOORMAN,
Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 77-34366 Filed 11-30-77; 8:45 am]

[4410-01]

Drug Enforcement Administration

IMPORTATION OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to section 1008 of the Controlled Substances Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II, and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with section 1311.42 of Title 21, Code of Federal Regulations (CFR), notice is hereby given that on October 14, 1977, B. David Halpern, Polysciences, Inc. Paul Valley Industrial Park, Warrington, Pa. 18976, made application to the Drug Enforcement Administration to be registered as an importer of tetrahydrocannabinols, a basic class of controlled substance in schedule I, for the importation of unique isomers and semi-synthetic manufactures for supply to researchers and analytical laboratories as standards.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than December 30, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1311. 42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated: November 25, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 77-34485 Filed 11-30-77; 8:45 am]

[4410-01]

IMPORTATION OF CONTROLLED SUBSTANCES

Notice of Application

Pursuant to section 1008 of the Controlled Substancers Import and Export Act (21 U.S.C. 958(h)), the Attorney General shall, prior to issuing a registration under this section to a bulk manufacturer of a controlled substance in schedule I or II and prior to issuing a regulation under section 1002(a) authorizing the importation of such a substance, provide manufacturers holding registration for the bulk manufacture of the substance an opportunity for a hearing.

Therefore in accordance with section 1311.42 of Title 21, Code of Federal

Regulations (CFR) notice is hereby given that on October 3, 1977, Carlton Turner, Department of Pharmacognosy, School of Pharmacy, University of Mississippi, University, Miss. 38677, made application to the Drug Enforcement Administration to be registered as an importer of marihuana, a basic class of controlled substance in schedule I.

As to the basic class of controlled substance listed above for which application for registration has been made, any other applicant therefor, and any existing bulk manufacturer registered therefor, may file written comments on or objections to the issuance of such registration and may, at the same time, file a written request for a hearing on such application in accordance with 21 CFR 1301.54 in such form as prescribed by 21 CFR 1316.47. Such comments, objections and requests for a hearing may be filed no later than December 30, 1977.

Comments and objections may be addressed to the DEA Federal Register Representative, Office of Chief Counsel, Drug Enforcement Administration, Room 1203, 1405 Eye Street NW., Washington, D.C. 20537.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1311.42 (b), (c), (d), (e), and (f). As noted in a previous notice at 40 FR 43745-46 (September 23, 1975), all applicants for registration to import a basic class of any controlled substance in schedule I or II are and will continue to be required to demonstrate to the Administrator of the Drug Enforcement Administration that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 832(a), and 21 CFR 1311.42 (a), (b), (c), (d), (e), and (f) are satisfied.

Dated November 25, 1977.

PETER B. BENSINGER,
Administrator, Drug Enforcement Administration.

[FR Doc. 77-34486 Filed 11-30-77; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 77-74]

DIRECT AWARDS OF $10 MILLION OR MORE

List of Aerospace Contractors

The following is a list of aerospace contractors which received direct NASA awards totaling $10 million or more during fiscal year 1977. This list is published pursuant to section 6 of Pub. L. 91-119, as amended by section 7 of Pub. L. 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.) and Pub. L. 94-273 (90 Stat. 375). For related NASA reporting requirements, see 14 CFR Part 1208.

Algernon Blair Industrial Contractors, Inc., P.O. Box 749, Montgomery, Ala. 36102.
The Bendix Corp., Executive Offices, Bendix Center, Southfield, Mich. 48076.
Blount Bros. Corp., 4520 Executive Park Drive, Montgomery, Ala. 36111.
The Boeing Co., P.O. Box 3707, Seattle, Wash. 98124.
Boeing Services International Inc., P.O. Box 3707, Seattle, Wash. 98124.
California Institute of Technology, 1201 East California Boulevard., Pasadena, Calif. 91125.
Chicago Bridge & Iron Co., 800 Jorie Boulevard., Oak Brook, Ill. 60521.
Computer Sciences Corp., 650 North Sepulveda Boulevard., El Segundo, Calif. 90245.
Computer Sciences-Technicolor Associates (JV), 10210 Greenbelt Road, Seabrook, Md. 20801.
Federal Electric Corp., 621 Industrial Avenue, Paramus, N.J. 07652.
Ford Aerospace & Communications Corp., 728 Parklane Towers East, 1 Parklane Boulevard, Dearborn, Mich. 48126.
General Dynamics Corp., Pierre Laclede Center, 7733 Forsyth Boulevard, St. Louis, Mo. 63105.
General Electric Co., 3135 Easton Turnpike, Fairfield, Conn. 06431.
Global Associates, 2010 Webster Street, Oakland, Calif. 94612.
Honeywell Inc., Honeywell Plaza, 2701 Fourth Avenue South, Minneapolis, Minn. 55408.
Hughes Aircraft Co., Centinela Avenue and Teale Street, Culver City, Calif. 90230.
International Business Machines Corp., Old Orchard Road, Armonk, N.Y. 10504.
Lockheed Aircraft Corp., 2555 North Hollywood Way, P.O. Box 551, Burbank, Calif. 91520.
Lockheed Electronics Co., Inc., U.S. Highway 22, Plainfield, N.J. 07061.
Martin Marietta Corp., 6801 Rockledge Drive, Bethesda, Md. 20034.
McDonnell Douglas Corp., Box 516, St. Louis, Mo. 63166.
Northrop Services Inc., 500 East Orangethorpe Avenue, Anaheim, Calif. 92801.
Pan American World Airways, Inc., 200 Park Avenue, New York, N.Y. 10017.
Planning Research Corp., 1850 K Street NW., Suite 205, Washington, D.C. 20006.
RCA Corp., 30 Rockefeller Plaza, New York, N.Y. 10020.
Rockwell International Corp., 600 Grant Street, Pittsburgh, Pa. 15219.
The Singer Co., 30 Rockefeller Plaza, New York, N.Y. 10020.
Sperry Rand Corp., 1290 Avenue of the Americas, New York, N.Y. 10019.
TRW Inc., 23555 Euclid Avenue, Cleveland, Ohio 44117.
Teledyne Industries Inc., 1901 Avenue of the Stars, Los Angeles, Calif. 90067.
Thiokol Corp., P.O. Box 1000, Newtown, Pa. 18940.
United Technologies Corp., Hartford, Conn. 06101.
Vought Corp., Box 5907, Dallas, Tex. 7522.

S. J. EVANS,
Director of Procurement, National Aeronautics and Space Administration.

[FR Doc. 77-34406 Filed 11-30-77; 8:45 am]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. PRM-71-6]

CRITICAL MASS ENERGY PROJECT, ET AL.

Filing of Petition for Rule Making

Notice is hereby given that Mr. Richard P. Pollock, Director of the Critical Mass Energy Project, by letter dated October 31, 1977, on behalf of the Critical Mass Energy Project, the Honorable Theodore S. Weiss, the Honorable Timothy E. Wirth, the California Citizen Action Group, Community Action Research Group of Ames, Iowa, Environmental Action of Colorado, Massachusetts Public Interest Research Group, Michigan Public Interest Research Group, National Intervenors, Inc., New York Friends of the Earth, New York Public Interest Research Group, North Carolina Public Interest Research Group, Southwest Research and Information Center, and Vermont Public Interest Research Group, has filed with the Nuclear Regulatory Commission a petition for rule making to amend the Commission's regulations.

The petitioners request the Commission to adopt regulations which, at a minimum, impose the following conditions on its licensees:

1. The use of special routes for the transportation of radioactive materials of all types to insure that such shipments avoid densely populated areas and mountainous terrain.

2. The adoption of emergency plans for transportation accidents involving their cargo, including (a) the organization of emergency response units to carry out the plan and (b) semi-annual drills with local and State law enforcement officials.

3. The assumption by licensees of financial responsibility for any shipping accident that involves the dispersal of their radioactive cargo.

4. A plan for informing the drivers of the vehicles about the nature of the material they are shipping and emergency actions they should undertake in the event of an accident.

The petitioners state that the regulations should require that all licensees be in compliance with the regulations within 60 days of their promulgation and that each licensee be required to demonstrate to the Commission within 60 days after the effective date of the regulations that the licensee possesses the capability to deploy emergency response units promptly to an accident scene and to otherwise carry out its plan successfully. The petitioners state also that the proposed regulations would place on each licensee the responsibility of requiring the shipper of the licensee's nuclear material to adopt the licensee's emergency

plan, including taking special routes to avoid densely populated regions and mountainous terrain.

As a basis for the requested action the petitioners state that experts both inside and outside the Federal Government have concluded that there is a need for emergency response plans to protect the public in the event of an accident in transporting radioactive materials. The petitioners also state that although there has not yet been a transportation accident resulting in widespread injury to the public, the experience of the recent accident in southeastern Colorado shows that the present system is wholly inadequate to deal with the risk to the public health from a transportation accident, and that regulations by the Commission are essential. The petitioners state further that the Commission requires nuclear power reactor licensees to adopt emergency response plans, but there is no similar requirement for licensees of nuclear materials to be transported, even though a transportation accident would involve shippers and localities wholly unfamiliar with radioactive materials.

A copy of the petition for rule making is available for public inspection in the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. A copy of the petition may be obtained by writing to the Division of Rules and Records, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555.

All persons who desire to submit written comments or suggestions concerning the petition for rule making should send their comments to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by January 30, 1978.

Dated at Washington, D.C., this 23rd day of November 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-34181 Filed 11-30-77; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS, SUBCOMMITTEE ON THE YELLOW CREEK NUCLEAR POWERPLANT

Meeting

The ACRS Subcommittee on the Yellow Creek Nuclear Powerplant will hold a meeting on December 16, 1977, at the Ramada Inn, Highway 72 and 45 Bypass, Corinth, Miss. 38834, to review the application of the Tennessee Valley Authority (TVA) for a permit to construct this plant.

In accordance with the procedures outlined in the FEDERAL REGISTER on October 31, 1977, page 56972, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff.

The agenda for subject meeting shall be as follows:

FRIDAY, DECEMBER 16, 1977

8:30 A.M. UNTIL THE CONCLUSION OF BUSINESS (OPEN)

The Subcommittee may meet in executive session, with any of its consultants who may be present, to explore and exchange their preliminary opinions regarding matters which should be considered during the meeting and to formulate a report and recommendations to the full Committee.

At the conclusion of the executive session, the Subcommittee will hear presentations by and hold discussions with representatives of the NRC Staff, TVA, and their consultants, pertinent to this review.

The Subcommittee may then caucus to determine whether the matters identified in the initial session have been adequately covered and whether the project is ready for review by the full Committee.

In addition, it may be necessary for the Subcommittee to hold one or more closed sessions for the purpose of exploring matters involving proprietary information. I have determined, in accordance with subsection 10(d) of Pub. L. 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)).

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 to the designated Federal employee for this meeting, Mr. Elpidio G. Igne, telephone 202-634-1920, between 8:15 a.m. and 5 p.m. e.s.t.

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., Washington, D.C. 20555, and at the Corinth Public Library, 1023 Fillmore Street, Corinth, Miss. 38834.

Dated: November 28, 1977.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 77-34403 Filed 11-30-77; 8:45 am]

[7590-01]

[Docket No. PRM-70-5]

NEW YORK PUBLIC INTEREST RESEARCH GROUP, INC.

Denial of Petition for Rulemaking

Notice is hereby given that the Nuclear Regulatory Commission (NRC) has denied a petition for rulemaking submitted by letter dated January 26, 1977, from Paul S. Hudson, attorney for the petitioner, New York Public Interest Research Group, Inc., One Columbia Place, Albany, N.Y. A notice of filing of petition, Docket No. PRM-70-5, was published in the FEDERAL REGISTER on March 14, 1977 (42 FR 13889). Interested persons were invited to submit written comments or suggestions on the petition. One letter was received which recommended denial by the Commission because the petition failed to show how the current regulations are inadequate or inappropriate.

Mr. Hudson petitioned: "The Commission (1) to determine that the element neptunium should be classified as a special nuclear material, (2) to amend rules and regulations to increase the safeguards and safety standards for neptunium," and (3) "examine the remaining transuranics for possible inclusion as special nuclear materials."

The petitioner stated that the requested change would act to protect the public health and safety and would be in the interest of the common defense and security of the nation by preventing the accidental criticality of neptunium or the possible diversion of this material for unauthorized use in atomic weapons.

The petitioner stated that the basis for the petition was that neptunium-237 (Np-237) has a critical mass and, therefore, nuclear criticality can be achieved accidentally or purposely. Attached to the petition is an article prepared by Marvin Resnikoff, Ph. D. and NYPIRG scientist entitled: "Neptunium: An Element Overlooked." According to the petitioner, this article, the documents referenced therein, and the supplementary comments set out in the petition, provide the principal support for an elaboration of the petition.

The petitioner requested that (1) the Commission determine, after making appropriate findings in accordance with section 51 of the Atomic Energy Act of 1954, as amended, that Np-237 is a "special nuclear material," and (2) contemporaneously with the determination of (1), the Commission revise its regulations governing the classification of nuclear materials, their safeguards, and packaging detailed in 10 CFR Parts 50, 70, 71, and 73.

Given the classification of Np-237 as a "special nuclear material" the petitioner requests that the Commission

make the following specific changes in its regulations:

1. Under 10 CFR 50.2(q) and 10 CFR 70.4(m), the definition of "special nuclear material" include Np-237, or that the determination under section 51 of the Act be deemed sufficient to reclassify Np-237 as a "special nuclear material." Notice to this effect should be promulgated to NRC (the U.S. Nuclear Regulatory Commission) licensees, ERDA (the U.S. Energy Research and Development Administration) and the general public.

2. Under 10 CFR 73.1(b) (1), (2) and (3), the Commission specify the minimum quantities of Np-237 above which Part 73, concerning the physical protection of plants, transportation, transportation by air, and materials, applies.

3. Under 10 CFR 73.30(a), the Commission specify the minimum quantities of Np-237 above which section 73.30, concerning the physical protection of "special nuclear material" in transit, applies.

4. Under 10 CFR 73.50, the Commission specify the minimum quantities of Np-237 above which section 73.50, concerning requirements for physical protection of licensed activities, particularly, fuel reprocessing facilities, applies.

5. Under 10 CFR 73.60, the Commission specify the minimum quantities of Np-237 above which section 73.60 concerning additional requirements for the physical protection of "special nuclear material" at fixed sites, applies.

6. Under 10 CFR 70.51(e), the Commission specify the limit of error for Np-237 material unaccounted for, § 70.51(e)(5), determine the maximum time period for physical inventories of Np-237, § 70.51(e)(3), require licensees to keep records of all fissile materials, including Np-237, § 70.51(e)(4), and require licensees to keep records for all internal transfers of fissile materials, including Np-237, § 70.51(e)(1).

7. Under 10 CFR Part 71, Packaging of Radioactive Material for Transport and Transportation of Radioactive Material Under Certain Conditions, the Commission classify Np-237 as a "fissile material," along with uranium-233, uranium-235, plutonium-238, plutonium-239 and plutonium-241 § 71.4(e), and designate a "fissile classification" of fissile class III for Np-237, § 71.4(d).

8. Under 10 CFR 71.9, exemption for fissile material, the Commission designate a maximum amount of Np-237, below which the requirements of §§ 71.33, 71.35(b), 71.36(b), 71.37, 71.38, 71.39, and 71.40 do not apply.

9. Under 10 CFR Part 71.11, general license for shipment of licensed material, the Commission designate a maximum amount of Np-237, below which a carrier can transport Np-237 without complying with the package standard of subpart C, 10 CFR Part 71, Package Standards.

The NRC has authorized only insignificant quantities in separated form of Np-237 to be possessed by licensees. As of June 30, 1977, NRC records reflect 16 grams in separated form in licensee possession. The Commission is not aware of any planned use of significant quantities, nor of the intent in the future to recover Np-237 in the private sector.

The legislative history of section 51 of the Atomic Energy Act of 1954, as amended (S. Rep. No. 1699 to accompany S. 3690, 83d Cong., 2d Sess., June 30, 1954), clearly indicates a congressional intent to raise a presumption against the classification of a material as a "special nuclear material"; and that the findings which the Commission is required by statute to make before recommending to the President the designation of a material as a "special nuclear material" are to be considered as thresholds which must be crossed to rebut the presumption.

While considerable amounts of Np-237 have been produced as a reactor by-product, the major portion remains in radioactive waste product tanks as part of a mixture of radioactive fission product from processing spent reactor fuels. In the form of radioactive waste, the Np-237 is inaccessible, unusable and cannot accidently achieve criticality. Unless and until our GESMO proceeding is completed, reprocessing of such waste cannot take place. If these circumstances change, we will reexamine this issue.

Contractors of ERDA have calculated the minimum quantity of Np-237 required to form a critical mass. In its simplest form, a bare, untamped metallic sphere, to be a critical mass is in the range from 70 to 105 kgs (154 to 331 lbs). The uncertainty in the mass comes about because of the lack of precise measurements of the neutron cross sections and critical properties for Np-237. Such precise measurements have not been made due to the high level of costs of a program to secure the measurements, and the lack of justification for such a program in light of the minimal weapons potential of Np-237.

Many of the remaining trans-plutonium isotopes are fissible, either in metallic or compound form. However, they do not exist in sufficient quantities to allow one to build an explosive device, even if one possessed the entire free world supply. At the present, or in the foreseeable future, there are no plans nor reason to produce these materials in large quantities. Under the present circumstances the Commission cannot find that the determination that Np-237 or the other trans-plutonium isotopes are special nuclear material is in the interest of the common defense and security.

In view of the foregoing, the Commission has denied the petition for rule making filed by Paul S. Hudson, attorney for the petitioner, New York Public Interest Research Group, Inc. (PRM-70-5). Copies of the petition for rule making, the comments thereon, and the Commission's letter of denial are available for public inspection in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C.

Dated at Washington, D.C., this 28th day of November 1977.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 77-34404 Filed 11-30-77; 8:45 am]

[7590-01]

[Docket No. 40-2259]

UTAH INTERNATIONAL, INC. (LUCKY MC URANIUM CORP.)

Availability of Final Environmental Statement for Lucky Mc Gas Hills Uranium Mill

Pursuant to the National Environmental Policy Act of 1969 and the U.S. Nuclear Regulatory Commission's regulations in 10 CFR Part 51, notice is hereby given that a final environmental statement prepared by the Commission's Office of Nuclear Material Safety and Safeguards related to the application for renewal of source material license SUA-672 for the Lucky Mc uranium mill in Gas Hills, Wyo., is available for inspection by the public in the Commission's Public Document Room at 1717 H Street NW., Washington, D.C. The final statement is also being made available at the State Clearinghouse, State Planning Coordinator, Office of the Governor, Capitol Building, Cheyenne, Wyo. 82001.

Lucky Mc Uranium Corp. has pending a request to transfer source material license SUA-672 from Utah International, Inc., to Lucky Mc Uranium Corp.

The notice of availability of the draft environmental statement for the Lucky Mc uranium mill and requests for comments from interested persons was published in the FEDERAL REGISTER on June 23, 1977 (42 FR 31846). The comments received from Federal agencies, State and local officials, and interested members of the public have been included as appendices to the final environmental statement.

Copies of the final environmental statement (Document No. NUREG-0357) may be purchased for $9.25 a printed copy and $3 for microfiche from the National Technical Information Service, Springfield, Va. 22161, on or about December 9, 1977.

Dated at Silver Spring, Md., this 21st day of November 1977.

For the Nuclear Regulatory Commission.

LELAND C. ROUSE,
Chief, Fuel Processing and Fabrication Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 77-34405 Filed 11-30-77; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 77-48]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS AND RESPONSES

Availability and Receipt

Aircraft Accident Reports, Brief Format, U.S. Civil Aviation, Issue Number 4 of 1976 Accidents, Report No. NTSB-BA-77-2.—The National Transportation Safety Board last week released its latest compilation of 1976 accident briefs. The current publication includes the pertinent facts and probable cause, in symoptic form, of 898 general aviation accidents.

With winter seasonal changes already occurring over most of the country, the Safety Board selected one of these accident reports—that of the fatal crash of a Beech P-35 near Red Wing, Minn., on September 27, 1976—to illustrate a potential operating hazard resulting from airframe icing. The Board found in this instance that the pilot had exercised improper in-flight decisions and planning after repeatedly reporting icing conditions, and under airframe ice conditions the pilot had exceeded the designed stress limits of the aircraft which, in turn, caused the structural separation of the tail section in flight.

The Board noted that the accretion of ice on the wings and tail surface of an aircraft in flight can cause aerodynamic changes that increase drag and stalling speed and decrease performance and controllability. The Board cautions all general aviation pilots, and particularly those flying aircraft without de-icing equipment, to be aware of the possibility of airframe icing under certain cold weather conditions or at freezing altitudes. Such conditions can be avoided by obtaining a complete preflight weather briefing and by careful preflight and in-flight planning.

NOTE: The brief reports of accidents in this publication contain essential information; more detailed data may be obtained from the original factual reports on file in the Washington Office of the Safety Board. Upon request, factual reports will be reproduced commercially at an average cost of 25¢ per page for printed matter, $1.50 per page for black-and-white photographs, and $4.00 per page for color photographs, plus postage. Minimum reproduction charge is $1.00; an additional $4.00 user-service charge will be made for each order. Requests should be directed to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. The requester is asked to provide this information concerning the accident: (1) Date and place of occurrence, (2) type of aircraft and registration number, and (3) name of pilot.

Copies of Issue Number 4 may be purchased from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

Marine Accident Report No. NTSB-MAR-77-1.—The Safety Board announces the availability of printed copies of this report. The report and related safety recommendations Nos. M-77-15 through 32 concern the sinking of the charter fishing boat PEARL-C on the Columbia River Bar near Astoria, Oreg., on September 13, 1976. (See 42 FR 57577, November 3, 1977, for summary.) Single copies of the report may now be obtained without charge by writing to the Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594. Multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

RESPONSES TO SAFETY RECOMMENDATIONS

Aviation: A-77-56 through 58.—Letter of November 4 from the Federal Aviation Administration concerns recommendations seeking improved supplemental oxygen masks for general aviation aircraft. (See 42 FR 46425, September 15, 1977.)

In response to A-77-56, FAA has conducted a Quality Assurance Systems Analysis Review during the week of October 3 and will further comment when evaluation is complete, within 30 days. Regarding A-77-57, FAA has issued a Telert Maintenance Bulletin to alert all operators of aircraft equipped with Scott Aviation "Sky Masks" to check visually the security of the dilution valve filter before each use of the mask until the mask is modified. Regarding A-77-58, FAA has begun a project with SAE Committee A-10, Aircraft Oxygen Equipment, to prepare a standard to be referenced in a new Technical Standard Order for nontransport category oxygen masks. FAA expects the SAE standard to be completed by January 1, 1978, and will initiate a regulatory project when the SAE document is received.

Aviation: A-77-59 and 60.—FAA's November 2 letter indicates concurrence in these recommendations, issued after the crash of a Dassault Falcon Fan Jet, November 12, 1976, at Naples, Fla., revealed the need for improved emergency procedures in evacuating aircraft. (See 42 FR 47900, September 22, 1977.) FAA expects to publish within the next 30 days operations and maintenance bulletins related to the procedures prescribed in the recommendations.

Highway: H-75-30.—The United States Marshals Service, Department of Justice, in response to the Safety Board's October 27, 1977, inquiry provides current information regarding the 13 guidelines proposed to enhance the safety of persons being transported under confinement. These guidelines were set out in the Marshals Services' initial response of September 1, 1976 (41 FR 39845, September 16, 1976), in answer to the recommendation resulting from investigation of the collision of a multi-purpose vehicle and a produce truck near El Centro, Calif., March 8, 1974.

The Marshals Service's recent letter reports that these guidelines (with the exception of No. 7, use of passenger restraints), are being tested currently within the Service and will be adopted upon completion, in accordance with the Service's requirements; at that time the guidelines will be transmitted to other Federal, State, and local agencies concerned, with appropriate recommendations.

Highway: H-76-7.—National Highway Traffic Safety Administration letter of October 31 is in further response to the Safety Board's request for Federal Motor Vehicle Safety Standards to insure that intercity bus wheelwell components can withstand fires and resist penetration by objects propelled by wheel rotation.

After examining responses to inquiries sent to the three largest manufacturers of intercity buses, NHTSA reiterates the position taken in its initial response of April 20, 1976 (41 FR 18731, May 6, 1976), namely, that rulemaking is not warranted at this time. A summary of the manufacturers' comments is attached to NHTSA's October 31 letter. The responses indicated that the manufacturers are aware of the isolated wheelwell penetration problems and all offered upgraded wheelwell covers because of recent requests from various customers. These "upgraded" covers offer improved penetration and fire resistance characteristics, and may be specified by the various transit authorities. NHTSA believes that the possible liability consequences of ignoring the availability of improved wheelwell material, now that the problem has been publicly reviewed, should encourage purchasers of buses to specify the improved wheelwell material.

Highway: H-77-17 through 19.—Response dated November 4 from the Department of California Highway Patrol relates to recommendations issued following the investigation of the charter party bus accident which occurred in Martinez, Calif., May 21, 1976. (See 42 FR 55957, October 20, 1977.)

With respect to H-77-17, all California Highway Patrol Field Division Commanders are being notified to make available the last known rating of each motor carrier within their Division upon request of a party of interest. As an interim measure, school and schoolbus user groups will be made aware that bus terminal ratings are available from the Department upon request if a carrier with whom they wish to contract will not provide them with the information.

In response to H-77-18, the Department reports that at the time of the Martinez accident, its motor carrier enforcement policy was in revision to establish procedure for notifying carriers in writing promptly following their first "C" rating. This procedure has been adopted as Departmental policy and has been published in HPM 84.1, Motor Carrier Safety Operations. Policy with respect to schoolbuses and school pupil activity buses requires that warning letters be sent to the carrier and to district superintendents upon any terminal receiving their first "C" rating. The Department reports in addition that, when the second consecutive "C" rating is given a carrier, a second letter is sent and a personal meeting is arranged between the local Area Commander, Division motor carrier personnel, top management of the school district, or the charter party carrier, to inform them of the seriousness of the offenses and that unless corrections are made, criminal prosecution may result.

In response to H-77-19, the Department reports that after meeting with the staff of the Division of Drivers' Licenses, Department of Motor Vehicles, amendments to employer certification program authority under California Vehicle Code Section 12804(d) are being considered and will be coordinated with the Department of Motor Vehicles if agreed upon. It is said that this legislative proposal may help solve this type of problem with respect to heavy-duty commercial vehicles other than schoolbuses.

The Department also notes that as a result of California State Senate Bill 2199 of 1976, more stringent licensing and testing requirement have been imposed on charter party carriers who contract to transport school pupils on school pupil activity trips. This legislation now requires these drivers to undergo basically the same training and meet the same driver testing requirements as regular schoolbus drivers.

Intermodal: I-77-1.—Federal Highway Administration on November 10 furnished the Safety Board with an interim response to this recommendation, issued last April 25. The recommendation asked FHWA to develop guidelines for local and State agencies to use in designating and periodically reviewing routes for the transportation of hazardous materials as a means of reducing injury and damage from accidents involving hazardous materials in their jurisdictions. (See 42 FR 22963, May 5, 1977.)

FHWA notes that the Federal Motor Carrier Safety Regulations (49 CFR 397.9), already require that motor carriers transporting hazardous materials avoid routes which go through or near heavily populated areas, places where crowds are assembled, tunnels, narrow streets, or alleys, unless no practical alternative exists. Also, some States and local authorities have now designated specific routes in their jurisdictions. FHWA supplied with its letter a copy of a publication, "A Summary of Highway Facilities Where Hazardous Materials are Restricted," which identifies such routes. FHWA is reviewing the rationale used by the States and local jurisdictions in making these designations and will consider the applicability of this designation on a more extensive scale.

FHWA notes that the matter of specific route designation is complicated by an administrative proceeding involving the City of New York. Under the preemption provisions of the Hazardous Materials Transportation Act of 1974 (Pub. L. 93-633), an application for an inconsistency ruling has been filed with FHWA by a shipper, Associated Universities, Inc., regarding the New York City health code, which restricts the transportation of radioactive materials in and through New York City. The Materials Transportation Bureau, U.S. Department of Transportation, will conduct a public hearing on this matter. FHWA states that the outcome of this administrative proceeding and the probable court action to follow will certainly influence any action to be taken regarding route designation.

Marine: M-75-12.—U.S. Coast Guard's letter of November 7 reports on further efforts to increase the scope of its public information program regarding requirements for a Coast Guard Certificate of Inspection for boats carrying more than six passengers, as recommended.

Since its last response, January 12, 1976 (41 FR 4366, January 29, 1976), Coast Guard has published a pamphlet, CG-491, designed to alert the general public to Coast Guard inspection and licensing requirements on small passenger vessels. This pamphlet will be given an initial distribution of 500,000 to district offices, marine inspection/marine safety offices and other field units in proportion to the number of small passenger vessels operating in their zone. A copy of Commandant Notice 16732 concerning distribution of pamphlet CG-491 is attached to Coast Guard's letter.

Recommendation M-75-12 followed investigation of the foundering of the Motor Vessel COMET off Point Judith, Rhode Island, May 19, 1973. Also with reference to this recommendation, the Safety Board on November 22 forwarded comments on Coast Guard's proposed rulemaking, CGD 76-162 covering expiration date stickers, published August 29, 1977, at 42 FR 43413. The Safety Board supports Coast Guard's proposal, noting that the requirement for these stickers should allow the Coast Guard to carry out a more effective boarding program and should facilitate increased enforcement of Coast Guard regulations.

The Safety Board is concerned that Coast Guard has at least partially misinterpreted Board analysis of facts and the recommendations made in its report on the COMET accident. In that report the Board concluded that it was desirable for passengers of vessels such as the COMET to be aware of Coast Guard regulations, but emphasized doubt as to the effectiveness of any public education program in reaching the typical party fishing boat passenger. For this reason, the Board recommended (M-75-12), that the Coast Guard "determine the effectiveness of its public information program * * *." The Board did not recommend, as discussed in CGD 76-162, "that the boating public be made more aware of the existing laws and regulations covering small passenger vessels."

The Safety Board supports the development and implementation of the Marine Safety Information System, currently one of Coast Guard's research and development projects—a system which will significantly increase Coast Guard's ability to carry out its inspection and enforcement program and will complement the expiration date sticker effort.

Marine: M-76-13.—Coast Guard on November 11 responded to the Safety Board's inquiry of October 27 (42 FR 57579, November 3, 1977), requesting further information concerning Coast Guard action on this recommendation, isssued as a result of the investigation into the sinking of the *SS SILVER DOVE* in the North Pacific Ocean on April 2, 1973.

Coast Guard states that upon completion of the special inspection of certificated U.S. seagoing break-bulk vessels constructed before 1965, a copy of any results, findings, and/or conclusions developed will be forwarded to the Safety Board. Coast Guard expects this information to be developed prior to September 1, 1979.

Pipeline: P-77-21 through 23.—Letter of November 7 from Alyeska Pipeline Service Co., is in response to the Safety Board's October 20 request (42 FR 56654, October 27, 1977), for Alyeska's actions taken in accordance with these recommendations.

Alyeska reports that no operational problems have been encountered and

none are anticipated with the change in logic that has pump valves closed when the pump is shutdown. Alyeska also reports that the closed circuit video system has been installed and is functional at two pump stations; the line-wide system is expected to be completed by December 25, 1977. The cameras which are currently operational are operating quite satisfactorily and provide exceptionally good visual information on activities occurring in areas monitored; at this time no problems are anticipated.

NOTE: The above summarizes Safety Board documents made available, and recommendation response letters received, during the preceding week.

Copies of the full text of response letters may be obtained at a cost of $4.00 for service and 10¢ per page for reproduction. All requests must be in writing, identified by the recommendation number and the date of publication of this notice in the FEDERAL REGISTER. Address requests to: Public Inquiries Section, National Transportation Safety Board, Washington, D.C. 20594.

(Secs. 304(a)(2) and 307 of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2169, 2172 (49 U.S.C. 1903, 1906)).)

MARGARET L. FISHER,
Federal Register Liaison Officer.

NOVEMBER 28, 1977.

[FR Doc. 77-34464 Filed 11-30-77; 8:45 am]

[3110-01]

OFFICE OF MANAGEMENT AND BUDGET

CLEARANCE OF REPORTS

List of Requests

The following is a list of requests for clearance of reports intended for use in collecting information from the public received by the Office of Management and Budget on November 22, 1977 (44 U.S.C. 3509). The purpose of publishing this list in the FEDERAL REGISTER is to inform the public.

The list includes the title of each request received; the name of the agency sponsoring the proposed collection of information; the agency form number(s), if applicable; the frequency with which the information is proposed to be collected; the name of the reviewer or reviewing division within OMB, and an indication of who will be the respondents to the proposed collection.

Requests for extension which appear to raise no significant issues are to be approved after brief notice through this release.

Further information about the items on this daily list may be obtained from the Clearance Office, Office of Management and Budget, Washington, D.C. 20503, 202-395-4529, or from the reviewer listed.

NEW FORMS

DEPARTMENT OF ENERGY

Natural Gas Curtailments and Alternative Fuels Needs Update Telephone Survey, EIA-21, on occasion, natural gas distributors, C. Louis Kincannon, Office of Federal Statistical Policy and Standard, 395-3211.

Weekly Telephone Questionnaire for Coal-Burning Electric Utilities, EIA-20, weekly, coal burning electric utilities, C. Louis Kincannon, Office of Federal Statistical Policy and Standard, 395-3211.

TENNESSEE VALLEY AUTHORITY

TVA Larval Fish Information Questionnaire, single time, larval fish researchers Ellett, C. A., 395-6132.

VETERANS ADMINISTRATION

Evaluation of National Cemetery System, single time, next of kin of deceased veterans, Housing, Veterans and Labor Division, Caywood, D. P., 395-3532.

NATIONAL SCIENCE FOUNDATION

National Use and Future Preference for the Auto and Alternative Modes, single time, households in both urban and rural counties, Strasser, A., 395-6132.

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration:

LEEP Assessment Instrument, LEAA-5260/1, single time, 2-year colleges participating in LEEP, Laverne V. Collins, 395-3214.

Survey of Inmates of Local Jails, single time, selected inmates of local jails, jailers, Laverne V. Collins, Office of Federal Statistical Policy and Standard, 395-3214.

1978 National Jail Census, CJ-42, single time, county and city jails, Laverne V. Collins, Office of Federal Statistical Policy and Standard, 395-3214.

REVISIONS

NATIONAL SCIENCE FOUNDATION

1976 National Survey of Scientists and Engineers, PMS-26 A, B, C, PMS-27 A, B, C, single time, scientists, engineers, and other highly trained persons, Strasser, A., 395-6132.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service, Federal Review of State Agencies' QC System, Annually, food stamp participants and applicants, State agencies, Human Resources Division, Ellett, C. A., 395-3532.

Social Security Administration, Statement of Employer—Statement of Agricultural Employer, SSA 1001, SSA 1001PR, SSA 1002, SSA 1002PR, on occasion, agricultural employers, Caywood, D. P., 395-3443.

Rural Electrification Administration, Monthly Operating Reports and Annual Supplement, REA electric borrowers, REA12A, REA 12B, annually, REA electric power supply borrowefs, Ellett, C. A., 395-6132.

DEPARTMENT OF LABOR

Employment and Training Administration, Longitudinal Manpower Survey Questionnaires, LMS-1, LMS-2, LMS-3, LMS-9, LMS-20, LMS-21, on occasion, participants in ETA CETA programs, Strasser, A., 395-6132.

EXTENSIONS

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service:

Food Stamp Quality Control—Household Data Sheet, FNS-245, monthly, food stamp participants and applicants, State agencies, Human Resources Division, Ellett, C. A., 395-3532.

QC Statistical Sampling and Reporting of Review Findings (food stamp), FNS-247-1, 2, 3 FNS-248, semi-annually, government agencies, Human Resources Division, Ellett, C. A., 395-3532.

Animal and Plant Health Inspection Service, Application for Veterinary Accreditation, VS1-36A, on occasion, veterinary practitioners, Ellett, C. A., 395-6132.

DEPARTMENT OF THE INTERIOR

Bureau of Land Management:

Desert Land Entry Final Proof Testimony of Claimant, 2520-4, on occasion, desert land entrants, Ellett, C. A., 395-6132.

Notice of Intention To Make Proof (requirements prior to issuance of land patent), 1823-1, on occasion, desert land entrants, Ellett, C. A., 395-6132.

PHILLIP D. LARSEN,
Budget and Management Officer.

[FR Doc. 77-34610 Filed 11-30-77; 8:45 am]

[7905-01]

RAILROAD RETIREMENT BOARD

RAILROAD RETIREMENT SUPPLEMENTAL ANNUITY PROGRAM

Determination of Quarterly Rate of Excise Tax

In accordance with directions in section 3221(c) of the Railroad Retirement Tax Act (26 U.S.C. § 3221(c)), the Railroad Retirement Board has determined that the excise tax imposed by such section 3221(c) on every employer, with respect to having individuals in his employ, for each man-hour for which compensation is paid by such employer for services rendered to him during the quarter beginning January 1, 1978, shall be at the rate of twelve cents.

In accordance with directions in section 15(a) of the Railroad Retirement Act of 1974, the Railroad Retirement Board has determined that for the quarter beginning January 1, 1978, 15.6 percent of the taxes collected under sections 3211(b) and 3221(c) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Account and 84.4 percent of the taxes collected under such sections 3211(b) and 3221(c) plus one hundred percent of the taxes collected under section 3221(d) of the Railroad Retirement Tax Act shall be credited to the Railroad Retirement Supplemental Account.

By authority of the Board.

Dated: November 25, 1977.

R. F. BUTLER,
Secretary of the Board.

[FR Doc. 77-34367 Filed 11-30-77; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[Release No. 14205; SR-Amex-77-21]

AMERICAN STOCK EXCHANGE, INC.

Order Approving Proposed Rule Change

NOVEMBER 23, 1977.

On September 8, 1977, the American Stock Exchange, Inc. ("Amex"), 86 Trinity Place, New York, N.Y. 10006, filed with the Commission, pursuant to Section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change. The proposed rule change amends Article V, Section 6 of the Exchange Constitution to expand the Amex's retention of disciplinary jurisdiction over former members. On November 21, 1977, the Amex filed Amendment No. 1 to SR-Amex-77-21, by which it notified the Commission that its membership had approved the proposed amendment at a Special meeting of regular members held on November 17, 1977 and thereby completed all action necessary on its part with respect to this proposal.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission Release (Securities Exchange Act Release No. 13960 (September 15, 1977)), and by publication in the FEDERAL REGISTER (42 FR 47599 (September 21, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges and in particular, the requirements of Section 6, and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on September 8, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34407 Filed 11-30-77; 8:45 am]

[1] Through inadvertence, the Commission issued an order (Securities Exchange Act Release No. 14112, October 28, 1977) which purported to approve SR-Amex-77-21. Since final action on the proposal had not yet been taken at that time, the Commission's order was of no effect.

[8010-01]

[Rel. No. 20271; 70-5769]

CENTRAL POWER AND LIGHT CO.

Request for Extension of Authorization to Conduct Fuel Exploration and Development Programs

NOVEMBER 23, 1977.

Notice is hereby given that Central Power and Light Co., ("CP&L"), P.O. Box 2121, Corpus Christi, Texas 78403, an electric utility subsidiary of Central and South West Corp. ("CSW"), a registered holding company, has filed a post-effective amendment to the application previously filed with this Commission pursuant to the Public utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, as amended by said post-effective amendment, which is summarized below, for a complete statement of the proposed transaction.

CP&L was authorized in previous orders to acquire interests relating to fuel exploration and development activities through December 31, 1977 (HCAR Nos. 19503, 20036). CP&L states that it seeks to extend that authorization through December 31, 1978 and that it has budgeted $8,192,000 from January 1, 1978 through December 31, 1978 for such fuel exploration and development activities. Approximately $3,036,000 of this amount represents expenditures for gas and oil ventures to be conducted in South Texas and $5,156,000 represents expenditures for coal, lignite and uranium reserves, all of which will be conducted in joint ventures with others CSW System operating utility subsidiaries.

CP&L states that its oil and gas activities through June 30, 1977 have been restricted to its South Texas service area and that through June 30, 1977 it had acquired 15,613 net leasehold acres containing estimated proven reserves of 5,524,000 Mcf of gas and 169,007 Bbls of oil. Expenditures for that period totalled approximately $5,841,061, of which $3,765,173 were expended in connection with the "Haas-McNeil-Wilson venture", an Exploration Agreement entered into in 1975. CP&L states that approximately $3,000,000 of the 1978 budget is for this program.

CP&L states that through 1977 it will have spent approximately $2,200,000 to acquire lignite leasehold interests in four prospects in East Texas, all of which are being acquired through joint ventures with the other CSW operating companies. A total of 79,617 net acres had been leased in these prospects through June 30, 1977, in which CP&L had a 30% undivided interest as tenant in common. Most of these expenditures and acquisitions were in ventures in Harrison, Walker and Grimes Counties, Tex. and these are also expected to see the most activity in 1978. CP&L states that the lignite acquisitions are to provide fuel for a series of projected generating plants to be owned jointly by the four CSW operating companies, scheduled for the period from 1985 to 1995. CP&L states that it has not conducted any coal or uranium exploration and development to date.

CP&L states that the types of activities for which authorization is sought in 1978 include acquisition of leasehold interests and surface titles, disposition of interests not deemed attractive or appropriate to CP&L's needs, geological evaluation and testing, drilling of exploratory and development wells, operation of wells, acquisition and operation of gathering facilities in connection with gas and oil wells in which CP&L has a participation, arrangement for necessary treatment or processing and incidental sales of products or by-products where no use can feasibly be made of them by CP&L. Activities may be entered into through joint ventures, partnerships or other common enterprises, and may involve farm-ins, farm-outs, bottomhole or dry-hole contributions and other transactions of the sort customarily engaged in during acquisition, exploration and development of leasehold properties. CP&L further states that it does not expect to initiate significant new fuel exploration and development ventures, though it does plan to continue its present programs so long as they remain promising as a supplemental source of fuel for existing generating units.

It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction. It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $500.

Notice is further given that any interested person may, not later than December 19, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be

filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other actions as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34408 Filed 11-30-77; 8:45 am]

[8010-01]

[Rel. No. 20264; 70-6089]

CENTRAL AND SOUTH WEST CORP. ET AL.

Proposed Capital Contributions From Holding Company to Each of Two Subsidiaries

NOVEMBER 22, 1977.

Notice is hereby given that Central and South West Corp. ("CSW"), P.O. Box 1631, Wilmington, Del. 19899, a registered holding company and two of its subsidiary electric utility operating companies, Central Power and Light Co. ("CP&L"), P.O. Box 2121, Corpus Christi, Tex. 78403, and Southwestern Electric Power Co. ("SWEPCO"), P.O. Box 21106, Shreveport, La. 71156, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act") designating sections 6(a), 7, 9, 10, and 12(b) of the Act and rules 43 and 45 promulgated thereunder as applicable to the following proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

CSW proposes to make capital contributions to two of its wholly owned subsidiaries, CP&L and SWEPCO, in the following amounts:

CP&L	$10,000,000
SWEPCO	15,000,000
	25,000,000

It is stated that the full amount of the capital contribution to each subsidiary will be added to each subsidiary's common stock stated capital account and will be used together with other funds toward its 1978 construction and fuel exploration and development expenditures. The estimated amounts of such expenditures are as follows:

	CP&L	SWEPCO
Generation	$214,321,000	$68,336,000
Transmission	44,536,000	11,529,900
Distribution and other plant.	22,882,000	22,170,000
Fuel exploration and development.	8,192,000	7,593,000
Total	289,931,000	109,628,900

It is stated that the funds generated from the capital contributions will be utilized to pay the cost of facilities which would be needed to provide service to the customers of the company involved even if such company were not part of the CSW System. It is stated that no expenditures will be made by CP&L or SWEPCO for the construction or acquisition of any facility not so necessary prior to the time that all funds covered by this application-declaration have been expended.

CSW states that it proposes to finance the capital contributions through the issuance and sale of its commercial paper in the aggregate principal amount of $25,000,000, in the manner described in HCAR No. 19829.

It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $2,550 including $500 in legal fees. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction with respect to the proposed transaction.

Notice is further given that any interested person may, not later than December 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be address: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34409 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 34-14193; File No. SR-CBOE-1977-23]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Self-regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 10, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

On October 27, 1977, the Board of Directors of the Chicago Board Options Exchange, Incorporated ("CBOE") adopted the following resolution in accordance with the provisions of CBOE Rule 4.16:

The Board of Directors of the Chicago Board Options Exchange, Inc. ("CBOE"), having been advised that American Telephone & Telegraph Co. ("AT & T") proposed to offer 12,000,000 shares of AT & T common stock on or about November 16, 1977, and that the underwriters (the "underwriters") for such distribution may effect stabilizing transactions in AT & T common stock, deems it advisable in the interest of maintaining a fair and orderly market in AT & T common stock and otherwise deems it advisable in the public interest and for the protection of investors to prohibit opening writing transactions in any CBOE option contract for AT & T common stock at a premium which is, at the time of the transaction, less than the amount by which the price at which a stabilization bid or purchase of AT & T common stock is effected exceeds the exercise price of such option contract. Such prohibition shall only become effective at the time the underwriters shall have advised CBOE that they have placed or transmitted, on a "minus" or a "zero minus" tick, a stabilizing bid for or effected a stabilizing transaction in AT & T common stock on a national securities exchange (but no earlier than 15 minutes after it has been announced on the floor of the CBOE) and shall terminate upon the termination of stabilizing transactions by the underwriters; provided that such prohibition shall not be effective unless and until the underwriters shall have given to CBOE written notice of the date on which they propose to commence distribution and their written undertaking to advise CBOE immediately upon termination of their stabilizing transactions. Such prohibition shall not apply to (1) any opening writing transaction that is and remains covered in the account on a share-for-share basis by a long position

in AT & T common stock or in a security (including an option contract) that is immediately exchangeable or convertible without restriction, other than the payment of money, into AT & T common stock; or (2) any transaction entered into by a Market-Maker in the course of contribution to the maintenance of a fair and orderly market.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE, COMMENTS RECEIVED, AND BURDENS ON COMPETITION

The purpose of the board of Directors' action is to maintain a fair and orderly market in the securities underlying AT & T option contracts and to protect the public interest.

T he Board of Directors' action is based upon the provision of section 6(b)(5) of the Act which requires that CBOE's rules "protect investors and the public interest."

CBOE does not intend to solicit comments on the proposed rule change.

CBOE does not believe there will be any burder upon competition as a result of the proposed rule change.

The foregoing rule change has become effective, pursuant to section 19(b)(3) of the Securities Exchange Act of 1934, and rule 19b-4 thereunder. At any time within sixty days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submission will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before January 3, 1978.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 21, 1977.

[FR Doc. 77-34420 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 14197; SR-CBOE-77-26]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Filing of proposed Rule Change and Order Approving Proposed Rule Change

NOVEMBER 22, 1977.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1) (the "Act"), as amended by Pub. L. No. 94-29, Section 16 (June 4, 1975) notice is hereby given that on November 17, 1977, the Chicago Board Options Exchange, Inc. ("CBOE"), La Salle at Jackson Chicago, Ill. 60604, filed with the Commission copies of a proposed rule change which would amend CBOE rule 8.9 to provide additional regulatory standards and controls with respect to joint accounts. Among other things, the CBOE proposal would (1) require submission of a written application and payment of a $250 fee to create a joint account; (2) limit to two the number of participants in a single joint account; and (3) clarify the responsibilities of joint account participants in respect of CBOE rules 4.7, 4.11, 4.12, 4.14, 8.3, 8.7, and 8.8.

Publication of notice of the proposed rule change is expected to be made in the FEDERAL REGISTER during the week of November 21, 1977. Interested persons are invited to submit written data, views and arguments concerning the proposed rule change. Persons desiring to make written submissions should file six copies thereof with the Secretary of Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file No. SR-CBOE-77-26.

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to registered national securities exchanges, and in particular, the requirements of section 6(b)(5). Section 6(b)(5) requires, in pertinent part, that the rules of such an exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, and generally to protect investors and the public interest.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of notice of filing thereof because implementation of the CBOE proposal is necessary immediately to clarify the obligations of joint account participants under existing CBOE rules and thereby to assure compliance with those provisions. Further, the Commission views the instant proposal as a constructive response to its previously expressed concern, generally, regarding surveillance of joint accounts of the various option exchanges.[1]

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change referenced above be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34410 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 14198; SR-CBOE-77-11]

CHICAGO BOARD OPTIONS EXCHANGE, INC.

Order Approving Proposed Rule Change

On June 17, 1977, the Chicago Board Options Exchange, Inc. ("CBOE"), LaSalle at Jackson, Chicago, Ill. 60604, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and rule 19b-4 thereunder, copies of a proposed rule change relating to opening rotation procedures; the Floor Officials Committee; "all or none," "spread," "immediate or cancel" and "opening rotation" orders; priority rules; and the Floor Procedure Committee.

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 13663, (June 23, 1977)) and by publication in the FEDERAL REGISTER (42 FR 33400 (June 30, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the above-mentioned proposed rule change be, and it hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34411 Filed 11-30-77; 8:45 am]

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[1] *See,* Securities Exchange Act Release No. 14056 (Oct. 17, 1977), 24; 42 FR 56706 (Oct. 27, 1977), 56709. The Commission is presently reviewing all the exchange pilot programs for the listing of standardized options, and it may be necessary, based upon the information obtained in connection with this review, to provide for further regulation and surveillance measures with respect to joint accounts.

[8010-01]

[Rel. No. 20263; 70-6093]

FALL RIVER ELECTRIC LIGHT CO. AND MONTAUP ELECTRIC CO.

Proposed Issuance of Short-Term Notes to Banks

NOVEMBER 22, 1977.

Notice is hereby given that Fall River Electric Light Co. ("Fall River"), 10 North Main Street, Fall River, Mass. 02722, and Montaup Electric Co. ("Montaup"), P.O. Box 391, Fall River, Mass. 02722, both electric utility subsidiary companies of Eastern Utilities Associates, a registered holding company, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 6(a)(1), 7, and 12(c) of the Act and rules 42(b)(2) and 50(a)(2) promulgated thereunder as applicable to the proposed transactions. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transactions.

Fall River and Montaup propose to make borrowings from banks in the following maximum amounts to be outstanding at any one time during the period December 27, 1977, to December 26, 1978: Fall River, $5,850,000; Montaup, $21,600,000.

The borrowings are to be evidenced by promissory notes dated the respective dates of issue, maturing April 3, 1978, for all notes issued on or after December 27, 1977, and prior to April 3, 1978; July 3, 1978, for all notes issued on or after April 3, 1978, and prior to July 3, 1978; October 2, 1978, for all notes issued on or after July 3, 1978, and prior to October 2, 1978; and December 26, 1978, for all notes issued on or after October 2, 1978, and prior to December 26, 1978. With respect to such notes to banks for which compensating balances of 20 percent are required, the notes will bear interest at not in excess of the prime or base in effect on the date of issuance or from time to time. With respect to such notes to banks for which no compensating balances are required, the notes will bear interest at not in excess of an effective rate derived from the prime or base rate in effect on the date of issuance, or from time to time, together with an assumed compensating balance of 20 percent. All notes will provide for prepayment in whole or in part without penalty. Assuming a required compensating balance af 20 percent and a prime or base rate of 7½ percent, the effective interest rate on such borrowings would be 9.375 percent. This same effective rate of 9.375 percent would also be applicable in the case of notes for which no compensating balance is required as long as the prime or base rate is 7½ percent.

Proceeds of the borrowings will be used for construction expenditures, for meeting compensating balance requirements of lending banks, and to pay short-term debt at or prior to maturity during the period December 27, 1977, through December 26, 1978. Fall river and Mantaup expect to have short-term loans outstanding on December 27, 1977, of $4,250,000 and $19,630,000, respectively. Construction expenditures for Fall River and Montaup during the same period are estimated at $2,426,000 and $13,535,000, respectively. It is stated that the proposed issuance of the notes is exempted from the competitive bidding requirements of rule 50 pursuant to rule 50(a)(2).

The fees and expenses to be incurred in connection with the proposed transactions will be supplied by amendment. It is stated that no State commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transactions.

Notice is further given that any interested person may, not later than December 15, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34412 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 20270; 70-6051]

MIDDLE SOUTH UTILITIES, INC., AND MIDDLE SOUTH ENERGY, INC.

Proposed Issuance and Sale of Common Stock by a Subsidiary to Its Parent Holding Company

NOVEMBER 23, 1977.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), 225 Baronne Street, New Orleans, La. 70112, a registered holding comany, and a wholly owned subsidiary, Middle South Energy, Inc. ("MSEI"), 225 Baronne Street, New Orleans, La. 70112, have filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10 and 12(f) of the Act and rule 43 promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized below, for a complete statement of the proposed transaction.

MSEI proposed to issue and sell to Middle South, from time to time through December 31, 1978, up to 75,000 shares of its authorized but unissued no-par common stock at a price of $1,000 per share for an aggregate cash purchase price of $75,000,000. MSEI will use the proceeds of such sales to finance construction of the Grand Gulf Nuclear Electric Station project ("Grand Gulf Project"), a two-unit nuclear fired electric generating facility presently under construction near Vicksburg, Miss. The sales of common stock will be timed to conincide with MSEI's cash needs, which are primarily determined by the nature and pace of construction work on the Grand Gulf Project. It is stated that each sale will be reported to the Commission by a certificate filed pursuant to rule 24.

As of August 31, 1977, MSEI had issued 183,500 shares of its common stock to Middle South for an aggregate cash consideration of $183,500,000. MSEI has also received Commission authorization, by orders dated December 30, 1976, and October 12, 1977 (HCAR Nos. 19836 and 20209), to issue and sell an additional 45,000 shares of its common stock to Middle South through December 31, 1977.

To the extent that funds are required from external sources to acquire the common stock Middle South will obtain such funds through the issuance and sale of its unsecured short-term promissory notes issued under a revolving credit agreement dated as of June 30, 1977, as authorized by the Commission's order dated June 15, 1977 (HCAR No. 20074).

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $7,000, includ-

ing legal fees of $5,000. It is stated that no state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 19, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated auhority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34413 Filed 11-30-77; 8:45 am]

[8010-01]

[Rel. No. 20267; 70-6079]

NEW ENGLAND POWER SERVICE CO.

Proposed Agreement Concerning Development and Licensing of Communicafions System Technology

NOVEMBER 22, 1977.

Notice is hereby given that New England Power Service Co. ("NEPSCO"), 20 Turnpike Road, Westborough, Mass. 01581, a subsidiary service company of New England Electric System, a registered holding company, has filed an application and an amendment thereto with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application, which is summarized below, for a complete statement of the proposed transaction.

NEPSCO owns all rights and interests in certain technology ("Technology") constituting a system for two way communication over electric power lines. The Technology is evidenced by patent applications, know-how and various other documentation and data, including an eight unit demonstration project on distribution lines owned by NEPSCO's associate companies, Massachusetts Electric Co. and Granite State Electric Co. The Technology originated with and grew out of a research and development project conducted for NEPSCO by Arthur D. Little, Inc. ("ADL"), which project was directed toward developing improved load management techniques. The project was carried out under a series of contracts between ADL and NEPSCO, each of which provided that any inventions resulting from the work would become the property of NEPSCO. Under the latest such contract, dated September 23, 1974, ADL agreed to absorb certain of the costs involved in the research and development work, and to conduct a search on behalf of NEPSCO for an apropriate third party interested in carrying the project forward to development on a commercial basis. NEPSCO agreed that in addition to the payments included in the contract for research and development work, it would pay to ADL 20 percent of any consideration which it should receive as payments from a third party, previously contacted for that purpose by ADL, for rights to make, use or sell products embodying the Technology. ADL contacted approximately 25 companies, following which NEPSCO disclosed the Technology to approximately 15 companies under confidential disclosure agreements. These efforts resulted in negotiations with three major manufacturers of electronic equipment, and ultimately in the execution of an agreement ("Agreement") dated September 1, 1977, with Emerson Electric Co. ("Emerson"), a diversified electrical equipment manufacturer with principal offices in St. Louis, Mo. The agreement is subject to the approval of this Commission.

The agreement provides, inter alia, that at Emerson's election, NEPSCO will grant Emerson a worldwide, exclusive license to make, use and sell equipment embodying the Technology. Emerson's right to elect to receive such license is exercisable within a period of 6 months following installation on lines of associated companies of NEPSCO of a "second generation" demonstration of equipment embodying the Technology. Such a demonstration will include 150 units to be designed and manufactured by Emerson on the basis of additional research, testing and engineering to be performed by Emerson, all at Emerson's expense. Installation of the demonstration is to be completed no later than 36 months from September 1, 1977, although it is anticipated that it will be completed at a considerably earlier date. NEPSCO is to make available certain personnel and facilities in connection with the development work, and to budget research and development funds for that purpose.

In the event that Emerson elects to take a license, Emerson will, at its expense, carry the project forward through the design, manufacture and marketing on a commercial basis of products embodying the Technology. The agreement calls for payment by Emerson of $100,000 upon the execution of a license agreement, and a further $100,000 on the first anniversary date of the execution of such agreement, said payments to represent advances against royalties to be earned under the license agreement in excess of annual minimum royalties of $200,000 payable on the second anniversary of the license agreement and $300,000 on each succeeding anniversary. These minimum royalties are subject to reduction under certain circumstances. Earned royalties are payable to NEPSCO on sales of royalty products as follows: 3 percent on sales in any year of up to $10,000,000; 2½ percent on sales in any year from $10,000,000 to $40,000,000; and 1½ percent on sales in any year above $40,000.000. Such sales do not include sales to NEPSCO or any of its associate companies, which are expressly non-royalty bearing. The agreement also provides that in consideration of various undertakings by NEPSCO, including an undertaking for the placement of an initial order for equipment in an amount of at least $100,000, the price to be charged by Emerson to NEPSCO or any associate company of NEPSCO for products embodying the Technology shall be 10 percent less than the f.o.b. factory price quoted by Emerson for comparable quantities of equipment on orders placed by others within 12 months of the purchase order of NEPSCO or its associate company.

It is stated that NEPSCO's costs to date relating to the Technology total approximately $1,200,000. These costs consist of payments to ADL for research and development, as well as related costs of NEPSCO for work performed in collaboration with ADL, including work related to the small demonstration project. These costs have, in turn, been reimbursed to NEPSCO by its associate companies on an allocated basis as expense for research and development. Since the research and development work connected with the Technology, as well as the Technology itself, largely relates to the distribution function, the costs were allocated principally to the retail operating companies of the NEES system.

Allocation of the $1,200,000 of costs was as follows: Massachusetts Electric Co., $797,000 (64 percent); The Narragansett Electric Co., $274,000 (22 percent); Granite State Electric Co., $26,000 (2 percent); and New England Power Co., $149,000 (12 percent).

To the extent that NEPSCO should receive payments under the agreement, it is proposed that disposition of the proceeds of such payments be made on a basis which takes into consideration the prior allocation of costs related to the project among NEPSCO's associate companies. It is stated that NEPSCO consents to a reservation of jurisdiction by this Commission with respect to the disposition of such proceeds as may be received by NEPSCO.

The fees and expenses to be incurred in connection with the proposed transaction are estimated at $21,480, including counsel fees of $9,200 and incidental services performed at actual cost by NEPSCO of $10,000. It is stated that no state commission and no Federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than December 16, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issue of fact or law raised by said application, as amended, which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application, as amended or as it may be further amended, may be granted as provided in rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is orderd will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34414 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 34-14194; File No. SR-NYSE-77-30]

NEW YORK STOCK EXCHANGE, INC.

Self-Regulatory Organizations; Proposed Rule Change

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on November 14, 1977, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

NEW YORK STOCK EXCHANGE, INC. ("NYSE") STATEMENT OF TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

(Brackets indicate deletions.)

[Rule 438. Members and member organizations may list their names in quotation sheets having a strictly professional clientele showing "bid wanted" or "offer wanted" with respect to inactive listed securities but may not publish actual prices of bids or offers and my not show both "bid wanted" and "offer wanted" with respect to the same security on the same day. This Rule does not apply to obligations of the United States, Puerto Rico, Philippine Islands and States, Territories and Municipalities therein, or to bonds or notes which, pursuant to call or otherwise, are to be redeemed within twelve months.]

NYSE'S STATEMENT OF BASIS AND PURPOSE

The proposed change would rescind the restrictions imposed on a member or member organization against publishing the actual prices of bids or offers for listed securities in any publication. This would enable members and member organizations to compete by all the means available in the third market and, thereby, create consistency with the Act by facilitating fair competition among brokers and dealers and between markets.

The proposed rescission of Rule 438 is consistent with Sections 6(b) and 11A of the Act as follows:

(1) The proposed rule change carries out the purposes of the Act by facilitating competition and assuring equal regulation of all brokers and dealers effecting transactions in listed securities.

(2) The rescission of the prohibition abainst advertising actual prices in quotation sheets facilitates transactions in securities and, thereby, removes impediments to and facilitates perfection of the mechanism of a free and open market and a national market system.

COMMENTS RECEIVED FROM MEMBERS, PARTICIPANTS OR OTHERS ON PROPOSED RULE CHANGE

NYSE states that no comments were solicited or received with respect to the proposed rule change.

NYSE asserts there will be no burden on competition.

On or before January 5, 1978, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule changes, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and all written submissions will be available for inspection in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before December 22, 1977.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

NOVEMBER 21, 1977.

[FR Doc. 77-34421 Filed 11-30-77; 8:45 am]

[8010-01]

[Rel. No. 14195; File No. 1-6884]

PACIFIC RESOURCES, INC.

Order Amending Effective Date of Withdrawal From Listing and Registration and Extending Exemption of Certain Persons and Securities From Provisions

NOVEMBER 21, 1977.

On June 22, 1977 we approved the application of Pacific Resources, Inc. ("PRI") to withdraw its securities from listing and registration on the Pacific Stock Exchange Inc. ("PSE").[1] We prescribed as a term of that delisting that it not become effective until the time of our determination with respect to the PSE's application for unlisted trading privileges in PRI common stock, but in no event later

[1] See Securities Exchange Act Rel. No. 13657 (June 22, 1977); 42 FR 33398 (June 30, 1977).

than 120 days after June 22, 1977.[3] On October 20, 1977 we amended the effective date of the delisting by extending it to November 21, 1977.[3]

We found that the initial delay in the effective date of the delisting and the extension until November 21, 1977, were necessary for two reasons. First, a temporary disruption in trading in PRI stock on the PSE would result in a lessening of potential competition among dealers and between exchange markets and markets other than exchange markets during any interim period after delisting, but before unlisted trading privileges are (if at all) granted. Second, we had initially noted that if the delisting were effective immediately, PRI stock would not be marginable for a period of several months until it was included on the Federal Reserve Board's "List of OTC Margin Stocks."[4]

Our ultimate determination on the PSE application for unlisted trading privileges in PRI stock involves the consideration of several major policy issues including, among others, whether sufficient progress has been made toward the development of a national market system to satisfy the standards of section 12(f)(2), whether the progress contemplated by Congress in adopting that section is met by PSE's rescission of its off-board trading rules as they apply to transactions in PRI common stock, whether that progress and the statutory goals of eliminating unnecessary burdens on competition are satisfied by existing communications facilities and provisions for access between the PSE and over-the-counter ("OTC") markets, and whether last sale reporting of all PRI stock transactions would be appropriate should unlisted trading privileges be granted.

We have not yet resolved these issues insofar as they arise with respect to our consideration of the PSE application for unlisted trading privileges and, accordingly, we have been unable to complete our deliberations concerning the hearing on that application. We believe, however, that the purposes of the Act, particularly those which encourage competition among dealers acting as market makers in a security and between markets in that security,[5] make it appropriate for us to permit the existing competition in PRI stock to continue during the interim period necessary for us to conclude our deliberations. Accordingly, for the reasons enunciated in the June 22 delisting order, and as stated above, we find it necessary to extend until January 23, 1978, the effective date of removal of PRI stock from listing and registration on the PSE.

PRI stock has been traded both on the PSE and OTC since issuance of our June 22 order.[6] At that time we also exempted, for a period of up to 120 days, the National Association of Securities Dealers, Inc. ("NASD") and all brokers and dealers from the reporting requirements of rule 17a-15 under the Securities Exchange Act of 1934 relating to last sale reports of OTC transactions in the common stock of PRI. The duration of that exemption was amended in our October 20 order to extend to November 21, 1977. The basis for that exemption is that until we make a determination on the PSE unlisted trading application there will be uncertainty as to whether real-time reporting in PRI stock will be required as a general matter (i.e., if the unlisted trading privileges application of the PSE is denied, PRI stock will be traded solely OTC and, therefore, will not be subject to current reporting under rule 17a-15). We continue to believe it is not necessary in the public interest or for the protection of investors to require members of the PSE (who may trade PRI stock in the OTC market) and other brokers and dealers to develop and implement reporting procedures for transactions in this single security during the time remaining before we make a determination as to the PSE's application. Accordingly, we have determined to, and hereby exempt, until January 23, 1978, the NASD and all brokers and dealers from the requirements of rule 17a-15 relating to last sale reports of OTC transactions in the common stock of PRI.[7]

Accordingly, it is hereby ordered, That our order of June 22, 1977 (as amended by our October 20, 1977 order), granting PRI's application to withdraw from listing and registration on the PSE be, and it hereby is, amended, as set forth herein.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34415 Filed 11-30-77; 8:45 am]

[3]The PSE filed an application, pursuant to section 12(f)(1)(C) of the Securities Exchange Act of 1934, for unlisted trading privileges in PRI stock on March 25, 1977, in response to PRI's application to withdraw that security from listing and registration on the PSE (filed March 23, 1977). Concurrently with our order withdrawing PRI stock from listing, we ordered a hearing on the PSE application. See, Securities Exchange Act Rel. No. 13658 (June 22, 1977); 42 FR 33402 (June 30, 1977).

[3]See Securities Exchange Act Rel. No. 14073 (October 20, 1977); 42 FR 56824 (October 28, 1977).

[4]By letter to the Commission dated November 4, 1977, Mr. J. Michael Parish, counsel to PRI, suggested that certain statements (unspecified) in the PSE submissions with respect to this matter had created confusion as to the margin treatment of PRI stock should it be delisted from the PSE and that such confusion was evidenced in the Commission's order amending the effective date of the delisting. In that order, the Commission indicated that a lack of marginability resulting from delisting could necessitate "adjustments and readjustments in customer accounts of broker-dealers, banks and other persons." The Commission notes that the maintenance of credit, extended before a security ceases to be marginable, would not be affected by the delisting of that security. (Section 220.7(b) of Regulation T (12 CFR 220.7(b)). The extension of new credit, however, would be prohibited under those circumstances, until the security was included on the Federal Reserve Board's "List of OTC Margin Stocks."

[5]See, e.g., section 11A(a)(1)(C)(ii).

[6]The PSE has exempted from its off-board trading restrictions securities, such as PRI stock, which are both the subject of a delisting application and in which the PSE has applied for unlisted trading privileges. See, Securities Exchange Act Rel. No. 13656 (June 22, 1977); 42 FR 33400 (June 30, 1977).

[7]This exemption does not prohibit those persons individually from complying voluntarily with rule 17a-15 as long as such broker or dealer complies with the rule in a uniform and consistent manner.

[8010-01]

PACIFIC STOCK EXCHANGE INC.

Application for Unlisted Trading Privileges and of Opportunity for Hearing

NOVEMBER 21,1977.

The above named national securities exchange has filed an application with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the security of the company as set forth below, which security is listed and registered on one or more other national securities exchanges:

Airco, Inc. (New York) Common Stock, $1 Par Value, File No. 7-5013.

Upon receipt of a request, on or before December 4, 1977, from any interested person, the Commission will determine whether the applications with respect to the companies named shall be set down for hearing. Any such request should include a brief statement as to the title of the security in which the person is interested, the nature of his interest in making the request, and the position which he proposes to take at the hearing, if ordered. In addition, any interested person may submit his views or any additional facts bearing on the said application by means of a letter addressed to the Secretary, Securities and Exchange Commission, Washington, D.C. 20549, not later than the

date specified. If no one requests a hearing with respect to the particular application, such application will be determined by order of the Commission on the basis of the facts stated therein and other information contained in the official files of the Commission pertaining thereto.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34416 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 14192; SR-PSE-77-27]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

NOVEMBER 21, 1977.

On September 8, 1977, the Pacific Stock Exchange Inc., 618 South Pine Street, Los Angeles, Calif. 90014, filed with the Commission, pursuant to section 19(b) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to amend Rule IX by eliminating sections 3(a) through 3(f) (the principal purpose of membership requirement) and to add definitive provisions for approving, denying and conditioning membership on the PSE (new sections 3(a) through 3(e)), and to define certain obligations of terminating members (new section 11).

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 13986 (September 22, 1977)) and by publication in the FEDERAL REGISTER (42 FR 51685 (September 29, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to section 19(b)(2) of the Act, that the proposed rule change filed with the Commission on September 8, 1977, be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34417 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 14196; SR-PSE-77-22]

PACIFIC STOCK EXCHANGE INC.

Order Approving Proposed Rule Change

NOVEMBER 22, 1977.

On August 24, 1977, the Pacific Stock Exchange Inc. ("PSE"), 618 South Spring Street, Los Angeles, Calif. 90016, filed with the Commission pursuant to Section 19(d) of the Securities Exchange Act of 1934 (the "Act"), as amended by the Securities Acts Amendments of 1975, and Rule 19b-4 thereunder, copies of a proposed rule change to amend Rule XII regarding arbitration procedures.[1]

Notice of the proposed rule change together with the terms of substance of the proposed rule change was given by publication of a Commission release (Securities Exchange Act Release No. 13935 (September 7, 1977)), and by publication in the FEDERAL REGISTER (42 FR 47604 (September 21, 1977)).

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to national securities exchanges, and in particular, the requirements of Section 6 and the rules and regulations thereunder.

It is therefore ordered, Pursuant to Section 19(b)(2) of the Act that the abovementioned proposed rule change be, and it hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34418 Filed 11-30-77; 8:45 am]

[8010-01]

[Release No. 20273; 70-5962]

WEST TEXAS UTILITIES CO.

Proposed Extension of Existing Authorization To Engage in Fuel Exploration and Development Activities

NOVEMBER 23, 1977.

Notice is hereby given that West Texas Utilities Co. ("WTU"), P.O. Box 841, Abilene, Tex. 79604, an electric utility subsidiary of Central and South West Corp. ("CSW"), a registered holding company, has filed a post-effective amendment to its application previously filed with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 9(a) and 10 of the Act as applicable to the proposed transaction. All interested persons are referred to the application as further amended by said post effective amendment, which is summarized below, for a complete statement of the proposed transaction.

WTU states that, by order dated May 20, 1977 (HCAR No. 20034), the Commission authorized it to acquire, during 1977, interests relating to fuel exploration and development to the extent of a budgeted investment of $1,150,000. WTU herein requests to extend that authorization through December 31, 1978, to the extent of a budgeted expenditure of up to $1,753,000 between January 1, 1978, and December 31, 1978.

WTU states that all of the 1978 budgeted amount represents expenditures for coal, lignite, and uranium projects which will be conducted in joint ventures with the other CSW operating utility subsidiaries. WTU states that a preliminary estimate shows that $781,000 of the budgeted amount will be applied to lignite projects already in progress, while $722,000 will be applied to other coal and lignite ventures and $250,000 to uranium ventures.

WTU states that, through December 31, 1977, it will have spent approximately $700,000 to acquire lignite leasehold interests in four prospects in East Texas, all of which are being acquired through joint ventures with the other Central and South West System operating companies. A total of 79,617 net acres had been leased in these prospects through June 30, 1977, in which it has a 10 percent undivided interest as tenant-in-common. Most of these expenditures and acquisition were ventures in Harrison, Walker, and Grimes Counties, Tex., and these are also expected to see the most activity in 1978. The lignite acquisitions are to provide fuel for a series of projected generating plants to be owned jointly by the four CSW System operating companies, scheduled for the period from 1985 to 1995.

The types of activities for which the extended authorization is requested are the same as those previously authorized and will include acquisition of leasehold interests and surface titles, disposition of interests not deemed attractive or appropriate to WTU's needs, geological evaluation and testing, drilling of exploratory and development wells, operation of wells, acquisition and operation of gathering facilities in connection with gas and oil wells in which WTU has a participation, arrangement for necessary treatment or processing, and incidental sales of products or by-products where no use can feasibly be made of them by WTU. Activities may be en-

[1] The Commission has been informed by the Pacific Stock Exchange that the subject arbitration procedures do not apply to controversies involving public investors and that the Exchange will continue its present policy of referring such controversies to other self-regulatory organizations.

tered into through joint ventures, partnerships, or other common enterprises, and may involve farm-ins, farmouts, bottom-hole or dry-hole contributions, and other transactions of the sort customarily engaged in during acquisition, exploration, and development of leasehold properties.

WTU states that it does not expect to initiate sugnificant new fuel exploration and development ventures, though it does plan to continue its present programs as long as they remain promising as a supplemental source of fuel for existing generating units.

It is stated that no state commission and no Federal commission, other than this Commission, has jurisdiction with respect to the proposed transaction. It is stated that the fees and expenses to be incurred in connection with the proposed transaction are estimated at $500.

Notice is further given that any interested person may, not later than December 19, 1977, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said post-effective amendment to the application which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant at the above-stated address and proof of service (by affidavit or, in case of an attorney at law, by certificate), should be filed with the request. At any time after said date, the application, as amended by said post-effective amendment or as it may be further amended, may be granted as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered), and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 77-34419 Filed 11-30-77; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTRATION

[Declaration of Disaster Loan Area No. 1376; Amdt. No. 1]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 56657) is amended by extending the filing date for physical damage until the close of business on December 30, 1977, and for economic injury until the close of business on July 31, 1978.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: November 21, 1977.

A. VERNON WEAVER,
Administrator.

[FR Doc. 77-34470 Filed 11-30-77; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1375; Amdt. No. 2]

MISSOURI

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 54897) and Amendment No. 1 (See 42 FR 57362), are amended by extending the filing date for physical damage until the close of business on December 30, 1977, and for economic injury until the close of business on July 31, 1978.

Date: November 21, 1977.

A. VERNON WEAVER,
Administrator.

[Fr Doc. 77-34471 Filed 11-30-77; 8:45 am]

[3190-01]

OFFICE OF THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS

[Docket No. 301-9]

TRADE POLICY STAFF COMMITTEE

Termination of Section 301 Review

Pursuant to the regulations of the Office of the Special Representative for Trade Negotiations, as amended, the Trade Policy Staff Committee hereby terminates its review of a petition alleging unfair trade practices by the Republic of China (ROC) against United States commerce in household electrical appliances under section 301 of the Trade Act of 1974 (Docket No. 301-9).

On March 15, 1976, a petition was received from Mr. Charles C. Rehfeldt, Executive Vice President of the Lai Fu Trading Co., Ltd., alleging unfair trade practices by the Republic of China, in the form of confiscatory tariff levels on imports of major home appliances. The petition requested relief under section 301 of the Trade Act of 1974.

Following presentation of views by interested parties, pursuant to section 301 of the Trade Act, the Office of the Special Representative for Trade Negotiations, through the Section 301 Committee, conducted an extensive review of the allegations in the petition. When it was determined that the ROC was maintaining duty surcharges on imports of certain home appliances long after the balance of payments rationale for those surcharges had disappeared, the United States opened extensive bilateral consultations with representatives of the ROC seeking removal of those surcharges.

As a result of these discussions the ROC has implemented the following reductions of duties:

ROC Tariff No.	Item Description	Rate Reductions from (percent)
8412(1)	Air conditioners	60 to 45.
8415(3)(a)	Domestic refrigeration	60 to 35.
8514(4)	Microphones, loudspeakers, etc.	45 to 33.
8515(1)(a)	Color television sets	60 to 35.
(2)(a)	Radio combined with gramophones	45 to 33.
9211(3)	Gramophones incorporating amplifiers	58 to 39.
(4)	Others	58 to 39.

On the basis of these actions, the Trade Policy Staff Committee has concluded that action is no longer required under section 301 of the Trade Act of 1974 and that the purposes of the Act have been fulfilled through a bilateral resolution of the dispute.

Therefore, pursuant to regulations governing procedures for complaints under section 301 of the Trade Act of 1974, the Trade Policy Staff Committee terminates the review of petition underlying Docket No. 301-9.

WILLIAM B. KELLY, JR.,
Chairman,
Trade Policy Staff Committee.

[FR Doc. 77-34368 Filed 11-30-77; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 77-218]

PROPOSED BRIDGE ACROSS STATION CREEK, MILE 2.6, BEAUFORT COUNTY, S.C.

Cancellation of Public Hearing

The Coast Guard published notice in the FEDERAL REGISTER on November 21, 1977, (42 FR 59798) of a public hearing concerning a proposed bridge across Station Creek, mile 2.6, Beaufort County, S.C. The hearing was scheduled for December 20, 1977.

This hearing has been cancelled. A new date for the hearing will be set, and will be published in a later issue of the FEDERAL REGISTER.

Dated: November 25, 1977.

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

[FR Doc. 77-34452 Filed 11-30-77; 8:45 am]

[4910-14]

[CGD 77-224]

PROPOSED REPLACEMENT OF THE CALHOUN STREET BRIDGE ACROSS THE DELAWARE RIVER BETWEEN TRENTON, N.J. AND MORRISVILLE, PA.

Notice of Public Hearing

The Commandant has authorized a public hearing to be held by the Commander, Third Coast Guard District, on January 18, 1978, from 11 a.m. to 4:30 p.m. and from 7 p.m. to 11 p.m. at the Morrisville Junior-Senior High School, West Palmer Street, Morrisville, Pa. 19067.

Under consideration is the application by the Delaware River Toll Bridge Commission for the replacement of the existing tax-supported two-lane Calhoun Street Bridge with a new toll revenue supported bridge structure. The proposed replacement structure would be constructed across the Delaware River and the Pennsylvania Canal immediately adjacent and downstream of the existing bridge. The existing Calhoun Street Bridge built in 1884 and on the National Register of Historic Places is in a deteriorated condition and presently has a load restriction on it for vehicular traffic. The existing structure will remain in place and serve as a pedestrian/bicycle bridge. The proposed structure would connect Route 32 and Trenton Avenue, in Morrisville, Pennsylvania with Calhoun Street and Route 29, Trenton, New Jersey. The proposed structure will provide a minimum vertical clearance of 21.1 feet above normal pool elevation in the Delaware River and 13.3 feet in the Pennsylvania canal, with an overall horizontal clearance of 170 feet.

A Draft Environmental/Section 4(f) Statement (DEIS) on the project was filed with the Council on Environmental Quality (CEQ) on September 14, 1977, in compliance with the National Environmental Policy Act of 1969 (Public Law 91-190).

The Draft Environmental/Section 4(f) Statement for the subject project is and has been available for review at the office of the Commander (oan), Third Coast Guard District, Governors Island, Building 135A, New York, N.Y. 10004, Monday through Friday during working hours. The DEIS is available from and may be reviewed at the Delaware River Toll Bridge Commission, Administration Building, P.O. Box 88, Morrisville, Pa. 10067, upon written request.

The determination of whether a Coast Guard bridge permit will be issued must rest primarily on the project's impact on navigation and the environment.

The hearing will be informal. A Coast Guard representative will preside at the hearing, make a brief opening statement describing the proposed bridge, and announce the procedures to be followed at the hearing. Each person who wishes to make an oral statement should notify the Commander (oan), Third Coast Guard District, by January 16, 1978. Such notification should include the approximate time required to make the presentation. Comments previously submitted are a matter of record and need not be resubmitted at the hearing.

Speakers are encouraged to provide written copies of their oral statement to the hearing officer at the time of the hearing. Those wishing to make written comments only may submit those comments at the hearing, or to the Commander (oan), Third Coast Guard District, through February 10, 1978. A transcript of the hearing, as well as written comments received outside the hearing, will be available for public review in the Coast Guard office approximately 45 days after the hearing.

All comments, oral and written, will be considered before a final determination is made on the subject bridge permit application by the Commandant, U.S. Coast Guard, Washington, D.C. 20590.

(Section 502, 60 Stat. 847, as amended; 33 U.S.C. 525, 49 U.S.C. 1655(g)(6)(C); 49 CFR 1.46(c)(10).)

Dated: November 25, 1977.

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

[FR Doc. 77-34451 Filed 11-30-77; 8:45 am]

[4910-22]

Federal Highway Administration

VALUE ENGINEERING

Program

Notice is hereby given of the application of value engineering in the Federal-aid highway program.

1. *Purpose.* To provide policy guidance on the application of Value Engineering (VE), in the Federal-aid highway program.

2. *Definitions.* "Value Engineering" is the systematic application of recognized techniques which identify the function of a product or service, establish a value for that function, and provide the necessary function reliably at the lowest overall cost. In the highway context, "product or service" includes not only the structural elements, but also the processes, equipment, and supplies used in their development, from concept through maintenance and operation. In all instances, the required function should be achieved at the lowest possible life-cycle cost consistent with requirements for performance, maintainability, safety, and esthetics.

3. *Background.* On December 27, 1976 (41 FR 56207), the Federal Highway Administration solicited comments on a proposed addition to Chapter I, Title 23, Code of Federal Regulations, which would have encouraged the application of VE for Federal-aid projects. Upon reconsideration of the proposed regulation after comments were received and considered, we determined that there did not exist sufficient mandatory material which would justify publication as a final rule. Consequently, the proposed regulation was withdrawn. The directive upon which the proposed regulation was based, Federal-Aid Highway Program Manual, Volume 6, Chapter 1, Section 1, Subsection 9, has been issued recently.[1] It formalizes the requirements for VE and sets forth certain responsibilities and procedures regarding its practice. Although the directive will not be published in regulation form, in order to assure the widest distribution of the application of VE it is published as a FEDERAL REGISTER Notice.

4. *Policy.* Under 23 U.S.C. §106(d), "* * * as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a VE or other cost reduction analysis. The Federal Highway Administration (FHWA), recognizes VE as a useful management technique which has been successfully employed for cost control in many industries and government agencies. Timely application can result in considerable cash savings as well as product improvement. It is FHWA's policy to encourage State use of VE, as needed, throughout highway project development, construction, operation and maintenance and, through the Division Administrator, to request that VE be performed on those features of Federal-aid projects where its employment has high potential for public benefit.

5. *Characteristics.* To be considered VE, the analysis process should incorporate each of the following characteristics:

(a) Definition and analysis of function,

[1] The Federal-Aid Highway Program Manual is available for inspection and copying as prescribed in 49 CFR Part 7, App. D.

(b) Multi-disciplinary team approach,

(c) Creativity in determining alternatives that will provide the function,

(d) Search for solutions and advice from new and unusual sources, and

(e) Authority and willingness to implement valid VE recommendations.

6. *Application.* (a) Value Engineering should not be confused with the typical Federal-aid process review nor should it be applied in a routine manner without warrant. It is an effective tool for both cost reduction and product improvement. VE should be employed when poor value is indicated, and its use should be considered on obviously high cost projects as well as standard details that are used repetitively on many projects.

(b) For maximum benefit, VE should be employed as early as possible in the project development process.

7. *State Responsibilities.* (a) Each State highway or transportation department is encouraged to use VE within its organization, to develop a capability for its performance, and to adopt a policy for training, implementation of findings, and dissemination of results. This work may include the use of qualified VE specialists on a consulting basis.

(b) Each State is encouraged to adopt VE or cost reduction incentive clauses in its standard specifications to (1) reduce project cost, and (2) to provide State highway agencies with innovative contractor ideas or techniques to be considered when preparing plans, specifications, and estimates on future projects.

8. *Use of Consultants.* Consultants qualified to practice VE may be employed by a State to conduct VE studies on elements of Federal-aid projects. A consulting firm may apply VE to its own design, only if the firm maintains separate and distinct VE and design teams. In all cases, the VE consultant should be a qualified practitioner, experienced in VE, who has completed a recognized VE workshop seminar and who demonstrates a knowledge of, and a willingness to follow, an appropriate VE job plan.

Issued: November 18, 1977.

WILLIAM M. COX,
Federal Highway Administrator.

[FR Doc. 77-34474 Filed 11-30-77; 8:45 am]

[4910-06]

Federal Railroad Administration

PETITIONS FOR WAIVER OF TRACK SAFETY STANDARDS

As required by 45 U.S.C. 431(c), notice is hereby given that seven interested parties have submitted waiver petitions to the Federal Railroad Administration (FRA). Each petition requests that the interested party be granted a waiver of compliance with certain provisions of the Track Safety Standards (49 CFR Part 213).

Each of the interested parties, which are identified below, are seeking a waiver of compliance with certain provisions of the standards on a temporary basis. A brief description of the particular facts involved in each request as well as the particular regulatory provision is identified below to the degree that such information has been furnished by the petitioners.

Interested persons are invited to participate in these proceedings by submitting written comments or views. The FRA has not scheduled an opportunity for oral comment since the facts do not appear to warrant it. However, the FRA will provide an opportunity for oral comment if requested to do so by any interested party. Such requests must be in writing and must be submitted to the FRA before December 2, 1977.

All communications concerning these proceedings should identify the appropriate Docket Numbers (e.g., FRA Waiver Petition Docket Number RST-77-5), and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

Communications received before December 23, 1977, will be considered by the FRA before final action is taken. Comments received after that date will be considered as far as practicable. All comments received will be available for examination, both before and after the closing date for comments, during regular business hours in Room 5101, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

[Waiver Petition Docket RST-77-4]

HILLSDALE COUNTY RAILWAY CO.

The Hillsdale County Railway Co. (Hillsdale), seeks a temporary waiver of compliance with the Track Safety Standards. The particular provisions for which this waiver is sought involve unspecified requirements for track structure and geometry.

Hillsdale seeks this waiver for a six-month period ending June 1, 1978. The trackage involved consists of approximately 11 miles of track running between Montgomery, Mich., and Angola, Ind., identified as the Waterloo Branch.

Hillsdale was recently selected as the operator of this line by the Indiana Public Service Commission. Hillsdale is initiating a rehabilitation program which is designed to bring the tracks into compliance with FRA Class 1 standards prior to June 1, 1978.

In support of the request for a waiver, Hillsdale states that it has taken precautionary interim steps which include safety tie installation, speed restrictions, frequent track inspections, and a weed spraying program. Hillsdale indicates that there have been no derailments on this section of track. Normal operations consist of two trips per week over this section, with an average of three cars per train.

[Waiver Petition Docket RST-77-5]

MADISON RAILWAY CO.

The Madison Railway Co. (Madison), seeks a temporary waiver for a period of one year which would terminate no later than December 31, 1978. The waiver involves certain requirements for track geometry and structure contained in section 213.53 (gage), section 213.55 (alinement), and section 213.109 (crossties).

Madison seeks this waiver for approximately 25 miles of track located in the State of Indiana and identified only by reference to the United States Railway Association designation as line segments 589 and 590.

Madison was recently selected as the operator of this line by the Indiana Public Service Commission and has initiated a program for rehabilitation. Madison has been experiencing delays due to various contractual problems.

Madison indicates that it has taken interim steps to insure safe operation which include tie insertion, speed and weight restrictions, and daily inspections.

[Waiver Petition Docket RST-77-6]

BELFAST & MOOSEHEAD LAKE RAILROAD CO.

Belfast & Moosehead Lake Railroad Co. (Belfast) seeks a temporary waiver of compliance with section 211.113 which governs rail condition requirements. Belfast seeks this waiver for approximately 33 miles of standard gage main track located in Waldo County in the State of Maine. This temporary waiver is sought to permit Belfast to operate over trackage for a 2-year period beginning January 1, 1978.

Belfast is currently involved in a rail replacement program for this line which is designed to bring the track into compliance within a period of 2 years.

Belfast indicates that a major segment of the Maine poultry industry relies on Belfast track as do a number of other industries which include the fertilizer, seafood, coal, and lumber industries.

Belfast states that no dangerous commodities or hazardous materials have been handled on this line since April of 1973, and that over 75 percent of the tonnage handled is feed grain ingredients for the poultry industry. Belfast further maintains that no employee, officer or other person has

ever been injured in a derailment on this line and that no adjacent property has ever been damaged as a result of a derailment. The line carries no passengers. A speed of 8 miles per hour is strictly adhered to, and additional speed reductions and slow orders are imposed where conditions warrant. Normal operations consist of two trains per day, 5 days a week. For these reasons, Belfast maintains that public safety would be in no way compromised by the granting of the waiver.

[Waiver Petition Docket RST-77-7]

PROVIDENCE & WORCESTER CO.

The Providence and Worcester Co. (P&W) seeks a temporary waiver of compliance with the Track Safety Standards. The particular provisions for which this waiver is sought involve unspecified requirements for track structure and geometry.

P&W seeks a waiver of compliance for approximately 14 miles of track until December 31, 1978. The trackage involved consists of two segments identified as the Southbridge Secondary, which runs between Southbridge, Mass., and Webster, Mass., and the Pontiac branch, which runs between Cranston, R.I., and Pontiac, R.I.

In support of the request for a waiver, P&W states that it has demonstrated a conscientious program to upgrade its tracks. P&W acquired the Southbridge Secondary, Pontiac and Willimantic branchlines on April 1, 1976. This trackage consists of approximately 43 miles of trackage. At that time, those lines were below class 1 standards. P&W is currently involved in an improvement program which will bring the Willimantic branch into compliance with class 1 standards by the end of this year. Therefore, 65 percent of the 43-mile improvement project is nearly complete.

As a result of the efforts expended by P&W on the Willimantic branch, P&W has not undertaken any significant improvement on the Southbridge Secondary or Pontiac branchlines.

P&W indicates that it will receive funding to complete rehabilitation of the two remaining track segments by December 31, 1978. This temporary waiver is sought to permit P&W to operate over this trackage for the approximately 1-year period that will be needed to complete the restoration of the tracks to class 1 standards.

[Waiver Petition Docket RST-77-8]

STATE OF MARYLAND

The State of Maryland (Maryland) seeks a temporary waiver of compliance with the Track Safety Standards. The provisions for which this waiver is sought involve unspecified requirements for track structure and geometry.

Maryland seeks this waiver for an unstated number of miles of track. The trackage involved is identified only by reference to U.S. Railway Association designation as follows: (1) USRA line segment No. 147 between Townsend, Del., and Massey, Md.; (2) USRA line segment No. 148 between Massey, Md., and Centreville, Md.; (3) USRA line segment No. 149 between Massey, Md., and Chestertown, Md.; (4) USRA line segment No. 169 between Clayton, Del., and Marydel, Md., and between Marydel, Md., and Easton, Md.; (5) USRA line segment No. 150 between Queen Anne, Md., and Denton, Md.; (6) USRA line segment No. 168 between Seaford, Del., and Hurlock Md., and between Hurlock, Md., and Cambridge, Md.; (7) USRA line segment No. 152 between Hurlock Md., and Preston, Md.; (8) USRA line segment No. 676 between Salisbury, Md., and Hebron, Md.; (9) USRA line segment No. 198 between Walkersville, Md. and Littlestown, Pa.; and (10) USRA line segment No. 199 Frederick city track.

Maryland is currently involved in a program to upgrade these 10 light-density lines to class 1 standards. The track segments are now at various stages of restoration and it is the intent of the petitioner to bring all of the track into compliance with the standards within a period of 1 year or less. This temporary waiver is sought to permit operation over the track for the 1-year period, ending December 31, 1978, that will be needed to complete the restoration program.

[Waiver Petition Docket RST-77-9]

STATE OF MICHIGAN

The State of Michigan (Michigan) seeks a temporary waiver for a one year period terminating no later than December 31, 1978. The waiver concerns requirements for track geometry and structure contained in section 213.51 through section 213.63 and in section 213.109.

Michigan seeks this waiver for approximately 35 miles of track. This trackage consists of the following four track segments; an 18.6 mile segment running from Grosvenor, Mich., to Morenci, Mich.; a 12 mile segment and a 3 mile segment running from Grand Rapids, Mich., to Vermonville, Mich.; and a 1 mile segment of track running from Sturgis, Mich., to Nottawa, Mich.

Michigan is initating a rehabilitation program to upgrade this trackage to meet Class 1 standards. Delay in beginning the restoration work is a result of uncertainty regarding continuation of service and selection of an operator. Petitioner states that it intends to begin restoration work in early 1978.

[Waiver Petition Docket RST-77-10]

TUSCOLA AND SAGINAW BAY RAILROAD CO.

The Tuscola and Saginaw Bay Railroad Co. (T&SB) seeks a temporary waiver, for an unspecified period, of section 213.113(a)(2) Note A. This section requires a track owner to assign a person designated under section 213.7 to visually supervise each operation over defective rails.

T&SB seeks this waiver for approximately 22 miles of trackage identified as the Colling Branch, which runs between Vassar, Mich., and Colling, Mich.

T&SB assumed operating responsibility for this trackage on October 1, 1977, and subsequently discovered extensive defective rail conditions due to the age of the rail and its light weight. T&SB has commenced a rail replacement program and is preparing a more comprehensive proposal designed to permanently correct the conditions leading to the broken rail.

T&SB requests the waiver of section 213.113(a)(2) Note A and asks that it be permitted to operate over the line conducting a detailed inspection not more than six hours prior to train operation. Train speed will be limited to 8 miles per hour and operation confined to daylight hours. Normal operations consist of two trains a week from Vassar to Caro and service as needed to Colling. Trips to Colling average one per week. No dangerous or explosive commodities are currently being handled over this line.

(AUTHORITY: Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by Sec. 5(b) of the Federal Railroad Authorization Act of 1976, Pub. L. 94-348, 90 Stat. 817, July 8, 1976; Section 1.49(n) of the regulations of the Office of the Secretary, 49 CFR 1.49(n).)

Issued in Washington, D.C., on November 23, 1977.

ROBERT H. WRIGHT,
Acting Chairman,
Railroad Safety Board.

[FR Doc. 77-34353 Filed 11-30-77; 8:45 am]

[4910-59]

National Highway Traffic Safety Administration

[Docket No. IP77-17; Notice 1]

AMERICAN HONDA MOTOR CO., INC.

Petition for Exemption From Notice and Remedy for Inconsequential Noncompliance

American Honda Motor Co., Inc., of Gardena, Calif., has petitioned to be exempted from the notification and remedy requirements of the National Traffic and Motor Vehicle Safety Act for a noncompliance with 49 CFR 571.101, Motor Vehicle Safety Standard No. 101, Control Location, Identi-

fication, and Illumination. The basis of the petition is that the noncompliance is inconsequential as it relates to motor vehicle safety.

Paragraph S4.2.1 of Standard No. 101 requires that the hazard warning switch control be identified by the word "Hazard," and may, in addition, be identified by a symbol shown in Table 1 of the standard. Honda identified the control with the symbol only, failing to use the word "Hazard" on approximately 82,000 Accords manufactured in model years 1976 and 1977. The company states that it has had no owner complaints about the noncompliance, and that the control is identified in the owner's manual. Finally, in further support of its petition, Honda cites the agency's determination that an identical noncompliance by Toyota had an inconsequential relationship to motor vehicle safety (Docket 75IP2, 42 FR 5173).

Interested persons are invited to submit written data, views and arguments on the petition of American Honda Motor Co., described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, room 5108, 400 7th Street SW., Washington, D.C. 20590. It is requested but not required that five copies be submitted.

All comments received before the close of business on the comment closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date will also be filed and will be considered to the extent possible. When the petition is granted or denied, notice will be published in the FEDERAL REGISTER pursuant to the authority indicated below.

Comment closing date:

(Sec. 102, Pub. L. 93-492, 88 Stat. 1470 (15 U.S.C. 1417); delegations of authority at 49 CFR 1.50 and 49 CFR 501.8.)

Issued on November 23, 1977.

ROBERT L. CARTER
Associate Administrator
Motor Vehicle Programs.

[FR Doc. 77-34349 Filed 11-30-77; 8:45 am]

[4810-25]

DEPARTMENT OF THE TREASURY

Office of the Secretary

TAX TREATY NEGOTIATIONS WITH DENMARK

United States and Denmark Discuss Revising Their Income Tax Treaty and Negotiating an Estate Tax Treaty

Representatives of the United States and Denmark have recently concluded exploratory talks in Washington aimed at revising the income tax treaty between the two countries, which was signed in 1948, and at negotiating an estate tax treaty between the two countries.

The proposed new income tax treaty, like the existing one, will seek to prevent double taxation and to facilitate mutual trade and investment. Thus, it will be concerned with the tax treatment of individuals' and companies' income from business, investment, and personal services and with procedures for administering the provisions of the treaty. The 1977 "model" income tax treaty developed by the Organization for Economic Cooperation and Development (OECD) will be taken into account along with the current United States "model" income tax treaty, the text of which was released by the Treasury Department on May 17, 1977.

The purpose of the proposed estate tax treaty will be to prevent double taxation of estates and inheritances. The discussions will take into account the OECD "model" estate tax treaty, and the United States "model" estate tax treaty, the text of which was released by the Treasury Department on March 16, 1977.

The Treasury invites persons wishing to submit comments concerning the proposed income and estate tax treaties to send them to Dr. Laurence N. Woodworth, Assistant Secretary of the Treasury, United States Treasury Department, Washington, D.C. 20220.

Dated: November 28, 1977.

LAURENCE N. WOODWORTH,
Assistant Secretary for
Tax Policy.

[FR Doc. 77-34444 Filed 11-30-77; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[Volume No. 45]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

NOTICE

NOVEMBER 25, 1977.

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

The Commission has recently provided for easier identification of substantive petition matters and all documents should clearly specify the "docket," "sub," and "suffix" (e.g., M1, M2) numbers identified by the FEDERAL REGISTER notice.

An original and one copy of protests to the granting of the requeted authority must be filed with the Commission on or before January 3, 1978. Such protest shall comply with special rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247)[1] and shall include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon petitioner's representative, or petitioner if no representative is named.

No. MC 133488 (M1), filed October 31, 1977 (notice of filing of petition to modify origin point). Petitioner: EMPRISE TRUCKING CO., INC., 140 Federal Street, Boston, Mass. 02110. Petitioner's representative: E. Stephen Heisley, suite 805, McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. By permit issued April 16, 1975, petitioner holds authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting, as pertinent: (1) *Iron and steel articles*, and *aluminum articles*, and (2) *materials, equipment, and supplies* used in the manufacture, installation, or distribution of the commodities described in (1) above (except commodities in bulk), between the facilities utilized by Roll Form Products, Inc., and Studco Corp., at or near Gloucester City, N.J.; Malvern, Pa.; and East Chicago, Ind., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), under contracts with Roll Form Products, Inc., and Studco Corp. By the instant petition, petitioner requests that "at or near Portage, Ind.," be substituted for the authorized point of East Chicago, Ind.

REPUBLICATIONS OF GRANTS OF OPERATING RIGHTS AUTHORITY PRIOR TO CERTIFICATION

NOTICE

The following grants of operating rights authorities are republished by order of the Commission to indicate a broadened grant of authority over that previously noticed in the FEDERAL REGISTER.

An original and one copy of a petition for leave to intervene in the proceeding must be filed with the Commission on or before January 3, 1978. Such pleading shall comply with special rule 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247) addressing specifically the

[1] Copies of special rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, D.C. 20423.

issue(s) indicated as the purpose for republication, and including copies of intervenor's conflicting authorities and a concise statement of intervenor's interest in the proceeding setting forth in detail the precise manner in which it has been prejudiced by lack of notice of the authority granted. A copy of the pleading shall be served concurrently upon the carrier's representative, or carrier if no representative is named.

No. MC 107403 (Sub-No. 1001) (republication), filed February 9, 1977, published in the FEDERAL REGISTER issue of March 24, 1977, and republished this issue. Applicant: MATLACK, INC., Ten West Baltimore Avenue, Lansdowne, Pa. 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). An order of the Commission, Review Board No. 3, decided September 29, 1977, and served October 19, 1977, finds the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Activated carbon*, in bulk, from Catlettsburg, Ky.; Neville Island, Pa.; and Bayport, Tex., to points in the United States (except Alaska and Hawaii); that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to indicate the deletion of the language "in tank vehicles" in applicant's commodity description.

No. MC 107496 (Sub-No. 904) (republication), filed July 23, 1973, published in the FEDERAL REGISTER issue of October 17, 1973, and republished this issue. Applicant: RUAN TRANSPORT CORP., P.O. Box 855, Des Moines, Iowa 50304. Applicant's representative: H. L. Fabritz (same address as applicant). An order of the Commission, Review Board No. 3, dated November 14, 1974, and served November 26, 1974, as amended by order of Division 1, decided October 25, 1977, and served October 31, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fuel oil*, in bulk, from Freeport, Ill., to points in Iowa, and (2) *liquified petroleum gas*, in bulk, from Watertown, Wis., to points in Iowa, Illinois, Michigan, and Minnesota; that applicant is fit, willing, and able properly to perform the granted service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to show Michigan as a destination in part (2) of authority granted.

No. MC 111812 (Sub-No. 531) (republication), filed April 25, 1977, published in the FEDERAL REGISTER issue of May 26, 1977, and republished this issue. Applicant: MIDWEST COAST TRANSPORT, INC., 900 West Delaware, Sioux Falls, S. Dak. 57104. Applicant's representative: Ralph H. Jinks (same address as applicant). An order of the Commission, Review Board No. 2, decided October 25, 1977, and served November 14, 1977, finds that the present and future public convenience require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Confectionery*, from Jackson, Minn., to Harrisburg, Pa., and Cleveland, Ohio, restricted to the transportation of traffic originating at the named origin and destined to the named destinations: that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's regulations. The purpose of this republication is to indicate the additional destination point of Cleveland, Ohio in applicant's actual grant of authority.

No. MC 117940 (Sub-No. 217) (republication), filed March 25, 1977, published in the *Federal Register* issue of May 12, 1977, and republished this issue. Applicant; NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman (same address as applicant). An Order of the Commission, Review Board Number 3, decided November 1, 1977, and served November 14, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Such commodities* as are dealt in by retail department stores (except foodstuffs, commodities of unusual value, explosives, commodities in bulk, household goods, and those requiring special equipment), from points in California, to points in Colorado, Illinois, Iowa, Kansas, Michigan, Minnesota, Missouri, Nebraska, Ohio, and Utah; that applicant is fit, willing, and able properly to perform the grant of service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to delete the restriction "restricted to the transportation of shipments destined to the facilities of Gamble Skogmo, Inc., and its divisions and subsidiaries."

No. MC 121496 (Sub-No. 2) (republication), filed July 22, 1976, published in the FEDERAL REGISTER issue of September 9, 1976, and republished this issue. Applicant: CANGO CORPORATION, 110 Milam Building, suite 2900, Houston, Tex. 77002. Applicant's representative: Eugene T. Liipfert, 1160 L Street NW., Washington, D.C. 20036. An Order of the Commission, Review Board No. 4, dated November 8, 1977, and served November 10, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, in bulk, in tank vehicles, (1) between points in Texas (except Brooks, Cameron, Chambers, El Paso, Hidalgo, Jefferson, Jim Hogg, Kenedy, Kleberg, Newton, Orange, Starr, Willacy, and Zapata Counties, Tex.), and (2) from points in Brooks, Cameron, Chambers, El Paso, Hidalgo, Jefferson, Jim Hogg, Kenedy Kleberg, Newton, Orange, Starr, Willacy, and Zapata Counties, Tex., to points in other Texas counties, subject to applicant's receiving an administratively final grant of multi-State authority from this Commission; and the subsequent coincidental cancellation, at applicant's written request of its Certificate of Registration No. MC 121496 (Sub-No. 1); that applicant is fit, willing, and able properly to perform the service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to show commodity authority actually granted.

No. MC 124796 (Sub-No. 117) (republication), filed May 20, 1974, published in the FEDERAL REGISTER issue of July 25, 1974 and republished this issue. Applicant: CONTINENTAL CONTRACT CARRIER CORP., 15045 East Salt Lake Avenue, P.O. Box 1257, City of Industry, Calif. 91749. Applicant's representative: J. Max Harding, P.O. Box 82028, Lincoln, Nebr. 68501. An Initial Decision of the Administrative Law Judge, dated August 5, 1977, and served August 12, 1977, became the order of the Commission September 2, 1977. The Administrative Law Judge finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes transporting: (1) *buffing, polishing, cleaning, scouring, washing and bleaching compounds, animal litter, and cooking oil* (except commodities in bulk), from the plantsite and facilities of the Clorox Co., at or near Kansas City, Mo., to points in Arkansas, Iowa, Kansas, Nebraska, Oklahoma, and South Dakota, (2) *animal litter* (except shipments in bulk), from the plantsite and facilities of The Clorox Co., at or near Kansas

City, Mo., to the plantsites and facilities of The Clorox Co., at or near Atlanta, Ga., Boston, Mass., Charlotte, N.C., Chicago, Ill., Cleveland, Ohio, Frederick, Md., Houston, Tex., Jersey City, N.J., Los Angeles and Oakland, Calif., and Tampa, Fla., (3) *materials, equipment and supplies* utilized in the manufacture, sale, and distribution of buffing, polishing, cleaning, scouring, washing and bleaching compounds (except commodities in bulk and those which by reason of size or weight require the use of special equipment) (a) from Omaha, Nebr., to the plantsite and facilities of the Clorox Co., at or near Atlanta, Ga., Boston, Mass., Charlotte, N.C., Chicago, Ill., Cleveland, Ohio, Frederick, Md., Houston, Tex., Jersey City, N.J., Kansas City, Mo., Los Angeles and Oakland, Calif., and Tampa, Fla.; and (b) from Baltimore, Md., to the plantsite and facilities of The Clorox Co., at or near Chicago, Ill., Cleveland, Ohio, Kansas City, Mo., and Los Angeles and Oakland, Calif., (4) *bleaching and cleaning compounds* (except commodities in bulk), from the plantsite and facilities of the Clorox Company at or near Atlanta and Forest Park, Ga., to the plantsite and facilities of The Clorox Co., at or near Kansas City, Mo., and (5) *aerosol products,* from Danville and Niles, Ill., to the plantsite and facilities of The Clorox Co., at or near Kansas City, Mo.; restricted in (1) through (5) above to the transportation of shipments originating at the respective named origins and destined to the respective named destinations. The purpose of this republication is to indicate applicant's grant of authority as a motor common carrier, in lieu of a motor contract carrier.

No. MC 135936 (Sub-No. 21) (republication), filed February 17, 1977, published in the FEDERAL REGISTER issue of April 7, 1977, and republished this issue. Applicant: C&K TRANSPORT, INC., 503 Des Moines Street, Webster City, Iowa 50595. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, Iowa 50309. An order of the Commission, Review Board No. 2, decided October 20, 1977, and served November 16, 1977, finds that the present and future public convenience and necessity require operation by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Potato products and frozen foodstuffs,* from Presque Isle and Caribou, Maine, to points in Arkansas, Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, New York, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, West Virginia, and Wisconsin; that applicant is fit, willing, and able properly to perform the granted service and to conform with the requirements of the Interstate Commerce Act and the Commission's rules and regulations. The purpose of this republication is to show the inclusion of potato products in authority granted.

MOTOR CARRIER, BROKER, WATER CARRIER AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

NOTICE

The following applications are governed by Special Rule 247 of the Commission's *General Rules of Practice* (49 CFR 1100.247). These rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date of notice of filing of the application is published in the FEDERAL REGISTER. Failure to seasonably file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest under these rules should comply with Section 247(d)(3) of the rules of practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding (including a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describing in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed), and shall specify with particularly the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or applicant if not representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(d)(4) of the special rules, and shall include the certification required therein.

Section 247(f) further provides, in part, that an applicant who does not intend timely to prosecute its application shall promptly request dismissal thereof, and that failure to prosecute an application under procedures ordered by the Commission will result in dismissal of the application.

Further processing steps will be by Commission order which will be served on each party of record. Broadening amendments will not be accepted after the date of this publication except for good cause shown, and restrictive amendments will not be entertained following publication in the FEDERAL REGISTER of a notice that the proceeding has been assigned for oral hearing.

Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 531 (Sub No. 353), filed September 19, 1977. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, Tex. 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: *Liquid Animal Feed Supplements,* in bulk, in tank vehicles, from Westwego, La. to points in Texas (except Waco, Texas).

NOTE.—If assigned for oral hearing, applicant requests the hearing to be held at New Orleans, Louisiana or Houston, Texas.

No. MC 1263 (Sub-No. 27), filed October 14, 1977. Applicant: McCARTY TRUCK LINE, INC., 17th and Harris Avenue, Trenton, Mo. 64683. Applicant's representative: Jack L. Shultz, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: (1) *Metal containers and covers,* (A) from St. Joseph, Mo. to West Point and Moorhead, Miss.; LaPorte, Ind.; Sebring, Ohio; Jackson, Tenn.; Mansfield, Tex.; Jefferson, Waupun, Oconomowoc and Menomonee Falls, Wis.; (B) From Mansfield, Tex. to St. Joseph, Trenton, and Mount Vernon, Mo.; (C) From Waupun, Oconomwoc, and Menomonee Falls, Wis. to St. Joseph, Trenton, and Mount Vernon, Mo.; Jacksonville, Ill. and Fort Dodge, Iowa; and (D) From Mount Vernon, Mo. to Jefferson, Waupun, Oconomowoc, and Menomonee Falls, Wis.; Sebring, Ohio; and Mansfield, Tex.; and (2) *Materials, supplies and equipment utilized in the manufacturing of metal containers and covers,* from St. Joseph, Mo. to Mansfield, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo. or Omaha, Nebr.

No. MC 11207 (Sub-No. 399), filed October 13, 1977. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, Ala. 35201. Applicant's representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *paper and paper products,* from Birmingham, Ala. to points in Florida east of the Apalachicola River.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Birmingham, Alabama or Montgomery, Alabama.

No. MC 16903 (Sub-No. 52), filed October 5, 1977. Applicant: MOON FREIGHT LINES, INC., 120 West Grimes Street, Bloomington, Ind. 47401. Applicant's representative:

Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Stone, marble, granite and slate* from points in Holmes County, Ohio to points in Alabama, Arkansas, Colorado, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maryland, Michigan, Mississippi, Missouri, Minnesota, Nebraska, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Virginia, West Virginia, and Wisconsin, points in New Jersey (except Sussex, Passaic, Bergen, Hudson, Essex, Union, and Middlesex Counties) and points in New York, (except Westchester, Nassau, Suffolk, Kings, Queens, Bronx, and Richmond Counties); and (2) *stone, slate and slate products* from Northampton County, Pa., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, North Dakota, Oklahoma, South Carolina, South Dakota, Tennessee, Texas, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind. or Washington, D.C.

MC 20992 (Sub-No. 42), filed October 5, 1977. Applicant: DOTSETH TRUCK LINE, INC., Knapp, Wis. 54749. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-propelled vehicles* (except highway trucks, automobiles and buses); (2) *Agricultural machinery, equipment and implements;* and (3) *Parts, attachments, accessories and components of the commodities described in paragraphs (1) and (2) above,* between Jackson, Minn., and Boone County, Ind., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii). (4) *Materials, equipment and supplies* (except commodities in bulk) used in the manufacture of commodities described in paragraphs (1), (2), and (3) above, from points in the United States (except Alaska and Hawaii) to Jackson, Minn., and Boone County, Ind. (5) *Experimental, used and show display* (a) *self-propelled vehicles* (except highway trucks, automobiles and buses); (b) *agricultural machinery, equipment and implements;* and (c) *incidental paraphernalia, moving between the plantsites, shows, exhibits, sales branches and warehouses owned or utilized by Ag-Chem Equipment Co., Inc.,* between points in the United States (except Alaska and Hawaii).

NOTE.—Applicant seeks authority to serve ports of entry on the international boundary line between the United States and Canada located in the states mentioned above bordering on Canada and to participate in traffic moving from and to Canadian Provinces which can be served in connection therewith. Common control may be involved. If hearing is deemed necessary, applicant requests that the application be handled on a consolidated hearing with similar applications at Minneapolis, Minn.

No. MC 25443 (Sub-No. 5), filed October 11, 1977. Applicant: V. J. MARRIAN TRUCKING CORP., 60 Hudson Street, New York, N.Y. 10013. Applicant's representative: Charles J. Williams, 1815 Front Street, Scotch Plains, N.J. 07076. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Telecommunication and information systems, machines, machine parts, equipment, materials, and supplies, and such office equipment, materials and supplies, as are used in the conduct of the business of a manufacturer of telecommunication and information systems, uncrated,* between Trumbull and Bridgeport, Conn., and New York, N.Y., on the one hand, and, on the other, points in Connecticut, Delaware, Maryland, Massachusetts, New Jersey, New York, Pennsylvania, Rhode Island, Virginia, West Virginia, and the District of Columbia, under a continuing contract or contracts with the Bunker Ramo Corp., located at Trumbull, Conn.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 28536 (Sub-No. 16), filed October 4, 1977. Applicant: FOX & GINN, INC., 207 Perry Road, Bangor, Maine 04401. Applicant's representative: Richard R. Sigmon, suite 501, 1111 E Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment): (1) between Milford, Maine, and the United States-Canada Boundary Line near Fort Kent, Maine, from Milford, over U.S. Highway 2 to its junction with U.S. Highway 1, thence over U.S. Highway 1 via Fort Kent to the U.S.-Canada Boundary Line (also from Milford over U.S. Highway 2 to its junction with Maine Highway 157, thence over Maine Highway 157 to its junction with Maine Highway 11, thence over Maine Highway 11 to its junction with U.S. Highway 1 near Fort Kent, and thence over U.S. Highway 1 to the U.S.-Canada Boundary Line), and return over the same route; (2) between Houlton, Maine, and the U.S.-Canada Boundary Line approximately 3 miles east of Houlton, from Houlton over U.S. Highway 2 to the U.S.-Canada Boundary Line, and return over the same route; (3) between Mars Hill, Maine, and the U.S.-Canada Boundary Line approximately 5 miles from Mars Hill, from Mars Hill over Alternate U.S. Highway 1 to junction with unnumbered highway, and thence over unnumbered highway to the U.S.-Canada Boundary Line, and return over the same route; (4) between Mars Hill, Maine, and the U.S.-Canada Boundary Line near Fort Fairfield, Maine, from Mars Hill over Alternate U.S. Highway 1 to Fort Fairfield, and thence over Maine Highway 167 to the U.S.-Canada Boundary Line, and return over the same route; (5) between Presque Isle, Maine, and the U.S.-Canada Boundary Line near Fort Fairfield, Maine, from Presque Isle over Maine Highway 167 via Fort Fairfield to the U.S.-Canada Boundary Line, and return over the same route; (6) between Caribou, Maine, and the U.S.-Canada Boundary Line near Fort Fairfield, Maine, from Caribou over Alternate U.S. Highway 1 to junction with Maine Highway 167 at or near Fort Fairfield, and thence over Maine Highway 167 to the U.S.-Canada Boundary Line, and return over the same route; (7) between Caribou, Maine, and the U.S.-Canada Boundary Line near Limestone, Maine, from Caribou over Maine Highway 89 to junction with Maine Highway 229, and thence over Maine Highway 229 to the U.S.-Canada Boundary Line, and return over the same route; (8) between Van Buren, Maine, and the U.S.-Canada Boundary Line near Van Buren, Maine, from Van Buren over unnumbered highway to the U.S.-Canada Boundary Line, and return over the same route; (9) between Madawaska, Maine, and the U.S.-Canada Boundary Line near Madawaska, from Madawaska over unnumbered highway to the U.S.-Canada Boundary Line, and return over the same route. Serving, in connection with (1) through (9) above, all intermediate points, and all other points in Aroostook County, Maine, and Millinocket, East Millinocket, Medway, Orrington, and Bucksport, Maine, as off-route points.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., and Presque Isle, Maine.

No. MC 30374 (Sub-No. 27), filed October 6, 1977. Applicant: TRI-STATE TRANSPORTATION CO., INC., Interstate Industrial Park, P.O. Box "A", Bellmawr, N.J. 08030. Applicant's representative: Arthur Liberstein, 167 Fairfield Road, P.O. Box 1409, Fairfield, N.J. 07006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, trans-

porting: *Such commodities* as are dealt in by retail department stores between New York, N.Y., on the one hand, and, on the other, the store premises of Gimbel Bros. at Harrisburg and Lancaster, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y. Common control may be involved.

No. MC 35072 (Sub-No. 10), filed October 14, 1977. Applicant: EDWIN L. ELLOR & SON, INC., 29 Mountain Boulevard, Warren, N.J. 07060. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *contract carrier*, over irregular routes, transporting: (1) *Mineral grit, granulated slag*, from the facilities of Anchor Abrasives Corp., at Carteret, N.J., to points in Connecticut, Delaware, Massachusetts, Maryland, New York, Pennsylvania, Rhode Island, and Virginia under a continuing contract or contracts with Anchor Abrasives Corp., Wayne, N.J.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 35320 (Sub-No. 150), filed October 14, 1977. Applicant: T.I.M.E.-DC, INC., P.O. Box 2550, Lubbock, Tex. 79408. Applicant's representative: Kenneth G. Thomas (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except sand, gravel, coal, livestock, and commodities which, because of size or weight require the use of special equipment), serving the plantsites and facilities of the Keebler Co. located at or near Macon, Ga., as an off-route point in connection with carrier's authorized regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Atlanta, Ga., or Chicago, Ill.

No. MC 46219 (Sub-No. 17), filed October 7, 1977. Applicant: STERNBERGER MOTOR CORP., 45-50 Court Square, Long Island City, N.Y. 11101. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *New furniture*, crated and uncrated, between points in Connecticut, Massachusetts, Rhode Island, New York, New Jersey, Pennsylvania, New Hampshire, Maine, Delaware, Vermont, and the District of Columbia, on the one hand, and, on the other, points in California, New Mexico, Texas, Utah, Arkansas, Oklahoma, Nevada, Arizona, and Colorado; and (2) *uncrated new furniture*, from High Point, Thomasville, and Greensboro, N.C., to points in Louisiana, Mississippi, Texas, Oklahoma, Arizona, New Mexico, California, and Arkansas.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Los Angeles, Calif., or New York, N.Y.

No. MC 47171 (Sub-No. 97), filed October 13, 1977. Applicant: COOPER MOTOR LINES, INC., P.O. Box 4259, Greenville, S.C. 29608. Applicant's representative: Harris G. Andrews (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Printing paper*, from Warwick, N.Y., to Springdale, S.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Columbia, S.C.

No. MC 48441 (Sub-No. 13), filed October 11, 1977. Applicant: P. L. & M. EXPRESS, INC., P.O. Box 418, Streator, Ill. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought by applicant to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Freight trailers, dump bodies*, with or without dumping devices, *dumping hoists, hoists, truck cranes, freight bodies, auto bodies, machine parts, hydraulic cylinders*, and *hydraulic pumps*, and *parts, accessories*, and *attachments* for the above specified commodities; and (2) *materials, equipment*, and *supplies* used in the manufacture, production, assembly, distribution, and and sale of the commodities in (1) above, between Streator, Illinois, on the one hand, and, on the other, points in the United States in the east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Chicago, Ill.

No MC 48957 (Sub-No. 28), filed October 13, 1977. Applicant: CROWN MOTOR FREIGHT CO. (a corporation), 832 East 28th Street, Paterson, N.J. 07513. Applicant's representative: S. S. Eisen, 370 Lexington Avenue, New York, N.Y. 10017. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Synthetic yarn, synthetic fibre, synthetic staple fibre, and synthetic products* from Nitro, W. Va.; Meadville and Lewistown, Pa.; and Front Royal, Va., to points in New Hampshire and Vermont.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York City, N.Y., or Philadelphia, Pa.

No. MC 51146 (Sub-No. 533), filed October 11, 1977. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, Wis. 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic containers*, from Milwaukee, Wis., to points in Illinois, Indiana, Michigan, Missouri, and Ohio; and (2) *empty aluminum containers* from Milwaukee, Wis., to Perry, Ga.

NOTE:—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 55896 (Sub-No. 57), filed October 5, 1977. Applicant: R-W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, Mich. 48180. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Composition board and plywood*, from the plantsite of Panel Processing, Inc., located at or near Coldwater, Mich., to points in the United States (except Alaska and Hawaii); (2) *materials, equipment and supplies* used in the manufacture of composition board and plywood from points in the United States (except Alaska and Hawaii) to the plantsite of Panel Processing, Inc., located at or near Coldwater, Mich.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Washington, D.C.

No. MC 57697 (Sub-No. 12), filed October 13, 1977. Applicant: LESTER SMITH TRUCKING, INC., P.O. Box 16424, Denver, Colo. 80216. Applicant's representative: Michael J. Norton, P.O. Box 2135, suite 404, Boston Building, Salt Lake City, Utah 84110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Pre-cut log buildings, and materials and supplies* used in or incidental to the erection or construction thereof from points in Colorado to points in Arkansas, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, Wisconsin, and Wyoming, and (2) *equipment, materials and supplies* used in or incidental to the manufacture of commodities in (1) above from points in Arkansas, Idaho, Illinois, Indiana, Iowa, Kansas, Minnesota, Missouri, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Washington, Wisconsin, and Wyoming to points in Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo.

No. MC 59150 (Sub-No. 107), filed October 12, 1977. Applicant: PLOOF

TRUCK LINES, INC., 1414 Lindrose Street, Jacksonville, Fla. 32206. Applicant's representative: Martin Sack, Jr., 1754 Gulf Life Tower, Jacksonville, Fla. 32207. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel, and iron and steel articles*, from the plantsite and warehouse facilities of Nucor Steel, a Division of Nucor Corp., at or near Darlington, S.C., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Jacksonville, Fla.

No. MC 59264 (Sub-No. 64), filed October 13, 1977. Applicant: SMITH & SOLOMON TRUCKING CO., a corporation, How Lane, New Brunswick, N.J. 08903. Applicant's representative: Herbert Burstein, One World Trade Center, suite 2373, New York, N.Y. 10048. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Containers, metal cans*, and *ends* from the plantsite of Ball Corp. in or near Williamsburg, Va., to plantsites of Carling National Breweries, Inc., at or near Baltimore, Md.

NOTE.—If a hearing is required, applicant requests that it be held at New York, N.Y., or Washington, D.C.

No. MC 59856 (Sub-No. 74), filed October 12, 1977. Applicant: SALT CREEK FREIGHTWAYS (A Corporation), 3333 West Yellowstone, Casper, Wyo. 82601. Applicant's representative: John R. Davidson, suite 805, Midland Bank Building, Billings, Mont. 59101. 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), serving Trident, Amsterdam, and Churchill, Mont., as off-route points in connection with carrier's otherwise authorized regular route authority.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Bozeman, Mont.

No. MC 60014 (Sub-No. 58), filed September 19, 1977. Applicant: AERO TRUCKING, INC., Box 308, Monroeville, Pa. 115146. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. 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 in bulk), from Charleston, Greenville, Spartanburg, and Summerville, S.C., and Savannah, Ga., to points in the United States (except Alaska and Hawaii). Restricted to traffic having a prior movement by water.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, D.C.

No. MC 61825 (Sub-No. 70), filed October 7, 1977. Applicant: ROY STONE TRANSFER CORP., V. C. Drive, P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: John D. Stone, Roy Stone Transfer Corp., P.O. Box 385, Collinsville, Va. 24078. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products (except in bulk)*, from Akron, Ohio and St. Clair, Mich., to points in North Carolina, South Carolina, and Virginia.

NOTE.— If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 67450 (Sub-No. 63), filed October 6, 1977. Applicant: PETERLIN CARTAGE CO. (a Corporation), 9651 Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph Winter, 33 North LaSalle Street, Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper trays, corrugated post, and clay and clay products* (except commodities in bulk), from Oran and Bloomfield, Mo.; Olmstead, Ill.; and Paris, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 67450 (Sub-No. 64), filed October 16, 1977. Applicant: PETERLIN CARTAGE CO. (a Corporation), 9651 South Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph Winter, 33 North LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wire and wire products*, from the plantsite and facilities of New York Wire Mills Corp., at or near Tonawanda, N.Y., to points in Iowa, Illinois, Indiana, Michigan, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 78687 (Sub-No. 50), filed October 13, 1977. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, West Cayuga Street, Moravia, N.Y. 13118. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority is sought by applicant to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, in bulk, from Watkins Glen and Silver Springs, N.Y., to points in Connecticut, Delaware, Indiana, Maine, Maryland, Massachusetts, The Lower Peninsula of Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is held, applicant requests that it be held in Wasnington, D.C. Applicant states that it holds contract carrier authority in No. MC 2505, therefore dual operations may be involved. Also common control may be involved.

No. MC 78687 (Sub-No. 51), filed October 13, 1977. Applicant: LOTT MOTOR LINES, INC., P.O. Box 751, Moravia, N.Y. 13118. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority is sought by applicant to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, in bulk, from Erie, Pa., to points in New York.

NOTE.—Applicant states that it holds motor contract carrier authority in No. MC 2505. Therefore, dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 82492 (Sub-No. 166), filed October 6, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Applicant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products and articles distributed by meat packinghouses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766, from Hartley and Spencer, Iowa and Schuyler, Nebr., to points in that part of Pennsylvania on and west of Highway 219, and points in that part of New York in and west of Broome, Cortland, Onondaga and Oswego Counties, N.Y. Restriction: Restricted to traffic destined to the named destination territory.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Washington, D.C.

No. MC 82492 (Sub-No. 168), filed October 14, 1977. Applicant: MICHIGAN & NEBRASKA TRANSIT CO., INC., 2109 Olmstead Road, P.O. Box 2853, Kalamazoo, Mich. 49003. Appli-

cant's representative: William C. Harris (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products and vehicle body sealer and sound deadener compound*, in containers, from Buffalo and North Tonawanda, N.Y., Emlenton and Farmers Valley and North Warren, Pa., and Congo, W. Va., to points in Michigan, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 82841 (Sub-No. 215), filed October 14, 1977. Applicant: HUNT TRANSPORTATION, INC., 10770 "I" Street, Omaha, Nebr. 68127. Applicant's representative: Donald L. Stern, 530 Univac Bldg., 7100 West Center Road, Omaha, Nebr. 68106. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bulk material handling equipment, parts and components*, from St. Joseph, Mo., to points in the United States (except Alaska and Hawaii), and (2) *materials and supplies* used in the manufacture of the commodities in part (1) (except commodities in bulk), from points in Washington, Oregon, Utah, Minnesota, Arkansas, Louisiana, Mississippi, Tennessee, Illinois, Indiana, Ohio, and Pennsylvania, to St. Joseph, Mo.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Kansas City, Mo., or Omaha, Nebr.

Docket No. MC 95876 (Sub-No. 215), filed October 12, 1977. ANDERSON TRUCKING SERVICE, INC., 203 Copper Ave. N., St. Cloud, Minn. 56301. Applicant's representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, Minn. 55402. Authority sought to operate as a *common carrier*, over irregular routes, transporting: (1) *Plastic pipe, fittings, valves*, and *accessories;* and (2) *materials and supplies* used in the manufacture and distribution of the commodities described in (1) above, between points in Geneva County, Ala., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at either Birmingham, Ala. or Atlanta, Ga.

No. MC 98952 (Sub-No. 50), filed September 19, 1977. Applicant: GENERAL TRANSFER CO., a corporation, 2820 North Woodford Street, Decatur, Ill. 62526. Applicant's representative: Paul E. Steinhour, 918 East Capitol Avenue, Springfield, Ill. 62701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foods, food products, and food ingredients*, restricted to the transportation of shipments moving in vehicles equipped with mechanical refrigeration, from Beloit, Mayville, Milwaukee, Monroe, and Waupaca, Wis., to points in Illinois on or south of Interstate Highway 80; DeSoto, Ste. Genevieve, Perry, Scott, Cape Girardeau, Stoddard, Butler and St. Louis Counties, and St. Louis, Mo.; Owensboro, Paducah, Henderson, and Louisville, Ky.; and points in Indiana, restricted to shipments originating at the named origins and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Milwaukee, Wis.

No. MC 99234 (Sub-No. 9), filed October 11, 1977. Applicant: WESTWAY MOTOR FREIGHT, INC., 5231 Monroe Street, Denver, Colo. 80216. Applicant's representative: Leslie R. Kehl, Suite 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: (1) *malt beverages and related advertising materials*, from Jefferson County, Colo., to points in Iowa and Missouri; and (2) empty containers and materials for recycling, from points in Iowa and Missouri, to Jefferson County, Colo.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Denver, Colo. Common control may be involved.

No. MC 103993 (Sub-No. 906), date filed October 11, 1977. Applicant: MORGAN DRIVE-AWAY, INC., 28641 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: *Buildings and sections of buildings on undercarriages*, from Brown County, S. Dak., to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak.

No. MC 104896 (Sub-No. 50), date filed October 12, 1977. Applicant: WOMELDORF, INC., P.O. Box G, Knox, Pa. 16232. Applicant's representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, Pa. 19107. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise*, as is dealt in by wholesale, retail, and chain grocery and food business houses, from the facilities of the Drackett Co. at or near Urbana, Ohio to those points in that part of Pennsylvania on and west of U.S. Route 15.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Philadelphia, Pa. or Washington, D.C.

No. MC 105045 (Sub-No. 71), filed October 41, 1977. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, Evansville, Ind. 47701. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *prefabricated buildings, wood products, parts and accessories, including incidental hardware*, from the plant site of Bay Woodworking, Inc., located at Baltimore, Md. to points in the United States in and east of Wisconsin, Iowa, Missouri, Arkansas, and Louisiana.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C., but modified procedure is suggested.

No. MC 106398 (Sub-No. 785), filed October 6, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and related articles*, from the plant site and warehouse facilities of Veach-May-Wilson, Inc., located at Alcoa, Tenn., to points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 106398 (Sub-No. 786) filed October 13, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, knocked down, and materials and supplies* used in the construction thereof, (1) from Claremore, Okla., to points in the United States (except Alaska and Hawaii); (2) from Blountstown, Fla., to points in Colorado, Idaho, Montana, North Dakota, Oklahoma, Oregon, Texas, Utah, Washington, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Tulsa, Okla. Common control may be involved.

No. MC 106398 (Sub-No. 787) filed October 13, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal products*, (1) from the plantsite and warehouse

facilities of Neece Steel Corp., at Claremore, Okla., to points in the United States (except Alaska and Hawaii); and (2) from points in the United States (except Alaska and Hawaii) to the above-named plantsites.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Tulsa, Okla. Common control may be involved.

No. MC 106398 (Sub-No. 788) filed October 13, 1977. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, Okla. 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, Okla. 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Trucks*, in secondary movements, from the plantsite and warehouse facilities of Midas International Corp. (Frolic Division), Elkhart County, Ind., to points in Indiana, Illinois, Kentucky, Michigan, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, Vermont, Pennsylvania, Massachusetts, Connecticut, New Jersey, New York, Maryland, Delaware, Rhode Island, Georgia, the District of Columbia, and those in Missouri within the St. Louis-East St. Louis, Illinois commercial zone.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill. Common Control may be involved.

No. MC 106497 (Sub-No. 149), filed October 14, 1977. Applicant: PARKHILL TRUCK CO., a corporation, P.O. Box 912, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs, P.O. Box 113, Joplin, Mo. 64801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum products and fabricated or structural steel*, from Nashville, Tenn., and Charlotte, N.C., to points in the United States (including Alaska, but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Nashville or Memphis, Tenn.

No. MC 106644 (Sub-No. 243), filed October 14, 1977. Applicant: SUPERIOR TRUCKING CO., INC., P.O. Box 916, Atlanta, Ga. 30301. Applicant's representative: Frank Hall, Suite 713, 3384 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Such commodities as conduit or pipe, cement*, containing asbestos fibre and fittings therefor, from the plantsite of Cement Asbestos Products Co. (subsidiary of ASARCO Inc.), at or near Ragland, Ala., to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Viriginia, West Virginia and the District of Columbia.

NOTE.—If an oral hearing is deemed necessary, we request it be held at either St. Louis, Mo. or Washington, D.C.

No. MC 106674 (Sub-No. 258), filed October 12, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials* (except in bulk), from Woodstock, Va. to Illinois, Indiana, Kentucky, North Carolina, Ohio, Pennsylvania, South Carolina, Tennessee, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicants requests it be held in either Chicago, Ill., or Indianapolis, Ind.

No. MC 106674 (Sub-No. 259), filed October 17, 1977. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, Ind. 47977. Applicant's representative: Linda J. Sundy, P.O. Box 123, Remington, Ind. 47977. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Building and roofing materials (except iron and steel articles and commodities in bulk)*, from the plantsite and facilities of the GAF Corp., at or near Savannah, Ga., to points in South Carolina, North Carolina, Tennessee, Alabama, Florida, and Virginia, and (2) *roofing, building and insulating materials (except iron and steel articles and commodities in bulk)* from Chatham County, Ga., to points in Alabama, Florida, Mississippi, North Carolina, South Carolina, Tennessee, and (3) *materials, equipment and supplies (except iron and steel articles and commodities in bulk)*, used in the manufacture, installation, and distribution of roofing, building and insulating materials from points in the above described territory to Chatham County, Ga.

NOTE.—If hearing is deemed necessary, applicant requests it be held in either Chicago, Ill., or Indianapolis, Ind.

No. MC 107012 (Sub-No. 255), filed October 13, 1977. Applicant: NORTH AMERICAN VAN LINES, INC., Lincoln Highway East and Meyer Road, P.O. Box 988, Fort Wayne, Ind. 46801. Applicant's representative: Gary M. Crist, P.O. Box 988, Fort Wayne, Ind. 46801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fireplaces, component parts, accessories and equipment* therefor, from the plantsite of Heatilator, a Division of Vega Industries, Inc., at or near Mount Pleasant, Iowa, to Wickes Lumber and Building Supply Centers in Wisconsin, Minnesota, Nebraska, Kansas, Missouri, Illinois, Indiana, Rhode Island, Michigan, Ohio, Kentucky, Tennessee, Pennsylvania, New York, Vermont, New Hampshire, Maine, Massachusetts, Alabama, Connecticut, New Jersey, Delaware, Maryland, Oklahoma, West Virginia, Arkansas, Texas, Louisiana, Mississippi, Georgia, Florida, District of Columbia, North Carolina, South Carolina, Virginia, and Colorado.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 107064 (Sub-No. 121), filed October 14, 1977. Applicant: STEERE TANK LINES, INC., P.O. Box 2998, 2808 Fairmount Street, Dallas, Tex. 75221. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, Tex. 75201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum* and *petroleum products*, in bulk, from the plantsite of and facilities utilized by Exxon U.S.A. in Harris County, Texas, to points in the United States (except Alaska and Hawaii). Restricted to traffic originating at said plantsite and facilities.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 107515 (Sub-No. 1103), filed October 12, 1977, Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, Ga. 30050. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Abrasives (natural or synthetic abrasive material consisting chiefly of aluminum oxide or silicon carbide, flour or grain)*, (2) *iron and steel rust preventing or removing compounds*, other than petroleum, and (3) *media, burnishing, finishing or polishing ceramic or synthetic abrasive*, in burlap bags or boxes, from the plantsite and storage facilities of Wheelabrator-Frye, Inc. at Mishawaka, Ind. to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington and Wyoming.

NOTE.—Applicant holds contract carrier authority in No. MC 126436 (Sub-No. 6), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests it be held at Indianapolis, Ind. or Atlanta, Ga.

No. MC 107906 (Sub-No. 35), filed October 13, 1977. Applicant: TRANSPORT MOTOR EXPRESS, INC., Post Office Box 958, Fort Wayne, Ind.

46801. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Mead Johnson & Co. at or near Mt. Vernon, Ind., as an off-route point in connection with applicant's authorized regular-route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind.

No. MC 107993 (Sub-No. 60), filed October 12, 1977. Applicant: J. J. WILLIS TRUCKING CO., 2608 Electronic Lane (P.O. Box 5328), Dallas, Tex. 75222. Applicant's representative: Kenneth Weeks (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Iron and steel articles* from Grapeland, Tex., to points in Alabama, Arizona, Arkansas, Louisiana, Mississippi, New Mexico, Oklahoma, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Houston, Tex. or Dallas, Tex.

No. MC 108207 (Sub-No. 468), filed October 14, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *foodstuffs* and *articles distributed by meat packing plants* (except hides and commodities in bulk), from the plantsite and/or storage facilities of Geo. A. Hormel & Co., located at or near Fort Dodge, Iowa, to points in Arkansas. Restriction: Restricted to product originating at the named origin and destined to the named point.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Omaha, Nebr. or Dallas, Tex.

No. MC 108207 (Sub-No. 469), filed October 4, 1977. Applicant: FROZEN FOOD EXPRESS, INC., 318 Cadiz Street, P.O. Box 5888, Dallas, Tex. 75222. Applicant's representative: Mike Smith (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery*, from the plantsite and/or storage facilities of Peter Paul, Inc., located at or near Frankfort, Logansport, and Indianapolis, Ind., to points in Texas, Arkansas, Oklahoma, and Louisiana. Restriction: Restricted to traffic originating at the plantsite and/or storage facilities of Peter Paul, Inc., at the above named points, and destined to the above named States.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Indianapolis, Ind. or Dallas, Tex.

No. MC 108341 (Sub-No. 71), filed October 13, 1977. Applicant: MOSS TRUCKING COMPANY, INC., a North Carolina corporation, 3027 N. Tryon St., P.O. Box 8409, Charlotte, N.C. 28208. Applicant's representative: Morton E. Kiel, suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Mining machinery and equipment; and* (2) *attachments, parts and accessories*, for (1) above, from Monroe, N.C. to points in the United States, in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana; and (3) *materials, supplies, and equipment* (except commodities in bulk), used in the manufacture and distribution of commodities set forth in (1) and (2) above, from points in the United States in and east of Minnesota, Iowa, Missouri, Arkansas, and Louisiana to Monroe, N.C.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant does not specify a location.

No. MC 108393 (Sub-128), filed October 14, 1977. Applicant: SIGNAL DELIVERY SERVICE, INC., 201 E. Ogden Avenue, room 126, Hinsdale, Ill. 60521. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, Ohio 44114. Authority sought as a *contract carrier*, by motor vehicle, over irregular routes, transporting: parts of electrical and gas appliances and equipment, materials and supplies used in the manufacture, distribution and repair of electrical and gas appliances (except commodities in bulk in tank vehicles) between Portland, Ind., and Findlay, Ohio, under continuing contract or contracts with Whirlpool.

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held in Washington, D.C.

No. MC 108473 (Sub-No. 39), filed October 14, 1977. Applicant: ST. JOHNSBURY TRUCKING COMPANY, INC., 87 Jeffrey Avenue, Hollister, Mass. 01746. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street, NW., suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except household goods as described by the Commission, Classes A and B explosives, commodities in bulk, commodities requiring special equipment, and commodities of unusual value): (Part A) (Route 1) between Bucksport, Maine and Fort Kent, Maine, serving all intermediate points: from Bucksport, Maine over U.S. Highway 1 to Fort Kent, Maine and return over the same routes; (Route 2) between Calais, Maine and the U.S.-Canada Boundary Line: from Calais, Maine over U.S. Highway 1 to U.S.-Canada Boundary Line and return over same route; (Route 3) between Brookton, Maine and U.S.-Canada Boundary Line: from Brookton, Maine over unnumbered highway to Forest Station, Maine, thence over unnumbered highway to Forest City, Maine, thence over unnumbered highway to U.S.-Canada Boundary Line and return over the same route; (Route 4) between Orient, Maine and U.S.-Canada Boundary Line: from Orient, Maine over unnumbered highway to U.S.-Canada Boundary Line and return over the same route; (Route 5) between junction U.S. Highway 1 and unnumbered highway near Monticello, Maine and U.S.-Canada Boundary Line: from junction U.S. Highway 1 and unnumbered highway over unnumbered highway to U.S.-Canada Boundary Line and return over same route; (Route 6) between Bridgewater, Maine and U.S.-Canada Boundary Line: from Bridgewater, Maine over unnumbered highway to U.S.-Canada Boundary Line and return over same route; (Route 7) between junction U.S. Highway 1A and unnumbered highway at or near Mars Hill, Maine and U.S.-Canada Boundary Line: from junction U.S. Highway 1A and unnumbered highway at or near Mars Hill, Maine, over unnumbered highway to U.S.-Canada Boundary Line and return over same route; (Route 8) between Caribou, Maine and U.S.-Canada Boundary Line, serving all intermediate points: from Caribou, Maine over Maine Highway 89 to Limestone, Maine, thence over Maine Highway 229 to U.S.-Canada Boundary Line and return over same route; (Route 9) between Van Buren, Maine and U.S.-Canada Boundary Line: from Van Buren, Maine over U.S. Highway 1 to U.S.-Canada Boundary Line and return over the same route; (Route 10) between Madawaska, Maine and U.S.-Canada Boundary Line: from Madawaska, Maine over U.S. Highway 1 to U.S.-Canada Boundary Line and return over same route; (Route 11) between Fort Kent, Maine and U.S.-Canada Boundary Line: from Fort Kent, Maine over U.S. Highway 1 to U.S.-Canada Boundary Line and return over same route; (Route 12) between Bangor, Maine and Ellsworth, Maine, serving all intermediate points: from Bangor, Maine over U.S. Highway 1A to Ellsworth, Maine and return over same route; (Route 13) between Bangor, Maine and junction Maine Highway 9 and U.S. Highway 1

at or near Baring, Maine, serving all intermediate points: from Bangor, Maine over Maine Highway 9 to junction Maine Highway 9 and U.S. Highway 1 and return over same route; (Route 14) between Bangor, Maine and U.S.-Canada Boundary Line, serving all intermediate points: from Bangor, Maine over Interstate Highway 95 to U.S.-Canada Boundary Line and return over same route; (Route 15) between Bangor, Maine and Houlton, Maine, serving all intermediate points: from Bangor, Maine over U.S. Highway 2 to Macwahoc, Maine, thence U.S. Highway 2A to Houlton, Maine and return over the same route; (Route 16) between Macwahoc, Maine and Houlton, Maine, serving all intermediate points: from Macwahoc, Maine over U.S. Highway 2 to Houlton, Maine and return over same route; (Route 17) between Lincoln, Maine and U.S.-Canada Boundary Line at or near Vanceboro, Maine, serving all intermediate points: from Lincoln, Maine over Maine Highway 6 to U.S.-Canada Boundary Line at or near Vanceboro, Maine, and return over same route; (Route 18) between Milo, Maine and Fort Kent, serving all intermediate points: from Milo, Maine over Maine Highway 11 to Fort Kent, Maine and return over same route; (Route 19) between Ashland, Maine and U.S.-Canada Boundary Line, serving all intermediate points: from Ashland, Maine over Maine Highway 163 to Presque Isle, Maine, thence over Maine Highway 167 to Fort Fairfield, Maine, thence over Maine Highway 167 to U.S.-Canada Boundary Line and return over same routes; (Route 20) between junction of Maine Highway 16 and Maine-New Hampshire State Line and junction of Maine Highway 16 and Interstate Highway 95, serving all intermediate points: from junction Maine Highway 16 and Maine-New Hampshire State Line over Maine Highway 16 to junction Maine Highway 16 and Interstate Highway 95 and return over same routes; (Route 21) between junction Maine Highway 27 and Maine Highway 16 at or near Stratton, Maine and U.S.-Canada Boundary Line at or near Coburn Gore, Maine, serving all intermediate points: from junction Maine Highway 27 and Maine Highway 16 at or near Stratton, Maine to U.S.-Canada Boundary Line at or near Coburn Gore, Maine, over Maine Highway 27 and return over same route; (Route 22) between Skowhegan, Maine and U.S.-Canada Boundary Line, serving all intermediate points: from Skowhegan, Maine to U.S.-Canada Boundary Line over U.S. Highway 201 and return over same route; (Route 23) between Newry, Maine and Maine-New Hampshire State Line at or near Upton, Maine, serving all intermediate points: from Newry, Maine over Maine Highway 26 to Maine-New Hampshire State Line at or near Upton, Maine and return over same route; (Route 24) between Bethel, Maine and Skowhegan, Maine, serving all intermediate points: from Bethel, Maine over Maine Highway 5 to Newry, Maine thence over U.S. Highway 2 to Skowhegan, Maine and return over same route; (Route 25) between Rumford, Maine and Auburn, Maine, serving all intermediate points: from Rumford, Maine over Maine Highway 108 to Livermore, Maine, thence over Maine Highway 4 to Auburn, Maine and return over same route; (Route 26) between Augusta, Maine and Rangeley, Maine, serving all intermediate points: from Augusta, Maine over Maine Highway 27 to Farmington, Maine, thence over Maine Highway 4 to Rangeley, Maine and return over same route; (Route 27) between Augusta, Maine and Rockland, Maine, serving all intermediate points: from Augusta, Maine over Maine Highway 17 to junction U.S. Highway 1, thence to Rockland, Maine and return over same route; (Route 28) between Ellsworth, Maine and Bar Harbor, Maine, serving all intermediate points: from Ellsworth, Maine over Maine Highway 3 to Bar Harbor, Maine and return over same route; (Route 29) between South China, Maine and Belfast, Maine, serving all intermediate points: from South China, Maine over Maine Highway 3 to Belfast, Maine and return over same route; serving all points in Maine as off-route points in connection with the above described routes. (Part B) Off-route points: serving all points in Maine as off-route points in connection with carrier's presently authorized irregular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Boston, Mass., Presque Isle, Maine, Burlington, Vt., New York, N.Y., or Albany, N.Y.

No. MC 109397 (Sub-No. 369), filed October 4, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Yard tractors*, between Lyons, Ill., on the one hand, and, on the other, points in the United States, including Alaska, but excluding Hawaii.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill., or Washington, D.C.

No. MC 109397 (Sub-No. 370), filed October 13, 1977. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, Mo. 64801. Applicant's representative: A. N. Jacobs (same address as applicant). Authority sought to operate as a *commom carrier*, by motor vehicle over irregular routes, transporting: (1) *Electrical substations*, complete, knockdown, or in sections, including all component parts therefor, and (2) *parts, accessories, implements, and supplies* used in the erection and installation of electrical substations when moving in the same shipments with such electrical substations, from Shelby County, Ala., to points in the United States (except Alaska and Hawaii); and (3) *materials, supplies, and parts* (except commodities in bulk) used in the manufacture, assembly, and servicing of commodities in (1) and (2) above, from points in the United States (except Alaska and Hawaii), to Shelby County, Ala.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Birmingham, Ala., or Memphis, Tenn.

No. MC 109633 (Sub-No. 23), filed October 14, 1977. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, Ill. 60627. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags and wrapping paper*, from the plantsite and storage facilities of Trinity Midwest Corp. at or near South Holland, Ill., to points in Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, North Dakota, Ohio, Wisconsin, and points in Erie, Crawford, Mercer, Venango, Lawrence, Butler, Clarion, Armstrong, Beaver, Allegheny, Westmoreland, Washington, Greene, and Fayette Counties, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Chicago, Ill.

No. MC 109633 (Sub-No. 24), filed October 14, 1977. Applicant: ARBET TRUCK LINES, INC., 222 East 135th Place, Chicago, Ill. 60627. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper bags and wrapping paper*, from the plantsite and storage facilities of Trinity Bag & Paper Co., Inc., located at or near Elizabeth, N.J., to points in Illinois, Indiana, and Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at New York, N.Y., or Chicago, Ill.

No. MC 109689 (Sub-No. 317), filed October 13, 1977. Applicant: W. S. HATCH CO., a corporation, P.O. Box 1825, Salt Lake City, Utah 84110. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Coal*, between Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City, Utah.

No. MC 110525 (Sub-No. 1214), filed October 13, 1977. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Avenue, Downingtown, Pa. 19335. Applicant's representative: Thomas J. O'Brien (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals, chemical coatings, and resins* (other than petroleum), in bulk, in tank vehicles: from Garland, Tex. (Dallas commercial zone), to points in Alabama, Florida, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Michigan, Minnesota, Missouri, Nebraska, Oklahoma, Tennessee, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held in Chicago, Ill.

No. MC 111729 (Sub-No. 719), filed October 11, 1977. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, N.Y. 11040. Applicant's representative: Elizabeth L. Henoch (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automobile windows, windshields; metal strippings; rubber gaskets and materials and supplies* used in the installation and mounting of same, restricted against the transportation of packages or articles weighing in excess of 100 pounds, between Memphis, Tenn., on the one hand, and, on the other, points in Arkansas, and points in and North of Hinds, Lauderdale, Newton, Rankin, Scott, and Warren Counties, Miss.

NOTE.—Applicant holds motor contract carrier authority in MC 112750 and Sub numbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, the Applicant requests that it be held at Washington, D.C.

No. MC 111812 (Sub-No. 536), filed October 11, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101. Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from Fridley, Minn., to points in Idaho, Oregon, Washington, Montana, Utah, Nevada, and California.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 111812 (Sub-No. 537), filed October 14, 1977. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, S. Dak. 57101 Applicant's representative: Ralph H. Jinks, P.O. Box 1233, Sioux Falls, S. Dak. 57101. 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 MCC 209 and 766 (except commodities in bulk, in tank vehicles), from Omaha and Madison, Nebr., to points in Connecticut, Delaware, Main, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, Nebr. Common control may be involved.

No. MC 112822 (Sub-No. 430), filed October 16, 1977. BRAY LINES, INC., 1401 North Little Street, P.O. Box 1191, Cushing, Okla. 74023. Applicant's representative: Charles D. Midkiff (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Jute*, from Los Angeles, Calif., to the facilities of Cherokee Mills, at or near Lewisville, Ark.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, Calif., San Francisco, Calif.

No. MC 113459 (Sub-No. 115), filed October 14, 1977. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: James W. Hightower, 136 Wynnewood Professional Bldg., Dallas, Tex. 75224. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Towers and antennas, and parts of towers and antennas;* and (2) *materials, equipment and supplies* used in the manufacture, installation, or processing of the commodities described in (1) above (except bulk commodities), between Afton, Okla., on the one hand, and, on the other, points in the United States, including Alaska but excluding Hawaii.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 113828 (Sub-No. 249), filed October 14, 1977. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, D.C. 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, suite 1030, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Liquefied petroleum gas*, in bulk, from Cheraw and Lexington, S.C., to points in North Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests it be held in Washington, D.C.

No. MC 13855 (Sub-No. 390), filed October 11, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce transporting: *Sand, gravel, stone, and asphalt handling, mixing and distributing equipment*, in towaway service, between DeKalb and Aurora, Ill., on the one hand, and, on the other, points in the United States (including Alaska but excluding Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 113855 (Sub-No. 391), filed October 13, 1977. Applicant: INTERNATIONAL TRANSPORT, INC., 2450 Marion Road SE., Rochester, Minn. 55901. Applicant's representative: Alan Foss, 502 First National Bank Bldg., Fargo, N. Dak. 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Pipe, valves, fittings, hydrants, parts thereof and accessories* therefor, from Birmingham and Bessemer, Ala., to points in Iowa, Kansas, Missouri, Nebraska, Oklahoma, South Dakota, North Dakota, Texas and Minnesota.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, Ill.

No. MC 114211 (Sub-No. 321), filed October 14, 1977. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, Iowa 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South LaSalle Street, Chicago, Ill 60603. Authority sought to operate as a *common carrier*, over irregular routes, by motor vehicle, transporting: *Lumber, lumber products, plywood and treated posts, poles and piling*, from plantsites of International Paper Co., located at or near Gurdon, Ark.; Leola, Ark.; Henderson, Tex.; and Nacogdoches, Tex., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, we request it be held at either Mobile, Ala., or Atlanta, Ga.

No. MC 114273 (Sub-No. 300), filed October 7, 1977. Applicant: CRST,

INC., P.O. Box 68, Cedar Rapids, Iowa 52406. 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: *Iron and Steel Articles* from Monticello, Iowa, to Oklona and Wooster, Ohio. Restricted to traffic originating at Monticello, Iowa, and destined to Oklona and Wooster, Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, Ill., or Washington, D.C.

No. MC 114761 (Sub-No. 13), filed October 13, 1977. Applicant: GETTER TRUCKING INC., P.O. Box 368, Cut Bank, Mont. 59427. Applicant's representative: John R. Davidson, 805 Midland Bank Building, Billings, Mont. 59101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Machinery, equipment, materials and supplies* used in, or in connection with, the discovery, development, production, refining, manufacture, processing, storage, transmission, and distribution of manufactured and 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 points in Arizona, California, Colorado, Idaho, Kansas, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and that part of South Dakota east of the Missouri River and south of U.S. Highway 14, in non-radial movement; and between points in the states of Montana, North Dakota, Wyoming, and that part of South Dakota west of the Missouri River and on and north of U.S. Highway 14, on the one hand, and, on the other, points in Arizona, California, Colorado, Idaho, Kansas, Nebraska, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah, Washington, and that part of South Dakota east of the Missouri River and south of U.S. Highway 14. (2) *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 well 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 points in the states of Arizona, California, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, North Dakota, Oklahoma, Oregon, South Dakota, Texas, Utah, Washington, and Wyoming, in non-radial movement.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Billings, Mont., or Denver, Colo.

No. MC 115056 (Sub-No. 18), filed October 14, 1977. Applicant: LANE TRUCK LINES, INC., 120 Newby Court, Rocky Mount, N.C. 27801. Applicant's representative: Thomas L. Young, 131 North Church Street, Rocky Mount, N.C. 27801. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden boxes, box shooks and pallets*, from points in Chowan and Hertford Counties, N.C., to points in Georgia, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Ahoskie, or Raleigh, N.C.

No. MC 115092 (Sub-No. 64), filed September 29, 1977. Applicant: TOMAHAWK TRUCKING, INC., P.O. Box O, Vernal, Utah 84078. Applicant's representative: Walter Kobos, 1016 Kehoe Drive, St. Charles, Ill. 60174. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wooden moldings*, from Reno, Nev., to points in Arizona, Arkansas, Colorado, Kansas, Missouri, New Mexico, Oklahoma, Texas, Utah, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at San Francisco or Sacramento, Calif.

No. MC 115162 (Sub-No. 388), filed October 13, 1977. Applicant: POOLE TRUCK LINE, INC., Post Office Drawer 500, Evergreen, Ala. 36401. Applicant's representative: Robert E. Tate, Post Office Drawer 500, Evergreen, Ala. 36401. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Doors, windows and wooden millwork*, (1) From Mobile, Ala. to points in the States of Illinois, Indiana, and Missouri; and (2) From Montgomery, Ala. to points in the States of Illinois, Indiana, Missouri, and South Carolina.

NOTE.—If a hearing is deemed necessary the applicant rquests it be held at either Mobile, Ala. or Atlanta, Ga.

No. MC 115311 (Sub-No. 242) (amendment), filed September 15, 1977, published in the FEDERAL REGISTER issue of November 3, 1977, and republished, as amended, this issue. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral fibre, mineral fibre products and insulating materials*, from the facilities of the United States Gypsum Co., located at Birmingham, Ala., to points in Arkansas, Georgia, Florida, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, Texas, Oklahoma, Virginia, Missouri, Illinois, Indiana, Ohio, Pennsylvania, West Virginia, Iowa, Nebraska, and Kansas.

NOTE.—The purpose of this amendment is to add the destinations of Missouri, Illinois, Indiana, Ohio, Pennsylvania, West Virginia, Iowa, Nebraska, and Kansas to applicant's request for authority. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala.

No. MC 115311 (Sub-No. 247), filed October 5, 1977. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, Ga. 31061. Applicant's representative: Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes transporting: *Plywood and Composition Board*. From: The facilities of Champion International Corp. at Orangeburg and Charleston, S.C. To: Points in Illinois, Indiana, Ohio, Michigan, Kentucky, Wisconsin, North Carolina, Georgia, Tennessee, Alabama, Florida, Virginia, and West Virginia.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Charleston, S.C., or Atlanta, Ga.

No. MC 115353 (Sub-No. 29), filed October 6, 1977. Applicant: LOUIS J. KENNEDY TRUCKING CO. (a corporation), 342 Schuyler Avenue, Kearny, N.J. 07032. Applicant's representative: Morton E. Kiel, suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing materials and supplies*, and *supplies and materials* used in the manufacture thereof, over irregular routes, between the plant site of the Celotex Corp. at or near Fairfield, Ala., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia, (2) *Roofing materials and supplies*, and *supplies and materials* used in the manufacture thereof, over irregular routes, between Memphis, Tenn., on the one hand, and, on the other, points in Alabama, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, and Tennessee, (3) *Roofing materials and supplies*, and *supplies and materials* used in the manufacture thereof, over irregular routes, between Goldsboro, N.C., on the one hand, and, on the other, points in Florida, Georgia, North Carolina, South Carolina, Ten-

nessee, Virginia, and West Virginia, (4) *Composition board, insulating material, roofing and roofing materials, Urethane and Urethane products and related materials, supplies, and accessories* incidental thereto, and *supplies and materials* used in the manufacture thereof, over irregular routes, between Paris, Tenn., on the one hand, and, on the other hand, points in Alabama, Florida, Kentucky, Georgia, Louisiana, Mississippi, North Carolina, and South Carolina, (5) *Gypsum products and building materials*, and *materials and supplies* used in the installation thereof, and *supplies and materials* used in the manufacture thereof, over irregular routes, between Jacksonville, Fla., on the one hand, and, on the other, points in Kentucky, Louisiana, Mississippi, Virginia, and West Virginia, (6) *Composition board and supplies*, and *materials* used in the manufacture thereof, over irregular routes, between Marion, S.C., on the one hand, and, on the other, points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, under a continuing contract or contracts with The Celotex Corp. located at Tampa, Fla.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held in Tampa, Fla.

No. MC 115651 (Sub-No. 33), filed October 5, 1977. Applicant: KANEY TRANSPORTATION, INC., 7222 West Cunningham Road, Rockford, Ill. 61102. Applicant's representative: R. D. Higgins (same address as applicant). Authority sought by applicant to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin.

NOTE.—Applicant has an application pending as a contract carrier in MC 139621, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, Ill. or Des Moines, Iowa.

No. MC 115651 (Sub-No. 34), filed October 6, 1977. Applicant: KANEY TRANSPORTATION, INC., 7222 West Cunningham Road, Rockford, Ill. 61102. Applicant's representative: R. D. Higgins 7222 West Cunningham Road, Rockford, Ill. 61102. Authority sought by applicant to operate in interstate or foreign commerce as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer, and fertilizer ingredients in bulk or bag*, from the plantsite and warehouse facilities of the N-Ren Corp. at or near East Dubuque, Ill. to points in Illinois, Indiana, Iowa, Kansas, Nebraska, South Dakota, Minnesota, Missouri, Wisconsin, and Ohio.

NOTE.—(1) Applicant states that common control may be involved. (2) If a hearing is deemed necessary, applicant requests that hearing be held in Chicago, Ill. or Milwaukee, Wis.

MC 115841 (Sub-No. 564), filed October 14, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* from Kansas City, Mo., to points in Indiana, Michigan, and Ohio.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests that it be held in Kansas City or Washington, D.C.

No. MC 115841 (Sub-No. 565), filed October 13, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, Tenn. 37919. Applicant's representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats and 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 MCC 209 and 766 (except commodities in bulk, in tank vehicles), from the plantsite and storage facilities utilized by Oscar Meyer & Co., Inc., at or near Perry, and Des Moines, Iowa to points in Alabama, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, and Virginia. Restriction: Restricted to the transportation of traffic originating at points in the named origins and terminating at points in the named destination states.

NOTE.—If a hearing is deemed necessary it is requested that it be held in Washington, D.C. or Chicago, Ill. Common control may be involved.

MC 115841 (Sub-No. 566), filed October 14, 1977. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Knoxville, Tenn. 37919. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 11th Street, NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned goods* from Hoopeston, and Princeville, Ill. to points in Alabama, Florida, Georgia, North Carolina, South Carolina, Mississippi, and Tennessee.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. or Washington, D.C.

No. MC 116254 (Sub-No. 189), filed October 12, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Herbicides*, other than in bulk, from the plantsite of Fallak-Lankro Corp., Fox, Ala., at or near Holt, Ala. to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Birmingham, Ala., or Washington, D.C.

No. MC 116254 (Sub-No. 190), filed October 12, 1977. Applicant: CHEM-HAULERS, INC., P.O. Box 339, Florence, Ala. 35630. Applicant's representative: Hampton M. Mills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Floor sweeping compounds and absorbents*, from Ripley, Miss., and Ochlocknee, Ga. to points in the United States in and east of Minnesota, Iowa, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 117068 (Sub-No. 85), filed October 13, 1977. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, Minn. 55901. Applicant's representative: Paul F. Sullivan, 711 Washington Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Tanks and tank parts*, from New Prague, Minn., to points in the United States (except Alaska and Hawaii); and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above from the destination area in (1) above to New Prague, Minn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Minneapolis, Minn.

No. MC 117119 (Sub-No. 656), filed October 11, 1977. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, Ark. 72728. Applicant's representative: L. M. McLean (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods*, from the facilities of Saluto Foods at Montgomery, Ala., to points in Arizona and California.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 117574 (Sub-No. 289), filed October 5, 1977. Applicant: DAILY

EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: James W. Hagar, P.O. Box 1166, 100 Pine Street, Harrisburg, Pa. 17108. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting, (a) *Fabricated pipe, tubing, fittings* and (b) *materials equipment, and supplies* except commodities in bulk used in the manufacture, erection, and maintenance of the above-named commodities, between the plantsite and facilities of I.T.T. Grinnel at or near Kernersville, N.C., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., or Washington, D.C.

No. MC 117574 (Sub-No. 290), filed: October 14, 1977. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranporting (1) *Cranes, Draglines, Backhoes, Shovels, and Loaders*, and (2) *incidental machinery, attachments, accessories and parts* used in connection with the commodities in (1) above, Between points in the United States (except Alaska and Hawaii). Restricted to the transportation of shipments originating at or destined to the facilities of Gleason Equipment, Inc., Gleason Crane Rental Inc., Gleason Service, Inc., or their affiliates, subsidiaries, distributors, customers, or equipment lessees.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant request it be held at either Chicageo, Ill., or Washington, D.C.

No. MC 117574 (Sub-No. 291), filed October 14, 1977. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranporting (1) *Housing modules, air penthouses, air moving, heating and cooling equipment, motors, electric equipment, parts, tools, accessories* and (2) *machines and materials*, used in the manufacture of commodities named in (1) above, between Memphis, Tenn., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii)

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant request it be held in Memphis, Tenn., or Washington, D.C.

No. MC 117574 (Sub-No. 292), filed October 14, 1977. Applicant: DAILY EXPRESS, INC., P.O. Box 39, 1076 Harrisburg Pike, Carlisle, Pa. 17013. Applicant's representative: E. S. Moore, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, tranporting: *Self-propelled utility graders, and self-propelled paving machines, and trailers, and parts* thereof, from Gwinnett County, Ga., to points in the United States (except Alaska and Hawaii)

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant request it be held in Atlanta, Ga., or Washington, D.C.

No. MC 117686 (Sub-No. 183), filed September 19, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, Sioux City, Iowa 51102. Applicant's representative: Robert A. Wichser, 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Artificial turf, neoprene foam padding, floor coverings, and materials and supplies* used in the installation, manufacture, packaging, distribution and sale of artificial turf, neoprene foam padding, and floor coverings, when moving in mixed shipments therewith, over irregular routes, from points in that part of Georgia on and north of a line beginning at the Alabama-Georgia State boundary line and extending along Interstate Highway 20 to Atlanta, Ga., and thence along Interstate Highway 20 to the Georgia-South Carolina State boundary line, Landrum and Greenville, S.C., and Louisa, Ky., to points in Iowa, Minnesota, Nebraska, North Dakota, and South Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either New Orleans, La. or Atlanta, Ga.

No. MC 117686 (Sub-No. 186), filed October 14, 1977. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, Iowa 51102. Applicant's representative: George Hirschbach (same address as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts and articles* distributed by meat packinghouses as described in section A and C of appendix I to the report in Description in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite of Columbia Foods, Inc., located at or near Wallula, Wash., to points in California and Arizona.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa or Sioux City, S. Dak.

No. MC 117786 (Sub-No. 3), filed October 14, 1977. Applicant: RILEY WHITTLE, INC., P.O. Box 19038, Phoenix, Ariz. 85009. Applicant's representative: Thomas F. Kilroy, suite 406, Executive Building, 6901 Old Keene Mill Road, Springfield, Va. 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpets, carpeting, mats, matting or rugs, carpet or rug cushions, cushioning, lining, pads or padding, yarn or yarns*, from Talladega, Ala., and Pryor, Okla., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming, between Talladega, Ala., and Pryor, Okla.; (2) *fibre, chemicals, cones, dyes, dyestuffs, machine and machinery parts, cores, and complete machines*, from points in Alabama, Georgia, North Carolina, South Carolina, and Tennessee, to Talladega, Ala., and Pryor, Okla.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Tulsa or Oklahoma City, Okla.

No. MC 117940 (Sub-No. 234), filed October 13, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan L. Timmerman, P.O. Box 104, Maple Plain, Minn. 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as described in sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite of Columbia Foods, Inc., at or near Wallula, Wash., to points in Minnesota, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Texas, and Missouri.

NOTE.—Applicant holds motor contract carrier authority in No. MC 114789 (Sub-No. 16) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Sioux City, Iowa, or Sioux Falls, S. Dak.

No. MC 117940 (Sub-No. 235), filed October 13, 1977. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, Minn. 55359. Applicant's representative: Allan Timmerman (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in or used in the operation of retail department stores (except foodstuffs, commodities in bulk, and household goods as defined by the Commission), from Gilderland Center, and Long Island, N.Y., the New York, N.Y. Commercial Zone, Westfield and East Longmeadow, Mass., and points in New Jersey, to the facilities of Jafco, Inc., a division of

Modern Merchandising, Inc., at Tukwila, Wash., and the stores of Jafco, Inc., in Bellevue, Lynnwood, Seattle, and Tacoma, Wash., and Beaverton, Milwaukee, and Portland, Oreg., the facilities of Great Western Distributing Co., Inc., a division of Modern Merchandising, Inc., located at Boise and Lewiston, Idaho, and the facilities of La Belle's Distributing, a division of Modern Merchandising, Inc., located at Missoula, Mont., restricted to the transportation of traffic originating at the named origins and destined to the facilities and stores of Jafco, Inc., Great Western Distributing Co., Inc. and La Belle's Distributing at named destination points.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul or Minneapolis, Minn. Applicant holds contract carrier authority in MC 114789, Sub 16 and other subs thereunder, therefore dual operations may be involved.

No. MC 117954 (Sub-No. 25) (Correction), filed September 13, 1977, published in the FEDERAL REGISTER issue of November 3, 1977, and republished as corrected this issue. Applicant: H. L. HERRIN, JR., doing business as H. L. HERRIN TRUCKING CO., P.O. Box 1106, Metairie, La. 70004. Applicant's representative: Lester C. Arvin, 814 Century Plaza Building, Wichita, Kans. 67202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, from the plantsite of Inland Storage Distribution Center, located at Kansas City, Kans., to points in Alabama, Arkansas, Florida, Georgia, and Mississippi.

NOTE.—The purpose of this correction is to include "from the plantsite of Inland Storage Distribution Center," which was inadvertently omitted. If a hearing is deemed necessary, applicant requests it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 118159 (Sub-No. 228), filed October 12, 1977. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, Okla. 74151. Applicant's representative: Warren Taylor (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials, and returned empty malt beverage containers*, between Fort Worth, Tex., on the one hand, and, on the other, points in Arkansas, Colorado, Louisiana, Mississippi, New Mexico, and Oklahoma.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 118696 (Sub-No. 10), filed October 18, 1977. Applicant: FERREE FURNITURE EXPRESS, INC., 252 Wildwood Road, Hammond, Ind. 46324. Applicant's representative: Carl L. Steiner, 39 South La Salle Street, Chicago, Ill. 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture, new household goods, furnishings and furniture parts*, from Chicago, Ill., to points in Connecticut, Indiana, Iowa, Kentucky, Maryland, Massachusetts, Michigan, Minnesota, Missouri, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill.

No. MC 119285 (Sub-No. 4), filed September 29, 1977. Applicant: YELLOW CAB, INC., 108 East Market Street, Lima, Ohio 45801. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (a) *Electric motors, generators, or parts* thereof, between Union City, Ind., and Upper Sandusky, Bellefontaine, and Lima, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania, and (b) *Materials and supplies* used in the manufacture and assembly of electric motors and generators, between Union City, Ind., and Lima, Bellefontaine, and Upper Sandusky, Ohio, on the one hand, and, on the other, points in Illinois, Indiana, Kentucky, Michigan, New York, Ohio, and Pennsylvania. Restriction: Said operations are limited to a transportation service to be performed under a continuing contract or contracts with Westinghouse Electric Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No MC 119493 (Sub-No. 165), filed October 12, 1977. Applicant: MONKEM CO., INC., P.O. Box 1196, Joplin, Mo. 64801. Applicant's representative: Lawrence F. Kloeppel (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Flour*, from McPherson, Kans., to points in Georgia, located north of a line beginning at the Georgia-Alabama State line and extending along U.S. Highway 280 to the junction of U.S. Highway 80, thence along U.S. Highway 80 to the Atlantic Ocean; and (2) *flour and corn meal*, from Memphis, Tenn., to points in Alabama, Arkansas, Georgia, Iowa, Illinois, Indiana, Kansas, Kentucky, Louisiana, Missouri, Mississippi, Nebraska, North Carolina, Ohio, Oklahoma, South Carolina, Texas, Virginia, and West Virginia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Wichita, Kans., or Kansas City, Mo.

No. MC 229726 (Sub-No. 104), filed October 5, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, suite One Thousand, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, or dealt in by manufacturer of *glass and glass products* (except commodities in bulk), from the facilities of Anchor Hocking Corp., located at or near South Connellsville and Youngwood, Pa., to points in North Carolina, South Carolina, Georgia, Alabama, Florida, Mississippi, Arkansas, Louisiana, Texas, points in Virginia on and south of U.S. Highway 60 and east of U.S. Highway 1 and Memphis, Tenn.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Columbus, Ohio.

No. MC 119726 (Sub-No. 105), filed October 5, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood Avenue, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are manufactured, processed, or dealt in by manufacturer of *glass and glass products* (except commodities in bulk), from the facilities of Anchor Hocking Corp., located at or near Lancaster, Ohio, to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianapolis, Ind., or Columbus, Ohio.

No. MC 119726 (Sub-No. 106), filed October 11, 1977. Applicant: N.A.B. TRUCKING CO., INC., 1644 West Edgewood, Indianapolis, Ind. 46217. Applicant's representative: James L. Beattey, Suite 1000, 130 East Washington St., Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Parts, supplies, and raw materials* used in the manufacturing of plumbers goods, (1) from points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Rosemont and Centralia, Ill., and Columbus and Waterville, Ohio), to the facilities of Powers-Fiat Corp., located at or near Plainview, N.Y., and (2) from points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas (except Centralia, Ill.), to the facilities of

Powers-Fiat Corp., at or near Monroe, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Indianapolis, Ind.

No. MC 119741 (Sub-No. 88), filed October 16, 1977. Applicant: GREEN FIELD TRANSPORT CO., INC., 3225 Fifth Avenue South, Fort Dodge, Iowa, 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs, frozen meats, and inedible foods* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., located at or near Bettendorf, Iowa, to points in Colorado, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, North Dakota, Ohio, South Dakota, and Wisconsin. Restriction: Restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Davenport, Iowa.

No. MC 119741 (Sub-No. 89), filed October 16, 1977. Applicant: GREEN FIELD TRANSPORT CO., INC., 3225 Fifth Avenue South, Fort Dodge, Iowa, 50501. Applicant's representative: D. L. Robson, P.O. Box 1235, Fort Dodge, Iowa 50501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food, food products, and food ingredients*, (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Archer Daniels Midland Co., located at Decatur, Ill., to points in Connecticut, Delaware, Kentucky, Maine, Maryland, Massachusetts, Michigan, New Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Virginia, Vermont, West Virginia, and Washington, D.C. Restriction: Restricted to traffic originating at the named origin and destined to the named destinations.

NOTE.—If hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 119789 (Sub-No. 375), filed October 12, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic film*, from Griffin, Ga., to points in Alabama, Arkansas, Kentucky, Mississippi, Ohio, Tennessee, and Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Boston, Mass.

No. MC 119789 (Sub-No. 376), filed October 13, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representative: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, and *materials, equipment and supplies* used in the production, distribution, and sale of Malt Beverages between the facilities of Pabst Brewing Co. at Peoria, Ill.; Milwaukee, Wis.; Pabst, Ga.; Newark, N.J.; and Los Angeles, Calif.; restricted to the transportation of shipments originating at and destined to the facilities of Pabst Brewing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Milwaukee, Wis., or Chicago, Ill.

No. MC 119789 (Sub-No. 377), filed October 13, 1977. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 6188, Dallas, Tex. 75222. Applicant's representatives: James K. Newbold, Jr., P.O. Box 6188, Dallas, Tex. 75222. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *Potato Chips and Potato Products* (other than frozen), from Quakertown, Pa., to points in Alabama, Florida, Georgia, Louisiana, Mississippi, and Texas.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Atlanta, Ga., or Philadelphia, Pa.

No. MC 119815 (Sub-No. 22), filed October 7, 1977. Applicant: INTERSTATE HIGHWAY EXPRESS, INC., Box 579, Bedford, Ind. 47441. Applicant's representative: Ronald N. Cobert, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes transporting: (1) *Aluminum, aluminum articles, aluminum products, and iron and steel culverts*, from Bedford, Ind., to points in the United States (except Alaska and Hawaii), (2) *materials, equipment, and supplies* (except in bulk), used in the manufacture and distribution of the commodities described in (1) above, from points in the United States (except Alaska and Hawaii) to Bedford, Ind., (3) *aluminum ingots*, from points in the United States (except Alaska and Hawaii), to Bedford, Ind., and (4) *aluminum, aluminum articles, aluminum products, iron and steel culverts, and materials, equipment, and supplies* (except in bulk), used in the manufacture and distribution thereof, between the plantsites and facilities of Kaiser Aluminum & Chemical Corp., located at or near Alexander, Ark., Sacramento, Calif., Greeley, Colo., New Castle, Del., Lantana and Sanford, Fla., Eunice, La., Schnectady, N.Y., Anderson, S.C., Jackson, Tenn., Salt Lake City, Utah, and Spokane and Vancouver, Wash. The operations described herein shall be limited to a transportation service to be performed under a continuing contract or contracts with Kaiser Aluminum & Chemical Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either at Washington, D.C., or San Francisco, Calif.

No. MC 120618 (Sub-No. 3), filed October 13, 1977. Applicant: SCHALLER TRUCKING CORP., 5700 West Minnesota Street, Indianapolis, Ind. 46241. Applicant's representative: John R. Bagileo, 918 16th Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Aluminum castings*, from the plantsite and facilities of Central Foundry, a Division of General Motors Corp., located at or near Bedford, Ind., to Detroit, Mich., and the plantsites and facilities of General Motors Corp. and its Divisions located in Michigan and Ohio, (2) *scrap aluminum*, from points in Michigan, New York, and Ohio, to points in Indiana, (3) *brake drums*, in the rough, between the plantsite and facilities of Central Foundry Division of General Motors Corp., located at or near Bedford, Ind., and points in Michigan and New York, and (4) *reusable containers*, between Detroit, Mich. and the plantsites and facilities of General Motors Corp. and its Divisions located in Michigan, New York, and Ohio, and the plantsite and facilities of Central Foundry, a Division of General Motors Corp., located at or near Bedford, Ind.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Indianapolis or Terre Haute, Ind.

No. MC 120761 (Sub-No. 33), filed October 13, 1977. Applicant: NEWMAN BROS. TRUCKING CO. (a corporation), P.O. Box 18728, Fort Worth, Tex. 76118. Applicant's representative: Clint Oldham, 1108 Continental Life Building, Fort Worth, Tex. 76102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber products and wood products* (1) between points in Arizona, Colorado, New Mexico, and Utah, and (2) from points in Arizona, Colorado, New Mexico, and Utah to points in Arkansas, Illinois, Iowa, Indiana, Kansas, Michigan, Missouri, Ohio, Oklahoma, Texas, and Wisconsin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Phoenix, Ariz., Albuquerque, N. Mex., or Denver, Colo.

No. MC 121240 (Sub-No. 6), filed October 13, 1977. Applicant: ABC TRUCK LINES, INC., P.O. Box 1824, Elko, Nev. 89801. Applicant's representative: Antoinette M. Bloch, P.O. Box

1824, Elko, Nev. 89801. Authority sought to operate as a *common carrier*, by motor vehicle, (1) over irregular routes, transporting: *Chemicals* (except in bulk in tank vehicles), from the plantsite of U.S. Borax Co., at or near Boron, Calif., and from Trona, Calif., to Great Falls, Mont., and (2) over regular routes, transporting: *General commodities*, between Elko, Nev. and Owyhee, Nev., over Nevada Highway 51 and return over the same route, serving all intermediate points.

NOTE.—Part 2 of this application seeks to convert Certificate of Registration to a Certificate of Convenience and Necessity. If a hearing is deemed necessary, applicant requests that it be held at Elko, Nev.

No. MC 121496 (Sub-No. 7) (Corrected), filed September 23, 1977, published in the FEDERAL REGISTER issue of November 10, 1977, as MC 111496 (Sub-No. 7), and republished, as corrected, this issue. Applicant: CANGO CORP., Suite 2900, 1100 Milam Building, Houston, Tex. 77002. Applicant's representative: E. Stephen Heisley, Suite 805, 666 11th Street NW., Washington, D.C. 20001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plantsite and storage facilities of Oxirane Chemical Co., located at or near Channelview, Tex., to points in the United States (except Alaska and Hawaii).

NOTE.—The purpose of this correction is to show applicant's correct docket number as MC 121496 (Sub-No. 7) in lieu of MC 111496 (Sub-No. 7). If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

No. MC 121654 (Sub-No. 8), filed October 11, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., a corporation, Post Office Box 7438, Savannah, Ga. 31408. Applicant's representative: Alan E. Serby, 3379 Peachtree Road NE., Suite 375, Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *lumber and lumber products*, except in bulk, (1) from the plantsite and storate facilities of Gilman Paper Co. at Dudley, and Blackshear, Ga. to points in Alabama, Florida, Mississippi, North Carolina, and South Carolina, and (2) from the plantsite and storage facilities of Gilman Paper Co. located at or near Middleberg (Clay County), Fla., to points in Alabama, Georgia, Mississippi, North Carolina, and South Carolina.

NOTE.—Common control may be involved. If a hearing is deemed to be necessary, applicant requests that it be held at Jacksonville, Fla. or Atlanta, Ga.

No. MC 121654 (Sub-No. 9), filed October 14, 1977. Applicant: COASTAL TRANSPORT & TRADING CO., Post Office Box 7438, Savannah, Ga. 31408. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, over irregular routes, transporting, *building materials, wood products and lumber* (except iron and steel articles), from Mobile, and Baldwin Counties, Ala., to points in Louisiana, and points in Mississippi on and south of U.S. Highway 84, to points in the United States in and east of Texas, Oklahoma, Kansas, Nebraska, and Minnesota.

NOTE.—If hearing is deemed necessary applicant requests that it be held in New Orleans, La. Common control may be involved.

No. MC 123048 (Sub-No. 372), filed October 7, 1977. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Post Office Box 1557, Racine, Wis. 53401. Applicant's representative: Paul C. Gartzke, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Self-Propelled Vehicles* (except highway trucks, automobiles and buses); (2) *Agricultural Machinery, Equipment and Implements;* (3) *Parts, Attachments, Accessories and Components* of the commodities described in paragraphs (1) and (2) above, between Jackson, Minn. and Boone County, Ind. on the one hand, and, on the other, points in the United States (except Alaska and Hawaii); (4) *Materials, Equipment and Supplies* (except commodities in bulk) used in the manufacture of commodities described in paragraphs (1), (2), and (3) above, from points in the United States (except Alaska and Hawaii) to Jackson, Minn. and Boone County, Ind.; (5) *Experimental, Used and Show Display* (a) Self-Propelled Vehicles (except highway trucks, automobiles and buses); (b) Agricultural Machinery, Equipment and Implements; and (c) Incidental Paraphernalia, moving between the plantsites, shows, exhibits, sales branches and warehouses owned or utilized by Ag-Chem Equipment Co., Inc., between points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Minneapolis, Minn. or Washington, D.C.

No. MC 123255 (Sub-No. 125), filed October 12, 1977. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, Ohio 43055. Applicant's representative: C. F. Schnee, Jr., 140 Everett Avenue, Newark, Ohio 43055. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, and materials, equipment and supplies utilized in the manufacture thereof* (except commodities in bulk), between the facilities of the International Paper Co. at or near Jay and Livermore Falls, Maine, and points in Arizona, California, Illinois, Indiana, Kansas, Kentucky, Maryland, Michigan, Minnesota, Missouri, New Mexico, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, Wisconsin, and the District of Columbia, and those points in that part of New York on and west of Interstate Highway 81.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 123272 (Sub-No. 15), filed October 16, 1977. Applicant: FAST FREIGHT, INC., 9651 S. Ewing Avenue, Chicago, Ill. 60617. Applicant's representative: Joseph Winter, 33 North LaSalle St., Chicago, Ill. 60602. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except commodities in bulk), from Brownstown, and Austin, Ind. to points in Alabama, Florida, Georgia, North Carolina, and South Carolina.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. Common control may be involved.

No. MC 123329 (Sub-No. 33), filed October 11, 1977. Applicant: H. M. TRIMBLE & SONS LTD., P.O. Box 3500, Calgary, Alberta T2P 2P9, 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.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at any city in Montana. Common control may be involved.

Docket No. MC 123387 (Sub-No. 10), filed October 14, 1977. Applicant: E. E. HENRY, 1923 Sparrow Road, Chesapeake, Va. 23320. Applicant's representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1267, Arlington, Va. 22210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from the facilities of Midland Glass Co., located at or near Warner Robins, Ga., to Williamsburg, Va.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 123407 (Sub-No. 407), filed October 12, 1977. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, Ind. 46383. Applicant's representative: H. E. Miller, Jr., (same address as ap-

plicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Insulation and equipment, materials, and supplies used in the installation thereof* from Mount Pleasant, Mich., to points in Illinois, Indiana, Ohio, and Pennsylvania; and (2) *Equipment, materials, and supplies used in the manufacture and distribution of insulation* (except commodities in bulk) from points in Illinois, Indiana, Ohio, and Pennsylvania, to Mount Pleasant, Michigan.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 124071 (Sub-No. 13), filed October 16, 1977. Applicant: LIVESTOCK SERVICE, INC., 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, and meat by-products, and articles distributed meat packinghouses*, as described in Sections A and C of Appendix I to report in Descriptions of Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk) from St. Cloud, Minn. to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Idaho, Louisiana, Mississippi, Montana, Nevada, New Mexico, North Carolina, North Dakota, Oklahoma, Oregon, South Carolina, Texas, Utah, Virginia, Washington, West Virginia, and Wyoming, restricted to the transportation of shipments originating at the facilities of Robel Beef Packers, Inc., at St. Cloud, Minn. and destined to the above described destination points, under a continuing contract or contracts with Robel Beef Packers, Inc.

NOTE.—Applicant holds motor common carrier authority in No. MC 134645 (Sub-No. 2) and other subs, therefore, dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis, Minn.

No. MC 124078 (Sub-No. 746), filed September 19, 1977. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer materials*, in bulk, from the facilities of CF Industries, Inc., at or near Albany, Ill., to points in Illinois, Iowa, Minnesota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill. Common control may be involved.

No. MC 124078 (Sub-No. 750), filed October 12, 1977. Applicant: SCHWERMAN TRUCKING CO., A corporation, 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Phosphoric acid*, in bulk, in tank vehicles, from Nashville, Tenn., to points in Alabama, Arkansas, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Mississippi, Missouri, North Carolina, Ohio, Oklahoma, Pennsylvania, South Carolina, Texas, Virginia, West Virginia, and Wisconsin.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 124078 (Sub-No. 752), filed October 14, 1977. Applicant: SCHWERMAN TRUCKING CO., 611 South 28 Street, Milwaukee, Wis. 53215. Applicant's representative: James R. Ziperski, P.O. Box 1601, Milwaukee, Wis. 53201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Chemicals*, in bulk, in tank vehicles, from the plantsite and warehouse facilities of Clark Chemical Co. located at or near Blue Island, Ill., to points in Iowa, Michigan, Minnesota, Missouri, Nebraska, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill. Common control may be involved.

MC 124211 (Sub-No. 308), filed October 11, 1977. Applicant: HILT TRUCK LINE, INC., P.O. Box 988, D.T.S., Omaha, Nebr. 68101. Applicant's representative: Thomas L. Hilt (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Meats, meat products, meat byproducts, dairy products*, and articles distributed by meat packinghouses as described in Sections A, B, and C of Appendix I to the report in descriptions in motor carrier certificates, 61 MCC 209 and 766 (except commodities in bulk, in tank or hopper vehicles), from Council Bluffs, Iowa, to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, North Carolina, Pennsylvania, Rhode Island, South Carolina, Tennessee (except Memphis and points in its commercial zone), Vermont, Virginia, West Virginia, and the District of Columbia. Restriction: The authority in (1) above is restricted against the transportation of hides to points in Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, New York, Pennsylvania, Tennessee, Vermont, Virginia, and West Virginia, and Hazelwood, North Carolina. (2) *Motor vehicle parts, accessories* and *supplies* (except in bulk), from points in Madison County, Ind., and Montgomery County, Ohio, to Council Bluffs, Iowa. Restriction: The authority in (2) above is restricted to the transportation of traffic originating at the named origins. (3) *Adhesives, beverages, flour, foodstuffs* (except candy, confectionery, dairy products, frozen foodstuffs, meats, and packinghouse products), *gluten, grain products, starch, and spirits*, from Council Bluffs, Iowa, to points in the United States, (except Alaska and Hawaii). (4) *Enzymes* and *juniper berries* (except frozen), from points in Illinois and New Jersey, to Council Bluffs, Iowa. Restrictions: The authority in (3) and (4) above is restricted against the transportation of commodities in bulk. The authority in (1) and (3) above is restricted to the transportation of traffic received from connecting carriers at Council Bluffs, Iowa, and in (2) and (4) above, restricted to the transportation of traffic delivered to connecting carriers at Council Bluffs, Iowa.

NOTE.—Common control may be involved. Applicant states the purpose of this application is for the relocation of interchange points currently authorized in MC 124211 Sub-Nos. 241 and 254. If oral hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 124608 (Sub-No. 6), filed October 14, 1977. Applicant: WILLIAM GILCHRIST, 509 Susquehanna Avenue, Old Forge, Pa. 18518. Applicant's representative: Joseph F. Hoary, 121 South Main Street, Taylor, Pa. 18517. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting *materials, supplies and products* used in or produced by the food processing industry (except commodities in bulk), between Erie and North East, Pa., and Westfield, Dunkirk, Buffalo and Newark, N.Y., on the one hand, and, on the other, points in Virginia, Tennessee, North Carolina, South Carolina, Alabama, Georgia, and Florida. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract, or contracts with Welch Foods, Inc., of Westfield, N.Y.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C. Common control may be involved.

No. MC 124692, (Sub-No. 181), filed October 6, 1977. Applicant: SAMMONS TRUCKING (a corporation), P.O. Box 4347, Missoula, Mont. 59801. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting (1) *Mineral wool or mineral wool products* and (2) *insulating or protective materials*, viz.,

calcium silicate and fibre combined or felts saturated with asphalt or not saturated, from the facilities of Johns-Manville at Waukegan, Ill. to points in California, Colorado, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 124896 (Sub-No. 30), filed October 13, 1977. Applicant: WILLIAMSON TRUCK LINES, INC., Thorne & Ralston Streets, Wilson, N.C. 27893. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Food stuffs* (except in bulk), from the facilities of Commercial Distribution Center, Inc. at or near Kansas City, Mo., to points in West Virginia, Virginia, Maryland, Tennessee, Mississippi, North Carolina, South Carolina, Georgia, Florida, and Alabama.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Kansas City, Mo., or Raleigh, N.C.

No. MC 125470 (Sub-No. 28), filed October 17, 1977. MOORE'S TRANSFER, INC., P.O. Box 1151, Norfolk, Nebr. 68701. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carbonated beverages and equipment, materials and supplies*, used in the production and distribution thereof, (except commodities in bulk), between the plantsite and facilities of Midwest Canners Cooperative, located at or near Norfolk, Nebr., on the one hand, and, on the other, points in South Dakota, North Dakota, Minnesota, Iowa, Missouri, Kansas, and Wyoming.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Lincoln, or Norfolk, Nebr.

No. MC 126286 (Sub-No. 17), filed September 19, 1977. Applicant: NIX TRANSPORTATION, INC. P.O. Box 721, Albany, Oreg. 97321. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, Oreg. 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Veneer*, between points in Oregon; Washington; Del Norte, Siskiyou, Humbolt, Trinity and Shasta Counties, Calif.; and, Boundary, Bonner, Kootenai, Beneway, Latah, Nez Perce, Payette and Gem Counties, Idaho.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Portland, Oreg.

No. MC 126844 (Sub-No. 42), filed October 17, 1977. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, N.J. 08360. Applicant's representative: Terrence D. Jones, 2033 K Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *pet food* from Red Bay, Ala. and Tupelo, Miss. to points in Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Missouri, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Texas, Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 127539 (Sub-No. 61), filed October 7, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98424. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 3rd Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery goods*, in vehicles equipped with mechanical refrigeration, from the plantsites and facilities utilized by Pillsbury Co. located at or near Los Angeles, Calif., to points in Oregon and Washington.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif., or Seattle, Wash.

No. MC 127539 (Sub-No. 62), filed October 13, 1977. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, Wash. 98424. Applicant's representative: Michael D. Duppenthaler, 515 Lyon Building, 607 3rd Avenue, Seattle, Wash. 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Margarine and dessert topping*, from the plantsites and facilities utilized by Lever Brothers Co., located at or near Los Angeles, Claif., to Portland and Milwaukie, Oreg.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Los Angeles, Calif., or Seattle, Wash.

No. MC 127804 (Sub-No. 7), filed October 14, 1977. Applicant: WILLIAM R. WEINRICH, d.b.a. Weinrich Truck Lines, P.O. Box 1037, Hinton, Iowa 51024. 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: (1) *Irrigation systems and pipe, and parts and accessories* for irrigation systems, from Elk Point, S. Dak., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, and (2) *materials, parts, and supplies* used in the manufacture, assembly, and distribution of irrigation systems and pipe from points in the United States in and east of North Dakota, South Dakota, Nebraska, Colorado, and New Mexico, to Elk Point, S. Dak.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, Nebr.

No. MC 128205 (Sub-No. 38), filed October 12, 1977. Applicant: BULKMATIC TRANSPORT CO., a corporation, 12000 South Doty Avenue, Chicago, Ill. 60628. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, Ill. 60601. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Corn and soybean products*, from the plant and storage facilities of Archer Daniels Midland Co. and its subsidiaries in North Kansas City, Mo., to points in Illinois, Iowa, Nebraska, Kansas, Oklahoma, Arkansas, Missouri, Colorado, New Mexico, Texas, Louisiana, Mississippi, Alabama, Tennessee, and Kentucky.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 128256 (Sub-No. 33), filed October 14, 1977. Applicant: BLOSSER TRUCKING, INC., d.b.a. Blosser Trucking, 215 North Main Street, Middlebury, Ind. 46540. Applicant's representative: Sheldon Silverman 1819 H Street NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Plywood, particleboard, hardboard, moulding, plastic articles, and accessories* used in the installation thereof (except commodities in bulk), from Norfolk, Va., and Chesapeake, Va., to points in Ohio, Indiana, Illinois, Michigan, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Norfolk, Va., or Richmond, Va.

No. MC 128290 (Sub-No. 6), filed October 14, 1977. Applicant: EARL HAINES, INC., P.O. Box 841, Winchester, Va. 22601. Applicant's representative: Bill R. Davis, suite 101, Emerson Center, 2814 New Spring Road, Atlanta, Ga. 30339. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: (1) *Wood fiber mulch* and *wood cellulose insulation*, from Baltimore County, Md., to points in 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 (2) *recycled cardboard* and *recy-*

cled newsprint, from the destination States named in (1) above, to Baltimore County, Md.

NOTE.—Applicant holds contract carrier authority in No. MC 140580 (Sub-No. 1), therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 129071 (Sub-No. 13), filed October 13, 1977. Applicant: WHITEHALL TRANSPORT, INC., P.O. Box 387, Whitehall, Wis. 54773. Applicant's representative: Eugene D. Anderson, suite 428, 910 Seventeenth Street NW., Washington, D.C. 20006. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in sections A and C of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from Eau Claire and Whitehall, Wis.; Sioux Falls, S. Dak., to points in Arizona, California, Colorado, Idaho, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming; and *materials, supplies, and equipment used in the conduct of business by meat packinghouses,* from points in the United States (except Alaska and Hawaii) to Sioux Falls, S. Dak., and Whitehall, Wis. Restricted to a transportation service to be provided under a continuing contract or contracts with Whitehall Packing Co., Inc., and Meilman Food Industries, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Sioux Falls, S. Dak., or Washington, D.C.

No. MC 129951 (Sub-No. 4), filed October 6, 1977. Applicant: HARLEY I. KEETER, JR., 6379 Valmont Drive, Boulder, Colo. 80301. Applicant's representative: Harley I. Keeter, Jr., 6379 Valmont Drive, Boulder, Colo. 80301. Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: *Ore and ore concentrate,* from Boulder County, Colo., to ports of entry on the United States-Canada boundary line, located in Washington and Idaho, for furtherance into Troy, British Columbia, Canada.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Denver, Colo.

No. MC 133566 (Sub-No. 93), filed October 13, 1977. Applicant: GANGLOFF & DOWNHAM TRUCKING CO., INC., P.O. Box 479, Logansport, Ind. 46947. Applicant's representative: Charles W. Beinhauer, suite 4959, One World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier,* by motor vehicles, over irregular routes, transporting: *Pizza and pizza ingredients,* in vehicles equipped with mechanical refrigeration, and equipment used in the preparation of pizza, from the plantsite and warehouse facilities of Baltimore Pizza Crust Co., Inc., at or near Baltimore, Md., to Montgomery, Ala. Restricted to traffic originating at the above named facilities and destined to the named destination point.

NOTE.—If a hearing is deemed necessary applicant requests it be held at Baltimore, Md., or New York, N.Y.

No. MC 133671 (Sub-No. 4), filed October 16, 1977. Applicant: MILLER BROS CO., INC., Box EA, Hyrum, Utah 84319. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Cheese, cheese products, and synthetic cheese* from the plantsite and storage facilities of L. D. Schreiber Cheese Co., Inc., at or near Logan, Utah, to points in Arizona, Nevada, Idaho, Oregon, Washington, and those in California on and North of a line from where Interstate Highway 80 crosses the Nevada boundary, thence westerly to California State Highway 20, thence westerly on Highway 20 to Fort Bragg, Calif.

NOTE.—Applicant holds motor common carrier authority in No. MC 117699, (Sub-No. 1), therefore, dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at Salt Lake City, Utah, or Washington, D.C.

No. MC 133689 (Sub-No. 146), filed October 16, 1977. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, Minn. 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Tickets or checks, sales,* from St. Paul, Minn. to Detroit, Mich.; Cleveland, Ohio; Pittsburgh, Pa.; Rosedale, N.Y.; and Needham Heights, Mass. Restriction: Restricted to shipments originating at the plantsite and storage facilities of National Checking Co. at the above-named origin and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, applicants requests it be held at Minneapolis, Minn.

No. MC 133920 (Sub-No. 13), filed October 6, 1977. Applicant: HOWARD SHEPPARD, INC., P.O. Box 755, Sandersville, Ga. 31082. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes in the transportation of: *Fertilizer and fertilizer materials, anhydrous ammonia, urea and soda ash,* in bulk, in tanks, hopper-type vehicles or dump trucks, (1) from points in Richmond County, Ga., to points in South Carolina, North Carolina, Virginia, West Virginia, Tennessee, and Kentucky; and (2) from Eufaula, Ala., to points in Georgia on and north of U.S. Highway 80.

NOTE.—If a hearing is deemed necessary, applicants requests it be held at Atlanta, Ga.

No. MC 133966 (Sub-No. 51), filed October 14, 1977. Applicant: NORTH EAST EXPRESS, INC., P.O. Box 127, Mountaintop, Pa. 18707. Applicant's representative: Edward G. Vallalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street, NW., Washington, D.C. 20004. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: (1) *Cellular or expanded plastic sheets and products thereof* from points in Luzerne County, Pa., East Rutherford, Carlstadt, and Rockaway Township, N.J., Elkhart, Ind., and Chicago, Ill., to points in the United States in and east of Minnesota, Iowa, Missouri, Kentucky, Tennessee and Mississippi; and (2) *Materials, supplies and equipment* used in the manufacture, sale, and distribution of the commodities named in part (1) above (except commodities in bulk and those which because of size or weight require the use of special equipment) from points in the destination territory to the origin points named in part (1) above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Newark, N.J., Philadelphia, Pa., or Washington, D.C.

No. MC 134454 (Sub-No. 9), filed October 14, 1977. Applicant: PRICE DELIVERY SERVICE, INC., 367 West Second Street, Dayton, Ohio 45402. Applicant's representative: Paul F. Beery, 275 East State Street, Columbus, Ohio 43215. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Concrete products,* (except commodities in bulk), *pipe fittings, and materials and supplies* incidental to the manufacture of concrete products (except the commodities in bulk): (a) between the plantsite of Price Brothers-Midwest, Inc., located at or near Rochelle, Ill., on the one hand, and, on the other, points in Wisconsin, Iowa, Missouri, Indiana, Illinois, Ohio, Michigan, Kentucky, and Minnesota, and (b) between the plant site of Price Brothers Co., located at or near North Royalton, Ohio, on the one hand, and, on the other, points in Indiana, Kentucky, Michigan, Illinois, Ohio, Pennsylvania, and West Virginia, under a continuing contract or contracts with Price Brothers-Midwest, Inc., of Rochelle, Ill., and Price Brothers Co. of Dayton, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbus, Ohio.

No. MC 134477 (Sub-No. 193), filed September 29, 1977. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, Minn. 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, Minn. 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: *Prepared frozen foods* (except commodities in bulk), from the plantsite and warehouse facilities of Banquet Foods Corp. at or near Carrollton, Macon, Marshall, and Moberly, Mo. to points in Connecticut, Delaware, Maine, Maryland, Massachusetts, Mew Hampshire, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, Vermont, Virginia, West Virginia, and the District of Columbia. Restricted to traffic originating at the above named origins and destined to the above-named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Minneapolis, Minn.

No. MC 135078 (Sub-No. 19), filed October 12, 1977. Applicant: AMERICAN TRANSPORT, INC., 7850 F Street, Omaha, Nebr. 68127. Applicant's representative: Arthur J. Cerra, P.O. Box 19251, 2100 TenMain Center, Kansas City, Mo. 64141. Authority is sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Such *commodities* (including precious jewels and jewelry featuring precious stones) as are dealt in, sold and utilized by retail department and catalog stores in the conduct of their business (except foodstuffs, plumbing fixtures and supplies, and commodities in bulk and (2) *piece goods* (in one piece) and *commodities* used in the manufacture of clothing, from points in Connecticut, Maine, Massachusetts, Ohio, and Haverhill, N.H.; Bayonne and Jersey City, N.J.; East Aurora, Medina, and New York, N.Y.; Philadelphia and Wilkes-Barre, Pa.; East Warren, R.I.; and St. Louis, Mo. (on shipments having a prior interstate movement), to Eldorado Springs, Kansas City, Lexington, and St. Louis, Mo., restricted to traffic originating at and destined to the named origins and destinations (except St. Louis, Mo.).

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Kansas City, Mo.

No. MC 135185 (Sub-No. 33), filed October 11, 1977. Applicant: COLUMBINE CARRIERS, INC., P.O. Box 15246, 1720 East Garry Avenue, Santa Ana, Calif. 92705. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colo. 80203. Authority to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Drugs, medicines, cosmetics, plastic boxes, weed killing compounds, and animal and poultry feed supplements, and materials and supplies used in the manufacture and production of, and rejected and/or damaged shipments of the commodities named above* (except commodities in bulk), between the plantsites, warehouses, and storage facilities utilized by Eli Lilly & Co., located at or near Roanoke, Va., and Indianapolis, Lafayette, and Clinton, Ind., on the one hand, and, on the other, points in Kentucky, West Virginia, Tennessee, Virginia, Maryland, North Carolina, Mississippi, Alabama, Georgia, South Carolina, Florida, and West Helena, Ark., and the District of Columbia, restricted to a transportation service to be performed under a continuing contract or contracts with Eli Lilly & Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Indianspolis, Ind.

No. MC 135562 (Sub-No. 6), filed October 11, 1977. Applicant: O. C. C., INC., 2214 4th Avenue S., Seattle, Wash. 98134. Applicant's representative: George R. LaBissoniere, 1100 Norton Building, Seattle, Wash. 98104. Authority to operate as a *contract carrier*, over irregular routes, in the transportation of *automotive springs, suspensions and brake assemblies and parts* for automotive springs, suspensions and brake assemblies, *wheels and wheel attaching parts*, and *parts* for motor vehicle chassis and motor vehicle undercarriages, from Detroit, Jackson, and Romulus, Mich.; Elkhart, Ind.; Rockford, Ill.; Davenport, Iowa; and Milwaukee, Wis., to points in the United States (excluding Alaska, Hawaii, Arizona, California, Colorado, Utah, New Mexico, Idaho, Montana, Nevada, Oregon, Washington, Idaho, and Wyoming), under a continuing contract or contracts with Kelsey-Heyes.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Detroit, Mich.

No. MC 135797 (Sub-No. 86), filed October 16, 1977. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, Ark. 72745. Applicant's representative: Paul A. Maestri (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic articles* (except in bulk), from Temple, Tex., to points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, Oklahoma, Oregon, Pennsylvania, and Tennessee; and (2) *Materials and supplies used in the manufacture and distribution of plastic articles*, from points in Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Kansas, Kentucky, Louisiana, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, New Jersey, New Mexico, Oklahoma, Oregon, Pennsylvania, and Tennessee, to Temple, Tex.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Dallas, Tex.

No. MC 136275 (Sub-No. 24), filed September 22, 1977. Applicant: WHITFIELD ASSOCIATED TRANSPORT, INC., 28 San Marcos Drive, El Paso, Tex. 79920. Applicant's attorney: J. E. Gallegos, P.O. Box 2228, Santa Fe, N. Mex. 87501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities* (which because of size or weight require the use of special equipment), between the plantsites of Border Steel Rolling Mills, Inc., and Vinton Pipe & Steel, Inc., in El Paso County, Tex., on one hand, and, on the other, points in Arizona, California, Colorado, Kansas, Montana, Nebraska, Nevada, Oklahoma, Utah, and Wyoming.

NOTE.—Applicant states it intends to join the above-requested authority at El Paso County, Tex., to provide a through service to New Mexico. If a hearing is deemed necessary, applicant requests that it be held at El Paso, Tex.

No. MC 136343 (Sub-No. 120), filed October 14, 1977. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, Pa. 17847. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, N.J. 07934. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Corrugated containers*, knocked down, from Harrisonburg, Va., to points in Delaware, Maryland, New Jersey, New York, North Carolina, Pennsylvania, and the District of Columbia. Restricted to the transportation of shipments originating at the above origin and destined to the designated destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at New York, N.Y., or Washington, D.C.

No. MC 136496 (Sub-No. 3), filed October 12, 1977. Applicant: ALLEN F. SEESHOLTZ, R.D. No. 3, Box 3755, Berwick, Pa. 18603. Applicant's representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, Pa. 17108. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *steel pipe or tubing and speciality hardware*, from Genesee, Pa., to Los Angeles, Calif., under a continuing contract, or contracts, with Cooper Slide Sales, Inc., of Genesee, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Harrisburg, Pa., or Philadelphia, Pa.

No. MC 136786 (Sub-No. 120), filed October 12, 1977. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, Iowa 50321. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. 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 MCC 209 and 766 (except hides and commodities in bulk), from the plantsites and storage facilties of Swift & Company plants located at/or near Omaha, Nebr., and Glenwood, Sioux City, Des Moines, and Marshalltown, Iowa, to points in North Carolina, South Carolina, and Tennessee.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 136786 (Sub-No. 122), filed October 14, 1977. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, Iowa 50321. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Printed matter* between East Greenville, Pa., on the one hand, and, on the other, points in the United States (except Alaska and Hawaii), and; (2) *materials, equipment, and supplies* used in the manufacture and production of printed matter (except commodities in bulk and those requiring special equipment), from points in the United States (except Alaska and Hawaii), to East Greenville, Pa.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 136786 (Sub-No. 125), filed October 16, 1977. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Avenue, Des Moines, Iowa 50321. Applicant's representative: Stanley C. Olsen, Jr., 7525 Mitchell Road, Eden Prairie, Minn. 55343. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (1) from Clearfield and Richmond, Utah, to points in Delaware, Iowa, Indiana, Kansas, Kentucky, Maryland, Missouri, New Jersey, North Dakota, South Dakota, Tennessee, Virginia, West Virginia, Wisconsin, and the District of Columbia; and (2) from Logan, Utah, to points in Alabama, Arkansas, Connecticut, Delaware, Florida, Georgia, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, West Virginia, Wisconsin, and the District of Columbia.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Minneapolis, Minn.

No. MC 136848 (Sub-No. 15), filed September 19, 1977. Applicant: JAMES BRUCE LEE AND STANLEY LEE, d.b.a. LEE CONTRACT CARRIERS, P.O. Box 48, Old Route 66, Pontiac, Ill. 61764. Applicant's representative: Edward F. Stanula, P.O. Box 306, 837 East 162nd Street, South Holland, Ill. 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wrought steel pipe or tubing* (1) from the plantsite and warehouse facilities of Aladdin Steel, Inc., located at or near Gillespie, Ill., to Maryville, Tenn.; Temperance, and Romulus, Mich.; Aberdeen, Belle Fourche, Brookings, Clear Lake, Menno, Mitchell, Mobridge, Philip, Pierre, Rapid City, Falls, Sturgis, Vermillion, Watertown, and Yankton, S. Dak.; and points in Iowa and Nebraska; (2) from Chicago, Ill., and the plantsite and warehouse facilities of Charles E. Kline Co., located at or near Warren, Ohio; U.S. Metal Co., located at or near Sharon, Pa.; Pittsburgh-International, located at or near Fairbury, Ill., to the plantsite and warehouse facilities of Aladdin Steel, Inc., at or near Gillespie, Ill., under a continuing contract or contracts with Aladdin Steel, Inc.

NOTE.—If a hearing is deemed necessary, applicant request it be held at Chicago, Ill.

No. MC 138157 (Sub-No. 46), filed October 12, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, 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: *Radio receiving sets, phonographs, record players, tape recorders, separate or combined, sewing machines and sewing machine cabinets, loudspeakers (dynamic or electromagnetic), TV games, stands and parts thereof*, from the facilities of Morse Electro Products at Brooklyn, N.Y., to the facilities of Morse Electro Products at Doraville, Ga., restricted to traffic originating at and destined to the facilities of Morse Electro Products.

NOTE.—Applicant holds contract carrier authority in No. MC 134150 Sub 2, and other subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at New York, N.Y.

No. MC 138157 (Sub-No. 47), filed October 12, 1977. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, Tenn. 39410. 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: *Fiberboard boards and fiberboard sheets*, from Placer County, Calif., to points in the United States in and east of North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, and Texas.

NOTE.—Applicant holds contract carrier authority in No. MC 134150 (Sub-No. 2) and other subs thereunder, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at either San Francisco or Los Angeles, Calif.

No. MC 138313 (Sub-No. 29), filed Ocotber 14, 1977. Applicant: BUILDERS TRANSPORT, INC., 409 14th Street SW., Great Falls, Mont. 59404. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, lumber mill products and wood products*, from the plantsites of Potlatch Corp., at or near Lewiston, Jaype, Kamiah, Potlatch, St. Maries, Santa, Coeur d'Alene, and Post Falls, Idaho, to points in Montana, North Dakota, South Dakota, and Wyoming.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boise, Idaho, or Washington, D.C.

No. MC 138328 (Sub-No. 44), filed October 11, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Highway 50, P.O. Box 37308, Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich, P.O. Box 37308, Omaha, Nebr. 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Mineral mixtures, tonics, medicines, insecticides, pesticides, feeders, and equipment, advertising matter and premiums* related to such commodities (except commodities in bulk, in tank vehicles), when moving in mixed shipments with feed or feed ingredients, from the plant site of Moorman Manufacturing Co., located at or near Quincy, Ill., to points in Arizona, California, Idaho, Nevada, Oregon, Utah, and Washington.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or Omaha, Nebr. Applicant holds contract carrier authority in MC 133233 Sub 1 and Subs thereunder, therfore dual operations may be involved.

No. MC 138328 (Sub-No. 45), filed October 14, 1977. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, P.O. Box 37308,

Omaha, Nebr. 68137. Applicant's representative: Donna Ehrlich, P.O. Box 37308, Omaha, Nebr. 68137. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Face brick, fire brick, fire clay, glazed face brick, and glazed and unglazed structural facing tile*, from the plantsite of Elgin-Butler Brick Co., located in Bastrop County, Tex., to points in Alabama, Florida, Georgia, Illinois, Indiana, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, North Carolina, Ohio, South Carolina, Tennessee, Virginia, West Virginia, North Dakota, South Dakota, and Wisconsin.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Austin, Tex., or Omaha, Nebr. Applicant holds contract carrier authority in MC 133233 (Sub-No. 1) and subs thereunder, therefore dual operations may be involved.

No. MC 138621 (Sub-No. 7), filed October 16, 1977. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, Iowa 51249. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, Minn. 55403. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Cheese* from Blair, Wis., to points in Missouri, under a continuing contract, or contracts, with Associated Milk Producers, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Minneapolis, Minn.

No. MC 138741 (Sub-No. 38), filed October 12, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., 2005 North Broadway, Joliet, Ill. 60435. Applicant's representative: Tom B. Kretsinger, 910 Brookfield Building, 101 West 11th Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles and building and construction materials*, from points in Chicago, Ill., and its Commercial Zone to points in Iowa, Kansas, Missouri, and Nebraska.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill.

No. MC 138882 (Sub-No. 20), filed October 14, 1977. Applicant: WILEY SANDERS, INC., P.O. Box 621, Troy, Ala. 36081. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Lumber, plywood, treated lumber and lumber mill products*, from points in Alabama, Georgia, Florida, Louisiana, and Mississippi, to points in Indiana, Illinois, Kentucky, Tennessee, Ohio, Michigan, Iowa, Missouri, Virginia, Maryland, and New Jersey. Restricted to shipments originating at the above origins and destined to the above destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Montgomery or Birmingham, Ala.

No. MC 139009 (Sub-No. 4), filed October 13, 1977. Applicant: R & W EXPRESS, INC., 6861 Main Street, Lithonia, Ga. 30058. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, Ga. 30349. Authority to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *General commodities* (except Class A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the TOFC facilities of Southern Railroad in Fulton County, Ga., on the one hand, and, on the other, points in DeKalb, Gwinnett, Newton, Rockdale, Morgan, and Walton Counties, Ga., restricted to the transportation of traffic having a prior or subsequent movement by rail in trailer-on-flat-car service.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 139091 (Sub-No. 24), filed October 12, 1977. Applicant: LOGAN MOTOR LINES, INC., 2829 Mays Street, P.O. Box 30038, Amarillo, Tex. 79120. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts*, and *articles distributed by meat packinghouses*, as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766 (except hides and commodities in bulk), from the plantsite and storage facilities of Swift & Co. plants, located at or near Grand Island and Omaha, Nebr.; Des Moines, Glenwood, Marshalltown, and Sioux City, Iowa, to points in Alabama, Florida, Georgia, North Carolina, South Carolina, and Tennessee, under a continuing contract or contracts with Swift & Co., Chicago, Ill.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, Ill., or Omaha, Nebr.

No. MC 139254 (Sub-No. 13), filed October 13, 1977. Applicant: BROOKS TRANSPORTATION, INC., 30650 Carter Road, Solon, Ohio 44139. Applicant's representative: Henry U. Snavely, 1410 Pine Street, Vienna, Va. 22180. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products* from the facilities of Champion International Corp., at Asheville, Canton, Fletcher, and Waynesville, N.C., to points in Connecticut, Massachusetts, and Rhode Island, restricted (1) against the transportation of commodities in bulk; (2) to the transportation of traffic originating at the said facilities; and (3) to the performance of transportation under a continuing contract or contracts with Champion International Corp., of Hamilton, Ohio.

NOTE.—Common control may be involved. Applicant has motor common carrier authority pending in No. MC 142559 and Subs 1, 3, and 4, thereunder; therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139420 (Sub-No. 23), filed October 16, 1977. Applicant: ART GREENBERG d.b.a. GLACIER TRANSPORT, P.O. Box 428, Grand Forks, N. Dak. 58201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen novelty confections and dietetic frozen desserts*, from Grand Forks, N. Dak., to points in Utah; and (2) *yogurt*, from Salt Lake City, Utah, to points in Montana and North Dakota.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Fargo, N. Dak., or Minneapolis, Minn.

No. MC 139467 (Sub-No. 1), filed October 16, 1977. Applicant: LONG TRANSPORT, INC., P.O. Box 96, Rusk, Tex. 75785. Applicant's representative: Thomas F. Sedberry, 1102 Perry-Brooks Building, Austin, Tex. 78701. Authority sought as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Dry livestock and poultry feed, and feed ingredients* (except in bulk, in tank vehicles), from points in Texas on and east of Interstate Highway 35 to points in Arkansas, Louisiana, and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Dallas or Houston, Tex.

No. MC 139495 (Sub-No. 274), filed October 6, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cleaning, scouring, and washing compound*, and soap, from the plantsite and storage facilities of Church & Dwight Co., Inc., located at or near San Francisco and Union City, Calif., to points in Alabama, Arkansas, Colorado, Idaho, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Mexico, North Dakota, Ohio, Oklahoma, South Dakota, Tennessee, Texas, Utah, and Wyoming.

NOTE.—Applicant holds contract carrier authority in MC 133106 and subs thereun-

der, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 139495 (Sub-No. 276), filed October 17, 1977. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, Kans. 67901. Applicant's representative: Herbert Alan Dubin, Sullivan, Dubin & Kingsley, 1320 Fenwick Lane, Suite 500, Silver Spring, Md. 20910. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Sun glasses, personal care products, and chewing gum* from the plantsite and storage facilities of Warner-Lambert Co., Inc., located at or near Chelsea, Mass., and Milford and Orange, Conn., to the plantsite and storage facilities of Warner-Lambert Co., Inc., located at or near Morrow, Ga.; South Brunswick, N.J.; Elk Grove Village, Ill.; Rockford, Ill.; Arlington, Tex.; Anaheim, Calif.; Milwaukie, Oreg.; Long Island City, N.Y.; Philadelphia and Lititz, Pa.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C.

No. MC 139615 (Sub-No. 8), filed October 14, 1977. Applicant: D.R.S. TRANSPORT, INC., P.O. Box 29, Oskaloosa, Iowa 52577. Applicant's attorney: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic pipe and fittings and accessories* for plastic pipe, from Fairfield, Iowa, to points in the United States (except Alaska and Hawaii).

NOTE.—If a hearing is deemed necessary, applicant request that the hearing be held at St. Louis, Mo., or Chicago, Ill.

No. MC 139761 (Sub-No. 3), filed October 14, 1977. Applicant: GEORGE HAND AND J. R. RUTHERFORD, d.b.a. H & R Trucking, Route 1, U.S. Highway 60 South, Canadian, Tex. 79014. Applicant's representative: G. Timothy Armstrong, Suite 200, Timbergate Office Gardens, 6161 North May Avenue, Oklahoma City, Okla. 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Machinery, materials, supplies and equipment*, incidental to, or used in the construction, development, operation, and maintenance of facilities for the discovery, development, production, storage, and transmission of natural gas and petroleum, between points in that part of Oklahoma on and west of a line beginning at the Kansas-Oklahoma State line, located northwest of Lookout, Okla., thence south along Oklahoma State Highway 34 to its intersection with U.S. Highway 64, thence east along U.S. Highway 64 to its intersection with U.S. Highway 281, thence south along U.S. Highway 281 to Seiling, Okla., thence west along U.S. Highway 60, to its intersection with U.S. Highway 183, thence south along U.S. Highway 183 to its intersection with Oklahoma State Highway 9, thence west along Oklahoma State Highway 9 to the Oklahoma-Texas State line, on the one hand, and, on the other, points in that part of Texas on and north of a line beginning at the Oklahoma-Texas State line located southeast of Dodson, Tex., thence west and south along U.S. Highway 62 to Floydada, Tex., thence west along U.S. Highway 70 to its intersection with U.S. Highway 84, thence northwest along U.S. Highway 84 to the Texas-New Mexico State line.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Amarillo, Tex.

No. MC 139785 (Sub-No. 3), filed September 19, 1977. Applicant: LIETZ TRANSPORTATION, INC., Route 1, Coloma, Wis. 54930 Applicant's representative: Rolfe E. Hanson, 121 West Doty Street, Madison, Wis. 53703. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Frozen dog and cat foods* (not fit for human consumption), in refrigerated vehicles, from the plantsite and warehouse facilities of Wisconsin Brand, Inc., Kickapoo Fur Foods, Inc., and Lea Bros., Inc., at Iola, Viroqua, Alma Center, and Cameron, Wis., to points in Connecticut, Delaware, Georgia, Iowa, Illinois, Indiana, Kansas, Missouri, Mississippi, Maryland, Minnesota, New York, New Jersey, Ohio, Pennsylvania, Tennessee, Vermont, West Virginia, and Wisconsin; and from Weatherford, Tex., to Iola, Viroqua, Alma Center, and Cameron, Wis., under continuing contract with Wisconsin Brand, Inc., Kicapoo Fur Food, Inc., and Lea Bros., Inc.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Madison or Milwaukee, Wis.

No. MC 140033 (Sub-No. 32), filed October 11, 1977. Applicant: COX REFRIGERATED EXPRESS, INC., 10606 Goodnight Lane, Dallas, Tex. 75220. Applicant's representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, Tex. 75245. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the plantsite and storage facilities of the Anderson-Clayton Co., located at or near Sherman, Tex., to points in Arkansas and Oklahoma.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex., or Washington, D.C. Applicant holds pending contract carrier authority in MC 142296 and MC142296 (Sub 2), therefore dual operations may be involved.

No. MC 140201 (Sub-No. 2), filed October 5, 1977. Applicant: SONELL, INC., P.O. Box 520, Blanche Road, Cornwell Heights, Pa. 19020. Applicant's representative: Maxwell A. Howell, 1100 Investment Building, 1511 K Street NW., Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, in the transportation of: *Cocoa, chocolate, confectionery, and commodities* produced from or composed thereof, in temperature controlled equipment, from the facilities of Hershey Foods Corp., located at Derry Township, Dauphin County, Pa., to points in Nassau, Suffolk, and Westchester Counties, N.Y., and New York, N.Y., commercial zone and Bergen, Essex, Hudson, Union, Middlesex, and Somerset Counties, N.J.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the aplicant request it be held at Philadelphia, Pa., or Washington, D.C.

No. MC 140239 (Sub-No. 3), filed October 6, 1977. Applicant: ROBERT C. FENNELL, d.b.a. Robert Fennell Trucking Co., 305 Fairfax Drive, P.O. Box 239, Blacksburg, Va. 24060. Applicant's representative: Theodore Polydoroff, suite 600, 1250 Connecticut Avenue NW., Washington, D.C. 20036. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Precast and prestressed concrete products*, from the plantsite of Phoenix Concrete Products, Inc., in Roanoke County, Va., to points in Maryland, North Carolina, South Carolina, Tennessee, West Virginia, and the District of Columbia; and (2) *materials and supplies, used in the manufacture of precast and prestressed concrete products* (except commodities in bulk), from points in Maryland, North Carolina, South Carolina, Tennessee, West Virginia, and the District of Columbia, to the plantsite of Phoenix Concrete Products, Inc., in Roanoke County, Va. Restriction: Paragraphs (1) and (2) above are restricted to a transportation service to be performed under a continuing contract with Phoenix Concrete Products, Inc.

NOTE.—If a hearing is deemed necessary, applicants requests it be held in Roanoke, Va., or Washington, D.C. Applicant holds common carrier authority in MC-31208 therefore dual operations may be involved.

No. MC 140768 (Sub-No. 9), filed October 16, 1977. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, N.J. 08835. Applicant's representative: Eugene M. Malkin, suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Heating equipment, stoves,*

fireplaces, furnaces, and incinerators, from Athens and Huntsville, Ala., to points in the United States (except Alaska and Hawaii). Restricted against transportation to or from the premises of any person who has entered into a contract with American Trans-Freight, Inc., and/or any permit issued by the Commission.

NOTE.—Applicant holds motor contract authority in MC 134404 and Subs thereunder and, therefore, dual operations may be involved. If a hearing is deemed necessary applicant requests that it be held at Washington, D.C.

No. MC 141236 (Sub-No. 1), filed October 12, 1977. Applicant: TWINCO TRUCKING CO., INC., 145 Talmadge Road, Edison, N.J. 08817. Applicant's representative: Morton E. Kiel, suite 6193, 5 World Trade Center, New York, N.Y. 10048. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise as is dealt in by wholesale, retail, and chain grocery and food business houses,* and *equipment, materials, and supplies,* used in the conduct of such business (except commodities in bulk), between Edison, N.J., on the one hand, and, on the other, points in Massachusetts, Rhode Island, Connecticut, New Jersey; Sullivan, Merrimack, Rockingham, Hillsboro, and Cheshire Counties, N.H., that part of New York in and east of Steuben, Livingston, and Monroe Counties and in and south of Monroe, Wayne, Cayuga, Onondaga, Madison, Oneida, Herkimer, Fulton, Saratoga, and Rensselaer Counties, and points in Pennsylvania in and east of Potter, Clinton, Centre, Blair, and Bedford Counties and points in Maryland, Delaware, and the District of Columbia, under a continuing contract or contracts with Twin County Grocers, Inc.

NOTE.—Applicant holds duplicating authority in New York, N.Y., Orange, Rockland, Nassau, Suffolk, and Westchester Counties, N.Y., and in New Haven and Litchfield Counties, Conn. If hearing is deemed necessary, applicant requests it be held in New York, N.Y.

No. MC 141781 (Sub-No. 4), filed September 29, 1977. Applicant: LARSON TRANSFER & STORAGE CO., INC. 10700 Lyndale Avenue South, Minneapolis, Minn. 55420. Applicant's representative: F. H. Kroeger, 1745 University Avenue, St. Paul, Minn. 55104. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Canned vegetables,* from Arlington and Ortonville, Minn., to points in Kansas, Missouri, and Oklahoma (except from Arlington, Minn., to Oklahoma City, Tulsa and Durant, Okla.; Joplin, Springfield, and Kansas City, Mo.; and Elwood, Kans.), as these points are already served in applicant's MC 141781 base certificate.

NOTE.—Applicant holds contract carrier authority in MC 128652 and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Minneapolis or St. Paul, Minn.

No. MC 141804 (Sub-No. 85), filed October 13, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *General commodities* (except foodstuffs; meats, meat products, and meat by-products, dairy products, and articles distributed by meat packing houses, as described in sections A, B, and C of appendix I to the report in Descriptions In Motor Carrier Certificates, 61 M.C.C. 209 and 766; articles of unusual value; classes A and B explosives, household goods as defined by the Commission; commodities in bulk; and those requiring the use of special equipment), from Atlanta, Ga.; Greenville, S.C.; Memphis and Nashville, Tenn.; to Los Angeles, San Diego, San Jose, Oakland, San Francisco, South Gate, Van Nuys, and Fremont, Calif.; Phoenix, Ariz.; Portland, Oreg.; and Seattle, Wash. Restricted to those commodities which are at the time moving under the provisions of bills of lading of freight forwarders under part IV of the Interstate Commerce Act.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Los Angeles, Calif., or Atlanta, Ga. Common Control may be involved.

No. MC 141804 (Sub-No. 86), filed October 17, 1977. Applicant: WESTERN EXPRESS, division of Interstate Rental, Inc., P.O. Box 422, Goodlettsville, Tenn. 37072. Applicant's representative: Frederick J. Coffman, P.O. Box 422, Goodlettsville, Tenn. 37072. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *New furniture parts,* from Meridian, Miss., and Shreveport, La., to Inglewood, San Bernardino, and Fremont, Calif. Restricted to traffic originating at facilities utilized by Kroehler Manufacturing Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Nashville, Tenn., or Washington, D.C.

No. MC 141974 (Sub-No. 2), filed October 11, 1977. Applicant: HALL TRANSPORTATION, INC., 240 Highland Avenue, Twin Falls, Idaho 83301. Applicant's representative: Lloyd J. Walker, P.O. Box 1923, Twin Falls, Idaho 83301. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Acroelin,* in individual tanks, between Bakersfield, Calif., on the one hand, and, on the other, points in the commercial zones of each of the following cities: Moses Lake, Mesa, Ellensberg, Richland, Sunnyside, Wapato, Granger, and Rosa, Wash., Hermiston, Medford, Standfield and Madras, Oreg., Nampa-Caldwell, Twin Falls, Shelley, Fort Hall, and Jerome, Idaho., Fresno, Modesto, Stockton, Sacramento, Tule Lake, and Montague, Calif., Salt Lake City, Ogden, and Layton, Utah, Denver, Grand Junction, and Boulder, Colo., Billings, Miles City, Dillon, and Ballantine, Mont., Casper, Cheyenne, and Laramie, Wyo., Mitchell and Cambridge, Nebr., and Winnemucca, Nev., under a continuing contract or contracts with Magna Corp. of Houston, Tex.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Bakersfield, Calif.

No. MC 142115 (Sub-No. 3), filed October 17, 1977. Applicant: PIKE'S LTD., P.O. Box 215, Stephenville, Newfoundland. Applicant's representative: Peter L. Murray, Esq., 30 Exchange Street, Portland, Maine 04111. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Animal oil and vegetable oil* (in bulk), from points in Rhode Island to points of entry on the United States/Canadian boundary line at or near Houlton or Calais, Maine. Points of destination in Prince Edward Island, Newfoundland, and Nova Scotia.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Portland, Maine, or Boston, Mass.

No. MC 142189 (Sub-No. 21), filed October 13, 1977. Applicant: C. M. BURNS, d.b.a. WESTERN TRUCKING, 521 Lincoln Avenue, Baker, Mont. 59313. Applicant's representative: C. M. Burns (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Chemicals, dry cleaning and janitorial supplies and materials and supplies,* used in the manufacture and distribution of such commodities, (1) from Wichita and Lawrence, Kans., Cleveland, Ohio, Rothchild, Greenbay, Eau Claire, Milwaukee, Monticello, and Madison, Wis., Wyandotte, Mich., Solvay and Niagara Falls, N.Y., Mosher and St. Louis, Mo., Minneapolis, Minn., Gabbs, Nev., Columbus, Miss., Mapleton, Peoria, Chicago, and Ottawa, Ill., Sweetwater County, Wyo., Bauxite, Ark., Copperhill, Tenn., Lake Charles, La., Texas City, Seadrift, and Brownsville, Tex., Boron, and Los Angeles, Calif., points in Washington, to points in Montana, North Dakota, South Dakota, and Wyoming, and (2) from points in Washington and Los Angeles, Calif., to points in Utah and Colorado.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Billings, Mont.

No. MC 142207 (Sub-No. 12), filed October 13, 1977. Applicant: GULF COAST TRUCK SERVICES, INC., P.O. Box 29287, Chef Menteur Highway, New Orleans, La. 70189. Applicant's representative: Bruce E. Mitchell, Suite 375, 3379 Peachtree Road NE., Atlanta, Ga. 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building materials, wood products and lumber (except iron and steel articles)*, from Mobile and Baldwin Counties, Ala., points in Louisiana, and points in Mississippi on and south of U.S. Highway 84, to points in the United States in an east of Texas, Oklahoma, Kansas, Nebraska, and Minnesota.

NOTE.—If a hearing is deemed necessary, applicant would prefer that it be held in New Orleans, La. Common control may be involved.

No. MC 142730 (Sub-No. 4), filed October 14, 1977. Applicant: THOMAS McGINNIS, d.b.a. McGINNIS TRUCKING CO., Route 3, Box 329, Catlettsburg, Ky. 41129. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, W. Va. 25526.Authority sought to operate as *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metallurgical stone and limestone*, in bulk, in dump vehicles, from points in Adams County, Ohio, to Ashland, Ky., and points in Boyd, Greenup, and Lawrence Counties, Ky., under a continuing contract or contracts with Plum Run Stone division of Davon, Inc., located at Hillsboro, Ohio.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charleston, W. Va., or Columbus, Ohio.

No. MC 143236 (Sub-No. 4), filed October 7, 1977. Applicant: WHITE TIGER TRANSPORTATION, INC., 115 Jacobus Avenue, Kearny, N.J. 07032. Applicant's representative: George A. Olsen, 69 Tonnele Avenue, Jersey City, N.J. 07306. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal and plastic parts* for electromechanical subassemblies, between the facilities of Integrated Electronics Corp., Dover, N.J., on the one hand, and, on the other Miami, Fla. Restricted to shipments having prior or subsequent movement by air or water.

NOTE.—Applicant has pending contract carrier authority in No. MC 142766, Sub 2 and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, the applicant requests it be held at either New York, N.Y., or Washington, D.C.

No. MC 143247 (Sub-No. 1), filed September 28, 1977. Applicant: OK TRUCKING, INC., 1440 East 23d Street Circle South, Jacksonville, Fla. 32206. Applicant's representative: James Western (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, in containers (except commodities in bulk and automobiles), between points in Jacksonville, Fla., and its commercial zone, restricted to traffic having a prior or subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Jacksonville, Fla.

No. MC 143282 (Sub-No. 2), filed October 12, 1977. Applicant: EDWIN KRELL d.b.a. KRELL TRUCK SERVICE, Plankinton, S. Dak., 57368. Applicant's representative: same as above. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Carpet* from Dalton, Eton, Chatsworth, Calhoun, Ellijay, Cartersville, Home, Ringgold and Tunnel Hill, Ga., to Plankinton, S. Dak., and (2) *Carpet accessories and supplies* from Piqua, Ohio, to Plankinton, S. Dak.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux Falls or Pierre, S. Dak.

No. MC 143293 (Sub-No. 1), filed October 6, 1977. Applicant: RODNEY TSCHETTER, Bridgewater, S. Dak. 57319. Applicant's representative: Mark Menard, P.O. Box 480, Sioux Falls, S. Dak. 57101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fresh and frozen meats*, from the plantsite or storage facilities of Sol's Packing Plant, at Bridgewater, S. Dak., to East St. Louis, Ill.; Lebanon, Pa.; and Oklahoma City, Okla.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Sioux Falls, S. Dak., or Sioux City, Iowa.

No. MC 143328 (Sub-No. 2), filed October 14, 1977. Applicant: EUGENE TRIPP TRUCKING, P.O. Box 2730, Missoula, Mont. 59801. Applicant's representative: David A. Sutherlund, 1150 Connecticut Avenue NW., suite 400, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages*, from Seattle Wash., to points in Arizona, Colorado, New Mexico, Nevada, and Wyoming, and (2) *empty containers*, from points in Arizona, Colorado, New Mexico, Nevada, and Wyoming to Seattle, Wash.

NOTE.—Applicant holds pending contract carrier authority in MC 129287 (Sub 1), therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 143386 (Sub-No. 1), filed October 14, 1977. Applicant: RC COLA-7 UP BOTTLING CO. OF HGN, INC., 601 North 77 Sunshine Strip, Harlingen, Tex. 78550. Applicant's attorney: Harry F. Horak, Room 109, 5001 Brentwood Stair Road, Fort Worth, Tex. 76112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned citrus juices*, from the facilities of Texsun Corp., at Weslaco, Tex., to points in Louisiana and Oklahoma.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Brownsville, Tex., or Dallas, Tex.

No. MC 143614 (correction), filed August 17, 1977, published in the FEDERAL REGISTER issue of September 29, 1977, and republished, as corrected, this issue. Applicant: PHILIP LEROY EAST, doing business as East Trucking, 15 Meadow Lane, Laurel, Md. 20810. Applicant's representative: Philip Leroy East (same address as applicant). Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated house packages* (which requires the use of special equipment) from points in Maryland to points in Delaware, New Jersey, West Virginia, Virginia, Pennsylvania, and Georgia, under a continuing contract or contracts with the Ryland Group, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Baltimore City, Md. The purpose of this republication is correct the commodity description.

No. MC 143720 (Sub-No. 2), filed October 14, 1977. Applicant: AIR-FREIGHT SERVICES, INC., 466 Spring Street, Windsor Locks, Conn. 06096. Applicant's representative: John E. Fay, Esquire, 630 Oakwood Avenue, suite 127, West Hartford, Conn. 06110. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) Between Bradley International Airport, Windsor Locks, Conn., on the one hand, and, on the other, points in Connecticut, Rhode Island, and Massachusetts (2) restricted to commodities having a prior and subsequent movement by air, (3) not in bulk, not in tank vehicles.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Hartford, Conn., or Boston, Mass.

No. MC 143803, filed September 29, 1977. Applicant: CONSOLIDATED DISTRIBUTING CO., INC., a corporation, 750 South Main Street, Tooele, Utah 84074. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, Utah 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime, limestone*

and limestone products from Elko County, Nev., and Tooele County, Utah, to points in Washington, Oregon, California, Idaho, Nevada, Utah, Arizona, Montana, Wyoming, Colorado, New Mexico, and Texas.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, D.C. or Chicago, Ill.

No. MC 143815, filed October 6, 1977. Applicant: R & D TRUCKING COMPANY, INC., Church Road, Lauderdale Industrial Park, Florence, Ala. 35630. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, Tenn. 37219. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Composition facing and flooring tile, machinery, materials, and supplies* used in the manufacture of the above commodities, between points in Lauderdale County, Ala. on the one hand, and, on the other, points in the United States (excluding Alaska and Hawaii), under a continuing contract or contracts with National Floor Products Co., Inc., Florence, Ala.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Florence, Ala. or Nashville, Tenn.

No. MC 143823 (Sub-No. 1), filed October —, 1977. Applicant: LOREN W. HURTIG, Paullina, Iowa 51046. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, Nebr. 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *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 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Paullina Beef Processors, Inc., at or near Paullina, Iowa, to points in the United States (except Alaska and Hawaii); and (2) *Such commodities as are used by meat packers in the conduct of their business* (except commodities in bulk, in tank vehicles), from points in the United States (except Alaska and Hawaii) to the facilities of Paullina Beef Processors, Inc., at or near Paullina, Iowa. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Paullina Beef Processors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Sioux City, Iowa, or Omaha, Nebr.

No. MC 143826, filed October 11, 1977. Applicant: DERBY VAN & STORAGE CO., INC., 3915 Oaklawn Drive, Louisville, Ky. 40219. Applicant's representative: Robert J. Gallagher, Suite 1200, 1000 Connecticut Ave. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods* as defined by the Commission, between points in the counties of Jefferson, Bullitt, Spencer, Shelby, Oldham, Henry, Hardin, Meade, Nelson, Breckinridge, Trimble, and Owen, Ky., and the counties of Harrison, Floyd, Clark, Crawford, Perry, Jefferson, Scott, Jennings, Jackson, Washington, Orange, and Dubois, Ind., restricted to the transportation of shipments having a prior or subsequent movement, in containers, beyond the points authorized, and further restricted to the performance of pickup and delivery service in connection with packing, crating, or containerization, or unpacking, uncrating, or decontainerization of such shipments.

NOTE.—Common control may be involved. If a hearing is deemed necessary applicant requests it be held at Louisville, Ky.

No. MC 143829, filed October 7, 1977. Applicant: SCALEA AIRPORT SERVICE, INC., P.O. Box 9036, Lester, Pa. 19013. Applicant's representative: Leonard A. Jaskiewicz, 1730 M Street NW., Suite 501, Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *general commodities* (except commodities in bulk, Classes A and B explosives, household goods as defined by the Commission and commodities requiring special equipment); Between Philadelphia International Airport, at or near Philadelphia, Pa., on the one hand, and, on the other, Newark International Airport, at or near Newark, N.J., LaGuardia Airport, at or near New York, N.Y. and John F. Kennedy International Airport, at or near New York, N.Y. Restriction: The operations authorized herein are restricted to the transportation of shipments having prior or subsequent movement by air.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, Pa.

No. MC 143852, filed October 12, 1977. Applicant: VIRGIL COONROD d/b/a COONROD WRECKER & CRANE SERVICE, 4000 E Avenue NW., Cedar Rapids, Iowa 52405. Applicant's representative: Robert E. Konchar, P.O. Box 1943, Cedar Rapids, Iowa 52406. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting *damaged, wrecked and disabled vehicles and replacement vehicles* therefore between points in Iowa on the one hand, and on the other, points in Arkansas, Colorado, Illinois, Indiana, Kansas, Kentucky, Michigan, Minnesota, Missouri, Maryland, Nebraska, New York, New Jersey, North Carolina, North Dakota, Ohio, Oklahoma, Pennsylvania, South Dakota, Tennessee, Texas, Virginia, Wisconsin, Wyoming, and West Virginia.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, D.C.

No. MC 143858, filed October 14, 1977. Applicant: GUIGNARD SERVICE CO. (a Corporation), P.O. Box 26276, Charlotte, N.C. 28213. Applicant's representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C. 20004. Authority sought to operate in interstate or foreign commerce, as a *contract carrier*, by motor vehicle, over irregular routes, in transportation of *empty soft drink cans* from Chattanooga, Tenn., to Charlotte, N.C., under a continuing contract or contracts with American Can Co., of Atlanta, Ga.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga., Charlotte, N.C., or Washington, D.C.

No. MC 143878, filed October 16, 1977. Applicant: VIEKKO HOUTILAINEN, d.b.a. VIEKKO'S TRANSPORT, 1106 West Banta Road, Indianapolis, Ind. 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: (1) *bagged and block salt* (except in bulk), from Rittman, Ohio, to Indianapolis, Ind., and ; (2) *materials and supplies* used in the manufacture of animal and poultry feed from points in Illinois, Wisconsin, Michigan, Ohio, and Kentucky, to Indianapolis, Ind. Restriction: Resticted to service to be performed under a continuing contract or contracts with Central Indiana Supply Company.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, Ind., or Chicago, Ill.

PASSENGERS

No. MC 1515 (Sub-No. 239), September 19, 1977. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative: W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over regular and irregular routes, transporting: (a) *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers regular routes: (1) between Dallas, Tex., and Montgomery, Ala., serving all intermediate points; from Dallas, Tex., over U.S. Highway 80 to Montgomery, Ala., and return over the same route, (2) between Dallas, Tex., and the junction of U.S. Highway 65 and U.S. Highway 80 at or near Tallulah, La., serving all intermediate

points; from Dallas, Tex., over Interstate Highway 20 to its junction with U.S. Highway 65 south of Tallulah, La., thence over U.S. Highway 65 to its junction with U.S. Highway 80 and return over the same route, (3) between the junction of Interstate Highway 20 and U.S. Highway 69 northwest of Tyler, Tex., and the junction of Interstate Highway 20 and U.S. Highway 271, northeast of Tyler, Tex., serving all intermediate points; from the junction of Interstate Highway 20 and U.S. Highway 69 over U.S. Highway 69 to Tyler, Tex., thence over U.S. Highway 271 to junction Interstate Highway 20 and return over the same route, (4) between Marshall, Tex., and the junction of Interstate Highway 20 and U.S. Highway 59 serving all intermediate points; from Marshall, Tex., over U.S. Highway 59 to junction Interstate Highway 20 and return over the same route, (5) between Minden, La., and the junction of Interstate Highway 20 and Louisiana Highway 159 and Louisiana Highway 7 serving all intermediate points; from Minden, La., over Louisiana Highway 159 and 7 to junction Interstate Highway 20 and return over the same route, (6) between Ruston, La., and the junction of Interstate Highway 20 and U.S. Highway 167 serving all intermediate points; from Ruston, La., over U.S. Highway 167 to junction Interstate Highway 20 and return over the same route, (7) between the junction of Interstate Highway 20 and U.S. Highway 65 south of Tallulah, La., and the junction of Interstate Highway 20 and U.S. Highway 80 near the Louisiana-Mississippi State Line serving all intermediate points; from the junction of Interstate Highway 20 and U.S. Highway 65 over Interstate Highway 20 to junction U.S. Highway 80 and return over the same route, (8) between the junction of Interstate Highway 20 and U.S. Highway 80 near the Louisiana-Mississippi State Line and the junction of U.S. Highway 80 and U.S. Highway 80 access highway near the Mississippi-Alabama State Line serving all intermediate points; from the junction of Interstate Highway 20 and U.S. Highway 80 near the Louisiana-Mississippi State Line over Interstate Highway 20 to its junction with Interstate Highway 59 at or near Meridian, Miss., thence over Interstate Highway 59 to its junction with U.S. Highway 80 access highway near the Mississippi-Alabama State Line, thence over U.S. Highway 80 access highway to its junction with U.S. Highway 80 and return over the same route, (9) between Baton Rouge, La., and Shreveport, La., serving all intermediate points; from Baton Rouge, La., over Business Route U.S. Highway 190 to junction U.S. Highway 190, thence over U.S. Highway 190 to junction U.S. Highway 71, thence over U.S. Highway 71 via Lebeau, La., to junction Business Route U.S. Highway 71, thence over Business Route U.S. Highway 71 to Alexandria, La., thence over Louisiana Highway 1 via Natchitoches, La., to Shreveport, La., and return over the same route, and (b) passengers and their baggage, in one-way and round-trip charter operations irregular route: from points on the routes described in (a) above to all points in the United States including Alaska but excluding Hawaii and return.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Dallas, Tex., Shreveport, La., Jackson, Miss., Meridian, Miss., Montgomery, Ala., and Baton Rouge, La.

No. MC 1515 (Sub-No. 240), filed September 30, 1977. Applicant: GREYHOUND LINES, INC., Greyhound Tower, Phoenix, Ariz. 85077. Applicant's representative W. L. McCracken (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over regular and irregular routes, transporting: (a) *passengers and their baggage, and express and newspapers* in the same vehicle with passengers, regular route: between Chico, Calif. and the junction of California Highway 191 and California Highway 70, serving all intermediate points: From Chico over Skyway Road to Paradise, Calif., thence over California Highway 191 to junction California Highway 70 and return over the same route, and (b) *passengers and their baggage*, in one-way and round-trip charter operations, irregular route: from points in Butte County, Calif. to points in the United States including Alaska but excluding Hawaii and return.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Paradise, California.

No. MC 135019 (Sub-No. 4), filed October 6, 1977. Applicant: PARK TRANSIT INC., a corporation, 521 Camden Street, Parkersburg, W. Va. 26101. Applicant's representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *passengers and their baggage* in charter and special operations, beginning and ending at points in Mason, Cabell, and Raleigh Counties, W. Va., and Scioto, Jackson, Lawrence, Gallia, Meigs, and Vinton Counties, Ohio, and extending to points in the United States (including Alaska but excluding Hawaii).

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Huntington, W. Va.

No. MC 143013 (Sub-No. 2), filed October 6, 1977. Applicant: ROGER CHILTON d.b.a. CHILTON TRUCKING CO., P.O. Box 841, Beaumont, Tex., 77704. Applicant's representative: John W. Carlisle, 4141 N. Braeswood Suite 22, Houston, Tex. 77025. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers, restricted to ship's officers, crew members, company personnel and representatives* and their baggage; and detained persons, including stowaways when moving under guard or in the custody of applicant, and their baggage. Restricted to passenger service in special operations having a prior or subsequent movement by air or sea and further restricted to vehicles having a capacity of 15 passengers or less. (1) Between Houston, Baytown, Barber's Cut, Galveston, Corpus Christi, Port Lavaca, Orange, Brownsville, Port Arthur, Beaumont, Freeport, Port Neches and Texas City, Tex.; (2) Between Texas points named in (1) above, on the one hand, and, on the other, Lake Charles, Baton Rouge and New Orleans, La.; Gulfport, Biloxi, Pascagoula and Greenville, Miss.; Mobile, Ala.; Pensacola, Panama City, St. Petersburg, Tampa, Ft. Myers, Key West, Ft. Lauderdale, Miami, Palm Beach and St. Augustine, Fla.; (3) Between Albert Whitted Airport, St. Petersburg, Fla., Bates Field, Mobile, Ala., Clearwater Airport, St. Petersburg, Fla., Corpus Christi International Airport, Corpus Christi, Tex., Executive Airport, Ft. Lauderdale, Fla., Ferguson Regional Airport, Pensacola, Fla., Greenville Municipal Airport, Fla., Greenville, Miss., Gulfport-Biloxi Municipal Airport, Gulfport-Biloxi, Miss., Hollywood International Airport, Ft. Lauderdale, Fla., Houston Intercontinental Airport, Houston, Tex., Jefferson County Municipal Airport, Beaumont, Tex., Key West International Airport, Key West, Fla., Lake Charles Municipal Airport, Lake Charles, La., Moisant Airport, Metairie, La., Page Field, Ft. Myers, Fla., Peter O. Knight Airport, Tampa, Fla., Rio Grande Valley Airport, Brownsville, Tex., Ryan Airport, Baton Rouge, La., Scholes Field, Galveston, Tex., Tampa International Airport, Tampa, Fla., Vandenberg Airport, Tampa, Fla., Miami International Airport, Miami, Fla., Palm Beach International Airport, West Palm Beach, Fla., St. Augustine Municipal Airport, St. Augustine, Fla., on the one hand, and, on the other, points named in (1) and (2) above.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, Tex.

FINANCE APPLICATIONS

NOTICE

The following applications seek approval to consolidate, purchase, merge, lease operating rights and properties,

or acquire control through ownership of stock, or rail carriers or motor carriers pursuant to sections 5(2) or 210a(b) of the Interstate Commerce Act.

An original and two copies of protests against the granting of the requested authority must be filed with the Commission on or before January 3, 1978. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-13383. Authority sought for control by RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, Tex., 75247, of ET & WNC Transportation Co. and East Tennessee and Western North Carolina Railroad Co., both of 132 Legion Street, Johnson City, Tenn., 37601, and for acquisition by RBM Transportation Systems, Inc. and Telecom Corp., both of 2424 Houston Natural Gas Building, Houston, Tex., 77002, through the acquisition by RED BALL MOTOR FREIGHT, INC., of control of ET & WNC Transportation Co. and East Tennessee and Western North Carolina Railroad Co. Applicants' attorney: Russell R. Sage, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, Va., 22312. Operating rights sought to be controlled: *General commodities*, with exceptions, as a *common carrier* over a network of regular route rights in the States of Alabama, Arkansas, Delaware, Georgia, Louisiana, Maryland, Mississippi, New Jersey, New York, North Carolina, Pennsylvania, South Carolina, Tennessee, Texas, Virginia, and West Virginia, and various specified commodities, as a common carrier over irregular routes from and to designated points or areas in Arkansas, Delaware, Louisiana, Maryland, Mississippi, New Jersey, North Carolina, Pennsylvania, South Carolina, Tennessee, and Texas, all as specifically described in No. MC-52953 and sub-numbers thereunder and No. MC-106163 and sub-numbers thereunder acquired in MC-F-11679. This notice does not purport to be a complete description of all of the operating rights of ET & WNC Transportation Co. The foregoing summary is believed to be sufficient for purposes of public notice regarding the nature and extent of the operating rights of ET & WNC Transportation Co. East Tennessee and Western North Carolina Railroad Co. is a common carrier by railroad operating between Johnson City, and Elizabethton, Tenn. and is wholly owned by ET & WNC Transportation Co. RED BALL MOTOR FREIGHT, INC., is authorized to operate as a common carrier in the States of Alabama, Arizona, Arkansas, California, Colorado, Florida, Georgia, Kansas, Louisiana, Mississippi, Missouri, New Mexico, Oklahoma, Tennessee, and Texas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13387. Authority sought for continuance in control by PUDGET SOUND TUG & BARGE CO., 1022 South West Massachusetts Street, Seattle, Wash., 98134, of Columbia Common Carriers, Inc., and for acquisition by Crowley Maritime Corp., One Market Plaza, San Francisco, Calif., 94105, of contol of such rights through the transaction. Applicants' attorney and representative: John Cunningham, 1776 F Street NW., Suite 500, Washington, D.C. 20006, and Mr. William R. Roush, Vice President, Common Rates and Regulations, Offshore Group, Crowley Maritime Corp., One Market Plaza, P.O. Box 3815, San Francisco, Calif., 94105. Operating rights sought to be controlled: Columbia Common Carriers, Inc., intends to operate pursuant to certificate W-1305 when issued[1] authorizing the following service: *General commodities* by self-propelled and non-self-propelled vessels with the use of separate towing vessels, and by towing vessels in the performance of general towage, (1) between ports and points in Washington and Oregon on the Columbia River from its confluence with the Willamette River to Priest Rapids, Wash., (2) between ports and points in Oregon on the Willamette River from its confluence with the Columbia River to Portland, Oreg., (3) between ports and points in Washington and Idaho on the Snake River from its confluence with the Columbia River to Asotin, Wash., and (4) between ports and points in Idaho on the Clearwater River from its confluence with the Snake River to Hog Island, Idaho. In No. W-1305 * * * and applicant's affiliates existing authority that it duplicates in part shall be construed as conferring only a single operating right * * * (and was) conditioned upon the person or persons engaged in the common control or management of each applicant and any other carrier operating in interstate or foreign commerce applying for approval thereof under section 5(2) of the Act. W-1305 will not be issued until the Commission approves Pudget's Sound Tug & Barge Co. contol of Columnbia Common Carriers, Inc. Pudget Sound Tug and Barge Co. is authorized to operate under W-586 as a common carrier in interstate or foreign commerce as follows: (1)(a) By non-self-propelled vessels with the use of separate towing vessels in the transportation (a) of commodities generally between ports and points along the Pacific coast with no local service between ports and points along the Columbia River. (b) Of Commodities generally, except freight cards, loaded or empty, between ports and points on Pudget Sound, the Straits of Georgia and Juan de Fuca, and interconnecting and tributary waterways. (2) By towing vessels in the performance of general towage, between ports and points along the Pacific Coast and tributary waterways, not including points on the Columbia River above the mouth of the Willamette River, Portland, Oregon, nor the Sacramento and San Joaquin Rivers. (3) By non-self-propelled vessels with the use of separate towing vessels and by towing vessels in the performance of towage in the transportation of articles exceeding 19 feet in height, or 12 feet in width, or 90 feet in length, or 100 net tons in weight, component parts thereof, and related equipment, (a) between ports and points on the Atlantic coast and tributary waterways and the Gulf of Mexico coast and tributary waterways (excluding the Mississsippi River System above Baton Rouge, La.), on the one hand, and, on the other, ports and points along the Pacific coast and tributary waterways, (b) between ports and points along the Atlantic coast and tributary waterways, on the one hand, and, on the other, ports and points on the Gulf of Mexico coast and tributary waterways (excluding the Mississippi River system above Baton Rouge, La.). Pudget Sound Tug & Barge Co. also holds authority in MC-126513 (Subs 2 and 3), Sub-2 authorizes operations as a motor carrier transporting general commodities in seasonal operations, April 1-November 30, between beachlanding sites in Alaska on the one hand, and on the other, DEW Line and Mona Lisa sites at or near numerous points in Alaska. Sub-3 authorizes operations as a motor carrier transporting general commodities in annual seasonal operations,. July1-October 30, between points in Alaska North of 69 degrees North Latitude, restricted to operations having a prior or subsequent movement by water.

NOTE.—Columbia Common Carriers, Inc., was granted a certificate by order of January 5, 1977, No. W-1305, conditioned upon obtaining section 5(2) approval from the Commission.

No. MC-F-13390. Authority sought for purchase by MISSOURI-NEBRASKA EXPRESS, INC., 5310 St. Joseph Avenue, St. Joseph, Mo. 64505, of a portion of the operating rights of Momsen Trucking Co., 13811 L Street, Omaha, Nebr. 68137, and for acquisition by Roger Crouch, R.R. 2, Plattsburgh, Mo. 64777, of control of such rights through the purchase, Applicants' attorneys: Richard R. Sigmon, 501 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004 and Donald stern, 530 Univac Building, 7100 West Center Road, Omaha, Nebr. 68106. Operating rights sought to be

purchased: *Automobile parts, supplies and accessories, refrigerators, paints, and such merchandise as is dealt in by wholesale and retail hardware business houses, as a common carrier* over irregular routes, from Chicago, Ill., to Clarinda, Iowa, with no transportation for compensation on return except as otherwise authorized. Vendee is authorized to operate as a common carrier in Illinois, Iowa, Nebraska, Missouri, and Kansas. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13394. Authority sought for purchase by INTERNATIONAL TRAILER TRANSPORT, INC., 796 Frelinghuysen Avenue, Newark, N.J., 07114, of a portion of the operating rights of Kirby & Kirby, Inc., (George Minish, Receiver, Wilmar Trucking Inc., Assignee Receiver-In/Bankruptcy), 167 Fairfield Road, Fairfield, N.J., 07006, and for acquisition by Thomas L. Dwyer of 796 Frelinghuysen Avenue, Newark, N.J., 07114, of control of such rights through the purchase. Transferee's representative Robert B. Pepper, 168 Woodbridge Avenue, Highland Park, N.J., 80904, Harold M. Cohen, Attorney for Receiver, 225 Millburn Ave., Millburn, N.J., 07041, and A. David Millner and John P. Tynan attorneys for Assignee-Wilmar, P.O. Box 1409, 167 Fairfield, N.J., 07006. Operating rights sought to be transferred: *General commodities*, except those of unusual value, Class A and B explosives, household goods, as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading, over regular routes as a common carrier between Trenton, N.J., and Philadelphia, Pa., serving all intermediate points: From Trenton over U.S. Highway 206 to Hammonton, N.J., thence over U.S. Highway 30 to Philadelphia, Pa.; between Trenton, N.J., and Point Pleasant, N.J., serving all intermediate points: From Trenton over New Jersey Highway 33 to Asbury Park, N.J., thence over New Jersey Highway 71 to Point Pleasant, and return over the same route. Vendee is authorized to operate as a common carrier in New Jersey. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13403. Authority sought for purchase by DAVIS BROS. DIST., INC., 2024 Trade Street, Missoula, Mont. 59801, of a portion of the operating rights of Bowers Transfer & Storage Co., 2062 Blake Street, Denver, Colo. 80205, and for acquisition by Don R. Davis and W. E. Seliski, also of Missoula, Mont. 59801, of control of such rights through the purchase. Applicants' attorney: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, Colo. 80264. Operating rights sought to be purchased: *Plastic pipe*, as a *common carrier* over irregular routes from Denver, Colo., to points in Arizona, Kansas, Montana, Nebraska, New Mexico, North Dakota, Oklahoma, South Dakota, Texas, Utah, and Wyoming, with no transportation for compensation on return except as otherwise authorized. Restriction: The authority granted herein is restricted against the transportation (1) of commodities which because of size or weight require the use of special equipment and (2) those commodities falling within the category described in Mercer Extension—Oil Field Commodities, 74 MCC 459. Vendee is authorized to operate as a *common carrier* in Ohio, Tennessee, Texas, Illinois, Michigan, North Dakota, Idaho, Oregon, Nevada, Wyoming, Nebraska, Missouri, Colorado, New Mexico, Kentucky, Arkansas, Indiana, Wisconsin, Minnesota, Montana, Washington, California, Utah, South Dakota, Iowa, Kansas, Oklahoma, and Arizona. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13410. Authority sought for purchase by AMERICAN CENTRAL TRANSPORT INC., 2005 North Broadway, Joliet, Ill. 60435, of the operating rights of G and R Trucking Inc., 11973 Barden Tower Road, Florissant, Mo. 63033, and for acquisition by Kretsinger and Ruden Enterprises Inc. (same Address as Transferee) and Tom B. Kretsinger, Ronald Ruden Carolyn Kretsinger and Tonita Ruden, of control of such rights through the transaction. Applicants Attorney: Tom B. Kretsinger, 910 Brookfield Bldg., 101 West 11 Street, Kansas City, Mo. 64105. Operating rights sought to be transferred: *Cement asbestos pipe* as a *contract carrier* over irregular routes from the plant site and storage facilities of Certain-Teed Products Corp. located at or near Bellefontaine Neighbors and Riverview, Mo., to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming, with restrictions; *cement asbestos pipe*, from the plant site and storage facilities of Certain-Teed Products Corp. at Hillsboro, Tex., to points in Arkansas, Colorado, Iowa, Kansas, Mississippi, and Ohio, with restrictions; *plastic pipe*, from the facilities of Certain-Teed Product Corp at McPherson, Kans., to points in Colorado, Indiana, Michigan, Minnesota, Nebraska, North Dakota, Ohio, Oklahoma, and Pennsylvania, with restrictions. Vendee is authorized to operate as a common carrier in Pennsylvania, Ohio, Indiana, Illinois, Georgia, Tennessee, Kentucky, Michigan, Wisconsin, Iowa, Missouri, Kansas, Nebraska, Colorado, Oklahoma, and Arkansas. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 138741 (Sub-No. 41) is a directly related matter.

No. MC-F-13415. Authority sought for control and merger by RYDER TRUCK LINES, INC., 2050 Kings Road, Jacksonville, Fla. 32203, of a portion of the operating rights of Eastern Express, Inc., 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by IU Transportation Services, Inc., which in turn is controlled by IU International Corp., both of The Wilmington Towers, 1105 North Market Street, Wilmington, Del. 19801, of control of such rights through the transaction. Applicant's attorneys: Roland Rice, Suite 501, 1111 E Street NW., Washington, D.C. 20004; John C. Bradley, Suite 1301, 1600 Wilson Boulevard, Arlington, Va. 22209; H. Beatty Chadwick, 1500 Walnut Street, Philadelphia, Pa. 19102. Operating rights sought to be controlled and merged: Operation 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, (A)(1) serving as off-route or intermediate points Savannah, Ga., Brunswick, Ga., St. Marys, Ga., Columbia, S.C., and those between Walterboro, S.C., and Richmond, Va., on the following routes: between Jacksonville, Fla., and Baltimore, Md., as follows: from Jacksonville over U.S. Highway 17 to Pocataligo, S.C., thence over Alternate U.S. Highway 17 (formerly portion U.S. Highway 15) to Walterboro, S.C., thence over U.S. Highway 15 to Society Hill, S.C., thence over U.S. Highway 52 to Cheraw, S.C., thence over U.S. Highway 1 to Rockingham, N.C., thence over U.S. Highway 220 to junction U.S. Highway 211, thence over U.S. Highway 211 via High Point N.C., to Winston-Salem, N.C., thence over U.S. Highway 421 to Greensboro, N.C., thence over U.S. Highway 70 to Durham, N.C., thence over U.S. Highway 15 to Oxford, N.C., thence over U.S. Highway 158 to Henderson, N.C., and thence over U.S. Highway 1 to Baltimore, and return over the same route; from Jacksonville to High Point as specified above, thence over U.S. Highway 70 to Durham, N.C., and thence to Baltimore as specified above, and return over the same route; from Jacksonville to Walterboro, S.C., as specified above, thence over U.S. Highway 15 to Laurinburg, N.C., thence over U.S. Highway 501 to Aberdeen, N.C., and thence

over U.S. Highway 1 to Baltimore, and return over the same route; from Jacksonville to Laurinburg as specified above, thence over U.S. Highway 401 (formerly portion Alternate U.S. Highway 15) to Fayetteville, N.C., and return over the same route; (2) between Atlanta, Ga., and Flovilla, Ga., serving all intermediate points, from Atlanta over U.S. Highway 23 to Flovilla, and return over the same route. Restriction: The operations authorized herein above are restricted to the transportation of traffic serving (a) between points in North Carolina, on the one hand, and, on the other, those points in that part of South Carolina on and north of a line beginning at Charleston and extending along U.S. Highway 78 to junction U.S. Highway 178, thence along U.S. Highway 178 to Anderson, and thence along U.S. Highway 29 to the South Carolina-Georgia State line; (b) from Charleston, S.C., to points in that part of South Carolina as specified in (a) above with no transportation on return except as otherwise authorized; (c) between Wilmington, N.C., on the one hand, and, on the other, points in North Carolina; (d) between Columbia, S.C., on the one hand, and, on the other, points in Georgia in connection with traffic moving from, to, or through Atlanta, Ga.; (e) between Charlotte, N.C., on the one hand, and, on the other, points in Georgia in connection with traffic moving from, to, or through Atlanta, Ga.; (f) between Augusta and Savannah, Ga., on the one hand, and, on the other, points in Georgia and South Carolina; or (g) between Augusta and Savannah, Ga., Richmond, Va., and points in North Carolina, on the one hand, and, on the other, points in Richland, Lexington, and Calhoun Counties, S.C.; (B)(1) between Savannah, Ga., and Walterboro, S.C., serving no intermediate points, from Savannah over U.S. Highway 17 to Pocataligo, S.C., thence over Alternate U.S. Highway 17 to Walterboro, and return over the same route; (2) between Petersburg, Va., and Richmond, Va., serving all intermediate points, from Petersburg over U.S. Highway 1 to Richmond, and return over the same route; (3) serving Saint George, S.C., and Fayetteville, N.C., as intermediate or off-route points. Vendee is authorized to operate as a common carrier in all 48 continguous states. Applications have been filed for temporary authority under section 210a(b).

NOTE.—This application is directly related to that filed simultaneously in Ryder Truck Lines, Inc.—Purchase (Portion)—Eastern Express, Inc., and does not seek any authority not included in the purchase proposal. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Atlanta, Ga.

NOTE.—MC 2900 (Sub-No. 314) is a directly related matter.

No. MC-F-13418. Authority sought for purchase by SECURITY STORAGE CO., INC., P.O. Box 205, Goldsboro, N.C. 27530, of a portion of the operating rights of Glosson Motor Lines, Inc. (through assignment by B & P Motor Lines, Inc., P.O. Box 727, Forest City, N.C., 28043), of control of such rights through the transaction. Applicant's attorneys: K. Edward Wolcott, 1600 First Federal Building, Atlanta, Ga. 30303, for transferee, and Clyde E. Carver, Suite 212, 5299 Roswell Road NE., Atlanta, Ga., 30342, for transferor. Operating rights sought to be purchased: *Household goods*, as defined by the Commission between Salisbury, N.C. and points within 25 miles of Salisbury, on the one hand, and, on the other, points in Virginia, Pennsylvania, New Jersey, Georgia, South Carolina, Florida, Kentucky, Tennessee, Ohio, and the District of Columbia. Vendee is authorized to operate as a common carrier in North Carolina. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13420. Authority sought for purchase by COLONIAL REFRIGERATED TRANSPORTATION, INC., Suite 110, 9041 Executive Park Drive, Knoxville, Tenn. 37919, of a portion of the operating rights of Glosson Motor Lines, Inc. (Charles E. Herbert, trustee in bankruptcy), Hargrove Road, Lexington, N.C. 27292, and for acquisition by C. E. McBride, Suite 110, 9041 Executive Park Drive, Knoxville, Tenn. 37919, of control of such rights through the purchase. Applicants' attorneys: E. Stephen Heisley, 666 Eleventh Street NW., Suite 805, Washington, D.C. 20001, Paul M. Daniell, P.O. Box 872, Atlanta, Ga. 30301, and Frank P. Holton, Jr., P.O. Box 1124, Lexington, Ky. 27292. Operating rights sought to be transferred: That portion of the authority in MC 41255 and subs thereto authorizing: (1) *New furniture, crated, and new furniture, uncrated*, as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from points in Alamance, Beaufort, Chatham, Davie, Davidson, Forsyth, Guilford, Lee, Moore, Nash, Orange, Randolph, Rowan, Stanly, Surry, and Wayne Counties, N.C. to points in Arkansas, Louisiana, Mississippi, Texas, and Oklahoma. Restriction: New furniture, uncrated, moving to points in Oklahoma and Texas, shall be transported only in mixed loads with new furniture, crated; (2) New furniture, crated and uncrated, as described in Appendix II to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209, from Toccoa, Ga. to points in Alabama, Arkansas, Florida, Kentucky, Louisiana, Mississippi, Oklahoma, South Carolina, Tennessee, and Texas: (3) *New furniture*, from points in that part of North Carolina on, east and south of a line beginning at the Virginia-North Carolina State line and extending along U.S. Highway 29 to Reidsville, N.C., thence along U.S. Highway 158 to Mocksville, N.C., thence along U.S. Highway 64 to Statesville, N.C., thence along U.S. Highway 21, to Charlotte, N.C., thence along U.S. Highway 29 to the North Carolina-South Carolina State line to points in Georgia, South Carolina, Florida, and Alabama: and (4) *New furniture*, from points in North Carolina east of Transylvania, Haywood, Madison, Yancey, Mitchell, Avery, Watauga, Ashe, and Alleghany Counties to points in Georgia, Florida, Alabama, Arkansas, Louisiana, Oklahoma, Texas, and Mississippi. Vendee is authorized to perform operations as a common carrier in all 48 continental United States. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13423. Authority sought for purchase by H&W CARRIERS, INC., P.O. Box 73, Camargo, Ill. 61919, of a portion of the operating rights of Harry D. Diepholz, d.b.a. Diepholz Trucking, East Route 316, Mattoon, Ill. 61938, and for acquisition by Willa D. Smith and Harold D. Smith (husband and wife), both of P.O. Box 73, Camargo, Ill., of control of such rights through the transaction. Applicants attorney: Robert T. Lawley, 300 Reisch Building, Springfield, Ill. 62701. Operating rights sought to be transferred: Under permit No. MC 136500 (Sub-No. 2) as follows: *Unfrozen foodstuffs* (except in bulk, in tank vehicles), as a contract carrier over irregular routes from the facilities of the Kraftco Corp. and its division, Kraft Foods, at or near Champaign and Mattoon, Ill., to points in Indiana, Kentucky, Michigan, Ohio, New York, New Jersey, Pennsylvania, Maryland, Virginia, and West Virginia, with restrictions; Under MC 13500 (Sub-No. 3) as follows: *food and foodstuffs* (except commodities in bulk), as a contract carrier over irregular routes from the facilities of the Kraftco Corp. and the Kraft Foods Division of Kraftco Corp. at or near Champaign, Ill., to points in Montana, N. Dak., and South Dakota, with restrictions. Vendee is presently authorized to operate as a common carrier under certificate No. MC-125751 in the States of Indiana and Illinois, and presently holds temporary authority to operate as a contract carrier in docket No. MC 141622. Application has not been filed for temporary authority under section 210a(b). Dual operations may be involved.

No. MC-F-13424. Authority sought for purchase by YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, 10990 Roe Avenue, Shawnee Mission, Kans. 66207 of a portion of the operating

rights of Peoples Cartage, Inc., 8045 Navarre Road, SW., Massillon, Ohio 44646, and for acquisition by George E. Powell, Jr., 10990 Roe Avenue, Shawnee Mission, Kans. 66207, of control of such rights through the purchase. Applicants' attorneys: Jack Goodman, 39 South LaSalle Street, Chicago, Ill. 60603, David B. Schneider, 10990 Roe Avenue, Shawnee Mission, Kans. 66207, and James Muldoon, 50 West Broad Street, Columbus, Ohio 43215. Operating rights sought to be transferred: *General commodities,* with exceptions, as a *common carrier,* over irregular routes between points in Franklin County, Ohio, on the one hand, and, on the other, points in Ohio. Vendee is authorized to operate as a common carrier in Arizona, Arkansas, California, Colorado, Connecticut, Delaware, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maine, Maryland, Michigan, Massachusetts, Minnesota, Missouri, Nebraska, Nevada, New Jersey, New Hamphire, New Mexico, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, West Virginia, and the District of Columbia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13430. Authority sought for purchase by OHIO FAST FREIGHT, INC., 3893 Market Street, NE., Warren, Ohio 44484, of a portion of the operating rights of Eastern Express, Inc., 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by Orin S. Neiman, 3893 Market Street NE., Warren, Ohio 44484, of control of such rights through the transaction. Applicants' attorney: Paul F. Berry, 275 East State Street, Columbus, Ohio 43215. Operating rights sought to be purchased: *General commodities,* with exceptions, as a *common carrier,* over regular routes, serving to and from the site of the Feeds Materials Production Center of the U.S. Atomic Energy Commission, near Fernald, Ohio, as an off-route operations to and from Cincinnati, Ohio; Serving the site of the Cincinnati Shaper Co., located approximately 2½ miles southeast of Harrison, Ohio, as an off-route point in connection with carrier's regular route operations to and from Cincinnati, Ohio; *General commodities,* with exceptions, between St. Louis, Mo., and East Liverpool, Ohio, serving all intermediate points and the off-route points of Jefferson Barracks, Mo., Evansville, Ind., and Westerville, Ohio, restricted as follows: said carrier shall not transport any traffic between St. Louis, Cincinnati, Jefferson Barracks, Evansville, and intermediate points between St. Louis and Cincinnati; from St. Louis over U.S. Highway 50 to Cincinnati, Ohio, thence over U.S. Highway 42 to LaFayette, Ohio, thence over U.S. Highway 40 to Cambridge, Ohio, thence over U.S. Highway 22 to Steubenville, Ohio, thence over Ohio Highway 7 to East Liverpool, Ohio, and return over the same route; serving to and from (1) points in the Cincinnati, Ohio commercial zone, as defined by the Commission, (2) points in the St. Louis, Mo.-East St. Louis, Ill., commercial zone, as defined by the Commission, and (3) Alton, Ill., as intermediate or off-route points in connection with carrier's above-described regular routes with restriction. Alternate routes for operating convenience only: *General commodities,* with exceptions, between junction U.S. Highway 40 and Ohio Highway 79, and junction U.S. Highway 36 and U.S. Highway 22, at or near Cadiz, Ohio, serving no intermediate points. Vendee is authorized to operate as a *common carrier* in all the States in the United States except Alaska and Hawaii. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13431. Authority sought for purchase by SHANAHAN MOTOR LINES, INC., 1001 Fairview Street, Camden, N.J. 08104, of a portion of the operating rights of Eastern Express, Inc., 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by T. J. Shanahan, III, of Camden, N.J. 08104, of control of such rights through the transaction. Applicants' attorneys: Alan Kahn, 1920 Two Penn Center Plaza, Philadelphia, Pa. 19102 and Roland Rice, 501 Perpetual Building, Washington, D.C. 20004. Operating rights sought to be purchased: *General commodities,* with exceptions, as a *common carrier* (1) over designated regular routes between New York, N.Y., and New Haven and Norwalk, Conn., and Boston, Mass., serving described intermediate and off-route points in Connecticut, Massachusetts and Rhode Island and points within 25 miles of Boston; and (2) over irregular routes from New York, N.Y. to Springfield, Mass. Vendee is authorized to operate as a *common carrier* in Colorado, Connecticut, Delaware, District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Maryland, Massachusetts, Missouri, Nebraska, New Jersey, New York, North Carolina, Ohio, Pennsylvania, Rhode Island, South Carolina, Virginia, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13433.Authority sought for purchase by ADVANCE-UNITED EXPRESSWAYS, INC., 2601 Broadway Road NE., Minneapolis, Minn. 55413, of a portion of the operating rights of Eastern Express, Inc., 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by Fred J. Wines, also of Minneapolis, Minn. 55413, of control of such rights through the transaction. Applicant's attorney: Herman J. Ratelle, 4624 IDS Center, Minneapolis, Minn. 55402. Operating rights sought to be transferred: *Automobile accessories and parts, hardware, roofing linseed oil, and iron and steel fence posts,* as a *common carrier,* over regular routes, serving Chicago Heights, Ill., as an off-route point in connection with carrier's regular-route operations between Kansas City, Mo., and Chicago, Ill., authorized herein. *General commodities,* with exceptions, serving points in Chicago, Ill., Commercial Zone as defined by the Commission, except Chicago, Ill., as intermediate or off-route points in connection with carrier's regular-route operations, authorized herein, with restriction. Serving points in the Kansas City, Mo.-Kansas City, Kans., Commerical Zone as defined by the Commission, as off-route points in connection with the carrier's regular-route operations authorized herein with restriction. Between junction U.S. Highway 40 and Missouri Highway 7, and Lake City, Mo., serving intermediate and off-route points within 2 miles of Lake City, Mo., between Kansas City, Mo., and Lake City, Mo., serving intermediate and off-route points within 2 miles of Lake City, Mo., *general commodities,* with exceptions between Chicago, Ill., and Kansas City, Kans., serving the intermediate points of Joliet, Ill., and Kansas City, Mo. Alternate routes for operating convenience only: *General commodities,* with exceptions, between Gardner, Ill., and Chicago, Ill., in connection with carrier's regular-route operations, authorized herein, serving no intermediate points and serving Gardner Ill., for the purpose of joinder only, between Joliet over U.S. Highway 6 to Hammond (formerly shown as from Joliet over U.S. Highway 66 to Chicago), and return over the same route. Vendee is authorized to operate as a *common carrier* in Alabama, Colorado, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Kansas, Maryland, Massachusetts, Minnesota, Missouri, New Jersey, New York, North Carolina, North Dakota, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, District of Columbia, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13436. Authority sought for purchase by ROADWAY EXPRESS, INC., 1077 Gorge Boulevard, P.O. Box 471, Akron, Ohio 44309, of a portion of the operating rights of Herriott Trucking Co., East Palestine, Ohio 44413, and for acquisition by The Roush Voting Trust, 1077 Gorge Boulevard, Akron, Ohio 44309, of control of such rights through the transaction. Applicant's representatives: Wil-

liam O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014, and A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Operating rights sought to be acquired: *General commodities,* with the usual exceptions over regular routes between Uniontown, Pa., and Sharon, Pa., Uniontown, Pa. and junction U.S. 19 and PA 98, Uniontown Pa. and Butler, Pa., Pittsburgh, Pa. and Florence, Pa., Pittsburgh, Pa. and Charleroi, Pa., Midland, Pa. and Rochester, Pa., and Deerfield, Ohio and Beaver, Pa., serving all intermediate points and the off-route points of Latrobe, Homestead, Duquesne, Dravosburg, McKeesport, Glassport, Vandergrift, North Vandergrift, Apollo, Natrona, Elizabeth, West Pittsburgh, Langeloth, Monessen, Greensburg, Johnstown, Grove City, and Altoona, Pa. Restrictions: Restricted against joinder with authority presently held for service to and from points in Ohio. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Connecticut, Delaware, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hampshire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Virginia, West Virginia, and Wisconsin. Application has not been filed for temporary authority under section 210a(b).

No. MC-F-13437. Authority sought for purchase by GORDONS TRANSPORTS, INC., 185 West McLemore, Memphis, Tenn. 38101, of a portion of the operating rights of Eastern Express, Inc., 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by M. M. Gordon, A. W. Gordon, Jr., John K. Jordan, Esther G. Lantz, and Mary G. Jordan, all of 185 West McLemore, Memphis, Tenn. 38101, of control of such rights through the purchase. Applicant's attorneys: Phinease Stevens, P.O. Box 22567, Jackson, Miss. 39205, Roland Rice, Suite 501 Perpetual Building, 1111 E Street NW., Washington, D.C. 20004, and William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. Operating rights sought to be purchased: *General commodities,* with exceptions, as a *common carrier,* over regular routes, between Kansas City, Kans. and Wichita, Kans., over the Kansas Turnpike serving the intermediate points of Lawrence and Topeka, Kans. and the off-route point of Admire. The operating rights involved constitute a portion of Package 9 included in the public auction of vendor's operating rights conducted on October 17, 1977, by the Bankruptcy Court of the United States District Court for the Southern District of New York in the proceeding under Docket No. 77-B-1003. Roadway Express, Inc., P.O. Box 471, Akron, Ohio 44309, entered into a contract with vendor to purchase all of the operating rights included in said Package 9. The application seeks approval of the acquisition of the described authority through a partial assignment to Gordons Transport, Inc., of the agreement between vendor and Roadway Express, Inc. The agreement between Roadway Express, Inc., and vendor is the subject of section 5 and 210a(b) applications filed and docketed in No. MC-F-13432. The authority sought to be acquired joins with that of Gordons Transports, Inc., at Kansas City, Kans. Vendee is authorized to operate as a *common carrier* in Alabama, Arkansas, Georgia, Illinois, Indiana, Iowa, Kentucky, Louisiana, Minnesota, Mississippi, Missouri, Ohio, Oklahoma, Tennessee, Texas, Wisconsin, and West Virginia. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13438. Authority sought for purchase by SPECTOR FREIGHT SYSTEM, INC., 1050 Kingery Highway, Bensenville, Ill. 60106, for a portion of the operating rights of EASTERN EXPRESS, INC., 1450 Wabash Avenue, Terre Haute, Ind. 47808, and for acquisition by SPECTOR INDUSTRIES, INC., 1050 Kingery Highway Bensenville, Ill. 60106, of control of such rights through the purchase. Applicants' attorneys: Jack Goodman, 3900 South LaSalle Street, Chicago, Ill. 60603, and Roland Rice, 1111 E Street NW., Washington, D.C. 20004. Operating rights sought to be transferred: *General commodities,* with exceptions, as a common carrier, over regular routes, between Easton, Pa., and La Fayette, N.Y., serving the intermediate points of Scranton, Pa., and Binghamton, N.Y.; from Easton over U.S. Highway 611 to Scranton, Pa., and thence over U.S. Highway 11 to La Fayette, and return over the same route, with restrictions: *General commodities,* with exceptions, as a common carrier, over irregular routes, between points in Pennsylvania and New Jersey within 20 miles of Easton, Pa., including Easton, with restrictions; between Easton, Pa., and points in Pennsylvania within three miles of Easton, on the one hand, and, on the other, Phillipsburg, N.J.: *General commodities,* with exceptions, as a common carrier, over regular routes, between Gettysburg, Pa., and Philadelphia, Pa., serving all intermediate points, and the off-route points of Emigsville, Morristown, Landsdowne, Biglerville, Marcus Hook, Chester, West Chester, McSherrytown, and Hanover, Pa., from Gettysburg over U.S. Highway 30 to Philadelphia, Pa., and return over the same route; between Harrisburg, Pa., and Philadelphia, Pa., serving all intermediate points, and off-route point of Conshohocken, Pa.; from Harrisburg over U.S. Highway 422 to Philadelphia, and return over the same route; between Allentown, Pa., and Lancaster, Pa., serving all intermediate points; from Allentown over U.S. Highway 222 to Lancaster, and return over the same route; between Lancaster, Pa., and Harrisburg, Pa., serving no intermediate points; from Lancaster over U.S. Highway 230 to Harrisburg, and return over the same route; serving the plantsite of Grinnell Corp., at Hampton, Reading Township, Adams County, Pa., as an off-route point in connection with carriers authorized regular-route operations between Gettysburg and York, Pa.; serving the plantsite of Becton, Dickinson & Co., at Hancock, N.Y., as an off-route point in connection with carrier's authorized regular route operations to and from Scranton, Pa. Vendee is authorized to operate as a common carrier in Alabama, Arkansas, Colorado, Connecticut, the District of Columbia, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Nebraska, New Hamphire, New Jersey, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Vermont, Virginia, West Virginia, and Wisconsin. Application has been filed for temporary authority under section 210a(b).

Operating Rights Application(s) Directly Related to Finance Proceedings

NOTICE

The following operating rights application(s) are filed in connection with pending finance applications under Section 5(2) of the Interstate Commerce Act, or seek tacking and/or gateway elimination in connection with transfer applications under Section 212(b) of the Interstate Commerce Act. An original and two copies of protests to the granting of the authorities must be filed with the Commission on or before January 3, 1978. Such protests shall comply with Special Rules 247(d) of the Commission's General Rules of Practice (49 CFR 1100.247), and include a concise statement of protestant's interest in the proceeding and copies of its conflicting authorities. Verified statements in opposition should not be tendered at this time. A copy of the protest shall be served concurrently upon applicant's representative, or applicant if no representative is named. Each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

No. MC 2900 (Sub-No. 314), filed November 3, 1977. Applicant: RYDER TRUCK LINES, INC., P.O. Box 2408; Jacksonville, Fla. 32203. Applicant's representative: John C. Bradley, suite 1301, 1600 Wilson Boulevard, Arlington, Va. 22209. Authority is 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) (A)(1) Serving as off-route or intermediate points Savannah, Ga., Brunswick, Ga., St. Marys, Ga., Columbia, S.C., and those between Walterboro, S.C., and Richmond, Va., on the following routes: Between Jacksonville, Fla., and Baltimore, Md., as follows: From Jacksonville over U.S. Highway 17 to Pocataligo, S.C., thence over Alternate U.S. Highway 17 (formerly portion U.S. Highway 15), to Walterboro, S.C., thence over U.S. Highway 15 to Society Hill, S.C., thence over U.S. Highway 52 to Cheraw, S.C., thence over U.S. Highway 1 to Rockingham, N.C., thence over U.S. Highway 220 to junction U.S. Highway 311, thence over U.S. Highway 311 via High Point, N.C., to Winston-Salem, N.C., thence over U.S. Highway 421 to Greensboro, N.C., thence over U.S. Highway 70 to Durham, N.C., thence over U.S. Highway 15 to Oxford, N.C., thence over U.S. Highway 158 to Henderson, N.C., and thence over U.S. Highway 1 to Baltimore, and return over the same route; from Jacksonville to High Point as specified above, thence over U.S. Highway 70 to Durham, N.C., and thence to Baltimore as specified above, and return over the same route; from Jacksonville to Walterboro, S.C., as specified above, thence over U.S. Highway 15 to Laurinburg, N.C., thence over U.S. Highway 501 to Aberdeen, N.C., and thence over U.S. Highway 1 to Baltimore, and return over the same route; from Jacksonville to Laurinburg as specified above, thence over U.S. Highway 401 (formerly portion Alternate U.S. Highway 15), to Fayetteville, N.C., and return over the same route; (2) between Atlanta, Ga., and Flovilla, Ga., serving all intermediate points, from Atlanta over U.S. Highway 23 to Flovilla, and return over the same route. Restriction: The operations authorized herein above are restricted to the transportation of traffic serving (a) between points in North Carolina, on the one hand, and, on the other, those points in that part of South Carolina on and north of a line beginning at Charleston and extending along U.S. Highway 78 to junction U.S. Highway 178, thence along U.S. Highway 178 to Anderson, and thence along U.S. Highway 29 to the South Carolina-Georgia State line, (b) from Charleston, S.C., to points in that part of South Carolina as specified in (a) above with no transportation on return except as otherwise authorized, (c) between Wilmington, N.C., on the one hand, and, on the other, points in North Carolina, (d) between Columbia, S.C., on the one hand, and, on the other, points in Georgia in connection with traffic moving from, to, or through Atlanta, Ga., (e) between Charlotte, N.C., on the one hand, and, on the other, points in Georgia in connection with traffic moving from, to, or through Atlanta, Ga., (f) between Augusta and Savannah, Ga., on the one hand, and, on the other, points in Georgia and South Carolina, or (g) between Augusta and Savannah, Ga., Richmond, Va., and points in North Carolina, on the one hand, and, on the other, points in Richland, Lexington, and Calhoun Counties, S.C.; (B)(1) between Savannah, Ga., and Walterboro, S.C., serving no intermediate points, from Savannah over U.S. Highway 17 to Pocataligo, S.C., thence over Alternate U.S. Highway 17 toWalterboro, and return over the same route; (2) between Petersburg, Va., and Richmond, Va., serving all intermediate points, from Petersburg over U.S. Highway 1 to Richmond, and return over the same route; (3) serving Saint George, S.C., and Fayetteville, N.C., as intermediate or off-route points.

NOTE.—This application is directly related to MC-F-13415, Ryder Truck Lines, Inc., Purchase (Portion), Eastern Express, Inc., published in a previous section of this FEDERAL REGISTER, and does not seek any authority not included in the purchase proposal. Applicant states that the purpose of this application, is, out of an abundance of caution, to seek specific authority corresponding with the minor duplications between the rights it seeks to purchase, and rights sought to be purchased by other carriers. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 3151 (Sub-No. 20) (correction), filed October 25, 1977, published in the FEDERAL REGISTER issue of November 10, 1977, and republished, as corrected, this issue. Applicant: BENDER & LOUDON MOTOR FREIGHT, INC., 3024 Brecksville Road, Richfield, Ohio 44286. Applicant's representative: A. Charles Tell, 100 East Broad Street, Columbus, Ohio 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Akron, Canton, Cleveland, Elyria, Findlay, Mansfield, Sandusky, Toledo, Warren, and Youngstown, Ohio; Albion, Battle Creek, Benton Harbor, Detroit, Flint, Grand Haven, Grand Rapids, Holland, Jackson, Kalamazoo, Lansing, Midland, Muskegon, Niles, Owosso, Saginaw, and Three Rivers, Mich.; and South Bend, Ind., on the one hand, and, on the other, points in that part of Ohio west of a line beginning at Sandusky, Ohio, and extending along U.S. Highway 250 to Wilmot, Ohio, thence along U.S. Highway 62, to Washington Court House, Ohio, thence along U.S. Highway 22 to Sligo, Ohio, thence along an unnumbered highway (formerly U.S. Highway 22), via Clarksville, Ohio, to junction U.S. HIghway 22, thence along U.S. Highway 22 to the Ohio-Kentucky State Line, including points on the indicated portions of the highways specified.

NOTE.—This application is directly related to a Section 5 (2) proceeding in No. MC-F-13395, published in the FEDERAL REGISTER issue of November 17, 1977. The purpose of this application is to eliminate the gateway of Allen County, Ohio, on traffic moving between the radial base points named above, on the one hand, and, on the other, the Ohio territory described above. The purpose of this correction is to indicate the correct publication date of the directly related Section 5 proceeding. If a hearing is deemed necessary, applicant requests it be held at Columbus, Ohio.

No. MC 120880 (Sub-No. 13), filed November 21, 1977. Applicant: RONALD B. PEARSON, d.b.a. PEARSON'S EXPRESS, 132 Vale Street, Fall River, Mass. 02724. Applicant's representative: Ronald B. Pearson (same address as applicant). Authority sought to operate a a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, household goods as defined by the Commission, dangerous explosives, commodities in bulk, and commodities requiring special equipment), between points in Massachusetts.

NOTE.—Applicant states that the purpose of this application is to convert a Certificate of Registration to a Certificate of Public Convenience and Necessity, and is a matter directly related to MC-FC 77262, published in the FEDERAL REGISTER issue of October 3, 1977. If a hearing is deemed necessary, applicant requests it be held at Providence, R.I. or Hartford, Conn.

No. MC 123556 (Sub-No. 8) (Correction), filed September 14, 1977, published in the FEDERAL REGISTER issue of November 10, 1977, and republished this issue. Applicant: RAHIER TRUCKING, INC., 1822 South First Street, Yakima, Wash. 98903. Applicant's representative: Jack R. Davis, 1100 IBM Building, Seattle, Wash. 98101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) Bananas, and (2) *commodities*, the transportation of which is otherwise exempt from economic regulation under Section 203(b)(6) of the Interstate Commerce Act when moving in

the same vehicle as the commodity specified in (1) above, between points in California, on the one hand, and, on the other, Seattle, Wash.

NOTE.—The purpose of this application is to eliminate the gateway of Yakima, Wash., and is a matter directly related to a Section 5(2) proceeding in No. MC-F-13382, published in the FEDERAL REGISTER issue of November 17, 1977. The purpose of this correction is to indicate the correct publication date of the directly related section 5 proceeding. If a hearing is deemed necessary, applicant requests it be held at Seattle, Wash.

No. MC 138741 (Sub-No. 41), filed November 4, 1977. Applicant: AMERICAN CENTRAL TRANSPORT, INC., a corporation, 2005 North Broadway, Joliet, Ill. 64035. Applicant's attorney: Tom B. Kretsinger, 910 Brookfield Building, 101 West Eleventh Street, Kansas City, Mo. 64105. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Cement asbestos pipe*, (a) from the plantsite and storage facilities of CertainTeed Products Corp., located at or near Bellefontaine Neighbors and Riverview, Mo., to points in Alabama, Arkansas, California, Colorado, Florida, Georgia, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New York, North Dakota, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, West Virginia, Wisconsin, and Wyoming; and (b) from the plantsite and storage facilities of CertainTeed Products Corp., at Hillsboro, Tex., to points in Arkansas, Colorado, Iowa, Kansas, Mississippi, and Ohio; and (2) *Plastic pipe*, from the facilities of CertainTeed Products Corp., at McPherson, Kans., to points in Colorado, Indiana, Michigan, Minnesota, Nebraska, North Dakota, Ohio, Oklahoma, and Pennsylvania.

NOTE.—The purpose of the application is to convert a Permit to a Certificate of Public Convenience and Necessity, and is a matter directly related to section 5(2) proceeding in MC-F-13410, published in a previous section of this FEDERAL REGISTER issue. If a hearing is deemed necessary, applicant requests it be held at Chicago, Ill., or St. Louis, Mo.

MOTOR CARRIER INTRASTATE APPLICATION(S)

NOTICE

The following application(s) for motor common carrier authority to operate in intrastate commerce seek concurrent motor carrier authorization in interstate or foreign commerce within the limits of the intrastate authority sought, pursuant to section 206(a)(6) of the Interstate Commerce Act. These applications are governed by Special Rule 245 of the Commission's General Rules of Practice (49 CFR 1100.245), which provides, among other things, that protests and requests for information concerning the time and place of State Commission hearings or other proceedings, any subsequent changes therein, and any other related matters shall be directed to the State Commission with which the application is filed and shall not be addressed to or filed with the Interstate Commerce Commission.

Georgia Docket No. 7941-M, filed November 3, 1977. Applicant: McCLELLAN'S ENTERPRISES, INC., P.O. Box 1327, Highway 41 South, Tifton, Ga. 31974. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *iron and steel articles*, between the Georgia Port Authority facilities, located at Savannah and Garden City, Ga., on the one hand, and all points in Georgia, on the other hand, over no fixed route. Intrastate, interstate, and foreign commerce authority sought. Hearing: December 13, 1977, in Commission's Hearing Room, 177 State Office Building, 244 Washington Street SW., Atlanta, Ga. Requests for procedural information should be addressed to Georgia Public Service Commission, 162 State Office Building, 244 Washington Street SW., Atlanta, Ga. 30334, and should not be directed to the Interstate Commerce Commission

New York Docket No. T-9505, filed September 26, 1977. Applicant: LOW COST MOVERS, INC., 150 Colton Street, Staten Island, N.Y. 10305. Applicant's representative: Ralph S. Naden, 253 Broadway, New York, N.Y. 10007. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *household goods and motor vehicles*, between all points in the city of New York and the counties of Westchester, Nassau, and Suffolk, N.Y. Intrastate, interstate, and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to New York State Department of Transportation, 1220 Washington Avenue, State Campus, Albany, N.Y. 12226, and should not be directed to the Interstate Commerce Commission.

Tennessee Docket No. MC 6999, filed October 27, 1977. Applicant: RAY KIMBRELL MOVING & STORAGE CO., 1810-14 South Main Street, Dyersburg, Tenn. 38079. Applicant's representative: Billy J. Goodrich, 202 West Baltimore Street, Jackson, Tenn. 38301. Certificate of Public Convenience and Necessity sought to operate a freight service as follows: Transportation of *the moving and storage of household goods*, office furniture, and related goods, to all points and over all routes in the State of Tennessee. Intrastate, interstate, and foreign commerce authority sought. Hearing: January 20, 1978, at 9:30 a.m., at C1-110 Cordell Hull Building, Nashville, Tenn. Requests for procedural information should be addressed to Tennessee Public Service Commission, C1-111 Cordell Hull Building, Nashville, Tenn. 37129, and should not be directed to the Interstate Commerce Commission

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-34350 Filed 11-30-77; 8:45 am]

[7035-01]

[No. 539]

ASSIGNMENT OF HEARINGS

NOVEMBER 28, 1977.

Cases assigned for hearing, postponement, cancellation, or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 115826 (Sub-No. 271), W. J. Digby, Inc., now being assigned March 7, 1978 (1 day), for hearing in Salt Lake City, Utah, in a hearing room to be later designated.

MC 125433 (Sub-No. 111), F-B Truck Line Co., now being assigned March 8, 1978 (1 day), for hearing in Salt Lake City, Utah, in a hearing room to be later designated.

MC 139885 (Sub-No. 4), Art Robinson, d.b.a. Art Robinson & Sons, now being assigned March 9, 1978 (2 days), for hearing in Salt, Utah, in a hearing room to be later designated.

MC 113855 (Sub-No. 386), International Transport, Inc., now being assigned March 13, 1978 (1 day), for hearing in Los Angeles, Calif., in a hearing room to be later designated.

MC 118288 (Sub-No. 48), Frost Truck Lines, Inc., now being assigned March 14, 1978 (1 day), for hearing in Los Angeles, Calif., in a hearing room to be later designated.

MC 134884 (Sub-No. 10), Farwest Furniture Transport, Inc., now being assigned March 15, 1978 (3 days), for hearing in Los Angeles, Calif., in a hearing room to be later designated.

MC 141804 (Sub-No. 43), Western Express, Interstate Rental, Inc., and MC 141804 (Sub-No. 46), Western Express, Interstate Rental, Inc., now being assigned March 20, 1978 (2 days), for hearing in Los Angelels, Calif., in a hearing room to be later designated.

MC 138322 (Sub-No. 5), Bhy Trucking, Inc., now being assigned March 22, 1978 (3 days), for hearing in Los Angeles, Calif., in a hearing room to be later designated.

MC 138177 (Sub-No. 8), Brown Trucking, Inc., now assigned December 7, 1977, at Memphis, Tenn., and will be held at the Tax Court, room 1006, Federal Building, 167 North Main Street.

MC 123819 (Sub-No. 43), Ace Freight Line, Inc., now assigned December 12, 1977, at Memphis, Tenn., and will be held at the Tax Court, room 1006, Federal Building, 167 North Main Street.

MC 141747 (Sub-No. 3), Donald Engle and James Engle, d.b.a. Engle Bros. Farms, now assigned December 13, 1977, at Memphis, Tenn., and will be held at the Tax Court, room 1006, Federal Building, 167 North Main Street.

MC 82063 (Sub-No. 80), Klipsch Hauling Co., MC 102567 (Sub-No. 198), McNair Transport, Inc., MC 115331 (Sub-No. 424), Truck Transport, Inc., and MC 111170 (Sub-No. 237), Wheeler Pipe Line, Inc., now assigned December 15, 1977, at Memphis, Tenn., and will be held at the Tax Court, room 1006, Federal Building, 167 North Main Street.

MC 119726 (Sub-No. 81), N.A.B. Trucking Co., Inc. and MC 116763 (Sub-No. 368), Carl Subler Trucking, Inc., now assigned December 6, 1977, at Memphis, Tenn., and will be held at the Tax Court, room 1006, Federal Building, 167 North Main Street.

MC 41098 (Sub-No. 42), Global Van Lines, Inc., now being assigned January 10, 1978, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 134286 (Sub-No. 17), Illini Express, Inc., now being assigned January 10, 1978, for continued hearing at the Offices of the Interstate Commerce Commission in Washington, D.C.

MC 2900 (Sub-No. 293), Ryder Truck Lines, Inc., now being assigned April 11, 1978 (9 days), for continued hearing at Atlanta, Ga., in a hearing room to be later designated.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 77-34460 Filed 11-30-77; 8:45 am]

[7035-01]

IRREGULAR-ROUTE MOTOR COMMON CARRIERS OF PROPERTY; ELIMINATION OF GATEWAY LETTER NOTICES

NOVEMBER 25, 1977.

The following letter-notices of proposals to eliminate gateways for the purpose of reducing highway congestion, alleviating air and noise pollution, minimizing safety hazards, and conserving fuel have been filed with the Interstate Commerce Commission under the Commission's Gateway Elimination Rules (49 CFR 1065), and notice thereof to all interested persons is hereby given as provided in such rules.

An original and two copies of protests against the proposed elimation of any gateway herein described may be filed with the Interstate Commerce Commission on or before December 12, 1977. A copy must also be served upon applicant or its representative. Protests against the elimination of a gateway will not operate to stay commencement of the proposed operation.

Successively filed letter-notices of the same carrier under these rules will be numbered consecutively for convenience in identification. Protests, if any, must refer to such letter-notices by number.

No. MC 61825 (Sub-No. E1078) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 13, 1977, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: *New furniture*, from points in Arizona, California, Idaho, Montana, Nevada, North Dakota, Oregon, South Dakota, Utah, Washington, and Wyoming, points in Minnesota on and west of a line beginning at the United States-Canadian International Boundary line, and extending along the Minnesota State line to the Minnesota-Wisconsin State line, to junction U.S. Highway 10, to junction U.S. Highway 61, to junction Minnesota Highway 55, to junction U.S. Highway 52, to junction Minnesota Highway 50, to junction Minnesota Highway 3, to junction Minnesota Highway 60, to junction U.S. Highway 65 to the Minnesota-Iowa State line, points in Nebraska on and west of a line beginning at the Iowa-Nebraska State line, and extending along U.S. Highway 6, to junction U.S. Highway 183, thence along U.S. Highway 183 to the Nebraska-Kansas State line; points in Kansas on and west of a line beginning at the Kansas-Nebraska State line, and extending along U.S. Highway 183 to junction U.S. Highway 24 to junction U.S. Highway 83, thence to junction U.S. Highway 40, to junction Kansas Highway 27, to junction Kansas Highway 96, to the Kansas-Colorado State line; points in Colorado on and west of a line beginning at the Colorado-Kansas State line, and extending along Colorado Highway 96, to junction Colorado Highway 71, to junction U.S. Highway 50, to junction Colorado Highway 10, to junction U.S. Highway 160, to the Colorado-New Mexico State line; points in New Mexico on and west of a line beginning at the New Mexico-Colorado State line, and extending along U.S. Highway 285 to the junction of New Mexico Highway 4, to junction New Mexico Highway 44, to junction U.S. Highway 85, to junction New Mexico Highwy 90, to junction U.S. Highway 80, to the United States-Mexico International Boundary line, to points in South Carolina on and bounded by a line beginning at the North Carolina-South Carolina State line, and extending along U.S. Highway 21, to junction South Carolina Highway 97, to junction U.S. Highway 521, to junction U.S. Highway 17A, to the Winyah Bay, to the Atlantic Ocean, thence along the Atlantic shore to junction U.S. Highway 21, to junction South Carolina Highway 64, to junction U.S. Highway 601, to junction South Carolina Highway 332, to junction U.S. Highway 321, to junction South Carolina Highway 389, to junction South Carolina Highway 39, to junction U.S. Highway 221, to junction Interstate Highway 26, to junction U.S. Highway 276, to junction U.S. Highway 29, to junction U.S. Highway 221 to the North Carolina-South Carolina State line, thence along the North Carolina-South Carolina State line to the point of beginning. The purpose of this filing is to eliminate the gateways of Smyth County, Va., and Martinsville, Va.

NOTE.—The purpose of this republication is to correct the territorial description.

No. MC 61825 (Sub-No. E1097) (correction), filed May 13, 1974, published in the FEDERAL REGISTER issue of October 27, 1977, and republished, as corrected, this issue. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *New furniture*, except commodities in bulk, those of unusual value, and household goods as defined by the Commission, from points in North Carolina and South Carolina on and bounded by a line beginning at the Virginia-North Carolina State line and extending south along U.S. Highway 220 to junction U.S. Highway 1, thence to junction U.S. Highway 52, to junction South Carolina Highway 7, to junction South Carolina Highway 171 to Folly Beach, S.C., thence southwest along the Atlantic Coast to Hunting Island, S.C., thence north along U.S. Highway 21 to the South Carolina-North Carolina State line, thence east along the North Carolina-South Carolina State line to junction U.S. Highway 52 to the North Carolina-Virginia State line and thence east along the North Carolina-Virginia State line to the point of beginning, to points in Maine, and points in Massachusetts, New Hampshire, and Vermont on and north of a line beginning at Boston, Mass., and extending north along U.S. Highway 3 to junction New Hampshire Highway 101-A, to junction New Hampshire Highway 101, to junction New Hampshire Highway 9, to junction Vermont Highway 9 to the Vermont-New York State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va., and Elizabeth City, N.C. The purpose of this republication is to add the origin State of South Carolina, previously omitted.

No. MC 61825 (Sub-No. E1142), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities in bulk, those of unusual value, household goods as defined by the Commission, from points in Michigan on and north of a line beginning at Lake St. Clair near Grosse Pointe Shores, Mich., and extending along Michigan Highway 102 to junction Interstate Highway 94, to junction Michigan Highway 85, to junction Interstate Highway 94, to junction U.S. Highway 31/33 to Lake Michigan, to points in Florida on and south of a line beginning on the Atlantic Ocean and extending along U.S. Highway 441 to junction Florida Highway 80, to junction Florida Highway 867, thence along Florida Highway 867 to the Gulf of Mexico. The purpose of this filing is to eliminate the gateway of points in Smyth County, Va., Lynchburg, and Martinsville, Va.

No. MC 61825 (Sub-No. E1143), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Ohio on and east of a line beginning on Lake Erie near Port Clinton, Ohio, and extending along ohio Highway 53 to junction U.S. Highway 30N, to junction U.S. Highway 23, to junction Ohio Highway 423, thence to junction U.S. Highway 23, to junction U.S. Highway 36, to junction Ohio Highway 37, to junction U.S. Highway 33, to junction Ohio Highway 93, to junction U.S. Highway 35 to the Ohio-West Virginia State line, to points in Georgia on, east, and south of a line beginning on the Georgia-Alabama State line, and extending along Georgia Highway 62 to junction U.S. Highway 19, to junction U.S. Highway 280, to junction Georgia Highway 49, to junction Georgia Highway 26, to junction Georgia Highway 49, to junction Georgia Highway 11, to junction U.S. Highway 129, to junction Georgia Highway 22, to junction Georgia Highway 16, to junction U.S. Highway 78/278 to the Georgia-South Carolina State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1144), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Ohio on and east of a line beginning at Lake Erie near Port Clinton, Ohio, and extending along Ohio Highway 53 to junction U.S. Highway 30N, to junction U.S. Highway 23, to junction Ohio Highway 423, to junction U.S. Highway 23, to junction U.S. Highway 36, to junction Ohio Highway 37, to junction U.S. Highway 33, to junction Ohio Highway 93, to junction U.S. Highway 35 to the Ohio-West Virginia State line, to points in Florida on, east, and south of a line beginning on the Gulf of Mexico at Panama City, Fla., and extending along U.S. Highway 231 to the Florida-Alabama State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1145), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Ohio to points in Florida on and south of a line beginning on the Atlantic Ocean near Daytona Beach, Fla., and extending along U.S. Highway 92 to junction Interstate Highway 4, to junction Interstate Highway 75, to Tampa Bay. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1146), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Pennsylvania to points in Florida. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1147), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth St. NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Pennsylvania to those points in Georgia on, south, and east of a line beginning on the Alabama-Georgia State line, and extending along Georgia Highway 20 to junction Georgia Highway 53, to junction Georgia Highway 5, to junction U.S. Highway 76, to junction Georgia Highway 60, thence along Georgia Highway 60 to the Georgia-North Carolina State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1148), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Pennsylvania to those points in Alabama on and south of a line beginning at the Mississippi-Alabama State line, and extending along Alabama Highway 32 to junction Alabama Highway 2, to junction U.S. Highway 82, to junction U.S. Highway 11, to junction Interstate Highway 20, to junction U.S. Highway 78 to the Alabama-Georgia State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1149), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Pennsylvania to those points in Louisiana on and south of a line beginning at the Texas-Louisiana State line at Toledo Bend Reservoir, and extending along Louisiana Highway 6 to junction U.S. Highway 71, to junction Louisiana Highway 8, to junction U.S. Highway 84, to junction U.S. Highway 65/84 to the Louisiana-Mississippi State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1150), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from points in Pennsylvania to those points in Mississippi on and south of a line beginning at the Louisiana-Mississippi State line, and extending along U.S. Highway 80 to the Mississippi-Alabama State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1151), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as

a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture materials*, from those points in Pennsylvania on and east of a line beginning at the Maryland-Pennsylvania State line and extending along U.S. Highway 15 to junction U.S. Highway 11, to junction U.S. Highway 11-15, to junction U.S. Highway 15, to junction U.S. Highway 220 to the Pennsylvania-New York State line, to points in Tennessee. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1152), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities in bulk, household goods as defined by the Commission, from points in South Carolina to points in New Jersey, New York, and Pennsylvania and to those points in New Castle and Kent Counties, Del.; those points in Ohio on and east and north of a line beginning at the West Virginia-Ohio State line and extending along Ohio Highway 160 to junction Ohio Highway 324, to junction Ohio Highway 93, to junction U.S. Highway 33, to junction Ohio Highway 664, to junction Ohio Highway 256, to junction Ohio Highway 37, to junction Ohio Highway 61, to junction U.S. Highway 30S, to junction Ohio Highway 19, to junction Ohio Highway 100, to junction Ohio Highway 103, to junction Ohio Highway 587, to junction U.S. Highway 23, to junction Ohio Highway 199, to junction U.S. Highway 6, to junction U.S. Highway 25, to junction Ohio Highway 64, to junction Ohio Highway 2, to junction Ohio Highway 109 to the Ohio-Michigan State line; those points in Michigan on and east and north of a line beginning at the Michigan-Ohio State line, and extending along Michigan Highway 52 to junction Interstate Highway 96, to junction Michigan Highway 66, to junction Michigan Highway 20, to junction Michigan Highway 37, to junction Michigan Highway 55, to Lake Michigan; those points in Wisconsin on, north and west of a line beginning at the Green Bay and extending along Wisconsin Highway 64 to junction U.S. Highway 45, to junction Wisconsin Highway 29, to junction Wisconsin Highway 49, to junction Wisconsin Highway 66, to junction U.S Highway 51, to junction Wisconsin Highway 54, to junction Wisconsin Highway 13, to junction Wisconsin Highway 73, to junction Wisconsin Highway 173, to junction Wisconsin Highway 21, to junction U.S. Highway 12, to junction Wisconsin Highway 131, to junction Wisconsin Highway 60, to junction U.S. Highway 18, to the Wisconsin-Iowa State line; to those points in Iowa on, north and west of a line beginning on the Wisconsin-Iowa State line and extending along U.S. Highway 18 to junction U.S. Highway 52, to junction Iowa Highway 13, to junction Iowa Highway 3, to junction Iowa Highway 150, to junction Iowa Highway 190, to junction Iowa Highway 281, to junction U.S. Highway 20, to junction Iowa Highway 57, to junction Iowa Highway 14, to junction Iowa Highway 175, to junction U.S. Highway 71, to junction U.S. Highway 30, to junction Iowa Highway 141, to junction Iowa Highway 183, to junction Iowa Highway 175, and thence along Iowa Highway 175 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateway of Martinsville, Va.

No. MC 61825 (Sub-No. E1153), filed May 13, 1974. Applicant: ROY STONE TRANSFER CORP., P.O. Box 385, Collinsville, Va. 24078. Applicant's representative: Harry J. Jordan, 1000 Sixteenth Street NW., Washington, D.C. 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Furniture parts and furniture materials*, except commodities of unusual value, commodities in bulk, household goods as defined by the Commission, from those points in Maryland on and east of U.S. Highway 15 to points in Alabama, Florida, Georgia, Louisiana, Mississippi, Tennessee, and to those points in Kentucky on and south of a line beginning on the West Virginia-Kentucky State line, and extending along Kentucky Highway 40 to junction U.S. Highway 460, to junction Mountain Parkway, to junction Kentucky Highway 11, to junction Kentucky Highway 52, to junction U.S. Highway 150, to junction U.S. Highway 68, to junction Kentucky Highway 52, to junction U.S. Highway 62, to junction Kentucky Highway 86, to junction U.S. Highway 60, to junction Kentucky Highway 69, to the Ohio River; to those points in Indiana on and south of a line beginning on the Kentucky-Indiana State line and extending along Indiana Highway 237 to junction Indiana Highway 66, to junction Indiana Highway 70, to junction U.S. Highway 231, to junction U.S. Highway 460, to junction Indiana Highway 61, to junction Indiana Highway 68, to junction Interstate Highway 64 to the Indiana-Illinois State line; to those points in Illinois on and south of a line beginning at the Illinois-Indiana State line, and extending along Interstate Highway 64, to junction Illinois Highway 1, to junction U.S. Highway 460, to junction Illinois Highway 14, to junction U.S. Highway 51, to junction Illinois Highway 154, to junction Illinois Highway 3, to the Monroe-Randolph County line and extending along the Monroe-Randolph County line to the Illinois-Missouri State line; to those points in Missouri on, south and west of a line beginning on the Illinois-Missouri State line and extending along Missouri Highway 32 to junction Missouri Highway 5, to junction Missouri Highway 135, to junction U.S. Highway 50, to junction Missouri Highway 13, to junction Missouri Highway 10, to junction U.S. Highway 69, to junction Missouri Highway 92, to junction Interstate Highway 29, to junction Missouri Highway 116, to junction U.S. Highway 59 to the Missouri-Kansas State line; those points in Kansas on, south and west of a line beginning at the Kansas-Missouri State line, and extending along U.S. Highway 73 to junction Kansas Highway 20, to junction U.S. Highway 75, to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Kansas Highway 63, thence along Kansas Highway 63, to the Kansas-Nebraska State line. The purpose of this filing is to eliminate the gateway of Lynchburg, Va., and Martinsville, Va.

No. MC 70015 (Sub-No. E9) (correction), filed June 6, 1974, published in the FEDERAL REGISTER issue of January 2, 1976, and republished, as corrected, this issue. Applicant: JIFFY VANS MOVING & STORAGE, 6576 East Pleasant Run Parkway, South Drive, Indianapolis, Ind. 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*, as defined by the Commission, between points in Ohio, on the one hand, and, on the other, points in Missouri on and south of a line beginning at the Mississippi River and extending along Missouri Highway 34 to junction U.S. Highway 60, thence along U.S. Highway 60 to junction Interstate Highway 44, thence along Interstate Highway 44 to the Kansas-Oklahoma State line. The purpose of this filing is to eliminate the gateway of Indianapolis, Ind., and Cairo, Ill.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 70015 (Sub-No. E31) (correction), filed June 6, 1974, published in the FEDERAL REGISTER issue of January 2, 1976, and republished, as corrected, this issue. Applicant: JIFFY VANS MOVING & STORAGE, 6575 East Pleasant Run Parkway, South Drive, Indianapolis, Ind. 46219. Applicant's representative: Donald W. Smith, Suite 2465, One Indiana Square, Indianapolis, Ind. 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Household goods*,

as defined by the Commission, between points in Pennsylvania on and north of a line beginning at the Pennsylvania-West Virginia State line and extending along Interstate Highway 70 to junction Interstate Highway 76, thence along Interstate Highway 76 to the Pennsylvania-New Jersey State line (except points in Erie County, Pa.), on the one hand, and, on the other, points in Kentucky on and west of Interstate Highway 65. The purpose of this filing is to eliminate the gateways of Steubenville, Ohio, and Indianapolis, Ind.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 106603 (Sub-No. E84), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such gypsum products and building materials* as are building contractor's equipment, materials, and supplies (except commodities in bulk), from points in Ohio on and north of a line commencing at the Ohio-West Virginia State line and extending west on U.S. Highway 40 to the Ohio-Indiana State line, to points in Kentucky on and west of a line commencing at the Kentucky-Indiana State line and extending south on Kentucky Highway 79 to junction U.S. Highway 431, thence southerly on U.S. Highway 431 to the Kentucky-Tennessee State line and Tennessee on and west of a line commencing at the Tennessee-Kentucky State line and extending south on U.S. Highway 431 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of the plant site of the National Gypsum Co., near Shoals (Martin County), Ind.

No. MC 106603 (Sub-No. E85), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such gypsum products and building materials* as are building contractor's equipment, materials, and supplies (except commodities in bulk), from points in Ohio on and south of a line commencing at the Ohio-West Virginia State line and extending west on U.S. HIghway 40 to the Ohio-Indiana State line; and points in Ohio on and north of a line commencing at the Ohio-West Virginia State line and extending west on U.S. Highway 50 to junction Ohio Highway 132, thence southerly on Ohio Highway 132 to the Ohio-Kentucky State line, to points in Kentucky on and west of a line commencing at the Kentucky-Indiana State line and extending south on U.S. Highway 431 to the Kentucky-Tennessee State line; and Tennessee on an west of a line commencing at the Tennessee-Kentucky State line and extending south on U.S. Highway 431 to the Tennessee-Alabama State line. The purpose of this filing is to eliminate the gateway of the plant site of the National Gypsum Co., near Shoals (Martin County), Ind.

No. MC 106603 (Sub-No. E86), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such gypsum products and building materials* as are building contractor's equipment, materials, and supplies (except commodities in bulk), from points in Ohio on and south of a line commencing at the Ohio-West Virginia State line and extending west on U.S. Highway 50 to junction Ohio Highway 132, thence southerly on to the Ohio-Kentucky State line; and points in Ohio on and north of a line commencing at the Ohio-West Virginia State line and extending west on Ohio Highway 124 to junction Ohio Highway 41, thence south on Ohio Highway 41 to junction Ohio Highway 32, thence west on Ohio Highway 32 to junction Ohio Highway 132, thence southerly on Ohio Highway 132 to the Ohio-Kentucky State line, to points in Kentucky on and west of a line commencing at the Kentucky-Indiana State line and extending south on U.S. Highway 431 to junction U.S. Highway 62, thence west on U.S. Highway 62 to junction U.S. Highway 41, thence south on U.S. Highway 41 to junction U.S. Highway Alternate 41, thence south on U.S. Highway Alternate 41 to the Kentucky-Tennessee State line; and Tennessee on and west of a line commencing at the Tennessee-Kentucky State line and extending south on Tennessee Highway 13 to the Tennessee-Mississippi State line. The purpose of this filing is to eliminate the gateway of the plantsite of the National Gypsum Company, near Shoals (Martin County), Ind.

No. MC 106603 (Sub-No. E87), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such gypsum products and building materials* as are building contractor's equipment, materials, and supplies (except commodities in bulk), from points in Ohio on and south of a line commencing at the Ohio-West Virginia State line and extending west on Ohio Highway 124 to junction Ohio Highway 41, thence south on Ohio Highway 41 to junction Ohio Highway 32, thence west on Ohio Highway 32 to junction Ohio Highway 132, thence southerly on Ohio Highway 132 to the Ohio-Kentucky State line, to points in Kentucky on and west of a line commencing at the Kentucky-Indiana State line and extending southwesterly on Kentucky Highway 81 to Kentucky Highway 85, thence southwesterly on Kentucky Highway 85 to junction U.S. Highway 41, thence southerly on U.S. Highway 41 to the Kentucky Toll Parkway, thence southwesterly on the Kentucky Toll Parkway to the Kentucky-Tennessee State line and Tennessee on and west of a line commencing at the Tennessee-Kentucky State line and extending southwesterly on U.S. Highway 45W to junction U.S. Highway 51, thence southwesterly on U.S. Highway 51 to the Tennessee-Mississippi State line. The purpose of this filing is to eliminate the gateway of the plantsite of the National Gypsum Co., near Shoals (Martin County), Ind.

No. MC 106603 (Sub-No. E88), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* (except in bulk) used in the agricultural, water treatment, food processing, wholesale grocery, and institutional supply industries in mixed shipments with salt and salt products, from Manistee, Mich., to points in Connecticut, Delaware, Maryland, New Jersey, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Rittman, Ohio, or Akron, Ohio.

No. MC 106603 (Sub-No. E89), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt*, from St. Louis, Mo., to points in Connecticut, Delaware, Maryland, New Jersey, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Rittman, Ohio or Akron, Ohio.

No. MC 106603 (Sub-No. E90), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Ap-

plicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt and salt products*, other than in bulk, from Midland, Mich., to points in Connecticut, Delaware, Maryland, New Jersey, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Rittman, Ohio.

No. MC 106603 (Sub-No. E91), filed May 10, 1974. Applicant: DIRECT TRANSIT LINES, INC., P.O. Box 8099, Grand Rapids, Mich. 49508. Applicant's representative: Martin J. Leavitt, P.O. Box 400, Northville, Mich. 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Salt* used in the agricultural, water treatment, food processing, wholesale grocery and institutional supply industries, in mixed shipments with salt and salt products, from the port of entry at Detroit, Mich., on the United States-Canada Boundary line, to points in Connecticut, Delaware, Maryland, New Jersey, New York, and Pennsylvania. The purpose of this filing is to eliminate the gateway of Rittman, Ohio or Akron, Ohio.

No. MC 107002 (Sub-No. E347), filed May 12, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204, and Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tall oil and tall oil products*, in bulk, in tank vehicles, from Mobile, Ala., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Picayune, Miss.

No. MC 107002 (Sub-No. E348), filed May 13, 1974. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, Miss. 39205. Applicant's representatives: John J. Borth, P.O. Box 8573, Battlefield Station, Jackson, Miss. 39204, and Harold D. Miller, Jr., P.O. Box 22567, Jackson, Miss. 39205. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Anhydrous ammonia*, in bulk, in tank vehicles, from El Dorado, Ark., to points in Ohio. The purpose of this filing is to eliminate the gateway of Blytheville, Ark.

No. MC 113459 (Sub-No. E1) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER issue of July 22, 1974, and republished, as corrected, this issue. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert A. Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and related machinery, tools, parts, and supplies moving in connection therewith and commodities, the transportation of which, by reason of size or weight, require the use of special equipment, between points in Ohio and points in that part of Michigan south of Michigan highway 55, on the one hand, and, on the other, points in North Dakota, South Dakota, and Montana. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers, and restricted against the transportation of agricultural machinery and agricultural tractors. The purpose of this filing is to eliminate the gateway of Sterling, Ill.

NOTE.—The purpose of this correction is to state the correct commodity description.

No. MC 113459 (Sub-No. E2) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER issue of September 13, 1974, and republished, as corrected, this issue. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma, City, Okla. 73109. Applicant's representative: Robert A. Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, when moving in connection therewith and commodities, the transportation of which, by reason of size or weight, require the use of special equipment, between points in Michigan on the one hand, and, on the other, points in Alaska, Arkansas, Kansas, Louisiana, New Mexico, Oklahoma, and Texas. Restriction: The operations authorized herein are restricted to commodities which are transported on trailers and restricted against the transportation of agricultural machinery and agricultural tractors. The purpose of this filing is to eliminate the gateway of Sterling, Ill.

NOTE.—The purpose of this correction is to state the correct commodity description.

No. MC 113459 (Sub-No. E4) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER issue of July 17, 1974, and republished, as corrected, this issue. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert A. Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts and supplies* when moving in connection therewith, and commodities, the transportation of which, by reason of size or weight, require the use of special equipment, between points in Ohio, on the one hand, and, on the other, points in that part of Kansas on and north of a line beginning at the Kansas-Missouri State line, thence along Kansas Highway 68 to junction U.S. Highway 75, thence along U.S. Highway 75 to junction Kansas Highway 31, thence along Kansas Highway 31 to junction U.S. Highway 56, thence along U.S. Highway 56 to junction Kansas Highway 96, thence along Kansas Highway 96 to the Kansas-Colorado State line (service is not authorized between Cincinnati, Ohio, and its commercial zone and Kansas City, Kans., and its commercial zone). Restriction: The operations authorized herein are restricted to commodities which are transported on trailers and restricted against the transportation of agricultural machinery and agricultural tractors. The purpose of this filing is to eliminate the gateway of Sterling, Ill.

NOTE.—The purpose of this correction is to correct commodity description.

No. MC 113459 (Sub-No. E23) (Correction), filed May 6, 1974, published in the FEDERAL REGISTER issue of July 18, 1974, and republished, as corrected, this issue. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert A. Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Commodities*, the transportation of which, by reason of size or weight, requires the use of special equipment, between points in that part of Indiana on, north, and east of a line beginning at the Indiana-Illinois State line, thence along U.S. Highway 24 to junction U.S. Highway 52, thence along U.S. Highway 52 to junction U.S. Highway 40, thence along U.S. Highway 40 to the Indiana-Ohio State line, on the one hand, and, on the other, points in that part of Iowa on and north of a line beginning at the Iowa-Illinois State line, and extending along U.S. Highway 61 to junction Iowa Highway 92, thence along Iowa Highway 92 to junction US. Highway 218, thence along US. Highway 218 to junction Iowa Highway 78, thence along Iowa Highway 78 to junction U.S. Highway 63, thence along U.S. Highway 63 to junction U.S. Highway 34, thence along U.S. Highway 34 to the Iowa-Nebraska State line. The purpose of this filing is to eliminate the gateway of Sterling, Ill. Restriction: The operations authorized herein are restricted against the transportation of agricultural machinery and agricultural tractors.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 113459 (Sub-No. E88) (Correction), filed July 10, 1974, published in the FEDERAL REGISTER issue of January 7, 1975, and republished, as corrected, this issue. Applicant: H. J. JEFFRIES TRUCK LINE, INC., P.O. Box 94850, Oklahoma City, Okla. 73109. Applicant's representative: Robert A. Fisher (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Commodities*, the transportation of which, by reason of size or weight, require the use of special equipment (except the transportation of agricultural machinery and agricultural tractors), and (2) *self-propelled articles*, each weighing 15,000 pounds or more, and *related machinery, tools, parts, and supplies*, when moving in connection therewith, restricted to commodities which are transported on trailers, between points in that part of Oklahoma on and west of a line beginning at the Texas-Oklahoma State line and extending along U.S. Highway 77 to its junction with U.S. Highway 70, thence along U.S. Highway 70 to its junction with U.S. Highway 177, thence along U.S. Highway 177 to the Oklahoma-Kansas State line, on the one hand, and, on the other, points in that part of Ohio on and north of a line beginning at the Ohio-Indiana State line and extending along Highway 30 to its junction with U.S. Highway 250, thence along U.S. Highway 250 to the Ohio-West Virginia State line. The purpose of this filing is to eliminate the gateway of Sterling, Ill.

NOTE.—The purpose of this correction is to state the correct territorial description.

No. MC 120737 (Sub/No. E1), filed May 14, 1974. Applicant: STAR DELIVERY & TRANSFER, INC., Route 5, P.O. Box 39, Canton, Ill. 61520. Applicant's representative: Glenn Werry (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Livestock feeder tanks, fuel tanks, stalls, grain boxes and electric fence posts*, (1) between points within 50 miles of Pottstown, Ill. (except points on and west of a line beginning at Alpha and extending along U.S. Highway 150 to junction Illinois Highway 41, thence along Illinois Highway 41 to junction U.S. Highway 136 at or near Adair, Ill.), on the one hand, and, on the other, points in Nebraska and Kansas, (2) between points within 50 miles of Pottstown, Ill. (except points on and north of a line beginning at or near Merna, Ill. and extending along Illinois Highway 9 to Kingston Mines, near Glasford, thence along unnumbered highway to junction Illinois Highway 116 near Hanna City, thence along Illinois Highway 116 to junction Illinois Highway 41, thence along Illinois Highway 41 to junction U.S. Highway 136 at or near Adair, Ill.), on the one hand, and, on the other, points in Iowa on and west of a line beginning at Dubuque, Iowa and extending along U.S. Highway 61 to the Iowa-Illinois State line, (3) between points within 50 miles of Pottstown, Ill. (except points on, north, and east of a line beginning at or near Bushnell, Ill. and extending along Illinois Highway 9 to junction Illinois Highway 121, thence along Illinois Highway 121 to Mount Pulaski, except points in Logan and Tazewell Counties), on the one hand, and, on the other, points in Iowa on and east of a line beginning at Dubuque, Iowa and extending along U.S. Highway 61 to Davensport, Iowa, (4) between Peoria, Ill., on the one hand, and, on the other, points in Iowa (except points in Clinton and Scott Counties, points in Muscatine County, on the east of Iowa Highway 38 and points in Jackson County on and east of U.S. Highway 61), (5) between points within 50 miles of Pottstown, Ill. (except points on, north, west, and south of a line beginning at or near Munster and Moon, Ill. and extending along Illinois Highway 17 to junction Illinois Highway 29, tence along Illinois Highway 29 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction Illinois Highway 47), on the one hand, and, on the other, points in Iowa on, south, and west of a line beginning at the Iowa-Illinois State line and extending along U.S. Highway 34 to junction U.S. Highway 36, thence along U.S. Highway 36 to junction Iowa Highway 146, thence along Iowa Highway 146 to junction U.S. Highway 30, thence along U.S. Highway 30 to junction Iowa Highway 14, thence along Iowa Highway 14 to junction Iowa Highway 175, thence along Iowa Highway 175 to junction U.S. Highway 69, thence along U.S. Highway 69 to junction U.S. Highway 18, thence along U.S. Highway 18 to junction Iowa Highway 15, thence along Iowa Highway 15 to the Iowa-Minnesota State line (except points in Hancock, Hardin, Kossuth, and Wright Counties), (6) between points within 50 miles of Pottstown, Ill. (except points on and north of Illinois Highway 116), on the one hand, and, on the other, points in Minnesota, (7) between points within 50 miles of Pottstown, Ill. which are located in Livingston County on and north of Illinois Highway 116 and points in Marshall and Woodford Counties on, south, and east of Illinois Highway 17 to junction Illinois Highway 89, thence along Illinois Highway 89 to junction Illinois Highway 116, on the one hand, and, on the other, points in Minnesota on and west of a line beginning at the Iowa-Minnesota State line and extending along Interstate Highway 35 to junction Minnesota Highway 73, thence along Minnesota Highway 73 to junction U.S. Highway 53, thence along U.S. Highway 53 to International Falls, (8) between points within 50 miles of Pottstown, Ill. (except points on, south, and east of a line beginning at or near Princeton, Ill. and extending along Illinois Highway 26 to junction Illinois Highway 29, thence along Illinois Highway 29 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 97, thence along Illinois Highway 97 to junction Illinois Highway 95, thence along Illinois Highway 95 to junction Illinois Highway 41), on the one hand, and, on the other points in Missouri, (9) between points within 50 miles of Pottstown, Ill. (except points on, south, and west of U.S. Highway 150 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 29, thence along Illinois Highway 29 to Spring Valley), on the one hand, and, on the other, points in Missouri on and west of unnumbered highway from Louisiana, Mo. to junction U.S. Highway 61, thence along U.S. Highway 61 to junction Missouri Highway 47, thence along Missouri Highway 47 to junction Missouri Highway 21, thence along Missouri Highway 21 to junction Missouri Highway 49, thence along Missouri Highway 49 to junction U.S. Highway 67, thence along U.S. Highway 67 to Arkansas-Missouri State line, (10) between points within 50 miles of Pottstown, Ill. (except points on, north, and west of U.S. Highway 150 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction Illinois Highway 121, thence along Illinois Highway 121 to Mount Pulaski except Mount Pulaski), on the one hand, and, on the other, points in Missouri on, north and west of unnumbered highway from LaGrange to junction Missouri Highway 156, thence along Missouri Highway 156 to junction Missouri Highway 151, thence along Missouri Highway 151 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Missouri Highway 5, thence along Missouri Highway 5 to junction U.S. Highway 50, thence along U.S. Highway 50 to junction U.S. Highway 65, thence along U.S. Highway 65 to junction U.S. Highway 54, thence along U.S. Highway 54 to junction Missouri Highway 83, thence along Missouri Highway 83 to junction Missouri Highway 32, thence along Missouri Highway 32 to junction Missouri Highway 39, thence along Missouri Highway 39 to junction U.S. Highway 66, thence along U.S. Highway 66 to junction Missouri Highway 97, thence along Missouri Highway 97 to junction Missouri Highway 86, thence along Mis-

souri Highway 86 to Arkansas-Missouri State line (except points in Cooper, Hickory, and Polk Counties), (11) between points within 50 miles of Pottstown, Ill. (except points on, north and east on a line beginning at Mackinaw and extending along of Illinois Highway 121 to junction Illinois Highway 9, thence along Illinois Highway 9 to junction U.S. Highway 24, thence along U.S. Highway 24 to junction Illinois Highway 97, thence along Illinois Highway 97 to junction Illinois Highway 95, thence along Illinois Highway 95 to junction Illinois Highway 41), on the one hand, and, on the other, points in Missouri on and north of U.S. Highway 136, (12) between points within 50 miles of Pottstown, Ill. (except points on, south, and east of a line beginning at Astoria and extending along U.S. Highway 24 to Peoria to junction Illinois Highway 116 to Roseville), on the one hand, and, on the other, points in Wisconsin, (13) between points within 50 miles of Pottstown, Ill. in Fulton County, points in Knox County on and south of a line beginning at U.S. Highway 150 to Galesburg, thence along U.S. Highway 34 to Coldbrook in Warren County, points in Warren County on and east of U.S. Highway 67 which are located with 50 miles of Pottstown, Ill., on the one hand, and, on the other, points in Kentucky, Michigan, and Ohio. The purpose of this filing is to eliminate the gateway of Bushnell, Ill.

No. MC 120737 (Sub-No. E2), filed May 14, 1974. Applicant: STAR DELIVERY & TRANSFER, INC., Route 5, Box 39, Canton, Ill. 61520. Applicant's representative: Glenn A. Werry (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic articles*, (1) between Ashtabula, Ohio, on the one hand, and, on the other, East. St. Louis, Rock Island, and Moline, Ill., and (2) between Ashtabula, Ohio, on the one hand, and, on the other, points within 50 miles of Pottstown, Ill. (except points in DeWitt, LaSalle, and Livingston Counties and points in McLean County east of U.S. Highway 51. The purpose of this filing is to eliminate the gateway of Fulton County, Ill. *Agricultural implement parts, tractor parts, and tractor attachments*, (1) between Louisville, Ky., on the one hand, and, on the other, points in Bureau County on, west and south of a line beginning at the Bureau-Henry County line near Mineral, Ill., and extending along U.S. Highway 6 to Princeton, Ill., thence along Illinois Highway 26 to Bureau, Ill., (2) between Louisville, Ky., on the one hand, and, on the other, points in Henry County on and south of U.S. Highway 34 and points in Knox County on and each of U.S. Highway 34, (3) between Louisville, Ky., on the one hand, and, on the other, points in Marshall, Peoria, and Stark Counties, (4) between Louisiana, Ky., on the one hand, and, on the other, points in Mason County, on and north of Illinois Highway 10 to Junction U.S. Highway 136, thence along U.S. Highway 136 to Havana (except Luther), (5) between Louisville, Ky., on the one hand, and, on the other points in Putnam County, on, west, and south of a line beginning near Hennepin and extending along Illinois Highway 71 to junction Illinois Highway 89, thence along Illinois Highway 89 to the Putnam-Marshall County line near Magnolia, Ill., (6) between Louisville, Ky., on the one hand, and, on the other, points in Tazewell County (except Armington), (7) between Louisville, Ky., on the one hand, and, on the other, points in Woodford County on and west of Illinois Highway 117. The purpose of this filing is to eliminate the gateway of Fulton County, Ill.

No. MC 123407 (Sub-No. E319) (correction), filed February 29, 1976, published in the FEDERAL REGISTER issues of June 2, 1977, and July 7, 1977, and republished as one, this issue. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) LUMBER, used as a building material, from Pennington County, S. Dak., to points in Alabama; Florida; Georgia, in and south of the counties of Polk, Paulding, Cobb, Fulton, De Kalb, Rockdale, Newton, Jasper, Putnam, Hancock, Warren, McDuffie and Columbia; and South Carolina in and south of the counties of Edgefield, Aiken, Lexington, Richland, Sumter, Lee, Florence, Marion and Horry. The purpose of this filing is to eliminate the gateway of the plantsite of Certain-teed Products Corp. at East St. Louis, Ill., and the plantsite of Georgia-Pacific Corp. at Taylorsville, Miss. (2) *Lumber, pressure treated poles, pressure treated posts, and pressure treated lumber*, from points in Lawrence and Pennington Counties, S. Dak., to points in New Hampshire, Maine, Massachusetts, Rhode Island, New York, Pennsylvania Connecticut, Delaware, New Jersey, District of Columbia, Vermont, Virginia, in and east of the counties of Loudoun, Fauquier, Culpeper, Orange, Louisa, Fluvanna, Cumberland, Prince Edward, Lunenburg, and Brunswick, and North Carolina in and east of the counties of Warren, Nash, Johnston, Sampson, Cumberland, Bladen, and Columbus. The purpose of this filing is to eliminate the gateway of Dollar Bay, Mich.

NOTE.—The purpose of this correction is to join the June 2, 1977 and July 7, 1977 publications into two parts.

No. MC 123407 (Sub-No. E325), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's Representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, used as a building material, from Pennington Counties, S. Dak., to points in Alabama; Florida; Georgia in and south of the counties of Polk, Paulding, Cobb, Fulton, De Kalb, Rockdale, Newton, Jasper, Putnam, Hancock, Warren, McDuffie, and Columbia; and South Carolina in and south of the counties of Edgefield, Aiken, Lexington, Richland, Sumter, Lee, Florence, Marion, and Horry. The purpose of this filing is to eliminate the gateways of the plantsite of Certain-teed Products Corp. at East St. Louis, Ill., and the plantsite of Georgia-Pacific Corp. at Taylorsville, Miss.

No. MC 123407 (Sub-No. E326), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber and forest products* (except wood chips and commodities in bulk), *pressure treated poles, pressure posts, and pressure treated lumber*, used as a building material, from Lawrence and Pennington Counties, S. Dak., to points in Kentucky in and east of the counties of Jefferson, Bullitt, Nelson, Larue, Green, Metcalfe, and Monroe, and points in Tennessee in and east of the counties of Clay, Jackson, Putnam, White, Van Buren, bledsoe, and Hamilton. The purpose of this filing is to eliminate the gateway of Port Clinton, Ohio.

No. MC 123407 (Sub-No. E327), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Forest products (except wood chips and commodities in bulk), *pressure*

treated poles, pressure treated posts, and pressure treated lumber, used as a building material, from points in Lawrence and Pennington Counties, S. Dak., to points in West Virginia, Virginia, and North Carolina. The purpose of this filing is to eliminate the gateway of Broodville, Ind.

No. MC 123407 (Sub-No. E328), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and forest products* (except wood chips and commodities in bulk), *pressure treated poles, pressure treated posts, and pressure treated lumber,* used as a building material from points in Lawrence and Pennington Counties, S. Dak., to points in Tennessee, Mississippi, and Arkansas in the counties of Cleveland, Bradley, Lincoln, Drew, Ashley, Phillips, Chicot, and Desha. The purpose of this filing is to elimiante the gateway of the plantsite of Certain-teed Products Corp. at East St. Louis, Ill.

No. MC 123407 (Sub-No. E329), filed February 29, 1976. Applicant: SAWYER TRANSPORT, INC., U.S. Highway 6, South Haven Square, Valparaiso, Ind. 46383. Applicant's representative: Richard L. Loftus (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Lumber and forest products* (except wood chips and commodities in bulk), *pressure treated poles, pressure treated posts, and pressure treated lumber,* used as a building material, from points in Lawrence and Pennington Counties, S. Dak., to points in Pennsylvania. The purpose of this filing is to eliminate the gateway of Warren, Ill.

By the Commission.

NANCY L. WILSON,
Acting Secretary.

[FR Doc. 77-34461 Filed 11-30-77; 8:45 am]

[7035-01]

[Ex Parte 241; Revised Exemption No. 55; Amdt. 3]

MANDATORY CAR SERVICE RULES

Exemption Under Provision of Rule 19

TO: Norfolk and Western Railway Co., Consolidated Rail Corp.

Upon further consideration of Revised Exemption No. 55 issued November 23, 1976.

It is ordered, That, under authority vested in my by Car Service Rule 19, Revised Exemption No. 55 to the Mandatory Car Service Rules ordered in Ex Parte No. 241 is amended to continue in effect until further order of this Commission

This amendment shall become effective November 30, 1977.

Issued at Washington, D.C., November 22, 1977.

For the Interstate Commerce Commission.

ROBERT S. TURKINGTON,
Agent.

[FR Doc. 77-34459 Filed 11-30-77; 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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[6320-01]

CIVIL AERONAUTICS BOARD.

REVISED AND ADDITIONS TO THE NOVEMBER 23, 1977 AGENDA

TIME AND DATE: 10 a.m., November 23, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: (Addition)—1. Board review of staff denial of Relvas Travel's request for waiver of advance purchase requirement for 4 New York-Lisbon ABC flights (BOR).

(Addition)—2. Docket 29238, Dan-Air Services, Ltd. and British Airtours Ltd.—Applications for waiver of uplift ratio restrictions (Memo No. 6066-D, BOR, BIA, OGC).

3. Routes Priorities: The pending Rulemaking proceeding (Memo No. 5971-H, 5971-I, For information Memo dated November 21, 1977, BOR, OGC, BLJ, OEA).

4. Docket 30123, Hearing priorities rulemaking (Memo No. 5971-E, 5971-F, 5971-G, BOR, OGC, BLJ, OEA).

5. Dockets 30550, 30937, 30942, 30548, 30630, and 31074. Twin Cities (Minneapolis and St. Paul)-Las Vegas/Phoenix-Burbank/Orange County (Santa Ana), Motions of Airwest and North Central and Related Pleadings (Memo No. 7472, BOR, OGC, BLJ, OEA).

6. Dockets 30547 and 31278 and 31385. Northwest's Motion for Hearing of its Minneapolis-Dallas/Houston Application; Consolidation Motions of Texas International and the City and Chamber of Commerce of San Antonio (Memo No. 7481, For Information Memo dated November 18, 1977, BOR, OGC, BLJ, OEA).

7. Docket 28475, Ozark's petition for reconsideration of Order 77-4-16 (Memo No. 5708-B, For Information Memo dated November 18, 1977, BOR, OGC, BLJ, OEA).

8. Dockets 29958 and 30019, 30120, and 26927. Motions for Hearing of Continental and Texas International on applications for authority between Houston and Tampa Bay Area/Orlando and related motions to consolidate Delta and Braniff (Memo No. 7281, For Information Item dated November 18, 1977, BOR, OGC, BLJ, OEA).

9. Docket 30387, TWA's application for San Diego-Kansas City/St. Louis nonstop authority (Memo No. 7374, For Information Item dated November 18, 1977, BOR, OGC, BLJ, OEA).

10. Docket 30910, Eastern's Motion for Hearing on Nonstop Dallas-Tucson Authority (Memo No. 7509, For Information item dated November 18, 1977, BOR, OGC, BLJ, OEA).

11. Docket 30809, North Central's Application for Chicago-Syracuse/Albany-Boston Authority (Memo No. 7516, For Information item dated November 18, 1977, BOR OGC, BLJ, OEA).

12. Docket 30915, Application of Frontier for new authority between Boise and Denver (Memo No. 7608, For Information item dated November 18, 1977, BOR, OGC, BLJ, OEA).

13. Docket 30646, North Central's Subpart M Application for Authority to Provide Bismarck-Fargo-Minneapolis-Chicago Service (Memo No. 6960-A, For Information item dated November 18, 1977, BOR, OGC, BLJ, OEA).

14. Docket 2976, Motion of Allegheny Airlines for hearing on its application for Philadelphia-Bermuda nonstop authority (Memo No. 7541, For Information item dated November 18, 1977, BOR, OGC, BLJ, OEA).

15. Docket 28981 and 29015, Subpart M Application of Hughes Airwest for Phoenix-Sacramento, Fresno-Portland, and Sacramento-Seattle Nonstop Authority and Motion of Western for consolidation of the Sacramento-Seattle Nonstop Portion (Memo No. 5968-B, For Information item dated November 18, 1977, BOR, BLJ, OGC, OEA).

Added by amdt. 2.—16. Docket 31116, Allegheny's Subpart M Application for Authority to provide Nashville-Cleveland Service (Memo No. 7295-A, For Information item dated November 18, 1977, BOR, BLJ, OGC, OEA).

Added by amdt. 2.—17. Docket 29910, 31083, and 31086, Braniff's Subpart N Application for Omaha-Dallas/Fort Worth Service (Memo No. 6835-B, For Information item dated November 18, 1977, BOR, OGC, BLJ, OEA).

18. Docket 29827 and 30034, Motion of Allegheny Airlines for Hearing on its application to extend its system in various Florida cities; Motion of United for Hearing on its application to add Orlando to its Route 51 between the Great Lakes and Florida (Memo No. 7156, For Information item dated November 18, 1977, BOR, OGC, BLJ, OEA).

(Addition)—19. Completion deadlines for high priority Board matters (Memo No. 7598, Memo from Barry Abrams dated November 7, 1977, OMD, BLJ, BOR, BAS, BFR, OGC, OS, OEA, BIA).

(Addition)—20. Docket 31556, Aero-Bus and Super No-Frills fares in the New York-Miami/Fort Lauderdale markets proposed by Delta, Eastern, and National (Memo No. 7523-A, BFR).

STATUS: Open

PERSON TO CONTACT:

Phyllis T. Kaylor, The Secretary, 202-673-5068

SUPPLEMENTARY INFORMATION: At the November 22, 1977 Board meeting, the Members indicated that they had not had sufficient time to prepare for the discussion of items 4a, and 5 on that agenda. Accordingly, the following Members voted that agency business requires the addition of items 4a and 5 on the November 22, 1977 agenda as items 1 and 2 respectively, to the November 23, 1977 agenda and that no earlier announcement of these additions was possible.

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

Item 19, originally item 30 on the November 22, 1977 agenda, concerns completion deadlines for high priority Board matters. In order that the Board may consider this topic with like items on the November 23, 1977 agenda the following Members voted that agency business requires the addition of item 19 to the November 23, 1977 agenda and that no earlier announcement of this addition was possible.

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

Item 20 concerns Docket 31556, Aero-Bus and Super No-Frills fares in the New York-Miami/Fort Lauderdale markets proposed by Delta, Eastern, and National. By Order 77-10-98, the Board suspended "Aero-Bus and Super No-Frills fares in the New York-Miami/Fort Lauderdale markets proposed by Delta Air Lines, Inc., Eastern Air Lines, Inc., and National Airlines, Inc." Docket 31556. The fares in question were to be applicable for travel on December 1 and December 15, 1977. The Board suspended the proposals in order to receive briefs from interested parties on several rate issues. The staff analyzed these filings and transmitted its recommendation to the Board on November 21, 1977. So that the Board can consider this matter as soon as possible and reach its decision, the following Members voted that agency business requires the addition of item 20 to the November 23, 1977 agenda and that no earlier announcement of the addition was possible.

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1942-77 Filed 11-29-77; 8:26 am]

[6320-01]

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[M-81, Amdt. 4]

CIVIL AERONAUTICS BOARD.

NOTICE OF ADDITION OF ITEM TO THE NOVEMBER 23, 1977, AGENDA

TIME AND DATE: 10 a.m., November 23, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: C. Docket 31632, joint fares proposed by American Airlines, Inc., and Metroplex Helicopter Airways, Inc. (Memo No. 7601, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylor, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The tariff in question was filed on October 25, 1977, for effectiveness November 24, 1977. A complaint and answers were filed by November 15, 1977. The Board's staff analyzed the tariff filing, complaint and answers and submitted its recommendation to the Board on November 18, 1977. If the Board desires to suspend the tariff pending investigation, it must act before November 23, 1977, or lose the authority to do so under section 1002(g) of the Federal Aviation Act. This morning, November 23, 1977, Member Bailey expressed the desire to discuss this item at the Board's meeting today. Accordingly, the following Members have voted that agency business requires the addition of this item to the agenda of November 23, 1977 and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn
Vice Chairman Richard J: O'Melia
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1943-77 Filed 11-29-77; 8:26 am]

[6320-01]

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[M-81, Amdt. 5]

CIVIL AERONAUTICS BOARD.

NOTICE OF ADDITION OF ITEM TO THE NOVEMBER 23, 1977, AGENDA

TIME AND DATE: 10 a.m., November 23, 1977.

PLACE: Room 1027, 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT: Dockets 31612, 31638, 31640, and 31655, refiled "Super-Jackpot" fares to Las Vegas proposed by TWA (Memo. No. 7477-C, BFR).

STATUS: Open.

PERSON TO CONTACT:

Phyllis T. Kaylord, the Secretary, 202-673-5068.

SUPPLEMENTARY INFORMATION: The tariff in question was filed on October 25, 1977, for effectiveness November 24, 1977. Complaints, answers, and amendments to the complaints were filed by November 17, 1977. The Board's staff analyzed the tariff filing, the complaints, answer and all other relevant matters, and submitted its recommendation to the Board on November 21, 1977. If the Board desires to suspend the tariff pending investigation, it must act by November 23, 1977, or lose the authority to do so under section 1002(g) of the Federal Aviation Act of 1958. The Board considered this item on November 22, 1977 and instructed the staff to revise the order. The staff revised the order and submitted its revision to the Board on November 23, 1977. Accordingly, the following Members voted that agency business requires the addition of this item to the November 23, 1977 meeting agenda and that no earlier announcement of this addition was possible:

Chairman Alfred E. Kahn
Member G. Joseph Minetti
Member Lee R. West
Member Elizabeth E. Bailey

[S-1944-77 Filed 11-29-77; 8:26 am]

[6351-01]

4

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., December 6, 1977.

PLACE: 2033 K Street NW., Washington, D.C., 5th floor hearing room.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the public.

MATTERS TO BE CONSIDERED:

Portions open to the public: Proposed FEDERAL REGISTER notice for the revision of '04 reporting requirements—§ 15.01(d) and Part 19 of the regulations under the Commodity Exchange Act.

Portions closed to the public: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-1951-77 Filed 11-29-77; 3:50 pm]

[1410-03]

5

COPYRIGHT ROYALITY TRIBUNAL.

TIME AND DATE: 10 a.m. and 2 p.m., December 6, 7, and 8, 1977.

PLACE: room 1318, Dirksen Senate Office Building.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Orientation and background hearings. Presentations by representatives of various copyright owner associations and by representatives of major users of copyrighted materials.

CONTACT PERSON FOR MORE INFORMATION:

Thomas C. Brennan, Acting Chairman, Copyright Royalty Tribunal, 1111 20th Street NW., Washington, D.C. 20036, telephone 202-653-5175.

For the Copyright Royalty Tribunal.

THOMAS C. BRENNAN,
Acting Chairman.

[S-1946-77 Filed 11-29-77; 11:15 am]

[6740-02]

6

FEDERAL ENERGY REGULATORY COMMISSION.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: (published November 28, 1977, 42 FR 60628).

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 30, 1977, 10 a.m.

CHANGE IN THE MEETING: The following item has been added:

Item No., Docket No., and Company

CP-24—CP77-216, Distrigas of Massachusetts Corp.

KENNETH F. PLUMB,
Secretary.

[S-1948-77 Filed 11-29-77; 2:16 pm]

[6720-01]

7

FEDERAL HOME LOAN BANK BOARD.

FEDERAL REGISTER CITATION OF PREVIOUS ANNOUNCEMENT: Vol. 42, No. 228, pages 60629 and 60630, November 28, 1977.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: 9:30 a.m., November 30, 1977.

PLACE: 320 First Street NW., room 630, Washington, D.C.

STATUS: Open and Closed Meetings.

CONTACT PERSON FOR MORE INFORMATION:

Mr. Robert Marshall, 202-376-3012.

CHANGES IN THE MEETING: The following item has been added to the agenda for the open meeting:

Application for Conversion and Merger—Oneida Federal Savings and Loan Association, Oneida, N.Y., into Albany Savings Bank, Albany, N.Y.

The following item has been withdrawn from the agenda for the closed meeting:

Application for Permission to Convert from Federal Mutual to State-Chartered Stock Form.

No. 104, November 29, 1977.

[S-1947-77 Filed 11-29-77; 2:16 pm]

[6210-01]

8

FEDERAL RESERVE SYSTEM (BOARD OF GOVERNORS).

TIME AND DATE: 10 a.m., Tuesday, December 6, 1977.

PLACE: 20th Street and Constitution Avenue NW., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED: 1. Federal Reserve Bank budgets for 1978. 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.

THEODORE E. ALLISON,
Secretary of the Board.

NOVEMBER 28, 1977.

[S-1945-77 Filed 11-29-77; 11:15 am]

[7035-01]

9

NOVEMBER 29, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 9:30 a.m., Tuesday, December 6, 1977.

PLACE: Room 4225, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Open regular conference.

MATTERS TO BE CONSIDERED: 1. Review of Commission's canons of conduct. 2. F.D. No. 28499 (Sub-No. 1) Norfolk & Western Railroad Co. and Baltimore & Ohio Railroad Co.—Control—Detroit, Toledo, & Ironton Railroad Co. (Status report and discussion.)

CONTACT PERSON FOR MORE INFORMATION:

Office of Information and Consumer Affairs, Douglas Baldwin, Director, telephone 202-275-7252.

[S-1949-77 Filed 11-29-77; 3:50 pm]

[7035-01]

10

NOVEMBER 28, 1977.

INTERSTATE COMMERCE COMMISSION.

TIME AND DATE: 2:30 p.m., Monday, December 5, 1977.

PLACE: Room 5124, Interstate Commerce Commission Building, 12th Street and Constitution Avenue NW., Washington, D.C.

STATUS: Notice of open meeting.

MATTER TO BE CONSIDERED: 1. Review of Division 3 workload.

CONTACT PERSON FOR MORE INFORMATION:

Mrs. Hildred Hersman, Confidential Assistant to Commissioner Brown, telephone 202-275-7535.

[S-1950-77 Filed 11-29-77; 3:50 pm]

federal register

THURSDAY, DECEMBER 1, 1977

PART II



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

MARINE CASUALTY INVESTIGATIONS

[4910-14]

Title 46—Shipping

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-149]

PART 4—MARINE INVESTIGATION REGULATIONS

Coast Guard—National Transportation Safety Board Marine Casualty Investigations

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the marine investigation regulations contains procedures under which the Coast Guard and the National Transportation Safety Board (NTSB) investigate marine casualties. This amendment implements a requirement of section 304 of the Independent Safety Board Act of 1974 (49 U.S.C. 1901 et seq.).

EFFECTIVE DATE: This amendment is effective on January 3, 1978.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On December 30, 1976, the Coast Guard published a proposed rule (41 FR 56833) concerning these amendments. Interested persons were given until March 1, 1977, to submit comments.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Captain Alfred E. Hampton, Project Manager, Office of Merchant Marine Safety, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF MAJOR COMMENTS AND CHANGES TO REGULATIONS

Several comments requested clarification concerning the Coast Guard's investigative authority as a result of these regulations. A new § 4.40-3 has been added to clarify the Coast Guard's responsibilities to investigate marine casualties.

The purpose of the regulations in the new Subpart is to describe the responsibilities and procedures of the Coast Guard and the NTSB in investigations under the Independent Safety Board Act.

One comment raised the question of whether the definition of "major marine casualty" in § 4.40-5 automatically requires a marine board of investigation for the loss of a mechanically propelled vessel of 100 or more gross tons. An occurrence which falls within the definition of "major marine casualty" does not automatically require a marine board investigation. The Coast Guard is free to conduct any type of informal or formal investigation that the nature of the case indicates.

One comment requested clarification as to whether the $500,000 damage criterion in the definition of "major marine casualty" in § 4.40-5 includes total claims of all parties or refers only to each individual vessel. The comment claimed that if it refers to the sum total, then the figure is too low and will result in frequent major marine casualty investigations. Casualty statistics for the six year period between FY 1969 and FY 1975 indicate an average of 80 cases per year satisfying the criteria of major marine casualties. Of these 80 cases, less than 10% were in the major marine casualty category due to the monetary criterion alone. The $500,000 figure is considered justified, and is not a major factor in determining the total number of cases.

One comment objected to the loss of six or more lives being used as a criterion for a "major marine casualty." The criteria for a major marine casualty were selected by the NTSB based on Coast Guard casualty statistics.

One comment interpreted the regulations as providing that the Board, in some cases, rely entirely upon data gathered by the Coast Guard rather than acting as an impartial party in arriving at its determinations. The commenter believes that the Board should be fully involved in the investigation also. The regulations provide for active participation by the Board in all investigations conducted by the Coast Guard under the Independent Safety Board Act.

Several comments concerned the proposed § 4.40-30 procedures for Coast Guard investigation. The comments questioned whether proposed § 4.40-30 (c) permits the NTSB to participate in every investigation conducted by the Coast Guard whether or not the casualty comes under the Independent Safety Board Act. Section 4.40-30 has been rewritten to clarify that the NTSB may participate only in Coast Guard investigations conducted under the authority of the Independent Safety Board Act.

Paragraph (b) of proposed § 4.40-30 has been deleted because the powers of the Coast Guard officer presiding at an investigation are set out elsewhere in regulations.

Section 4.40-30 has been rewritten to clarify the type of report given to the NTSB by the Coast Guard after the Coast Guard completes its investigation. The section has also been rewritten to clarify what the Board does after it receives the report.

Other minor changes are being made to Part 4 in order to make existing regulations consistent with the new regulations.

Accordingly, Part 4 of Title 46 of the Code of Federal Regulations is amended as follows:

§ 4.03-5 [Amended]

1. In § 4.03-5, by adding the words "Except as defined in § 4.40-5," immediately before the first sentence.

§ 4.03-40 [Amended]

2. In § 4.03-40, by adding the words "Except as provided in Subpart 4.40," immediately before the first sentence.

3. By adding a new Subpart 4.40 to read as follows:

Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casulty Investigations

Sec.

4.40-1 Purpose and applicability.
4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.
4.40-5 Definitions.
4.40-10 Preliminary investigation by the Coast Guard.
4.40-15 Marine casualty investigation by the Board.
4.40-20 Cause or probable cause determinations from Board investigation.
4.40-25 Coast Guard marine casualty investigation for the Board.
4.40-30 Procedures for Coast Guard investigation.
4.40-35 Records of the Coast Guard and the Board.

AUTHORITY: 5 U.S.C. 552, 14 U.S.C. 2, 633, 46 U.S.C. 239, 375, 416, 49 U.S.C. 1655(b)(1), 1903(a)(1)(E); 49 CFR 146(b).

Subpart 4.40—Coast Guard—National Transportation Safety Board Marine Casualty Investigations

§ 4.40-1 Purpose and applicability.

This subpart prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of—

(a) A major marine casualty, as defined under § 4.40-5(d), that occurs on the navigable waters (internal waters or territorial sea) of the United States or that involves a vessel of the United States, except one involving only public vessels; and

(b) A casualty involving public and non-public vessels.

§ 4.40-3 Relationship to Coast Guard marine investigation regulations and procedures.

(a) The Coast Guard's responsibility to investigate marine casualties is not eliminated nor diminished by the regulations in this Subpart.

(b) In those instances where the National Transportation Safety Board conducts an investigation in which the Coast Guard also has responsibility under R.S. 4450 (46 U.S.C. 239), the proceedings are conducted independently but so as to avoid duplication as much as possible.

§ 4.40-5 Definitions.

As used in this subpart:

(a) "Act" means Title III of Pub. L. 93-633, the Independent Safety Board Act of 1974, (49 U.S.C. 1901, et seq.).

(b) "Board" means the National Transportation Safety Board.

(c) "Chairman" means the Chairman of the National Transportation Safety Board.

(d) "Major marine casualty" means a casualty involving a vessel, other than a public vessel, that results in—

(1) The loss of six or more lives;

(2) The loss of a mechanically propelled vessel of 100 or more gross tons;

(3) Property damage initially estimated at $500,000 or more; or

(4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(e) "Public vessel" means a vessel owned by the United States, except a vessel to which the Act of October 25, 1919, c.82, (41 Stat. 305, 46 U.S.C. 363) applies.

(f) "Vessel of the United States" means a vessel—

(1) Documented or required to be documented under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

§ 4.40–10 Preliminary investigation by the Coast Guard.

(a) The Coast Guard conducts the preliminary investigation of marine casualties.

(b) The Commandant determines from the preliminary investigation whether—

(1) The casualty is a major marine casualty; or

(2) The casualty involves public and non-public vessels.

(c) The Commandant notifies the Board of a casualty described in paragraph (b) of this section.

§ 4.40–15 Marine casualty investigation by the Board.

The Board may conduct an investigation under the Act of any major marine casualty or any casualty involving public and non-public vessels under the Board's rules of practice for surface transportation accident hearings in 49 CFR Part 845.

§ 4.40–20 Cause or probable cause determinations from Board investigation.

After an investigation conducted by the Board under § 4.40–15, the Board determines cause or probable cause and issues a report of that determination.

§ 4.40–25 Coast Guard marine casualty investigation for the Board.

(a) If the Board does not conduct an investigation under § 4.40–15, the Coast Guard, at the request of the Board, may conduct an investigation under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board requests the Coast Guard to conduct an investigation under paragraph (a) of this section within 48 hours of receiving notice under § 4.40–10 (c).

(c) The Coast Guard advises the Board within 24 hours of receipt of a request under paragraph (b) of this section whether the Coast Guard will conduct an investigation under the Act.

§ 4.40–30 Procedures for Coast Guard investigation.

(a) The Coast Guard conducts an investigation under § 4.40–25 using the procedures in 46 CFR 4.01–1 through 4.23–1.

(b) The Board may designate a person or persons to participate in every phase of an investigation, including on scene investigation, that is conducted under the provisions of Subpart 4.40–25 of this part.

(c) Consistent with Coast Guard responsibility to direct the course of the investigation, the person or persons designated by the Board under paragraph (b) of this section may:

(1) Make recommendations about the scope of the investigation.

(2) Call and examine witnesses.

(3) Submit or request additional evidence.

(d) The Commandant provides a record of the proceedings to the Board of an investigation of a major marine casualty under paragraph (a) of this section.

(e) The Board, under the Act, makes its determination of the facts, conditions, circumstances, and the cause or probable cause of a major marine casualty using the record of the proceedings provided by the Commandant under paragraph (d) of this section, and any additional evidence the Board may acquire under its own authority.

(f) An investigation by the Coast Guard under this section is both an investigation under the Act and under R.S. 4450 (46 U.S.C. 239).

§ 4.40–35 Records of the Coast Guard and the Board.

(a) Records of the Coast Guard made under § 4.40–30 are available to the public under 49 CFR Part 7.

(b) Records of the Board made under §§ 4.40–20 and 4.40–30 are available to the public under 49 CFR Part 801.

(5 U.S.C. 552, 14 U.S.C. 2, 633, 46 U.S.C. 239, 375, 416, 49 U.S.C. 1655(b)(1), 1903(a)(1)(E); 49 CFR 1.46(b).)

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

Dated: November 3, 1977.

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

[FR Doc.77–34462 Filed 11–30–77;8:45 am]

federal register

THURSDAY, DECEMBER 1, 1977
PART III



NATIONAL TRANSPORTATION SAFETY BOARD

■

MARINE CASUALTY INVESTIGATIONS

[4910-58]

Title 49—Transportation

CHAPTER VIII—NATIONAL TRANSPORTATION SAFETY BOARD

PART 850—COAST GUARD—NATIONAL TRANSPORTATION SAFETY BOARD MARINE CASUALTY INVESTIGATIONS

Rules Pertaining to Investigations

AGENCY: National Transportation Safety Board.

ACTION: Final rule.

SUMMARY: This rule contains procedural regulations under which the National Transportation Safety Board (Board) and the United States Coast Guard (Coast Guard) investigate marine casualties. The regulations implement a requirement of section 304 of the Independent Safety Board Act of 1974 (49 U.S.C. 1901, et seq.).

EFFECTIVE DATE: January 3, 1978.

FOR FURTHER INFORMATION CONTACT:

Fritz L. Puls, General Counsel, National Transportation Safety Board, Washington, D.C. 20594, 202-426-8911.

SUPPLEMENTARY INFORMATION: On December 30, 1976 the Board published a proposed rule (41 FR 56837) concerning these regulations. Interested persons were given until March 1, 1977, to submit written comments.

Several comments objected to the criteria of a major marine casualty, as defined in § 850.5(e) of the regulations. One commenter argued that the $500,000 damage limitation was too low, while another recommended that the amount be set at $100,000 of property loss. In the latter comment, it was also urged that a loss of one or more lives be used as a criterion rather than six or more lives. After due consideration, the agencies have decided not to follow these recommendations. The selected criteria were developed by reviewing the casualty statistics of the Coast Guard for the 6-year period between fiscal year 1969 and fiscal year 1975, which indicated that an average of 80 cases per year would classify as major marine casualties under § 850.5. This is considered a manageable number for the Board's initial purposes under the Act, particularly in view of its relatively small technical staff in the marine mode.

A recurring question in the comments concerns the Coast Guard's role in those instances where the Board conducts an investigation. The Act provides that the Board's investigative authority in the marine mode shall not be so construed as "to eliminate or diminish any responsibility under any other Federal statute of the Secretary of the department in which the Coast Guard is operating * * *" (section 304(a)(1)(E), 49 U.S.C. 1903). A new § 850.3 has been added to clarify the Coast Guard's continuing responsibility for investigation of marine casualties under Section 4450 of the Revised Statutes (46 U.S.C. 239). Certain casualties defined as "major" in § 850.5 would not automatically require a marine board investigation by the Coast Guard. An example of such a casualty would be the loss of a mechanically propelled vessel of 100 or more gross tons. Where formal investigations are conducted by both agencies, they will seek to avoid duplicative proceedings, as stated in § 850.3.

Several comments were directed to Coast Guard investigations conducted for the Board. Concern was expressed that the Board would rely entirely on data gathered by the Coast Guard. This is a misconception, since the procedures for a Coast Guard investigation in § 850.30 provide for active participation of the person or persons designated by the Board in making recommendations about the scope of the inquiry, calling and examining witnesses, and submitting or requesting additional evidence. The reference to Coast Guard procedures in 46 CFR Subpart 4.07 or 4.09 has been removed to clarify that the Board's participation relates solely to Coast Guard investigations conducted under these regulations. Paragraph (b) of § 850.30 has also been deleted, since the presiding officer's powers are set forth elsewhere in Coast Guard regulations. All subsequent paragraphs have been relettered accordingly. Former paragraphs (e) and (f), now (d) and (e), respectively, have been rewritten to provide for the Coast Guard's submission of the record of proceedings to the Board and the determinations thereafter made by the Board.

Although the Board approves the subject regulations, it intends to review the procedures at the end of one year to determine whether the Board thereunder can perform its maritime casualty investigation responsibilities consistent with the mandate and intent of the Independent Safety Board Act.

The joint regulations do not reflect the intent of Congress. Congress clearly intended that the Board conduct its accident investigations separate and independent of the regulatory administrations of the Department of Transportation. To emphasize this, Congress made the following specific finding in section 302(2) of the Independent Safety Board Act:

> Proper conduct of the responsibilities assigned to this Board requires vigorous investigation of accidents involving transportation modes regulated by other agencies of Government; demands continual review, appraisal, and assessment of the operating practices and regulations of all such agencies; and calls for the making of conclusions and recommendations that may be critical of or adverse to any such agency or its officials. *No Federal agency can properly perform such functions unless it is totally separate and independent from any other department, bureau, commission, or agency of the United States.* [Emphasis added]

Investigations wherein the Board's participation is a joint venture with the Coast Guard do not carry out the clearly stated Congressional intent and mandate. This is particularly true where the Board's role is subsidiary to that of the Coast Guard.

The Board has always conducted its accident investigations and hearings independent from other regulatory agencies. The Coast Guard should be no exception. Public acceptance of Board investigations and determination of cause has been based upon the nonadversary nature of Board proceedings and the fact that the Board is solely concerned with the cause of accidents and corrective measures to prevent their recurrence. Congress has consistently approved of the procedural model for the investigation of aviation accidents and its more recent extension to surface modes. It is evident that the Board's objectivity would not be as highly regarded by the Congress or the public if it should engage in joint adversary proceedings affecting civil or criminal liability or regulatory enforcement. Coast Guard investigations are adversary proceedings and the parties are solely concerned with potential liability. The Coast Guard determination on the record of investigations is inter alia whether there is evidence of incompetence, misconduct, negligence or willful violation of the law on the part of any licensed or certificated person which contributed to the accident. The Board historically is not concerned with such matters and by statute should not be.

Under the joint regulations, although the Board may participate in Coast Guard investigations, it is a limited participation since the Coast Guard has the authority to deny any request by the Board with respect to the scope of the investigation, the witnesses to be called and the evidence to be submitted. In fact, it may be that the Coast Guard would have the authority to deny the Board any participation in an investigation.

The joint regulations provide that the Board can conduct its own investigation and hearing separate from the Coast Guard if it so desires. However, the Coast Guard, by law, still has to hold a parallel and duplicative investigation and hearing. This is administratively inefficient and uneconomical. Obviously Congress did not intend that two agencies conduct independent investigations of the same accident.

In any event, since Coast Guard personnel, equipment, and facilities are involved in almost all marine casualties, permitting that agency to investigate itself certainly does not give the appearance or the reality of an independent investigation and does not follow the Congressional intent of independent investigation, determination of cause, and recommendations to prevent similar accidents. Unfortunately, the Act, although preserving the principle of independent investigation for all modes, air and surface, without regard to enforcement and liability, did not extend it to marine casualties.

The solution to the above dilemma is to amend the Act to provide that the Board conduct investigations of major marine casualties, and the Coast Guard would have the status of a party to the investigation—the same status the Fed-

eral Aviation Administration has in aviation accident investigations. The Coast Guard, as does the FAA, could hold a separate hearing if necessary for enforcement purposes. This would not be a duplicative investigation or hearing since it would be adversary and concerned only with liability and enforcement.

Accordingly, Part 850 of Title 49 of the Code of Federal Regulations is hereby adopted as follows:

Sec.
850.1 Purpose and applicability.
850.3 Relationship to Coast Guard marine investigation regulations and procedures.
850.5 Definitions.
850.10 Preliminary investigation by the Coast Guard.
850.15 Marine casualty investigation by the Board.
850.20 Cause or probable cause determinations from Board investigation.
850.25 Coast Guard marine casualty investigation for the Board.
850.30 Procedures for Coast Guard investigation.
850.35 Records of the Coast Guard and the Board.

AUTHORITY: Sec. 304(a)(1)(E) of the Independent Safety Board Act of 1974 (Pub. L. 93-633, 88 Stat. 2168, (49 U.S.C. 1903))

§ 850.1 Purpose and applicability.

This part prescribes the joint regulations of the National Transportation Safety Board and the Coast Guard for the investigation of—

(a) A major marine casualty, as defined under § 850.5(e), that occurs on the navigable waters (internal waters or territorial sea) of the United States or that involves a vessel of the United States, except one involving only public vessels; and

(b) A casualty involving public and nonpublic vessels.

§ 850.3 Relationship to Coast Guard marine investigation regulations and procedures.

(a) The Coast Guard's responsibility to investigate marine casualties is not eliminated nor diminished by the regulations in this part.

(b) In those instances where the Board conducts an investigation in which the Coast Guard also has responsibility under R.S. 4450 (46 U.S.C. 239), the proceedings are conducted independently, but so as to avoid duplication as much as possible.

§ 850.5 Definitions.

As used in this part:

(a) "Act" means Title III of Pub. L. 93-633, the Independent Safety Board Act of 1974 (49 U.S.C. 1901, et seq.).

(b) "Board" means the National Transportation Safety Board.

(c) "Chairman" means the Chairman of the National Transportation Safety Board.

(d) "Commandant" means the Commandant of the Coast Guard.

(e) "Major marine casualty" means a casualty involving a vessel, other than a public vessel, that results in—

(1) The loss of six or more lives;

(2) The loss of a mechanically propelled vessel of 100 or more gross tons;

(3) Property damage initially estimated as $500,000 or more; or

(4) Serious threat, as determined by the Commandant and concurred in by the Chairman, to life, property, or the environment by hazardous materials.

(f) "Public vessel" means a vessel owned by the United States, except a vessel to which the Act of October 25, 1919, c. 82 (41 Stat. 305, 46 U.S.C. 363) applies.

(g) "Vessel of the United States" means a vessel—

(1) Documented, or required to be documented, under the laws of the United States;

(2) Owned in the United States; or

(3) Owned by a citizen or resident of the United States and not registered under a foreign flag.

§ 850.10 Preliminary investigation by the Coast Guard.

(a) The Coast Guard conducts the preliminary investigation of marine casualties.

(b) The Commandant determines from the preliminary investigation whether—

(1) The casualty is a major marine casualty; or

(2) The casualty involves public and nonpublic vessels.

(c) The Commandant notifies the Board of a casualty described in paragraph (b) of this section.

§ 850.15 Marine casualty investigation by the Board.

The Board may conduct an investigation under the Act of any major marine casualty or any casualty involving public and nonpublic vessels under the Board's rules of practice for surface transportation accident hearings in 49 CFR Part 845.

§ 850.20 Cause or probable cause determinations from Board investigation.

After an investigation conducted by the Board under § 850.15, the Board determines cause or probable cause and issues a report of that determination.

§ 850.25 Coast Guard marine casualty investigation for the Board.

(a) If the Board does not conduct an investigation under § 850.15, the Coast Guard, at the request of the Board, may conduct an investigation under the Act unless there is an allegation of Federal Government misfeasance or nonfeasance.

(b) The Board requests the Coast Guard to conduct an investigation under paragraph (a) of this section within 48 hours of receiving notice under § 850.10 (c).

(c) The Coast Guard advises the Board within 24 hours of receipt of a request under paragraph (b) of this section whether the Coast Guard will conduct an investigation under the Act.

§ 850.30 Procedures for Coast Guard investigation.

(a) The Coast Guard conducts an investigation under § 850.25 using the procedures in 46 CFR 4.01-1 through 4.23-1.

(b) The Board may designate a person or persons to participate in every phase of an investigation, including onscene investigation, that is conducted under the provisions of § 850.25.

(c) Consistent with Coast Guard responsibility to direct the course of the investigation, the person or persons designated by the Board under paragraph (b) of this section may:

(1) Make recommendations about the scope of the investigation.

(2) Call and examine witnesses.

(3) Submit or request additional evidence.

(d) The Commandant provides a record of the proceedings to the Board of an investigation of a major marine casualty under paragraph (a) of this section.

(e) The Board, under the Act, makes its determination of the facts, conditions, and circumstances, and the cause or probable cause of a major marine casuality, using the record of the proceedings provided by the Commandant under paragraph (d) of this section and any additional evidence the Board may acquire under its own authority.

(f) An investigation by the Coast Guard under this section is both an investigation under the Act and under R.S. 4450 (46 U.S.C. 239).

§ 850.35 Records of the Coast Guard and the Board.

(a) Records of the Coast Guard made under § 850.30 are available to the public under 49 CFR Part 7.

(b) Records of the Board made under §§ 850.20 and 850.30 are available to the public under 49 CFR Part 801.

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

Signed at Washington, D.C. this 18th day of November 1977.

Effective date: January 3, 1978.

KAY BAILEY,
Acting Chairman.

[FR Doc.77-34463 Filed 11-30-77;8:45 am]

federal register

THURSDAY, DECEMBER 1, 1977

PART IV



DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

■

ACTION TO ALLEVIATE INTERSTATE GAS SUPPLY SHORTAGE AND RESULTING CURTAILMENT AND TO REVIEW RATES FOR GAS FROM WELLS DRILLED ON OR AFTER JANUARY 1, 1973

Petition for Declaratory Order and for Expedited Consideration and of Motion to Dismiss

[6740-02]

DEPARTMENT OF ENERGY

FEDERAL ENERGY REGULATORY COMMISSION

[Docket No. RM78-3]

ACTION TO ALLEVIATE INTERSTATE GAS SUPPLY SHORTAGE AND RESULTING CURTAILMENT AND TO REVIEW RATES FOR GAS FROM WELLS DRILLED ON OR AFTER JANUARY 1, 1973, IN LIGHT OF SUCH ACTION

Petition For Declaratory Order and For Expedited Consideration and of Motion To Dismiss

NOVEMBER 23, 1977.

Take notice that on November 14, 1977, Consumer Coalition (Petitioners), c/o Wheatley & Miller, 1112 Watergate Office Building, 2600 Virginia Avenue, NW., Washington, D.C. 20037, filed in Docket No. RM78-3 a petition for declaratory order and for expedited consideration.

Take further notice that on November 22, 1977, Certain Indicated Producers[1] (Certain Producers) filed a motion to dismiss Petitioners' petition.

Petitioners request that the Commission take certain actions which Petitioners assert to be within the Commission's jurisdiction under the Natural Gas Act "to alleviate the severe gas shortage now afflicting the interstate market, which is causing continuously deepening curtailment of this nation's interstate consumers of natural gas, and that such actions be approved and implemented by the Commission on an expedited, emergency basis in order to avoid the irreparable injury to interstate consumers which otherwise will result during the 1977-1978 winter."

Petitioners specifically seek to have the Commission: (1) Amend all certificates previously issued to producers of natural gas concerning gas from Outer Continental Shelf (OCS) leases in the offshore Federal domain which permit such producers to reserve for their own use or for direct sale to an onshore industrial end use a specified amount or percentage of gas or all gas needed for a particular purpose, by requiring instead that all such formerly reserved OCS gas be sold to interstate pipelines for resale for ultimate consumption by interstate consumers, on the grounds that such reservations of gas are not in the present or future public convenience and necessity as required by Section 7(e) of the Natural Gas Act (15 U.S.C. 717f(e));

(2) Exercise jurisdiction, pursuant to Sections 1(a), 1(b), 4(b), and 16 of the Natural Gas Act (15 U.S.C. 717(a), (b), c(b),(o) and the Commerce Clause of Article I, Section 8 of the United States Constitution, over the intrastate activities of "natural-gas company" producers, on the grounds that such activities relate to, adversely affect, and unduly prejudice and disadvantage the supply and cost of gas of interstate consumers, to the extent necessary to eliminate such undue prejudice or disadvantage;

(3) Declare that producers shall comply with all certificates previously issued in such a manner as to require a minimum daily delivery obligation of producers-sellers, to be determined by reference to "take or pay" or other minimum sales provisions contained in their contracts with purchasing pipelines or to delivery estimatees contained in the pipelines' certificate applications, and place the burden upon any individual producer that claims it cannot meet such a minimum daily delivery obligation to appear before the Commission and prove such a contention; and

(4) Immediately review the $1.42 per Mcf base rate for new gas and 93¢ per Mcf base rate for 1973-1974 vintage gas set in Opinion No. 770-A,[2] particularly the Federal income tax component included therein, in light of the alleged Commission jurisdiction to eliminate the undue discrimination resulting from the intrastate activities of "natural-gas company" producers.

Petitioners request that the Commission give expedited consideration to their petition, and issue a declaratory order granting the requested relief. Petitioners further request that the Commission on its own initiative direct its Staff and counsel to seek out and recommend any and all other potential remedies within the authority and/or responsibility of the Commission and adopt and apply such remedies as may assist in assuring adequate supplies of natural gas in the interstate market at just and reasonable rates. Petitioners also request that the Commission, on its own initiative, without specific intervention by Petitioners, apply the foregoing principles to any and all other matters before the Commission to which they would or could apply.

Certain Producers request in their motion that the Commission dismiss Petitioners' petition for the reasons that the actions requested of the Commission would duplicate efforts in existing proceedings before the FERC and that the petition constitutes an attack on issued orders and opinions now before various courts on appeal. As a result, Certain Producers assert that the petition is an improper collateral attack that would undercut substantive legal rights of the parties to these proceedings.

We decline to rule on this motion at this time. We are confident that Certain Producers and other interested persons will address in their comments the issues raised by Certain Producers in their motion. We do not, however, view the motion as limiting the Commission's authority to provide for the submission of written comments on all aspects of the questions raised in the petition. Moreover, the Commission is of the view that it is similarly premature to consider granting the petition in whole or in part or pursuing alternatives thereto of a substantive nature in the absence of such comment and analysis. Accordingly, the Commission will notice this petition together with the motion to dismiss and afford to interested persons an opportunity to comment on both. Final action on both the petition and the motion will be deferred pending the receipt and analysis of the comments that will be filed.

The Commission notes that the matters addressed by the petition are also at issue in a number of proceedings which will be ripe for Commission decision during the period the Commission will consider the petition. The public should be on notice that the Commission does not consider itself constrained from acting on matters properly coming before it which involve issues which are involved in the petition to which this proceeding relates.

Comments shall be filed with the Secretary of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426, on or before December 20, 1977. Comments may address any issue raised by the petition. In addition, participants are invited to also advise the Commission with respect to:

(i) The lawful authority of the Commision to take the actions requested;

(ii) The procedural process which must or should be observed by the Commission if such authority is exercised or proposed to be exercised (if alternative action is recommended, the commenting party should specify such alternative action, and the process to be observed with respect thereto);

(iii) The time required to conclude any such proceedings and to give effect to and implement any order or rulemaking of the Commission as may result therefrom; and

(iv) The public policy implications of either taking or not taking any of the actions requested and of any alternative action which the commenting party may wish to recommend.

All such written comments shall state the name, title, mailing address, and telephone number of the person or persons to whom communications concerning this proceeding should be addressed. The written comments shall be single-space and submitted on letter-size paper (8" x 10½" or 8½" x 11"). An original and fourteen (14) conformed copies of such comments shall be filed with the Commission, and copies of all comments will be placed in the Commission's public files and will be available for inspection in the Commission's Office of Public Information at 825 North Capitol Street, NE., Washington, D.C. 20426, during regular business hours.

[1] Tenneco Oil Company; Amerada Hess Corporation; Amoco Production Company; Atlantic Richfield Company; Chevron U.S.A. Inc.; Cities Service Oil Company; Continental Oil Company; Exxon Corporation; General American Oil Company of Texas; Gulf Oil Corporation; J. M. Huber Corporation; Kerr-McGee Corporation; Mobil Oil Corporation; Pennzoil Company, Pennzoil Producing Company, Pennzoil Louisiana and Texas Offshore, Inc.; POGO Producing Company; Shell Oil Company; Sun Gas Company; Texaco Inc.; Texasgulf, Inc.; Union Oil Company of California.

[2] In accordance with the escalations prescribed in Opinion No. 770-A, these rate ceilings are now $1.47 per Mcf and 94¢ per Mcf, respectively.

No extensions of time within which to file comments upon the petition will be considered.

By direction of the Commission.

KENNETH F. PLUMB,
Secretary.

[Docket No. RM78-3]

IN THE MATTER OF: ACTION TO ALLEVIATE INTERSTATE GAS SUPPLY SHORTAGE AND RESULTING CURTAILMENT AND TO REVIEW RATES FOR GAS FROM WELLS DRILLED ON OR AFTER JANUARY 1, 1973, IN LIGHT OF SUCH ACTION.

PETITION FOR DECLARATORY ORDER AND EXPEDITED CONSIDERATION OF THE CONSUMER COALITION

Pursuant to § 1.7(c) of the Federal Energy Regulatory Commission's ("FERC" or "Commission") Rules of Practice and Procedure, *the Energy Policy Task Force of the Consumer Federation of America*, Energy Action, Congress Watch, International Association of Machinists and Aerospace Workers, United Steelworkers of America, United Automobile, Aerospace and Agricultural Implement Workers of America, American Hospital Association, National Farmers Union, National Council of Senior Citizens, State of New Jersey Department of Energy, United States Conference of Mayors, the Honorable Martin J. Schreiber, Governor of Wisconsin, Public Service Commission of Wisconsin, State of North Carolina Office of the Attorney General, Industrial Union Department, AFL–CIO, International Brotherhood of Teamsters, Chauffeurs, Warehousemen, and Helpers, Oil Chemical and Atomic Workers Union, International Ladies Garment Workers' Union, Service Employees International Union, American Federation of Teachers, American Public Gas Association, Pennsylvania Rural Electric Cooperative Association, Allegheny Electric Cooperative Association, Pennsylvania League for Consumer Protection, Americans for Democratic Action, Consumer Congress of Virginia, Movement for Economic Justice, Northeast Public Power Association, County of Erie, New York, City of Buffalo, New York, Senator Howard Metzenbaum, Senator Donald Riegle, Senator Claiborne Pell, Senator John Durkin, Senator James Abourezk, Senator Edward Kennedy, Senator George McGovern, Senator William Proxmire, Representative Toby Moffett, Representative Andrew Maguire, Representative Edward Markey, Representative Albert Gore, Representative William Brodhead, Representative Herbert Harris, Representative William Hughes, Representative John Seiberling, Representative John Conyers, Representative Ronald Dellums, Representative Charles Rangel, Representative Robert Edgar, Representative Gerry Studds, Representative Max Baucus, Representative Clifford Allen, Representative Floyd Fithian, Representative Richard Ottinger, Representative Henry Waxman, Representative Leo Zeferetti, Consumer Alliance of Michigan, Arkansas Consumer Research Center, National Farmers Organization, Toward Utility Rate Normalization, Office of Consumer Advocate of the Pennsylvania Department of Justice, People's Counsel for the District of Columbia, Citizen Action Coalition of Indiana, Illinois Public Action Council, Connecticut Citizen Action Group, West Virginia Citizen Action Group, Community Action Research Group, National Peoples Action, California PIRG at San Diego, Colorado PIRG, INPIRG, Connecticut PIRG, DC PIRG, Georgia PIRG, Illinois PIRG, Iowa PIRG, Maryland PIRG, Massachusetts PIRG, Minnesota PIRG, Nebraska PIRG, New Jersey PIRG, New Mexico PIRG, North Carolina PIRG, Ohio PIRG, PIRGIM, Rhode Island PIRG, West Virginia PIRG, Natural Urban Coalition, the National Urban League, Mass Fair Share, Carolina Action and Ohio Public Interest Campaign ("Consumer Coalition" or "Petitioners") file this petition for a declaratory order requesting that the Commission take certain actions within its jurisdiction under the Natural Gas Act, 15 U.S.C. 717, et seq., to alleviate the severe gas supply shortage now afflicting the interstate market, which is causing continuously deepening curtailment of this nation's interstate consumers of natural gas, and that such actions be approved and implemented by the Commission on an expedited, emergency basis in order to avoid the irreparable injury to interstate consumers which otherwise will result during the 1977–1978 winter. Petitioners specifically seek to have the Commission (1) amend all certificates previously issued to producers of natural gas concerning gas from Outer Continental Shelf ("OCS") leases in the offshore Federal domain which permit these producers to reserve for their own use or for direct sale to an industrial end user onshore a specified amount or percentage of gas or all gas needed for a particular purpose because such reservations of gas are not in "the present or future public convenience and necessity", as required by Section 7(e) of the Natural Gas Act, 15 U.S.C. 717f(e), by requiring instead that all such formerly reserved OCS gas be sold to interstate pipelines for resale for ultimate consumption by interstate consumers; (2) exercise its jurisdiction, pursuant to Sections 1(a), 1(b), 4(b), and 16 of the Natural Gas Act, 15 U.S.C. 717 (a), (b), c(b), and o, and the Commerce Clause of Article I, Section 8 of the United States Constitution over the interstate activities of "natural-gas company" producers which relate to, adversely affect, and unduly prejudice and disadvantage the supply and cost of gas of interstate consumers to the extent necessary to eliminate such undue prejudice or disadvantage; (3) declare that producers shall comply with all certificates previously issued to require a minimum daily delivery obligation of the producers-sellers, determined by reference to "take or pay" or other minimum sales provisions contained in their contracts with the purchasing pipelines or delivery estimates contained in the pipelines' certificate applications, placing the burden upon any individual producer that claims it cannot meet such minimum daily delivery obligation to appear before the Commission and prove such a contention; and (4) immediately review the $1.42 per Mcf base rate for new gas and 93¢ per Mcf base rate for 1973–1974 vintage gas set in Opinion No. 770–A, particularly the Federal income tax component included therein, in light of the Commission's jurisdiction to eliminate the undue discrimination resulting from the intrastate activities of "natural-gas company" producers.

I.—THE INTERSTATE MARKET'S GAS SUPPLY SHORTFALL AND RESULTING LEVEL OF CURTAILMENT CONTINUE TO INCREASE AT AN ALARMING RATE NECESSITATING A FRESH LOOK BY FERC AT THE SERIOUSLY DEFICIENT POLICIES OF THE NOW DEFUNCT FPC CONCERNING PRODUCER ACTIVITIES.

A

The rapidly deteriorating gas supply situation facing the interstate market is well documented by a June, 1977 Federal Power Commission ("FPC") Bureau of Natural Gas ("BNG") Staff Report entitled "Report of Monthly Curtailments based on FPC Form No. 17." Schedule II, Sheets 1 and 5 of that Report show that the cumulative firm curtailment suffered by the interstate market during the period from October 31, 1970 through March 31, 1977, was 10,670,150,844 Mcf of which 936,380,325 Mcf was experienced in the first three months of 1977 alone. As the following table confirms, each year from the beginning of curtailment in 1970 through 1976 has witnessed a dramatic increase in interstate firm curtailment:

Year:	*Interstate firm curtailment (Mcf)*
1970	17,534,756
1971	286,404,893
1972	649,430,280
1973	1,134,612,744
1974	1,678,691,336
1975	2,698,869,532
1976	3,181,903,599

SOURCE: June 1977, BNG Staff Report, Schedule II, Sheets 2–4.

This spiralling level of interstate curtailment has resulted from various actions of the producers which were condoned, if not openly encouraged, by the orders and policies of the now defunct FPC. In the first place, it hardly need be documented that the producers of interstate natural gas are diverting the vast majority of their new onshore gas reserves additions to the unregulated intrastate market. The growing magnitude of the diversion of gas by producers from interstate consumers to the unregulated intrastate market resulting in unjust and undue discrimination against the former—beginning almost simultaneously with the time that the FPC first began experimenting with methods of deregulating interstate producer sales in 1970 and stopped attempting to really regulate the activities of producers—is vividly illustrated by the following table, included in Opinion No. 770–A, issued November 5, 1976, which reveals that since 1970, the interstate market's share of new reserves additions reported by the American Gas Association has fallen drastically, reaching an all-time low both in absolute terms and as a percentage of total reserve additions in 1975, while the opposite has been true for the intrastate market:

EXHIBIT 10.—*Total reserve additions: Interstate versus intrastate, associated and nonassociated gas (excludes Alaska)*

Year	AGA reserve additions excluding revisions (Tcf)	Interstate new supply [a]		Inferred intrastate new supply [b]	
		Tcf	Percent	Tcf	Percent
1966	14.8	10.0	68	4.8	32
1967	14.8	9.9	67	4.9	33
1968	9.8	6.4	65	3.4	35
1969	9.6	6.2	64	3.4	36
1970	11.3	3.5	31	7.8	69
1971	11.1	2.2	20	8.9	80
1972	10.7	5.0	47	5.7	53
1973	10.1	1.7	17	8.4	83
1974	9.7	2.4	25	7.3	75
1975	10.0	[c] 1.3	13	8.7	87

[a] Form 15, FPC, excluding revisions.
[b] Derived by assuming that intrastate reserve additions are equal to the difference between total AGA reserve additions and the reserve additions committed to the interstate market.
[c] Preliminary (Opinion No. 770–A at 116).

The FPC was well aware that the intrastate activities of producers which also sell gas in interstate commerce, and are therefore "natural-gas companies" fully subject to the Natural Gas Act's jurisdiction, were unduly prejudicial and discriminatory against interstate consumers and that the additional gas supply required by the interstate market was in fact available in the intrastate market when it issued its Order Nos. 533 and 533–A on August 28 and November 10, 1975, respectively, in Docket No. RM75–25, which permitted limited deregulation of the interstate market so that interstate, high priority industrial end users

could bid against intrastate purchasers in the field for onshore gas at unregulated prices. In Order No. 533 the Commission stated:

"One of the main goals of our statement of policy is to make gas otherwise sold only in the intrastate market available to the interstate market." [1]

* * * * *

"Even if new supplies are not discovered, implementation of the policy statement should, by making intrastate gas available to the interstate market, help mitigate the serious effects that will follow from curtailment of customers who are peculiarly dependent upon natural gas." [2]

* * * * *

"Overall implementation of our policy statement will ration gas more efficiently between intrastate and interstate users." [3]

* * * * *

" * * * we believe that incremental supplies of gas over and above intrastate demands will be sold to interstate users and that there will be some diversion of natural gas available to the intrastate market." [4]

* * * * *

"This (suggested modification by one of those filing comments) would frustrate a major goal of our policy, namely, the inducement of sales to interstate consumers of gas which has otherwise been sold to the intrastate market." [5]

* * * * *

"Our purpose in adopting the instant policy statement was to encourage producers who would otherwise sell in the intrastate market to sell in the interstate market." [6]

The Commission reiterated this justification for its Order No. 533 deregulation policy in denying rehearing in Order No. 533–A:

"The main purpose underlying Order No. 533 is to allow distressed consumers an opportunity to utilize gas supplies that would ordinarily be sold intrastate." [7]

[1] Order No. 533 at 16.

[2] *Id.* at 18.

[3] *Id.*

[4] *Id.* at 19.

[5] *Id.* at 20.

[6] *Id.* at 25.

[7] Order No. 533–A at 8. The discrimination against the interstate market caused by the actions of producers in the unregulated, intrastate market was noted time and again in Congressional appearances by John N. Nassikas who was Chairman of the FPC when Order No. 533 was issued. *See, e.g.*, Hearings before House Subcomm. of the Comm. on Government Operations, June 12 and 26, 1975, at 238, 247, 254; Hearings before House Subcomm. on Oversight and Investigations of Comm. on Interstate and Foreign Commerce, September 25 and October 10, 1974, at 89–90; Hearings before Senate Comm. on Commerce, February 19 and 20, 1974 at 57; Hearings before Senate Comm. on Commerce, October 10, 11 and 24 1973, Part 1 at 177; Hearings before Senate Interior and Insular Affairs Comm., February 25, 29 and March 2, 1972, at 186–188. In this statement to Congress, contained in an FPC-issued document of July 14, 1975 entitled "Statement of John N. Nassikas, Chairman Federal Power Commission", which was made at a hearing before the House Subcommittee on Oversight and Investigations, the then Chairman declared:

"Gas supply for the interstate pipelines is deteriorating at an even faster pace largely because interstate pipelines are being outbid by intrastate buyers in competition for new gas supplies." (Hearings before Subcomm. on Oversight and Investigations of House Comm. on Interstate and Foreign Commerce, July 14, 1975, at 1029.)

As a result,

"* * * the intrastate market will receive the lion's share of new natural gas commitments, production will fall short of meeting the demands of the national market for gas, higher price gas supplements and substitute fuels will increase the price paid for energy by consumers, and dislocations in energy markets will adversely impact on our economy." (*Id.* at 1033.)

[8] Order No. 533 at 14.

[9] September 1976 Report on "Fuel Cost and Quality", released by FPC on January 14, 1977 at table 9.

In enacting the Emergency Natural Gas Act of 1977, which was utilized to permit purchases of onshore, intrastate gas by interstate pipelines at unregulated prices during this past winter, Congress also had to premise its action on the availability of already discovered and drilled for gas supplies in the intrastate market, not needed by Texas, Louisiana and Oklahoma high priority end users, which could be obtained on very short notice by interstate pipelines to serve feedstock and process interstate end users in desparate need of additional gas.

Hence, there is no question that significant amounts of readily accessible onshore gas exist which could substantially alleviate the critical interstate gas supplies shortage. However, the FPC steadfastly refused to take any action through *regulation* to obtain these onshore gas supplies, and, in fact, flatly declared in Order No. 533 that:

"We simply do not have the authority under the Gas Act to control intrastate rates or to allocate gas which is not transported or sold in interstate commerce." [8]

What has transpired since the FPC renounced its Natural Gas Act jurisdiction over the intrastate activities of "natural-gas company" producers which unduly discriminate against the interstate market (which jurisdiction is discussed in detail in Part III, *infra*) is that the gas gap between the two markets has widened even further, in spite of, or perhaps because of, the partial deregulation approved in Order No. 533 and the nearly tripling of the interstate price for new gas from 53¢ per Mcf to the present level of $1.47 per Mcf in Opinion Nos. 770 and 770–A, issued July 27 and November 5, 1976, respectively, in Docket No. RM 75–14. While the interstate market is unable to meet the requirements of even its existing, high priority feedstock and process industrial end users, electric generation plants in just the *three* gas producing states of Texas, Louisiana and Oklahoma consumed 204,242,200 Mcf of gas during the twelve month period ended June 30, 1977, according to Table 9 of the "June 1977 Report on Fuel Cost and Quality", released by FERC on November 1, 1977. That table also reveals that this boiler fuel usage constituted over 69 percent of the total gas burned for electric generation in all 48 continguous states during that period. Moreover, this 204,242,200 Mcf represents an increase of more than 25.1 million Mcf in electric generation boiler fuel use in the three main gas producing states over the 12 months ended September 1976.[9]

Regulation of the intrastate activities of "natural-gas company" producers discriminating against interstate consumers is therefore essential to end this imbalance in gas supply and in the end use of gas between the interstate and intrastate markets, which continues to cause grievous injury to the interstate market.

B

However, the shortage of natural gas being delivered to the interstate market has not resulted entirely from the diversion of onshore gas supplies to electric generators in the intrastate market for boiler fuel use. Part of the shortfall has also been caused by the producers' reservation of *offshore*, Federal domain gas, which is obtained from the Outer Continental Shelf and is owned by the interstate consumers as citizens of the United States. Without FPC approval, no producer could have retained any OCS gas for its own use or for direct sales to end users onshore in the states of Texas and Louisiana. This is because all gas from OCS leases is automatically in interstate commerce and can only be produced and disposed of after certification by the FPC. But the FPC had permitted reservations of OCS gas by producers for their own purposes, originally up to 20 percent of the total reserves under the "Chandeleur" doctrine, ostensibly as an "incentive" to produce gas from off-shore blocks,[10] and most recently up to all reserves requested for feedstock and process end uses in Opinion No. 789, issued March 7, 1977 in "Tenneco Oil Co., et al"., Docket Nos. CI75–45, *et al.*

As discussed in detail *infra*, this means that while interstate consumers have been suffering ever deepening curtailment, the producers have been authorized by the FPC to take OCS gas, which but for FPC acquiescence must be sold to pipelines in interstate commerce for resale, and use it onshore for boiler fuel use either directly or through displacement of intrastate gas. The magnitude of this reservation gas, both past and future, is shown in Appendix B to the "Supplemental Views of Representatives Moss, Moffett, Waxman, Van Deerlin, Maguire, Scheuer, Markey, and Ottinger", which is entitled "Natural Gas (Federal Domain) Reserved by Producers from Interstate Market",[11] and which is contained in House Committee on Interstate and Foreign Commerce, Report 95–496, Part IV, 95th Cong., 1st Sess. (July 1977) to accompany bill H.R. 6931 at page 376, as totalling more than four *trillion* cubic feet ("Tcf"). Since interstate firm curtailment from 1970 from March, 1977 was approximately 10.67 Tcf.[12] it is clear that terminating all reservations of gas by producers and requiring that this offshore Federal domain gas be delivered to interstate pipelines for resale would help to significantly reduce curtailment of interstate consumers.

There is yet one other action which FERC can undertake on an expedited basis to obtain additional gas supplies for the interstate market during this present winter. Almost all of the producers' contracts with the pipelines for flowing gas contain certain "take or pay" or other clauses setting forth the parties' belief as to what the minimum daily (or monthly or annual) delivery of gas should be from a particular block or acreage, and the pipelines' applications for certificates to attach these reserves also contain estimates of the gas to be produced and delivered each day. This is gas which has already been dedicated to the interstate market, and often is the lowest priced gas. The producers have opposed placing minimum delivery requirements in certificates for new gas to be issued by the Commission in the future in Docket No. RM76–8, in which the FPC first in Order Nos. 539 and 539–A, issued October 14, 1975 and March 26, 1976, respectively, did impose such an obligation, and then later withdrew this delivery requirement in Order No. 539–B, issued on July 30, 1976, and opted instead for

[10] Chandeleur Pipe Line Co., 44 F.P.C. 1747 (1970), *rehearing denied*, 45 F.P.C. 370 (1971), *aff'd. sub. nom.*, Public Service Comm'n of *New York* v. *FPC*, 149 U.S. App. D.C. 421, 463 F.2d 824 (1972).

[11] A copy of this Appendix B is attached to this petition.

[12] *See* page 4, *supra*.

a so-called "prudent operator" standard. Petitioners will discuss later the reasons why the "prudent operator" standard is insufficient, and, in fact, meaningless, but suffice it to underscore here that the "additional" gas supply to be obtained through a minimum daily delivery requirement is gas which has already been dedicated to the interstate market, and therefore such a requirement would merely increase the deliveries of the producers to the levels anticipated by the parties at the time the certificates were originally issued. It is quite clear that there are substantial volumes of gas which have been certified as dedicated to interstate pipelines, but which are not being delivered by the producers. The Commission should set forth a clear mandatory policy that producers shall deliver to interstate pipelines all of the volumes of natural gas under their existing contracts with the pipelines "up to the volumes specifically set forth in the certificate proceedings of record at the Commission" or file a petition requesting relief therefrom and the grounds therefor.

D

Finally, the Commission should reconsider the $1.42 per Mcf new gas base rate with 1¢ per quarter escalations approved in Opinion No. 770–A, which was set at the then-existing, unregulated intrastate price level (such level having since risen because the $1.42 rate merely became the floor for intrastate purchasers to bid above) on the premise that the FPC had no jurisdiction over the intrastate market activities of "natural-gas company" producers, so setting the "regulated" price at the unregulated intrastate level was required for the interstate pipelines to be able to bid against intrastate purchasers for onshore gas.[13] The FPC held in Opinion No. 770–A that:

"APGA advances the additional argument that the Commission should undertake to regulate the intrastate activities of jurisdictional natural gas companies. The Commission does not have statutory authority to do so." [14]

* * * * *

"In short, the Commission has no jurisdiction to remedy discrimination caused by rates for natural gas sold in the intrastate markets by regulating the intrastate rates." [15]

The largest portion of the exorbitant noncost add-on required to raise the 52¢ per Mcf pre-existing new gas rate to $1.42 per Mcf is comprised of the 43.05¢ per Mcf Federal income tax allowance, that was approved by the Commission solely on the basis of a hypothetical model, which totally without basis views each well in a vacuum during its production years, which assumes that no new drilling will be undertaken by the producer in the future, and which completely ignores the facts of the consolidated tax returns filed by the producers and the actual taxes paid in the returns.[16] No rational basis, let alone the "substanital evidence" required by Section 19(b) of the Natural Gas Act, 15 U.S.C. 717r(b), exists to support this exorbitant tax component that accounts for almost 48 percent of the increase in the new gas rate permitted in Opinion No. 770–A. It was simply the filler needed to reach the then-existing intrastate price level.

E

FERC is a new, independent Federal regulatory agency, and, as such, it is entitled to take a fresh look at each of the policies and decisions of the other agencies with whose powers it has now been endowed that have proven to be failures. This Commission has already recognized its authority and its duty to reexamine the positions taken by its predecessors in its October 20, 1977 "Order Directing Solicitor to Seek Remand of Record", issued in "Williams Pipe Line Company", Docket No. OR78–3, where in a decision of the Interstate Commerce Commission ("ICC") involving oil pipeline rates, a function transferred to FERC by the Department of Energy Organization Act,[17] is now pending before the United States Court of Appeals for the District of Columbia Circuit for judicial review. FERC stated in that Order that it would not automatically defend the actions of the ICC in the court of appeals, and, therefore,

"We have reluctantly concluded that we cannot, without a full review of this matter, adopt the opinions of the ICC and the brief that its attorneys have prepared for filing in the Court of Appeals. We are compelled, therefore, to direct the Solicitor to seek a remand of the record, so that we might consider this matter and be free to issue any subsequent orders." [18]

Then, on October 26, 1977, the Commission issued FERC Opinion No. 1 in "Texas Gas Transmission Corporation, et al.", Docket Nos. CP75–295, *et al.*, in which FERC, as a new independent regulatory agency, reversed in its entirety an earlier order of the FPC, that, *inter alia*, had sanctioned a producer's diversion of gas to an intrastate purchaser, which had been sold to an interstate pipeline, without requiring Commission abandonment approval as mandated by Section 7(b) of the Natural Gas Act, 15 U.S.C. 717f (b). Opinion No. 1 demonstrates both FERC's desire to give fresh, independent and expedited consideration to important policy and jurisdictional matters and its determination to assure that producers do not withhold desperately needed gas supplies from the interstate market. This same expedited and independent consideration of the issues raised in this petition for a declaratory order is likewise imperative in order to afford relief to interstate consumers during the 1977–1978 winter and beyond.

F

As noted above, the question of reservation of offshore gas by certain producers is before the Commission on rehearing of FPC Opinion No. 789, but that proceeding will only result in those particular producers being forbidden to reserve gas. That case does not involve the necessity to amend at one time all existing producer certificates permitting the reservation of gas to forbid such reservation since this allowance does not comport with the present or future public convenience and necessity. Such affirmative action by FERC is essential in the instant proceeding.

Furthermore, although the question of regulation of the intrastate activities of "natural-gas company" producers to the extent necessary to eliminate undue discrimination against the gas supply and rates of interstate consumers was addressed by the FPC in Opinion No. 770–A, that predecessor Commission's erroneous legal interpretation of its jurisdiction and responsibility under both the Natural Gas Act and the Commerce Clause of Article I, Section 8 of the United States Constitution in that opinion was not argued to the D.C. Circuit on appeal. This same issue was raised by the American Public Gas Association and the Commission Federation of America in the Order No. 533 proceeding before the FPC but that Commission gave it only tangential treatment in Order No. 533. On appeal before the D.C. Circuit in "American Public Gas Association, et al. v. FPC," No. 75–2105, this issue was presented by these two petitioners; however, the FPC's position before the D.C. Circuit, as presented in the brief of the Solicitor of that agency, is that "the challenged orders [i.e., Order Nos. 533 and 533–A] are not reviewable." [19]

If FERC has adopted the FPC's position regarding the reviewability of Order Nos. 533 and 533–A by the court of appeals, then it must believe that the intrastate regulation issue is not before the D.C. Circuit; hence, FERC is free to consider that issue anew. On the other hand, if FERC considers Order Nos. 533 and 533–A to be properly before the D.C. Circuit for review, then it still may reconsider this question of law, just as the FPC discussed this same intrastate jurisdictional issue in Opinion No. 770–A even though that issue was already before the D.C. Circuit on review of Order Nos. 533 and 533–A.[20]

Finally, although the issue of a minimum daily delivery requirement was before the FPC in Docket No. RM76–8, in Order No. 539–B, i.e., that agency's final order in the RM76–8 proceeding, the FPC limited that rulemaking's applicability to certificates issued to producers after the issuance of that order on July 30, 1976, whereas Petitioners are here seeking the enforcement of minimum delivery requirements for flowing gas, for which certificates have already been issued.

Hence, each of the issues raised by Petitioners is properly before the Commission in this proceeding, and as the cold of winter rapidly approaches, every effort should be made by FERC to determine these issues as quickly as possible to avoid irreparable injury to interstate consumers.

II.—All Producer Certificates for OCS Gas Permitting Reservation of Any Portion of That Gas for the Producers' Own Use or for Direct Sale Onshore Are Contrary to the Public Convenience and Necessity, and, Consequently, They Must be Amended To Require All OCS Gas To Be Sold to Interstate Pipelines for Resale

As discussed, *supra*, reservation of offshore Federal domain gas by producers already exceeds 4 Tcf, and with pending applications for as much as 100 percent reservations by producers and with the FPC's encouragement in Opinion No. 789, from which Commissioner Smith dissented, the diversion of OCS gas to the intrastate market will continue to increase at an alarming rate.

As a matter of law, the Natural Gas Act requires that all natural gas from the Outer Continental Shelf, i.e., the offshore Federal domain, be sold only to interstate pipelines for resale, especially when the interstate pipelines and the interstate consumers they serve do not have an adequate supply of gas

[13] Even this self-defeating, and unlawful rationale does not explain why the rate for offshore gas, which must be sold interstate, was set at the unregulated intrastate price level.

[14] Mimeo. at 173.

[15] *Id.* at 179.

[16] Since the FPC used this same unsupportable hypothetical tax model to arrive at the bloated Federal income tax component in the 93¢ per Mcf, 1973–1974 vintage base rate in Opinion No. 770–A, and made other errors, such as in the use of the totally discredited, unverified, untested and self-serving American Gas Association reserves figures in computing the 1973–1974 rate, which were also contained in the calculation of the $1.42 per Mcf new gas base rate, this 93¢ per Mcf base rate must also be reexamined and reduced in this proceeding.

[17] 91 Stat. 584 (August 4, 1977).

[18] Mimeo. at 1–2.

[19] Brief of Respondent Federal Power Commission, CADC No. 75–2105 (December 10, 1976) at 12.

[20] At the very least FERC can order the Solicitor to seek remand of the record from the D.C. Circuit in 75–2105 for the limited purpose of reviewing this intrastate regulation issue, as it has in "Williams Pipe Line Company", Docket No. OR78–3, discussed *supra*.

and are experiencing substantial curtailment at the hands of natural gas producers. Conversely, the Act forbids these producers, which are "natural-gas companies" subject to Commission regulation, from diverting any OCS gas from the interstate resale market for their own use or for "direct sales" to end users, thereby escaping FPC rate regulation and transforming interstate gas into intrastate gas through displacement.

Not only does permitting reservations by producers of up to 100 percent of their OCS reserves so long as the gas is used for "feedstock" and "process" uses constitute yet another attempt to administratively deregulate the price of interstate natural gas supplies but it also will result in a decrease in the gas supply of interstate consumers by permitting diversion of OCS gas (which must be sold to the interstate market) to the intrastate market. Hence, the allowance of producer reservations fails both prongs of the test set forth by the United State Supreme Court in its "CATCO" [21] and "Permian" [22] decisions that the Commisison's actions under the Natural Gas Act must help assure interstate consumers "[1] the lowest possible reasonable rate [2] consistent with the maintenance of adequate service."

In Order No. 533, issued August 28, 1975, in Docket No. RM75-25, the FPC, on grounds of expedience, permitted high priority end users in the interstate market to contract for gas in the unregulated intrastate market under the guise that such sales were "direct sales" (and hence exempt from "sale for resale" rate jurisdiction under the Natural Gas Act). Assuming *arguendo* that Order No. 533 is not unlawful,[23] it is clear that producer reservations and direct sales of offshore gas may not be permitted since the policy and legal grounds which arguably support Order No. 533 themselves require rejection of such diversions of gas from the interstate market.

First, Order No. 533 permitted only *onshore* gas to be sold directly to industrial end users on the theory that otherwise the onshore gas would be sold to the unregulated intrastate market and allowing deregulation of onshore direct sales would obtain addi- As the Commission held in Order No. 533 in tional gas supplies for interstate consumers. rejecting requests that the scope of that order be expanded to include direct sales of OCS gas at unregulated prices,

"One of the main goals of our policy is to increase supplies available to the interstate market from the unregulated intrastate market. Since gas produced in the off-shore federal domain is already available to the interstate market, we feel it is unnecessary to include the off-shore federal domain within the scope of this policy to achieve our goal." [24]

However, the end result of producer reservations is to *reduce* the amount of gas being dedicated to the interstate market. "Since gas produced in the offshore federal domain is already available [and in fact must be sold] to the interstate market," [25] permitting the diversion of OCS gas from the interstate market to the intrastate market, rather than *vice versa*, at a time when, as shown *supra*, curtailment in the interstate market is at an all-time and ever-increasing high, is not only counter-productive but is completely at odds with the Commission's dual statutory duty to protect the gas supply and pocketbooks of interstate consumers.[26]

In light of FERC's position, evidenced in Opinion No. 1 in "Texas Gas Transmission Corporation," *supra*, to not permit *onshore* gas to be improperly diverted from the interstate market to intrastate purchasers, it is an *a fortiori* proposition that no offshore Federal domain gas is to be permitted to find its way, either directly or through displacement, into the intrastate market. That producers' attempts at such diversions are widespread is further documented by the two most recent Initial Decisions of Administrative Law Judge Zimmet in "Atlantic Richfield Company," *et al.*, Docket Nos. CI75-201, *et al.*, and "J. G. Stone," *et al.*, Docket No. CI75-277 (Show Cause), issued on October 27, 1977.

Even the ill-conceived "Chandeleur" doctrine, *supra*, which the FPC properly laid to rest in Opinion No. 789,[27] was based on the hope that an incentive for exploration for and development of natural gas for the interstate market would result from permitting the reservation of certain gas by a producer for its own use,[28] as opposed to the unexplainable attempt by the FPC, in permitting reservations by producers of an unlimited percent of their gas reserves in Opinion No. 789, to reduce the reserves available for the interstate market from OCS leases at a time of unprecedented interstate curtailments. The FPC's steadfast refusal to exercise its statutory power and duty under Sections 1(a) and 1(b) of the Natural Gas Act to allocate the intrastate gas supplies of "natural-gas company" producers nationwide in order to eliminate the discrimintaion against the interstate market caused by the intrastate activities of these producers, coupled with its allocation of the OCS gas reserves of heavily curtailed interstate consumers to the gas-rich intrastate market is simply indefensible. In Opinion No. 789, the FPC spoke as though it were the protector of the intrastate market. It saw the issues as "whether we should seek to impose new, essential industrial uses of natural gas upon the *intrastate* market," [29] when the issue is why should the interstate market, which is suffering such deep curtailment, be imposed upon to provide gas for new intrastate end users.

Second, "direct sales" under Order No. 533 can be made only to existing industrial end users,[30] while Opinion No. 789 authorizes use by the producers (and their subsidiaries and affiliates) and "direct sales" to industrial end users for new plants and expansion of existing facilities located in the intrastate market.

Third, the Order No. 533 "direct sales" of onshore gas are limited to the amount of gas that the existing interstate industrial end user is actually being curtailed by its pipeline and distributor suppliers.[31] In contrast, those obtaining OCS gas under Opinion No. 789-type reservations may use it in yet-to-be-constructed plants which will be equipped (although they do not need to be) to burn only gas for their so-called "process" and "feedstock" end uses, while existing interstate end users who have a legitimate expectation of gas supplies from the interstate market go without.

Fourth, Order No. 533 gas "shall not be used directly or indirectly to supply uses other than the high priority uses" [32] of feedstock and process "for which there exists no alternate fuel capabilities, as defined in 18 CFR 2.78(c)(10)." [33] But the producer or the direct sale industrial customer receiving gas under a reservation clause can, through displacement, indirectly supply boiler fuel and other low priority uses. This points up another major fallacy of the gas reservation concept as developed in Opinion No. 789. Ostensibly, the reservation gas will be used for feedstock and process end uses. However, since virtually all of the certificated reservation gas is consumed in Louisiana and Texas, i.e., two of the states with the largest production of intrastate gas the reservation gas can be used to free intrastate supplies for boiler fuel usage.

The FPC held in Opinion No. 789 that "[t]he substance of the transactions is material, not the form," [34] and "the substance of permitting OCS, interstate gas to be used for onshore, intrastate end uses is to have that gas through displacement actually be consumed as intrastate boiler fuel". For example, if an existing direct industrial customer in Louisiana historically purchased intrastate gas to meet its process and feedstock uses, now it will receive OCS gas to meet those requirements, thus freeing the intrastate gas previously used for feedstock and process purposes to be sold instead to another intrastate end user for boiler fuel.[35]

In light of the statistics on interstate and intrastate gas supplies and end use presented in Part I, *supra*, it is simply impossible to understand how the FPC could have concluded in Opinion No. 789 that there will not continue to exist adequate supplies available in the intrastate market to satisfy the intrastate market's new and expanded high priority needs and that these needs should instead be met with interstate gas.[36] Moreover, the basis for the FPC's following conclusion in Opinion No. 789 is also unfathomable:

"We also recognize that continued deterioration of natural gas supplies may some day dictate that offshore Federal domain supplies be reserved for sale to interstate pipelines for resale. However, the record before us coupled with our knowledge of curtailment levels, and dwindling supply trends is not sufficient to require now the denial of this gas for direct purchase or utilization for process and feedstock purposes." [37]

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[21] "Atlantic Refining Co. v. Public Service Commission of New York," 360 U.S. 378, 388 (1959).

[22] Permian Basin Area Rate Cases, 390 U.S. 747, 792-93 (1968).

[23] The American Public Gas Association and the Consumer Federation of America have appealed Order No. 533 to the D.C. Circuit in "American Public Gas Association, et al. v. FPC," No. 75-2105.

[24] Order No. 533 at 21.

[25] *Id.*

[26] *See* Opinion No. 789, Commissioner Smith dissenting, at 5.

[27] Opinion No. 789 at 24.

[28] *See* Public Service Commission of New York v. FPC, 149 U.S. App. D.C. 421, 463 F.2d 824 (1972).

[29] Opinion No. 789 at 23 (emphasis supplied).

[30] Order No. 533 at 29, 34.

[31] *Id.* at 29-30, 34.

[32] *Id.* at 34.

[33] *Id.* at 33.

[34] Opinion No. 789 at 12.

[35] Assuming *arguendo* that any reservation or "direct sale" of OCS gas is to be permitted, then at the very least the Commission must limit the quantity of interstate gas to the incremental amount necessary to meet *existing* process and feedstock requirements not able to be met by intrastate supplies. This will assure that minimal displacement takes place and that all intrastate supplies (if these supplies were allocated to such uses on a priority basis) are consumed first by the industrial end user. Also, this will eliminate the possibility of an end user transferring the intrastate gas previously used in one of its plants (now replaced by OCS gas) for process and feedstock uses to another of its facilities for use as boiler fuel. These loopholes permitted in Opinion No. 789 were noted by Commissioner Smith in his dissent to that opinion. *See* Opinion No. 789, Commissioner Smith dissenting, at 4.

[36] Opinion No. 789 at 22-23.

[37] *Id.* at 23.

Petitioners are unable to comprehend how much more acute the interstate gas supply situation must become before the interstate consumers are entitled to receive 100 percent of their own OCS gas, and we submit that FERC must immediately declare null and void all reservation clauses in producers' certificates and rule that all offshore gas, both flowing and new, must be delivered solely to the interstate pipelines for resale at regulated rates.

Petitioners would also note that reservation clauses and "direct sale" contracts for disposing of OCS gas are *per se* unlawful because they permit producers to escape the Commission's rate jurisdiction through the transformation of OCS, interstate resale gas into intrastate gas by displacement by elevating form over substance. The gas still flows from producer to pipeline (to, in some cases, a distributor) to end user, but instead of contracts for sales for resale between the producer and the pipeline, and the pipeline and (the distributor and) the end user, the words are changed to reflect a direct sale by the producer to the end user or a reservation of the gas by the producer for its own use with transportation agreements between the end user and its pipeline (and distributor) suppliers.

It should first be emphasized that the United States Supreme Court and all courts of appeals which have addressed the question have unanimously concluded that the price of gas set in the "inherently uncompetitive" intrastate market is *per se* not "just and reasonable" as required by the Natural Gas Act.[38] Thus, no OCS gas may lawfully be sold, either directly or through displacement, at rates above the interstate wellhead price level set by the Commission; consequently, all of the sham "direct sale" and reservation arrangements, such as those approved in Opinion No. 789, concocted to escape the Commission's rate regulation over OCS gas are also *per se* unlawful.

In addition, producer reservations and "direct sales" of OCS gas are contrary to the decisions of the Supreme Court in "Federal Power Commission v. Transcontinental Gas Pipe Line Corp." [39] and the D.C. Circuit in "Arizona Public Service Co. v. FPC," [40] both of which affirmed FPC denials of transportation certificates for direct sales by producers at unregulated prices.

In the Arizona Public Service ("APS") case, APS agreed to pay Coastal States Gas Producing Company, an intrastate customer to which Forest Oil Corporation had committed 50 billion cubic feet of gas, over $5.3 million to release its commitment so that APS could purchase the gas directly from Forest. APS also contracted with Forest to purchase the gas for 29.03¢ per Mcf, which was in excess of the applicable area rate, and with El Paso Natural Gas Company to transport the gas for 21.8¢ per Mcf.[41] In rejecting El Paso's transportation certificate application, the FPC made it clear that the truly dominant factor in its decision was its conclusion that the allowance of such direct sales at unregulated prices above the just and reasonable rate would only result in producers refusing to commit their gas to the general interstate market for resale customers:

"The difference in price is simply a measure of the effectiveness of the proposed sale and others like it in encouraging producers to withhold their gas from the interstate market.

"Were El Paso's application granted, a large quantity of a wasting resource would be sold at a price higher than presently available to a seller serving the interstate market. Approval of proposals such as this would inevitably result in a scramble by large natural gas users to tie up ever-dwindling gas reserves in the field, to the detriment of those customers dependent on regulated pipelines for their supply." [42]

Unlike the OCS gas, which must be sold interstate for resale but for the FPC's allowance of unregulated sales and use of this gas in the intrastate market, the gas in question in *APS* was onshore gas, previously committed to an intrastate customer. Hence, there was not much doubt that if the FPC denied El Paso and APS a certificate, this particular supply of gas would be lost to all interstate consumers and would be sold intrastate:

"We are mindful of the fact that El Paso cannot provide additional gas in the quantities required by APS because of a continuing shortage, and that the Forest gas may remain committed to the Texas intrastate market if this application is refused." [43]

But the FPC also recognized in the *APS* case that to issue a certificate for a direct sale to a large customer would have had a detrimental effect on the price and supply of the smaller, less wealthy jurisdictional resale customers:

"Notwithstanding these considerations, *we are of the opinion that approval of the application would result in an incentive for producers to hold their gas off the interstate market with the objective of packaging it for sale at higher prices. This would, of course, have an adverse effect upon both the price and amount of gas available for the interstate market, to which millions of small gas consumers must necessarily look.* While APS has the financial resources to bid successfully for natural gas, other consumers whom we must protect lack the resources to engage in the bidding process. The public interest is not served by encouragement of the APS—Forest—El Paso approach." [44]

The favoritism toward the large, well-financed industrial customer, which was deplored in *APS* and sanctioned in Opinion No. 789, constitutes an undue preference or advantage and subjects all of the interstate resale consumers to undue prejudice and disadvantage in violation of Section 4(b) of the Natural Gas Act. It is truly ironic that the Natural Gas Act, which granted the Commission the maximum jurisdiction over interstate sales for resale because "wholesale distributors and their customers had little economic clout with which to obtain equitable prices from the pipelines," [45] should have been distorted by the FPC majority in Opinion No. 789 in such a manner that the resale customers have become the victims of discrimination caused by the FPC's attempt in that opinion to approve as many types of sham transactions as possible to deregulate OCS gas.

The "direct sale" or reservation-transportation agreement ploy must also fail because once the interstate pipeline company which is to transport this offshore, interstate gas to the industrial customer places such gas in its pipeline together with the gas destined for resale customers, all of the gas is treated as resale gas under the commingling doctrine of "California v. Lo-Vaca Gathering Co.",[46] and all of the gas is subject to the Commission's full ratemaking jurisdiction. "Lo-Vaca" involved a separately metered, direct sale of gas. In the transportation of this gas, it was commingled with resale gas. The FPC asserted jurisdiction over all of the gas as sales for resale. The Supreme Court affirmed the Commission's action and offered the following justification for its holding:

"The fact that a substantial part of the gas will be resold, in our view, invokes federal jurisdiction at the outset over the entire transaction. *Were suppliers of gas and pipeline companies free to allocate by contract gas from a particular source to a particular use, havoc would be raised with the federal regulatory scheme, as it was construed and applied in Phillips Petroleum Co. v. Wisconsin, 347 U.S. 672. A pipeline would then be able to discriminate in favor of its 'non-jurisdictional' customers. Moreover, a pipeline company by a contract clause would immunize a particular supplier from the reach of federal regulation* [2] as defined by Phillips Petroleum Co. v. Wisconsin, supra. There would be created in those and in other ways an 'attractive gap' in the federal regulatory scheme. * * *

[2] The Commission's Report, Statistics of Natural Gas Companies—1962, shows that the 40 major natural gas pipeline companies consumed more than $85,000,000 worth of gas in operating their facilities (principally compressor stations), p. xviii. This represents almost 4% of the total gas-purchase-costs of those companies. *The Commission therefore points out in its brief that pipeline companies, merely by using 'restricted use' controls, could without changing their actual operations create a substantial unregulated market for the benefit of particular producers.*" [47]

In Opinion No. 789 it is the FPC which has attempted to "immunize a particular supplier from the reach of federal regulation" by endorsing a sham transaction in which the form of a contractual relationship would control the substance of the actual effect of the sale and transportation so as to circumvent the Commission's rate regulation jurisdiction under the Natural Gas Act.

It is true that the Supreme Court noted in one sentence in *Lo-Vaca* that:

"Whether cases could be conjured up where in spite of original commingling there might be a separate so-called nonjurisdictional transaction of a precise amount of gas not-for-resale within the meaning of the Act is a question we need not reach." [48]

However, while Petitioners would agree that the reservation and "direct sale" transactions endorsed by the FPC in Opinion No. 789 fit into the category of "conjured up", it is clear that the Supreme Court in *Lo-Vaca* meant to include within its commingling doctrine the type of ploy employed in Opinion No. 789, whereby contract language is devised which does not reflect the reality of the gas flow. In *Lo-Vaca*, El Paso Natural Gas Company attempted to insulate from the FPC's rate jurisdiction a particular purchase

[38] *See, e.g.*, Federal Power Commission v. Texaco Inc., 417 U.S. 380, 397–99 (1974); Consumer Federation of America v. FPC, 169 U.S. App. D.C. 116, 515 F.2d 347, 357, *cert. denied*, 423 U.S. 906 (1975); MacDonald v FPC, 164 U.S. App. D.C. 248, 505 F.2d 355, 363–64 (1974), *cert. denied sub nom.*, George Mitchell and Associates, Inc. v. MacDonald, 421 U.S. 912 (1975); Shell Oil Co. v. FPC, 520 F.2d 1061, 1083–84 (5th Cir. 1975), *cert. denied sub nom.*, California Co. v. FPC, 426 U.S. 941 (1976).

[39] 365 U.S. 1 (1961).

[40] 157 U.S. App. D.C. 272, 483 F.2d 1275 (1973).

[41] El Paso Natural Gas Co., 47 F.P.C. 896, 897, *reh'g denied*, 47 F.P.C. 1318 (1972), *aff'd sub nom.*, Arizona Public Service Co. v. FPC, 157 U.S. App. D.C. 272, 483 F.2d 1275 (1973).

[42] *Id.* at 898–99.

[43] *Id.* at 899.

[44] *Id.* (emphasis supplied); *accord*, Panhandle Eastern Pipe Line Co. v. FPC, 232 F.2d 467, 471–73 (3d Cir. 1956).

[45] Federal Power Commission v. Louisiana Power & Light Co., 406 U.S. 621, 639 (1972).

[46] 379 U.S. 366 (1965).

[47] *Id.* at 369–370 (emphasis supplied).

[48] *Id.* at 370 (footnote omitted).

of gas from Lo-Vaca through contract language declaring that this gas was the gas which El Paso would use in its own facilities and because it constituted a direct sale "the sale of natural gas hereof is not subject to the jurisdiction of the Federal Power Commission because this sale is not for resale." [49] This is precisely what the FPC itself attempted to do through the "direct sale" and reservation transportation transactions approved in Opinion No. 789. But the Supreme Court explicitly held in *Lo-Vaca* that the form of the contract would be permitted to control the extent of the FPC's jurisdiction:

"[W]e conclude that when it comes to the question what gas is for 'resale' the present contracts should not be able to change the jurisdictional result." [50]

III.—THE COMMISSION HAS BEEN GRANTED THE AUTHORITY AND THE DUTY UNDER THE NATURAL GAS ACT AND THE COMMERCE CLAUSE OF THE UNITED STATES CONSTITUTION TO REGULATE THE INTERSTATE ACTIVITIES OF "NATURAL GAS COMPANIES" TO THE EXTENT NECESSARY TO ELIMINATE THE UNDUE DISCRIMINATION AND INJURY CAUSED BY THESE ACTIVITIES AGAINST INTERSTATE CONSUMERS

Petitioners have already shown in Part I *supra*, that there is no question that the activities of "natural-gas company" producers in the intrastate market have caused grave injury to the gas supply and rates of interstate consumers. The issue is simply whether FERC is helpless to "protect consumers against exploitation at the hands of natural gas companies",[51] or whether this Commission has the Constitutional and statutory authority and duty to eliminate all unduly discriminatory actions, interstate or intrastate, perpetrated by "natural-gas company" producers Petitioners demonstrate below that FERC does have ample jurisdiction to terminate all such actions.

A

Under The Constitution, The Law Was Clearly Established Prior To Enactment Of The Natural Gas Act In 1938 That Congress Had Authority To Prevent Discrimination Against Interstate Commerce By Intrastate Activities Of "Natural-Gas Companies" And That State Laws So Discriminating Were Void, Even In The Absence Of Any Congressional Legislation.

The Commerce Clause of Article I, Section 8 of the United States Constitution grants to Congress the exclusive power "To regulate commerce * * * among the several states" and "To make all laws which shall be necessary and proper for carrying into Execution" this power to regulate interstate commerce. In addition, the Supremacy Clause of Article VI, para. 2 of the Constitution makes "This Constitution and the Laws of the United States (including the Natural Gas Act) * * * the supreme Law of the Land."

The United States Supreme Court held in the landmark "Shreveport Case", "Houston East and West Texas Ry. Co. v. United States," [52] that agencies established by Congress to oversee portions of interstate commerce are impliedly and inherently delegated the Congress' Constitutional power to take whatever actions are necessary to assure that interstate commerce is not discriminated against or interfered with in any way, including the right to regulate intrastate rates where necessary. In "Shreveport", the Interstate Commerce Commission ("ICC") had approved certain rates as reasonable for railroads transporting goods between Dallas and other points in Texas and Shreveport, Louisiana. The Railroad Commission of Texas established intrastate rates for service from Dallas and other points in eastern Texas which were much lower than the ICC's rates. The ICC found that this differential in rates resulted in unlawful discrimination against interstate commerce and the City of Shreveport. Since it had already found that the interstate rates were reasonable, the ICC raised the intrastate rates, which had been approved by the state commission, to the interstate rates level rather than tailoring the interstate rates to be competitive with the Texas rates.[53]

The following objections to the ICC's decision were raised before the Supreme Court:

"The point of the objection to the order is that, as the discrimination found by the Commission to be unjust arises out of the relation of intrastate rates, maintained under state authority, to interstate rates that have been upheld as reasonable, its correction was beyond the Commission's power." [54]

* * * * *

"(1) That Congress is impotent to control the intrastate charges of an interstate carrier even to the extent necessary to prevent injurious discrimination against interstate traffic; and

"(2) That, if it be assumed that Congress had this power, still it has not been exercised, and hence the action of the Commission exceeded the limits of the authority which has been conferred upon it." [55]

It affirming the ICC's order, the Supreme Court initially upheld the power of Congress under the Constitution to control intrastate activities of interstate carriers if they discriminated in any way against interstate commerce:

"First. It is unnecessary to repeat what has frequently been said by this court with respect to the complete and paramount character of the power confided to Congress to regulate commerce among the several states. It is of the essence of this power that, where it exists, it dominates. Interstate trade was not left to be destroyed or impeded by the rivalries of local government." [56]

* * * * *

"As it is competent for Congress to legislate to these ends, unquestionably it may seek their attainment by requiring that the agencies of interstate commerce shall not be used in such manner as to cripple, retard, or destroy it. *The fact that carriers are instruments of intrastate commerce, as well as of interstate commerce, does not derogate from the complete and paramount authority of Congress over the latter, or preclude the Federal power from being exerted to prevent the intrastate operations of such carriers from being made a means of injury to that which has been confided to Federal care.* Wherever the interstate and intrastate transactions of carriers are so related that the government of the one involves the control of the other, it is Congress, and not the state, that is entitled to prescribe the final and dominant rule, for otherwise Congress would be denied the exercise of its constitutional authority, and the state, and not the nation, would be supreme within the national field." (Cites omitted.) [57]

* * * * *

"* * * Congress in the exercise of its paramount power, may prevent the common instrumentalities of interstate and intrastate commercial intercourse from being used in their intrastate operations to the injury of interstate commerce. This is not to say that Congress possesses the authority to regulate the internal commerce of a state, as such, but that *it does possess the power to foster and protect interstate commerce, and to take all measures necessary or appropriate to that end, although intrastate transactions of interstate carriers may thereby be controlled.*" [58]

* * * * *

"It is immaterial, so far as the protecting power of Congress is concerned, that the discrimination arises from intrastate rates as compared with interstate rates. The use of the instrument of interstate commerce in a discriminatory manner so as to inflict injury upon that commerce, or some part thereof, furnishes abundant ground for Federal intervention. Nor can the attempted exercise of state authority alter the matter, where Congress has acted, for a state may not authorize the carrier to do that which Congress is entitled to forbid and has forbidden." [59]

* * * * *

"It is for the Congress to supply the needed correction where the relation between intrastate and interstate rates presents the evil to be corrected, and this it may do completely, by reason of its control over the interstate carrier in all matters having such a close and substantial relation to interstate commerce that it is necessary or appropriate to exercise the control for the effective government of that commerce.

"It is also clear that, in removing the injurious discriminations against interstate traffic arising from the relation of intrastate to interstate rates, Congress is not bound to reduce the latter below what it may deem to be a proper standard, fair to the carrier and to the public. Otherwise, it could prevent the injury to interstate commerce only by the sacrifice of its judgment as to interstate rates. Congress is entitled to maintain its own standard as to these rates, and to forbid any discriminatory action by interstate carriers which will obstruct the freedom of movement of interstate traffic over their lines in accordance with the terms it establishes.

"Having this power, Congress could provide for its execution through the aid of a subordinate body; and we conclude that the order of the Commission now in question cannot be held invalid upon the ground that it exceeded the authority which Congress could lawfully confer." [60]

In another landmark case, the Supreme Court early ruled that the Constitution barred a state law prohibiting producers located therein from transporting gas in interstate commerce. The case of "Pennsylvania v. West Virginia" [61] involved gas which was produced in West Virginia and transported by pipelines for sale intrastate in West Virginia and interstate in Pennsylvania and Ohio. When the demand for gas began to exceed supply, the West Virginia legislature enacted a law which ordered all pipeline companies to satisfy the requirements of all old and new customers in West Virginia before any gas could be transported to consumers in other states.[62] Pennsylvania and Ohio claimed that if the West Virginia producers fulfilled all of the needs of the intrastate market before selling any gas interstate,

"(a) it will imperil the health and comfort of thousands of their people who use the gas in their homes and are largely dependent thereon, and (b) will halt or curtail many industries which seasonally use great quan-

[49] *Id.* at 367.
[50] *Id.* at 369.
[51] Federal Power Commission v. Hope Natural Gas Company, 320 U.S. 591, 610 (1944).
[52] 234 U.S. 342 (1914).
[53] *Id.* at 345–49.
[54] *Id.* at 349.
[55] *Id.* at 350.
[56] *Id.*
[57] *Id.* at 351–52 (emphasis supplied.)
[58] *Id.* at 353 (emphasis supplied).
[59] *Id.* at 354 (emphasis supplied).
[60] *Id.* at 355 (emphasis supplied).
[61] 262 U.S. 553 (1923).
[62] *Id.* at 582–85, 593.

tities of the gas and wherein thousands of persons are employed and millions of taxable wealth are invested." [63]

The Supreme Court struck down the law as a violation of the Commerce Clause of the U.S. Constitution which expressly commits to Congress the exclusive power to regulate and protect interstate commerce.[64] The Supreme Court's opinion is filled with concern over the concept that what is produced in a state belongs to that state or at least gives a preference to that state's populace in its consumption:

"Another consideration advanced to the same end is that the gas is a natural product of the state and has become a necessity therein, that the supply is waning and no longer sufficient to satisfy local needs and be used abroad, and that the act is therefore a legitimate measure of conservation in the interest of the people of the state." [65]

The decision specifically rejects any such notion by adopting language of the Court in "West v. Kansas Natural Gas Co.": [66]

"The results of the contention repel its acceptance. Gas, when reduced to possession, is a commodity; it belongs to the owner of the land, and, when reduced to possession, is his individual property subject of sale by him, and may be a subject of intrastate commerce and interstate commerce. The statute of Oklahoma recognizes it to be a subject to intrastate commerce, but seeks to prohibit it from being the subject of interstate commerce, and this is the purpose of its conservation. In other words, the purpose of its conservation is in a sense commercial—the business welfare of the state, as coal might be, or timber. Both of those products may be limited in amount and the same consideration of the public welfare which would confine gas to the use of the inhabitants of a state would confine them to the inhabitants of the state. If the states have such power a singular situation might result. Pennsylvania might keep its coal, the Northwest its timber, the mining states their minerals. And why may not the products of the field be brought within the principle? Thus enlarged, or without that enlargement, its influence on interstate commerce need not be pointed out. To what consequences does such power tend? If one state has it, all states have it; embargo may be retaliated by embargo, and commerce will be halted at state lines. And yet we have said the 'in matters of foreign and interstate commerce there are no state lines.' In such commerce, instead of the states, a new power appears and a new welfare, a welfare which transcends that of any state. But rather let us say it is constituted of the welfare of all the states, and that of each state is made the greater by a diversion of its resources, natural and created, with every other state, and those of every other state with it. This was the purpose, as it is the result, of the interstate commerce clause of the Constitution of the United States." [67]

The Supreme Court in "Pennsylvania v. West Virginia" explained that the Commerce Clause exists specifically as a grant of power to eliminate all interference with and discrimination against interstate commerce:

"By the Commission, art. 1, 8, cl. 3, the power to regulate interstate commerce is expressly committed to Congress and therefore impliedly forbidden to the states. The purpose in this is to protect commercial intercourse from invidious restraints, to prevent interference through conflicting or hostile state laws, and to insure uniformity in regulation. It means that in the matter of interstate commerce we are a single nation—one and the same people. All the states have assented to it, all are alike bound by it, and all are equally protected by it. Even their power to lay and collect taxes, comprehensive and necessary as that power is, cannot be exerted in a way which involves a discrimination against such commerce." (Cites omitted.) [68]

Thus, long prior to the enactment of the Natural Gas Act in 1938, the Supreme Court in the "Shreveport" case had ruled that the Constitution vests Congress with power to prevent discrimination against interstate commerce by intrastate activities of carriers, and further, in "Pennsylvania v. West Virginia", had held that even in the absence of action by Congress, state laws discriminating against interstate users in favor of intrastate users of natural gas were unconstitutional.[69]

B

The Natural Gas Act Vested In The Commission Congress' Constitutional Power To Bar Discrimination Against Interstate Users Of Gas By Intrastate Activities Of "Natural-Gas Companies".

In enacting the Natural Gas Act in 1938, Congress clearly followed the legislative pattern of the earlier Interstate Commerce Act construed authoritatively in "Shreveport". In that case, after its analysis of Congress' Constitutional power, the Supreme Court turned to the question of whether Congress had delegated to the ICC its Constitutional power to prevent discrimination against interstate commerce caused by the actions of common carriers in intrastate commerce. The Court referred to Section 3 of the Interstate Commerce Act and held as follows:

"'Sec. 3. That it shall be unlawful for any common carrier subject to the provisions of this act to make or give any undue or unreasonable preference or advantage to any particular person, company, firm, corporation, or locality, or any particular description of traffic, in any respect whatsoever, or to subject any particular person, company, firm, corporation, or locality, or any particular description of traffic, to any undue or unreasonable prejudice or disadvantage in any respect whatsoever.'

"This language is certainly sweeping enough to embrace all the discriminations of the sort described which it was within the power of Congress to condemn. There is no exception or qualification with respect to an unreasonable discrimination against interstate traffic produced by the relation of intrastate to interstate rates as maintained by the carrier.[70]

The Court noted that the opponents of ICC jurisdiction relied on a proviso to Section 1 of the Act which expressly excluded regulation of intrastate commerce from the ICC's authority:

"The opposing argument rests upon the provision in the 1st section of the act which, in its original form, was as follows: *'Provided, however, that the provisions of this act shall not apply to the transportation of passengers or property, or to the receiving, delivery, storage or handling of property, wholly within one state, and not shipped to or from a foreign country from or to any state or territory as aforesaid.'* When the act was amended so as to confer upon the Commission the authority to prescribe maximum interstate rates, this proviso was reenacted; and when the act was extended to include the telegraph, telephone, and cable companies engaged in interstate business, an additional clause was inserted so as to exclude intrastate messages." [Cites omitted.] [71]

The Supreme Court agreed that by enacting this proviso Congress had withheld from the ICC the general power to set intrastate rates, but the Court specifically held that the proviso was *inapplicable* because the ICC is regulating intrastate rates charged by the carriers engaged in interstate commerce was not doing so in order to establish permanent ratemaking jurisdiction over the intrastate market, but was carrying out its positive duty to protect the interstate market from "unjust discrimination":

"Congress thus defined the scope of its regulation, and provided that it was not to extend to purely intrastate traffic. It did not undertake to authorize the Commission to prescribe intrastate rates, and thus to establish a unified control by the exercise of the ratemaking power over both descriptions of traffic. Undoubtedly—in the absence of a finding by the Commission of unjust discrimination—intrastate rates were left to be fixed by the carrier, and subject to the authority of the states, or of the agencies created by the states." [72]

* * * * *

"Here, the Commission expressly found that unjust discrimination existed under substantially similar conditions of transportation, and the inquiry is whether the Commission had power to correct it. *We are of the opinion that the limitation of the proviso in § 1 does not apply to a case of this sort. The Commission was dealing with the relation of rates injuriously affecting through an unreasonable discrimination, traffic that was interstate.* The question was thus not simply one of transportation that was 'wholly within one state.' These words of the proviso have appropriate references to exclusively intrastate traffic, separately considered; to the regulation of domestic commerce, as such. The powers conferred by the act are not thereby limited where interstate commerce itself is involved. *This is plainly the case when the Commission finds that unjust discrimination against interstate trade arises from the relation of intrastate to interstate rates as maintained by a carrier subject to the act. Such a matter is one with which Congress alone is competent to deal, and, in view of the aim of the act and the comprehensive terms of the provisions against unjust discrimination, there is no ground for holding that the authority of Congress was unexercised, and that the subject was thus left without governmental regulation.*" [73]

It is this same limited power over the discriminatory intrastate activities of producers subject to FERC's jurisdiction which Petitioners are addressing in this petition. It is our position that FERC has been granted in the Natural Gas Act that portion of the Congress' Commerce Clause power *to regulate the intrastate activities of "natural-gas companies" to the extent necessary to eliminate the discrimination caused by these activities against interstate consumers*, whose protec-

[63] *Id.* at 584–85.
[64] *Id.* at 596.
[65] *Id.* at 598.
[66] 221 U.S. 229, 255 (1911).
[67] 262 U.S. at 599–600.
[68] *Id.* at 596.
[69] On the latter premise, to the extent that the states have set or permitted high intrastate prices which siphon off gas from the interstate market, such laws would be unconstitutional regardless of the meaning of the Natural Gas Act. However, the constitutional issues need not be reached because, as shown in the following section of this petition, Congress vested jurisdiction in FERC under the Natural Gas Act to regulate the "natural-gas companies" involved to prevent such discrimination.
[70] 234 U.S. at 355–56.
[71] *Id.* at 356–57 (emphasis supplied).
[72] *Id.* at 357.
[73] *Id.* at 358–59 (emphasis supplied).

tion against exploitation at the hands of the "natural-gas companies" was the primary purpose in enacting that legislation. The discrimination against the interstate market has reached crisis proportions. It is this event which has triggered FERC's authority to regulate the activities of "natural-gas company" producers in the intrastate market, and therefore this power is limited to ending discrimination against the interstate market, and further is limited only to the intrastate activities of "natural-gas companies" which are subject to Commission regulation under Section 1(b) of the Natural Gas Act. Hence, Petitioners are not asking the Commission to decide whether the intrastate actions of other producers which operate solely in the intrastate market are made subject to FERC's jurisdiction under any circumstances by Section 1(b), or are included within the Commission's power to regulate under Sections 1(a), 1(b), 4(b), and 16, of the Natural Gas Act, 15 U.S.C. 717 (a), (b), c(b), and o, discussed below. These sections do unquestionably apply, though, to "natural-gas company" producers.

Since all those that will oppose this petition will undoubtedly attempt to highlight their attack by citing *dicta* in the United States Supreme Court's decision in "Federal Power Commission v. Conway Corp."[74] to support their position that Congress did not grant FERC its Constitutional power in the Natural Gas Act to protect interstate consumers from injury caused by "natural-gas company" producers' intrastate activities, Petitioners will begin with an analysis of *Conway* because that case actually underscores the correctness of our view of the extent of FERC's jurisdiction under the Natural Gas Act. The *holding* of the Supreme Court in *Conway* was that the FPC had interpreted its jurisdiction under the Federal Power Act, ("FPA") 16 U.S.C. 824, *et seq.*, too narrowly and that the FPC had jurisdiction to protect wholesale customers from anticompetitive intrastate activities of an electric utility by lowering the company's wholesale rate set by the FPC.[75] In *dicta*, the Supreme Court, while finding that it was unnecessary to its decision and to its knowledge was not contested by any party to the proceeding, *sua sponte* added that it did not believe the FPC possessed the jurisdiction under the FPA to remedy an anticompetitive relationship between wholesale and retail rates of an electric utility by increasing the retail rate, which is subject to state regulation.[76]

Assuming *arguendo* its correctness,[77] the *dicta* of *Conway* concerning the scope of the Commission's jurisdiction under the Federal Power Act can only apply to interpreting the Natural Gas Act ("NGA") (1) if the fact situations arising under the FPA are the same as occur under the NGA and (2) if the scope of the jurisdiction granted under the two acts is also the same. As to the first point, the facts in *Conway* reveal that the natural gas industry and the electric utility industry are very different in their makeup and operation when it comes to the question of interstate-intrastate relationships and effects.

Conway involved a private utility, Arkansas Power & Light Company ("AP&L"), which sold electricity at wholesale to a number of municipally-owned and cooperative electric systems, all of which operated in the State of Arkansas, under rates which were subject to FPC jurisdiction. It then competed at retail with its wholesale customers for large industrial loads, such retail rates being subject to approval by the state commission. The wholesale customers alleged that since the wholesale rates filed by AP&L with the FPC were higher than those already approved by the state commission for retail sales, the wholesale rate, if accepted by the FPC, would result in an anticompetitive price squeeze which would seriously injure the wholesale customers and possibly drive them out of business.[78]

Hence, the problem of discrimination in *Conway* was quite different from that now involving natural gas. There was no question in *Conway* of a shortage of electricity or any need for the Commission to allocate the available supply to protect jurisdictional customers. Under the quite different structure of the electric industry where generation, transmission and distribution are done by a single company, usually in a single state, regulation of interstate wholesale transactions by the company could protect the consumer by simply lowering the wholesale rate to prevent retail rate discrimination. On the other hand, FERC cannot and may not deal with the problem of the intrastate activities of natural gas producers which are irreparably injuring interstate consumers by raising the interstate wellhead rate for gas to the intrastate price level because, as shown in Part V, *infra*, the intrastate price is *per se* not "just and reasonable" as required by Section 4 of the Natural Gas Act, 15 U.S.C. 717c. Furthermore, if the interstate rate which producers receive were raised to the intrastate level, this would only serve to reward the perpetrators of the injury to the interstate market by giving producers excess profits on their interstate as well as their intrastate sales

In the electric industry, FERC jurisdiction extends only to wholesale transactions constituting less than 10 percent of the total operations. In contrast, for natural gas, where the production, transmission and distribution is undertaken by different companies operating in different states, FERC has jurisdiction over most of the total operations.

Finally, the *Conway dicta* involved the issue of the Commission's exercise of jurisdiction over the *retail* rates regulated by a State; the present case involves the issue of FERC regulation over the national supply of gas at the wholesale level, i.e., at the wellhead, where for the most part the states have asserted no jurisdiction, or if they have, have not effectively exercised any such jurisdiction.

Since the factual situation existing in the electric utility industry is completely different from that which exists in the natural gas producing industry, the remaining question is whether the jurisdiction specifically granted to FERC by Congress under the NGA is as limited as that arguably granted to FERC by the FPA under the *dicta* in *Conway* or is as expansive as the Interstate Commerce Commission's jurisdiction under the Interstate Commerce Act ("ICA"), 49 U.S.C. 1, *et seq.*, as interpreted by the Supreme Court in Shreveport and recognized by the Supreme Court in *Conway*.[79] As Petitioners demonstrate below, it is clear that FERC has been granted much broader jurisdiction under the NGA than under the FPA, and this jurisdiction is at least comparable to the ICC's authority under *Shreveport*.

According to the Report of the Committee on Interstate and Foreign Commerce of April 28, 1937, Section 1(a) of the NGA "contains a declaration of policy, states the necessity for Federal regulation, and *defines the scope of that regulation.*"[80] Section 1(a)'s counterpart in the FPA is Section 201(a), 16 U.S.C. 824(a). An analysis of the language of these two subsections reveals that Congress intended the scope of the Commission's jurisdiction under the NGA to be significantly broader than under the FPA. Section 201 (a) states that:

"It is hereby declared that the business of transmitting and selling electric energy for ultimate distribution to the public is affected with a public interest, and that Federal regulation of matters relating to generation to the extent provided in this subchapter and subchapter III of this chapter and of that part of such business which consists of the transmission of electric energy in intestate commerce is necessary in the public interest, *such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States.*" [Emphasis supplied.]

From this language it can be seen that Congress, in passing Part II of the Federal Power Act in 1935, expressly attempted to limit the Commission's jurisdiction over matters "relating to" interstate commerce so as to exclude all areas not mentioned in the Act and all matters which a state could legally regulate. Thus, if an electric utility, such as Arkansas Power & Light in the *Conway* case, generated and sold power at retail wholly within the state of Arkansas, it could be persuasively argued that FERC was denied the authority to in any way attempt to regulate the retail-intrastate rates for that electricity even if they related to and affected interstate commerce because such intrastate rates are "subject to regulation by the States."

However, most significantly, three years later in 1938, when Congress passed the NGA, it deliberately deleted from the parallel jurisdictional section of that Act, i.e., Section 1(a), the limiting language, "such Federal regulation, however, to extend only to those matters which are not subject to regulation by the States", that it had included in Section 201(a) of the Federal Power Act, thereby granting to the Commission jurisdiction over all matters "relating to" interstate commerce in natural gas:

"* * * it is declared that the business of transporting and selling natural gas for ultimate distribution to the public is affected with a public interest, and that Federal regulation in matters relating to the transportation of natural gas and the sale thereof in interstate and foreign commerce is necessary in the public interest."

Administrative Law Judge McGowan in his initial decision in "Roy M. Huffington, Inc.", Docket No. CI75-602 (May 26, 1976) (upon which no Commission decision on review has yet been issued), interpreted Section 1(a) of the NGA to encompass Commission jurisdiction over all gas, both onshore and offshore, even before it comes out of the ground so as to permit allocation by the Commission of gas nationwide where required to relieve the interstate supply deficiency. First, Judge McGowan described the injury being suffered by the interstate market:

"Today we witness a dilemma never contemplated by the Congress in 1938, but truly as real an infringement on interstate commerce as any Act barring the construction of interstate pipelines within a State. We have turned the economic circle from the point where the intrastate producers and distributors feared the debilitating effects of higher interstate prices on their ability to obtain gas to service their customers, to the point where the interstate pipelines which are regulated by this Commission can no longer compete successfully for new gas with these same unregulated intrastate purchasers."[81]

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[74] 426 U.S. 271 (1976).

[75] *Id.* at 277–79.

[76] *Id.* at 276–77.

[77] Petitioners disagree with this *dicta* since it is contrary to the legislative history and purpose of the FPA, but it is not necessary to argue this matter here.

[78] *Id.* at 274–75.

[79] *Id.* at 277 n. 5.

[80] Report at 4 (emphasis supplied).

[81] Initial Decision, mimeo. at 18.

Then, relying on the language in Section 1(a) of the NGA that grants the Commission jurisdiction over all matters "relating to" the transportation and sale of gas in interstate commerce [82] and declares that such transportation and sales are "affected with a public interest",[83] Judge McGowan held:

"There is in fact no greater wholesale exchange of natural gas than the interchange o[f] rights to take of yet unproduced gas which lies in natural storage. The sale and exchange of such rights is directly related to the transportation and sale of natural gas in interstate commerce, for without that sale or exchange, there would be no interstate transportation or sale of natural gas. We must concern ourselves with this original, 'first sale' in order that natural gas may continue to be transported in interstate commerce. As the Court pointed out in the Memphis case, 'clearly, it is the duty of the Federal Power Commission, under its Congressional mandate, the Natural Gas Act, to enforce the continued availability of natural gas in interstate commerce for eventual sale to the consumer at the lowest practical rate." ("Memphis Light, Gas and Water Division v. FPC," 149 U.S. App. D.C. 238, 462 F.2d 853 (1972).) [84]

* * * * * *

"* * * [I]t is my belief that in a time of energy crisis, and a shortage of natural gas which has resulted in emergency allocation and curtailment of gas supply by nearly every major interstate pipeline, that the mere discovery of natural gas beneath the surface of the ground is and does relate to the transportation and sale thereof in interstate commerce. This Commission must be able to influence the sale of that gas before it is produced, and certainly before it loses its color of public interest. The essential determination to be made is not to regulate the mechanical process of production, which is exempt under the statute, but to command this natural resource in the public interest. It is my conclusion that if the Commission were to allow otherwise and agree to the husbanding of natural gas by the intrastate producers it would have failed to observe the mandate of Congress as set forth in the Natural Gas Act." [85]

* * * * * *

"The securing of reserves to assure the free flow of interstate gas I find to be related to the transportation of natural gas in interstate commerce. More importantly, I find it to be necessary to the degree that if a continued supply of natural gas for interstate transportation is not assured, regulation becomes meaningless." [86]

"The problem of enforceability is therefore, a critical one unless the Commission recognizes the public interest inherent in all reserves of natural gas capable of being transported in interstate commerce and includes within its jurisdiction the owners and lessors of those reserves as related to that transportation." [87]

A number of Court decisions have also found both Section 1(a) of the NGA and Section 201(a) of the FPA relevant to a determination of the scope of the Commission's jurisdiction, especially the limiting language at the end of Section 201(a), which was deleted from Section 1(a) of the NGA. For example, in "J. M. Huber Corporation v. FPC" [88] the Third Circuit determined the jurisdictional issue involved in that case of whether abandonments are properly within the scope of the Commission's authority on the basis of the language of Section 1(a). The court concluded that:

"The Commission under Section 1(a) above quoted has no greater duty than to prevent them." [89]

In "Duke Power Company v. FPC",[90] the D.C. Circuit, quoting from the Supreme Court's Opinion in "Connecticut Light & Power Company v. FPC",[91] found that the limiting language at the end of Section 201(a) of the FPA was relevant to determining the extent of the FPC's jurisdiction under that Act:

"This is not, however, to say that the Section 201(a) policy declaration may play no part in the jurisdictional determination we must make in this case. The 'declaration is relevant and entitled to respect as a guide in resolving any ambiguity or indefiniteness in the specific provisions which purport to carry out its intent. It cannot be wholly ignored.' " [92]

* * * * * *

"And in resolving any ambiguity as to whether it [i.e., jurisdictional] was granted, we must remain sensitive to the policy declaration in Section 201(a)." [93]

That the language of Section 1(a) of the NGA includes the grant of Congress' Commerce Clause powers under "Shreveport" is attested to by the holding of the Supreme Court in "Illinois Natural Gas Co. v. Central Illinois Public Service Co." [94] In that case the Illinois Commerce Commission ordered Illinois Natural Gas Company, which purchased interstate gas in Illinois and then distributed that gas solely within that state, to provide service to Central Illinois Public Service Company. Illinois Natural objected because it believed its operations were in interstate commerce and therefore the order of the Illinois Commission was void since it conflicted with the Commerce Clause and the NGA.[95] The Supreme Court agreed with Illinois Natural that the order was unlawful because Congress through the NGA had granted the FPC jurisdiction over such transportation and sales. In so holding, the Court utilized language indistinguishable from the "relating to" interstate commerce language of Section 1(a) of the Act and then specifically cited "Shreveport" for support:

"In any case the proposed extension of appellant's facilities is so intimately associated with the commerce and would so affect its volume moving into the state and distribution among the states as to be within the Congressional power to regulate those matters which materially affect interstate commerce, as well as the commerce itself. Southern R. Co. v. United States, 222 U.S. 20, 56 L. ed. 72, 32 S. Ct. 2, 3 NCCA 822; 'Houston, E. & W.T.R. Co. v. United States, 234 U.S. 342, 58 L. ed. 1341, 34 S. Ct. 833'; Railroad Commission v. Chicago, B. & Q. R. Co., 257 U.S. 563, 66 L. ed. 371, 42 S. Ct. 232, 22 ALR 1086; see United States v. Darby, 312 U.S. 100, 119, 120, 85 L. ed. 609, 619, 620, 61 S. Ct. 451, 132 ALR 1430." [96]

Eventually in 1954, Congress amended the NGA by adding Section 1(c), 15 U.S.C. 717(c), in order to exempt companies at the distribution end of the pipeline within a state from FPC jurisdiction and subject them to state jurisdiction instead. In order to counteract the express grant of jurisdiction of Section 1(a), Congress stated in Section 1(c) that:

"The matters exempted from the provisions of this chapter by this subsection are declared to be *matters* primarily of local concern and *subject to regulation by the several States.*" (Emphasis supplied.)

This underscored language, which Congress deemed required to strip the Commission of a particular portion of its plenary jurisdiction over matters relating to interstate commerce under Section 1(a) of the NGA, is virtually identical to the limitation on the Commission's jurisdiction contained in Section 201(a) of the Federal Power Act, i.e., "such Federal regulations, however, to extend only to those matters which are not subject to regulation by the States."

In short, the scope of the Commission's jurisdiction under Section 1(a) of the Natural Gas Act is much broader than that of Section 201(a) of the Federal Power Act, and it encompasses Congress' "Shreveport power" under the Commerce Clause of Article I, Section 8 of the Constitution to protect interstate consumers from severe and irreparable injury caused by the intrastate activities of "natural-gas company" producers.

In addition to the broad grant of Congress' Commerce Clause power over all matters "relating to" interstate commerce in natural gas by Section 1(a) of the NGA, the Commission was also given specific authority to regulate three particular portions of the natural gas industry by Section 1(b) of the Act, 15 U.S.C. 717(b). That subsection states:

"The provisions of this chapter shall apply to the transportation of natural gas in interstate commerce, to the sale in interstate commerce of natural gas for resale for ultimate public consumption for domestic, commercial, industrial, or any other use, and to natural-gas companies engaged in such transportation or sale, but shall not apply to any other transportation or sale of natural gas or to the local distribution of natural gas or to the facilities used for such distribution or to the production or gathering of natural gas."

Thus, FERC has three separate and distinct areas of positive jurisdiction: (1) Over interstate transportation; (2) over interstate sales for resale; *and* (3) over "natural-gas companies" engaged in interstate transportation or sales. As the court held in *"Federal Power Commission* v. *Corporation Commission of State of Oklahoma,"* [97] each of these three areas of jurisdiction "is an independent grant of jurisdiction."

If the FPC had been correct in its assertion in Order No. 533 that "the grant of authority in Section 1(b) of the Gas Act is clearly a limited grant, limited to transportation and sales *in interstate commerce,*" [98] why did Congress believe it was necessary to go further and grant the Commission a third, independent head of jurisdiction to regulate the "natural-gas companies," including natural gas producers,[99] themselves which "engaged in such transportation or sale"? If natural gas companies were only to be subject to Commission jurisdiction *"when* engaged in such transportation or sale," then the first two grants of jurisdiction in Section 1(b) over the *acts* of transportation and sales in interstate commerce would have been sufficient, and accordingly, the separate

[82] *Id.* at 19.
[83] *Id.* at 20.
[84] *Id.* at 16–17.
[85] *Id.* at 17–18 (footnotes omitted).
[86] *Id.* at 27–28.
[87] *Id.* at 29–30.
[88] 236 F.2d 550 (3rd Cir. 1956).
[89] *Id.* at 558.
[90] 130 U.S. App. D.C. 389, 401 F.2d 930 (1968).
[91] 324 U.S. 515, 527 (1945).
[92] 401 F.2d at 938 (footnote omitted).
[93] *Id.* at 940.
[94] 314 U.S. 498 (1942).
[95] *Id.* at 501–02.
[96] *Id.* at 509–10 (emphasis supplied).
[97] 362 F. Supp. 522, 536 (W. D. Okla. 1973) (3 Judge Panel), *aff'd*, 415 U.S. 961 (1974).
[98] Order No. 533 at 14 (emphasis in original).
[99] *See* Phillips Petroleum Co. v. State of Wisconsin, 347 U.S. 672 (1954).

grant of jurisdiction over the entities themselves would have ben superfluous.[1]

A comparison of the jurisdictional grant under Section 1(b) of the Natural Gas Act with the language of the jurisdictional sections of the Federal Power Act and the Interstate Commerce Act reveals that this explicit authority to regulate "natural-gas companies" includes the Commerce Clause autority found in the "Shreveport" case to protect the interstate market from injuries caused by intrastate activities of regulated entities. Sction 1 of the ICA, 49 U.S.C. 1, provides in pertinent part as follows:

"(1) *Carriers subject to regulation.* The provisions of this chapter shall apply to common carriers engaged in—

(a) The transportation of passengers or property wholly by railroad, or paily by railroad and partly by water when both are used under a common control, management, cr arrangement for a continuous carriage or shipment;

* * * * *

"From one State or Territory of the United States, or the District of Columbia, to any other State or Territory of the United States, or the District of Columbia, or from one place in a Territory to another place in the same Territory, or from any place in the United States through a foreign country to any other place in the United States, or from or to any place in the United States to or from a foreign county, but only insofar as such transportation or transmission takes place within the United States.

"(2) *Transportation subject to regulation.* The provisions of this chapter shall also apply to such transportation of passengers and property and transmission of intelligence, but only in so far as such transportation or transmission takes place within the United States, but shall not apply—

"(a) To the transportation of passengers or property, or to the receiving, delivering, storage, or handling of property, wholly within one State and not shipped to or from a foreign country from or to any place in the United States as aforesaid, except as otherwise provided in this chapter; * * *."

The plain language of Section 1(b)[1] of the NGA, setting forth FERC's jurisdiction, is substantively the same as Section 1 of the ICA, authoritatively construed in *Shreveport* as vesting Constitutional power under the Commerce Clause in the ICC to regulate intrastate activities of "common carriers" discriminating against interstate commerce. Section 1, par. (1) of the ICA states that it applies to "the transportation of passengers or property * * * from one State * * * to any other State * * *."[2] Section 1(b) of the NGA contains an identical grant of power over the "transportation of natural gas in interstate commerce." Section 1, par. (1) of the ICA also provides that the "provisions of this chapter shall apply to common carriers engaged in" interstate commerce, which parallels the jurisdiction in Section 1(b) of the NGA over "natural-gas companies engaged in such transportation or sale." But in one respect Section 1(b) of the NGA is broader when it vests jurisdiction in FERC over "the sale in interstate commerce of natural gas for resale for ultimate public consumption", a power not given to the ICC. This additional independent grant of jurisdiction over resales does not detract from Congress' separate grant of power over "natural-gas companies" and the "transportation of natural gas in interstate commerce", which are identical to similar grants in the ICA construed in "Shreveport" as conveying Congress' Constitutional power to prevent intrastate discrimination against interstate commerce.

The Natural Gas Act's and Interstate Commerce Act's specific grants of authority to regulate the entities which deal in interstate commerce rather than just the interstate activities themselves are in sharp contrast to the more limited jurisdictional grant in Section 201(b) of the Federal Power Act, 16 U.S.C. 824(b), which, significantly, omits any power over the electric utilities themselves. Section 201(b) states that the FPA "shall apply to the transmission of electric energy in interstate commerce and to the sale of electric energy at wholesale in interstate commerce." Since this Section, passed in 1935, was expressly limited to interstate transmission and sales with no mention of the entities which did the generating, transmitting and selling of electricity, Congress must have intended to grant additional powers to the FPC, and inherently to FERC, under the NGA, which it enacted three years later, when it included in addition to transportation and sales jurisdiction, authority over "natural-gas companies", just as it had done in the ICA over "common carriers".

That Congress would specifically include in Section 1(b) of the NGA jurisdiction over the "natural-gas companies" as entities after withholding such jurisdiction in Section 201(b) of the FPA is of great importance since the Supreme Court based its "Shreveport" decision that the discriminatory intrastate activities of common carriers were subject to ICC regulation on the fact that the ICA explicitly applied to "common carriers" as entities to be regulated and not just to their interstate transportation activities.

Faced with the clear and explicit affirmative grant of authority to regulate natural-gas companies contained in Section 1(b) of the NGA, the FPC in Order No. 533 attempted to negate this jurisdiction by contending that the exceptions stated in Section 1(b) to the Commission's positive jurisdiction effectively eliminate this jurisdiction. The FPC read the phrase "but shall not apply to any other transportation or sale of natural gas" in Section 1(b) as nullifying all jurisdiction over a natural-gas company's intrastate activities, including those actions which discriminate against and harm interstate consumers.[3] However, the FPC's method of statutory construction is at odds with that of the United States Supreme Court.

In the landmark case of "Phillips Petroleum Company v. State of Wisconsin,"[4] the FPC strenuously argued that it had no jurisdiction at all over even *interstate* transportation and sales of na utlarg?
tion and sales of natural gas producers under Section 1(b) of the Act because producers were not included in the category of "natural-gas companies" as a result of Section 1(b)'s exemption of "production or gathering of natural gas."

The Supreme Court rejected the FPC's claim and held "that '[e]xceptions to the primary grant of jurisdiction in the Section [1(b)] are to be strictly construed.'"[5] In reaching this same holding seven years before the "Phillips' decision in Interstate Natural Gas Co. v. FPC",[6] a case involving pipeline production, the Supreme Court made clear that its conclusion would not be altered simply because the exercise of the FPC's jurisdiction impacted on local interests:

"Exceptions to the primary grant of jurisdiction in the section are to be strictly construed. It is not sufficient to defeat the Commission's jurisdiction over sales for resale in interstate commerce to assert that in the exercise of the power of rate regulation in such cases, local interests may in some degree be affected." [Footnote omitted.]

Then, in its more recent decision in "Federal Power Commission v. Louisiana Power & Light Co.",[7] the Supreme Court went even further and declared that the stated exceptions to Section 1(b) in no way detracted from the positive jurisdiction conferred on the FPC by that subsection:

"It is well established that the proviso [to Section 1(b)] was added to the Act merely for clarification and was not intended to deprive FPC of any jurisdiction otherwise granted by Section 1(b)."

This same statutory intepretation of Section 1 of the Interstate Commerce Act is found in "Shreveport" where positive jurisdiction over "common carriers" gave the Interstate Commerce Commission jurisdiction to eliminate discrimination and injury to interstate commerce caused by intrastate activities of "common carriers" even though Section 1(2)(a) of that Act states that "The provisions of this chapter * * * shall not apply—To the transportation of passengers or property, or to the receiving, delivery, storage or handling of property, *wholly within one State* * * *" (Emphasis supplied.) As discussed *supra*, the Supreme Court found jurisdiction in the ICC to eliminate discrimination against interstate commerce resulting from common carriers' intrastate actions by combining Section 1's explicit grant of jurisdiction over common carriers with the authority vested in the ICC by Section 3(1) of the Interstate Commerce Act, 49 U.S.C. 3(1), to eradicate any "undue or unreasonable prejudice or disadvantage" to interstate commerce and as a result concluded that:

"We are of the opinion that the limitation of the proviso in §1 does not apply to a case of this sort. The Commission was dealing with the relation of rates injuriously affecting through an unreasonable discrimination, traffic that was interstate. The question was thus not simply one of transportation that was 'wholly within one state.'"[8]

Similarly, when the intrastate activities of natural gas producers discriminate against interstate commerce, the combination of FERC's explicit jurisdiction over "natural-gas companies" under Section 1(b) of the Natural Gas Act and its authority under Section 1(a) of the Act over all matters "relating to" interstate commerce together with its express jurisdiction under Section 4(b) of the Act to stop any "natural-gas company" from "subject[ing] any person (that receives gas transported or sold in interstate commerce) to any undue prejudice or disadvantage",

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[1] The separate jurisdictional grant over "natural-gas companies" in Section 1(b) cannot be disposed of as being merely a part of the Commission's authority under Sections 8, 9 and 10 of the NGA, 15 U.S.C. 717 g, h, and i, to establish a uniform system of accounts for, prescribe depreciation practices for, and gather information from "natural-gas companies" since similar powers exist under various sections of the FPA without, as shown *infra*, the specific jurisdictional grant in Section 201(b) over the electric utilities themselves. *See* 16 U.S.C. 825, 825a, and 825c.

[2] The definition of interstate commerce spelled out in the ICA, Section 1, par. (1), is the same as that contained in Section 2(7), of the NGA, 15 U.S.C. 717a(7).

[3] Order No. 533 at 13–14.

[4] 347 U.S. 672 (1954).

[5] *Id.* at 679; *accord*, Federal Power Commission v. Louisiana Power & Light Co., 406 U.S. 621, 631 (1972); Northern Natural Gas Co. v. State Corporation Commission of Kansas, 372 U.S. 84, 89–90 (1963); Federal Power Commission v. Corporation Commission of State of Okklahoma, 362 F. Supp. 522, 536 (1973) (3 Judge Panel), *aff'd*, 415 U.S. 961 (1974).

[6] 331 U.S. 682, 690–91 (1947).

[7] 406 U.S. 621, 631 (1972).

[8] Shreveport, *supra*, 234 U.S. at 358–59.

renders the exceptions to FERC's jurisdiction contained in Section 1(b), which are to be "strictly construed", inapplicable.

Furthermore, the Supreme Court has held that Section 16 of the Natural Gas Act provides additional statutory authority for protecting consumers. In "United Gas Pipe Line Co. v. FPC",[9] the FPC was ironically faced with the situation, prior to the present interstate gas shortage, in which a producer wished to continue selling certain gas under its certificate after its contract with United had terminated, but United refused to continue purchasing the gas. The Commission found that United had unlawfully abandoned both the "facilities" used to receive the gas and the "service" of that gas in violation of Section 7(b) of the Natural Gas Act, 15 U.S.C. 717f(b).[10]

However, United argued to the Supreme Court that although the Commission had explicit jurisdiction to force a natural-gas company to continue transporting or selling gas, the EPC had no authority under the Natural Gas Act to order a natural-gas company, such as United, to continue purchasing gas offered for sale.[11] The Court, while finding that the NGA did not grant express authority over purchases of natural gas, nevertheless upheld the Commission's order and concluded that the FPC had jurisdiction under Section 16 of the Act to regulate purchases where necessary to properly exercise its positive jurisdiction over transportation and sales:

"Under section 16, the Commission has the power 'to perform any and all acts, and to * * * issue * * * such orders, rules, and regulations as it may find necessary or appropriate to carry out the provisions of this Act.' 52 Stat. 830, 15 U.S.C. 717o. Where it is necessary to regulate the purchase of gas in some respects to carry out its expressly granted authority over transportation and sale, the Commission must have the power to do so." [12]

As shown *supra*, the unregulated intrastate activities of natural gas producers have made it impossible for FERC "to carry out its expressly granted authority over transportation and sale" of natural gas in interstate commerce to assure "the lowest possible reasonable rate consistent with the maintenance of adequate service and the public interest" [13] as is required by the Natural Gas Act. The Commission therefore must exercise its Commerce Clause power, as expressed in Sections 1(a), 1(b), 4(b) and 16 of the Act to regulate intrastate actions of "natural-gas company" producers through the setting of intrastate rates and/or through the allocation of all gas supply, both interstate and intrastate, on a nationwide basis.

The Supreme Court has also applied the reasoning of the *Shreveport* doctrine in defining the scope of the Commission's jurisdiction under the Natural Gas Act in a number of cases in which it found FPC authority to regulate in order to close the "regulatory gap" between federal and state jurisdiction. This regulatory gap thesis has its roots in the Supreme Court's opinions in "Pennsylvania v. West Virginia, *supra*," and "State of Missouri v. Kansas Natural Gas Co." [14] which caused Congress to pass the Natural Gas Act. As discussed *supra*, "Pennsylvania v. West Virginia" held that the states lacked jurisdiction to regulate or prohibit the transportation of natural gas in interstate commece. Following that decision, efforts by the states to enact any regulation of interstate transportation even to protect intrastate commerce from interstate discrimination were struck down as forbidden under the Commerce Clause by the Supreme Court's "Kansas Natural Gas Co." opinion, *supra*. There, the Court, quoting Mr. Justice Hughes, declared:

"If a state enactment imposes a *direct burden* upon interstate commerce, it must fall, regardless of Federal legislation. The point of such an objection is not that Congress has acted, but that the state has directly restrained that which, in the absence of Federal regulation, should be free." [15]

Since the Commerce Clause included, under the Supreme Court's holding in "Shreveport", the protection of interstate transportation from intrastate activities, it was crystal clear prior to 1938 that the entire subject of discrimination between intrastate and interstate commerce was a Federal question within the exclusive power of Congress over which the states had no control. Thus when Congress came to enact the Natural Gas Act, it had already been established that the states lacked any authority to correct any discriminatory practices of intrastate activities on interstate commerce.

The legislative history of the NGA reveals an explicit understanding by Congress that the states lacked power over matters of discrimination arising from the interstate-intrastate activities of natural-gas companies. The House Report on the bill explicitly stated that Congress did intend to vest the Commission with authority to occupy the field wherein the Supreme Court had held that the states lacked authority to act:

"The basic purpose of the present legislation is to occupy this field in which the Supreme Court has held that the States may not act." [16]

It was therefore clear prior to the enactment of the Natural Gas Act that while the states possessed jurisdiction over solely intrastate commerce, they had no authority to remedy discrimination arising from intrastate activities by regulated natural-gas companies against interstate commerce. Thus, as recently declared by the Supreme Court in "Federal Power Commission v. Louisiana Power & Light Co.",[17] the NGA represents comprehensive legislation in which all gaps were closed by vesting authority in the FPC:

"The Natural Gas Act of 1938 granted FPC broad powers 'to protect consumers against exploitation at the hands of natural gas companies' FPC v. Hope Natural Gas Co. 320 U.S. 591, 610, 88 L. Ed. 333, 349, 64 S. Ct. 281 (1944). See FPC v. Transcontinental Gas Pipe Line Corp. 365 U.S. 1, 19, 5 L. Ed. 2d 377, 389, 81 S. Ct. 435 (1961); Sunray Mid-Continent Oil Co. v. FPC, 364 U.S. 137, 147, 4 L. Ed. 2d 1623, 1631, 80 S. Ct. 1392, (1960). To that end, Congress 'meant to create a comprehensive and effective regulatory scheme,' Panhandle Eastern Pipe Line Co. v. Public Service Comm'n, 332 U.S. 507, 520, 92 L. Ed. 128, 139, 68 S. Ct. 190 (1947), of dual state and federal authority. Although federal jurisdiction was not to be exclusive, FPC regulation was to be broadly complementary to that reserved to the States, so that there would be no 'gaps' for private interests to subvert the public welfare."

Hence, in order to protect the interstate consumers, FERC was granted the authority by Congress to close all "gaps" where state regulation is not feasible. It seems unquestioned that the discrimination against the interstate market worked by the natural-gas companies' intrastate activities may not as a Constitutional matter and will not as a practical matter be eliminated by the states themselves. With regard to the latter point, the regulatory commissions in the various producing states have shown no inclination to set *any* rates for the sale of gas at the wellhead for intrastate consumption,[18]—much less to require such intrastate sales at the FPC-established "just and reasonable" nationwide rate. It is clear that the regulatory agencies of the various producing states are not going to deviate from their "what-the-market-will-bear" philosophy when such a change of heart will only guarantee the outflow of some amount of gas from their states into the interstate market and reduce the taxes and royalties paid to their respective state treasuries. Not only do the producing states have a strong disincentive to end the discrimination now being worked against the interstate market, but in addition, it is clear that no given producing state has the Constitutional authority—assuming *arguendo* its good intentions—to end this discrimination because no state agency can affect what happens in the other producing states; that is, it cannot control the intrastate rate for gas in other producing states nor can it allocate gas supplies among the various states. In brief, there is a "regulatory gap" creating irreparable harm to the interstate market which only FERC, the Federal agency empowered under the Natural Gas Act to protect the interstate market from undue discrimination and preferences, may remedy.

In "Louisiana Power & Light," supra, the Supreme Court addressed this regulatory-gap problem:

"Can state authority practicably regulate in this area to prevent this inequity and hardship? Insofar as state plans purport to curtail deliveries of interstate gas, Pennsylvania v. West Virginia, 262 U.S. 553, 67 L. Ed. 1117, 43 S. Ct. 658, 32 ALR 300 (1923), is authority that such plans, when they operate to withdraw a large volume of gas from an established current whereby it is supplied to customers in other States, would constitute a prohibited interference with interstate commerce. But even to the extent the States may constitutionally promulgate curtailment plans, the inevitable result would be varied regulatory programs of state courts and agencies, interpreting a countless number of different contracts and applying a variety of state agency rules. The conflicting results would necessarily produce allocations determined simply by the ability of each customer to pump its desired volume from a pipeline. Moreover, in some States, Louisiana for example, the state regulatory agency is forbidden to regulate direct-sales contracts. Besides, a state agency empowered to regulate these contracts would be obliged to regulate in the State, not the national interest. Cf. Pennsylvania v. West Virginia, supra. The unavoidable conflict between producing States and consuming States will create contradictory regulations that cannot possibly be equitably resolved by the courts. With these problems in mind, the desirability of uniform federal regulation is abundantly clear." [19]

As Chief Judge Bazelon of the D.C. Circuit explained in his recent concurring opinion in "Southern California Edison Co. v. FPC": [20]

[9] 385 U.S. 83 (1966).
[10] *Id.* at 85–86.
[11] *Id.* at 89.
[12] *Id.* at 90
[13] Permian Basin Area Rate Cases, 390 U.S. 747, 792–93 (1968); Atlantic Refining Co. v. Public Service Commission of New York (CATCO), 360 U.S. 378, 388 (1959).
[14] 265 U.S. 298 (1924).
[15] *Id.* at 307–08 (emphasis in original).
[16] H.R. Report No. 709, 75th Cong., 1st Sess. 12 (1937) (citations omitted; emphasis supplied).
[17] 406 U.S. 621, 631 (1972).
[18] It is not at all clear that the state agencies in a number of producing states have even been granted the statutory authority to set wellhead rates for intrastate sales by their respective state constitutions or state legislatures.
[19] 406 U.S. at 632–35 (footnotes omitted).
[20] 173 U.S. App. D.C. 248, 524 F. 2d 409 (1975).

"Similarly, the doctrine of 'local concern' under the Act is not itself an absolute bar to federal regulation; while certain activities are exempt from federal control, that exemption applies, 'provided that the rates and service of such person and facilities be subject to regulation by the several states.' (Natural Gas Act Section 1(c), 15 U.S.C. 717 (c).) Further, the Supreme Court stated in 'FPC v. Transcontinental Gas [Pipe Line] Corp.' [365 U.S. 1(1961)]:

When we are presented with an attempt by the federal authority to control a problem that is not, by its very nature, one with which state regulatory commissions can be expected to deal, the conclusion is irresistible that Congress desired regulation by federal authority rather than nonregulation (*Id.* at 28)." [21]

* * * * *

"Although the unprecedented shortages asserted for curtailment by interstate pipeline companies were not contemplated by the Natural Gas Act, the FPC and the courts have construed the Act to meet emergencies. If curtailment of interstate volumes based upon end-use of ultimate consumers has created hardship for some consumers it is due to nationwide shortages and *national* allocation policy, matters beyond the competence and jurisdiction of state regulatory commissions." [22]

Since the states individually have no authority to deal with the nationwide problem of intrastate market discrimination caused by natural gas producers against interstate commerce, the Natural Gas Act is to be read as granting FERC authority to eliminate the discrimination:

"This congressional blueprint has guided judicial interpretation of the broad language defining FPC jurisdiction, and 'when a dispute arises over whether a given transaction is within the scope of federal or state regulatory authority, we are not inclined to approach the problem negatively, thus raising the possibility that a "no man's land" will be created. Compare Guss v. Utah Labor Board, 353 U.S. 1. *That is to say, in a borderline case where congressional authority is not explicit we must ask whether state authority can practicably regulate a given area and, if we find that it cannot, then we are impelled to decide that federal authority governs.' FPC v. Transcontinental Gas Pipe Line Corp.*, [365 U.S. 1] 19–20." [23]

The D.C. Circuit has gone so far as to hold that the FPC has jurisdiction under the "regulatory gap" theory to regulate transactions which are subject to state regulation when the state refuses to exercise its jurisdiction:

"* * * at the same time, assertion of federal jurisdiction would avoid the 'attractive gap' in the regulatory scheme which results from Virginia's decision not to control rates charged to federal instrumentalities. The suggestion that state motivation to abstain from regulating a given type of transaction constitutes a proper premise for the assertion of federal jurisdiction can be found in FPC v. Transcontinental Gas Pipe Line Corp., 365 U.S. 1, 19–20, (1961)." [24]

The FPC itself implicitly exercised its "Shreveport" power in Opinion No. 780, "Gulf Oil Corporation," et al., Docket No. CI64–26, issued October 15, 1976,[25] in which the FPC announced that it had jurisdiction to review any future intrastate sales proposed by Gulf to determine whether it should order that gas to be sold instead to an interstate pipeline:

"The record shows that Gulf has commenced approximately twenty five intrastate sales since the issuance of Opinion No. 692. [Footnote omitted.] In view of Gulf's failure in recent years to comply with the delivery requirements of the certificate issued to it, *we believe it important for us to review any future intrastate sales proposed by Gulf to ascertain whether such gas should be sold by Gulf to Texas Eastern under the subject certificate.* Accordingly, we shall require Gulf to file with the Commission all contracts for the sale of gas *in intrastate commerce* made after the date of this order. In the absence of such a condition, it would not be possible *to protect adequately the viability of our certificate order against the possibility of Gulf selling gas in intrastate commerce which should go to Texas Eastern.* In these circumstances we have authority under Section 16 to remedy the situation *Niagara Mohawk Power Corp.* v. *F.P.C.*, 379 F.2d 153." [26]

In summary, it cannot be disputed that the intrastate atcivities of producers of natural gas, which are "natural-gas companies" subject to FERC's jurisdiction under the Natural Gas Act, are causing grave injury to the gas supply and just and reasonable rates of the interstate market. The plain language of sections 1(a), 1(b), 4(b) and 16 of the Natural Gas Act is identical substantively to that of the earlier Interstate Commerce Act, authoritatively construed by the Supreme Court in "Shreveport" as vesting in the ICC Congress' Constitutional power under the Commerce Clause to prevent discrimination by the intrastate activities of regulated companies against interstate transportation. The subject of intrastate-interstate discrimination had been held to be beyond the power of the states to regulate, so that a gap clearly existed in the regulatory control over this subject based on the prior Supreme Court decisions. The legislative history of the Natural Gas Act is quite clear that Congress intended thereby to close all regulatory gaps, thus of necessity conveying to FERC its Constitutional power to preclude discrimination by intrastate activities of regulated "natural-gas companies" against interstate transportation and sales of natural gas. The matter has assumed crucial importance in the past few years with the growth of extensive intrastate activities of "natural-gas company" producers discriminating against interstate sales and transportation of gas whereby the flow of new gas reserves in interstate commerce continues to drastically decline.

It is therefore imperative that this Commission immediately exercise its jurisdiction by allocating intrastate gas to the interstate market at regulated prices to meet the requirements of interstate consumers, and, in the long term, by setting intrastate rates at the interstate level to remove the incentive of windfall profits obtained from noncompetitive prices charged by "natural-gas company" producers through the diversion of their onshore gas to the intrastate market.

IV.—A Minimum Daily Delivery Obligation Should be Required of Producers Consistent With the Intent of the Underlying Gas Purchase Contracts and Pipeline Certificates

When a producer and a pipeline contract for a supply of gas and the producer obtains a certificate for the sale of the gas from the Commission, the Commission, the pipeline, and the distributors and consumers served by that pipeline all rely on the gas purchase contract's and/or the pipeline certificate application's daily, monthly or annual delivery estimate as a conservative figure upon which to take various actions. The pipeline decides to construct certain facilities to transport the gas based on the amount of gas it believes it will obtain from the producer each day. Likewise, the Commission determines whether to grant a certificate to the pipeline for the construction of these facilities on its comparison of the daily supply estimate with the size of the facilities proposed by the pipeline.

Moreover, prior to the sharp increases in the level of curtailment experienced during the last few years, the pipeline increased the daily contract entitlements of its distributor customers in the light of the projected daily deliveries from its new attachments. In turn, the distributors added new end users or increased the entitlements of their existing consumers on the strength of the pipeline's representation of its additional gas supply. In fact, the distributors and the ultimate interstate consumers are third party beneficiaries to each of the producer-pipeline contracts, and such status is clearly contemplated by the Natural Gas Act, which was enacted to "protect consumers against exploitation at the hands of natural gas companies." [27]

Because of this reliance by interstate consumers upon the producer's evaluation of the minimum amount of its gas it would produce and deliver each day, evidence by "take or pay" or other provisions in its gas purchase contract with a pipeline or by the silent, but knowing, conscious and intended, acquiescence of the producer in the claims of gas supply made by the pipeline in its certificate application to the Commission, it is absolutely essential that each producer deliver to the pipeline at least the volumes represented in the pipeline certificate proceedings upon which the certificate was issued. Such a delivery obligation will thwart producer attempts to withhold already certificated gas from the interstate market in order to obtain speculative benefits of future gas price increases, to enhance their ability to make sales in the unregulated intrastate market, and to help create a more severe gas supply shortage that will result in even more pressure being placed on the Commission and the Congress to deregulate gas prices as ransom for obtaining certificated, flowing gas, to which the interstate consumers are already entitled at significantly lower flowing gas rates.

Since it is true that a dedicated block or acreage will eventually reach a stage of depletion that no longer permits the extraction of the minimum daily delivery obligation, a producer should have the right to prove to the Commission that such depletion has occurred, much like the showing of total depletion required by Section 7(b) of the Natural Gas Act, 15 U.S.C. 717f(b), for abandonment. Such proof of depletion would exempt the producer from further compliance with its minimum delivery obligation for that

[21] *Id.* at 418–19 (Bazelon, C.J., concurring).

[22] *Id.* at 421 (Bazelon, C.J., concurring) (emphasis in original).

[23] 406 U.S. at 631 (emphasis supplied); *accord*, Federal Power Commission v. Corporation Commission of the State of Oklahoma, 382 F. Supp. 522, 536 (W. D. Okla. 1973) (3 Judge Panel), *aff'd*, 415 U.S. 961 (1974).

[24] Secretary of the Army v. FPC, 138 U.S. App. D. C. 65, 425 F.2d 496, 499 (1970).

[25] 10 FPS 5–761, *reh'g denied*, Opinion No. 780–A, 11 FPS 5–201 (December 9, 1976), *aff'd sub nom.*, Gulf Oil Corporation v. FPC, 13 FPS 6–17 (3rd Cir., September 7, 1977).

[26] *Id.* at 5–767—5–768 (emphasis supplied).

[27] Federal Power Commission v. Hope Natural Gas Co., 320 U.S. 591, 610 (1944).

acreage or block. Without such proof, delivery of less gas than the minimum daily obligation would constitute an unlawful abandonment of service without Commission approval in violation of Section 7(b) of the Act.

The FPC reversed itself and refused to include a minimum daily delivery obligation in all producer certificates issued in the future in Order No. 539–B, after requiring such an obligation in Order Nos. 539 and 539–A. Instead, the FPC adopted a so-called "prudent operator" test in Order No. 539–B under which, according to § 157.41 of the Commission's regulations, 18 CFR 157.41, "the seller shall observe the standard of a prudent operator to develop and maintain deliberability from reserves dedicated hereunder." This "prudent operator" standard is meaningless since what is "prudent" for an operator to do in its own economic best interest may be dramatically opposite of what an operator must do under the requirements of the Natural Gas Act. It was the recognition of this fact of life, among others, in the anticompetitive natural gas industry which led to the enactment of the Natural Gas Act in the first place.[28]

For example, a "prudent" operator in the selfish economic sense would be one which withheld gas supplies from dedicated acreage in order to force up prices since the operator's goal is to receive as much profit for its product as possible. That what is prudent for the operator is not in many cases proper under the Natural Gas Act was most recently illustrated by Administrative Law Judge Zimmet in his October 27, 1977 Initial Decision in "J. G. Stone, et al.", Docket No. CI75–277 (Show Cause). As the Judge explained,

"Sun and United contend by their first argument that Sun's actions in terminating service must be measured by a 'prudent operator' standard—whether the company acted prudently under the circumstances, a standard that the Commission adopted in a different context from that involved here in its Order No. 539–B, which Order is being assailed on judicial review by sun, among others. *According to Sun and United,* with gas reserves from the Keeran field nearing depletion and with oil production from the field also dwindling, *Sun acted in a prudent manner when it cut off all gas sales in 1962 to produce more valuable oil from the field."* [29]

Judge Zimmet found the prudent operator argument to be immaterial to the issue before him, i.e., the abandonment of a sale in interstate commerce without first obtaining Commission approval,[30] and instead rules against Sun on a host of other grounds. But his initial decision clearly demonstrates that the inclusion of a prudent operator standard does nothing to protect the gas supply of interstate consumers. Nothing short of a minimum daily delivery obligation will serve to assure that all recoverable gas from dedicated blocks and acreage is produced at the earliest possible time and at the lowest "just and reasonable" rates.

"In terminating the sales [of gas to the interstate market], Sun apparently informed United that it was exercising its contractual right under the gas reservation clause. It thus elected to use all the gas produced from the field to 'lift' or produce oil remaining in the field (Tr. SC 138)—thereby using the gas, in the words of the contract, for the 'development and operation' of the premises covered by the lease (p. 3, *supra;* Item by Reference SC–E). *In Sun's view, with gas reserves from the field nearing depletion and with oil production from the field also declining, it was prudent from an economic standpoint to use all the remaining gas reserves to prdouce oil* (Tr. SC 133–144; 221–223; Exhibits SC 20 and 21). Other methods besides using gas, albeit far more expensive, were also available to 'lift' or produce the oil (Tr. SC 216–217)." [31]

The existing pipeline certificates issued by the Commission are based upon detailed exhibits presented by the companies as to the deliverability of gas by the producers to the pipelines under specified contracts between the pipelines and producers. Section 157.14a (10) (Exhibit H) of the Commission's Regulations, 18 CFR 157.14a(10), requires that such a showing be made as a condition precedent to the issuance of the certificates. The problem is that producers have not been delivering the volumes specified in these exhibits to the pipelines and the pipelines in many cases have not believed that they are in a position to enforce these deliveries. Under the prior system, the FPC had established no mechanism for an across-the-board enforcement of the certificated delivery volumes. Petitioners submit that the time has now come for the Federal Energy Regulatory Commission to issue a new firm order in the matter declaring that all gas delivery volumes specified in the underlying exhibits upon which a prior certificate was issued to a pipeline shall be delivered by each producer in the absence of a petition to FERC by such producer for extraordinary relief, wherein the producer will have the burden of justifying lower delivery volumes. To the extent that each pipeline is not receiving the volumes specified in the Exhibit H exhibits certificated by the Commission, it also should be required to petition the Commission and show cause for the deficiency.

V.—BECAUSE OPINION NO. 770–A'S $1.42 PER MCF NEW GAS BASE RATE WAS BASED SUBSTANTIALLY ON THE UNREGULATED AND PER SE UNLAWFUL INTRASTATE PRICE OF GAS AND THE PRICE OF OIL AS A RESULT OF THE FPC'S RECOGNITION OF THE UNDUE DISCRIMINATION BEING INFLICTED ON THE INTERSTATE MARKET BY "NATURAL-GAS COMPANIES'" INTRASTATE ACTIVITIES AND ITS REFUSAL TO ELIMINATE THAT DISCRIMINATION, THAT RATE AND THE 93¢ PER MCF COMPUTED IN THE SAME MANNER, MUST BE IMMEDIATELY REEXAMINED AND REDUCED IN LIGHT OF THE COMMISSION'S AUTHORITY AND DUTY TO REGULATE THESE INTRASTATE ACTIVITIES.

Petitioners have demonstrated in detail in Part III, *supra,* that this Commission has ample jurisdiction, and, in fact, a positive duty to regulate the intrastate market activities of "natural-gas companies" to the extent necessary to eliminate all injury to the gas supply and "just and reasonable" rates of interstate consumers caused by these unduly discriminatory activities. We have also noted, *supra,* that in Opinion No. 770–A the FPC erroneously found to the contrary that it lacked such jurisdiction.[32] But the FPC also recognized that the undue discrimination was occurring, and that the interstate market could only obtain adequate gas supplies if the prices received by the producers in the two markets were the same. Since it incorrectly determined that it could not regulate the intrastate rates or allocate intrastate market gas to the interstate market, it decided instead to set the "regulated" rate at the then existing unregulated, intrastate price level. Of course, this action was doomed from its inception since it was obvious that the "what-the-market-will-bear" intrastate prices would simply utilize the new $1.42 per Mcf interstate rate ceiling as a floor to bid above, which is precisely what has occurred.

At the outset of Opinion No. 770, the FPC admitted that it had "considered these [intrastate gas] prices in establishing the rate. In addition we have considered the Btu equivalency values of residual oil, distillate oil, crude oil, synthetic natural gas and liquefied natural gas",[33] and had set the Opinion No. 770 rate at a level which "will place interstate pipelines in a more competitive position in the onshore [i.e., intrastate] markets."[34]

The FPC's own figures on intrastate gas and fuel oil prices show beyond doubt that the interstate "regulated" price has been set at the unregulated level. According to the FPC, the new contract prices in the intrastate market averaged $1.259 per Mcf during the first half of 1975, $1.289 per Mcf during the second half of that year, $1.548 during the first quarter of 1976, and $1.59 per Mcf during the second quarter of 1976.[35] Not surprisingly, these numbers yield an average price for new gas of $1.42 per Mcf which *is* the base rate of Opinion No. 770–A.[36] Furthermore, as the Commission itself noted in Opinion No. 770–A, the 60-day emergency sales by producers and intrastate pipelines to interstate pipelines, which the FPC has sanctioned at unregulated prices, during the first half of 1976 just happened to also have an average price of $1.429 per Mcf; while gas sold under optional pricing certificates averaged $1.44 per Mcf.[37]

In his dissent to Opinion No. 770, Commissioner Smith pointed out that the $1.42 rate was comparable to or exceeded the bulk of intrastate sales prices.[38] More importantly, he recognized the futility in attempting to chase the intrastate rate, since the only result of setting an interstate rate at $1.42 (besides windfall profits for producers) is to establish "an intrastate *floor* at this level" [39] above which intrastate purchasers will bid.

An equally revealing admission by the FPC in Opinion No. 770 is that the $1.42 base rate equals the prices of No. 2 and No. 6 fuel oil. The Commission listed No. 2 prices as averaging approximately $1.57 per Mcf equivalent,[40] and No. 6 as ranging from $1.23

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[28] *See* pp. 63–65, *infra.*

[29] *Id.* at 8 (footnotes omitted; emphasis supplied).

[30] *Id.*

[31] Initial Decision at 5–6 (emphasis supplied).

[32] Opinion No. 770–A at 173–180.

[33] Opinion No. 770 at 13.

[34] *Id.* at 5.

[35] *Id.* at 114. Opinion No. 770–A at 112–113.

[36] Even during the first three months of 1976 when the average intrastate price rose to 154.8¢, 42.9 percent of the new intrastate sales took place at prices below $1.50. This figure was 69.4 percent during the first six months of 1975, and 63.7 percent during the last six months of that year. *See* Opinion No. 770 at 114.

[37] Opinion No. 770–A at 117. In this regard, it is interesting to note that the Commission, in its December 20, 1976 order dismissing United Gas Pipe Line Company's petition seeking permission to make successive 60-day emergency, unregulated purchases from the same source of production, declared that:

"United's petition was filed prior to the establishment of the new national rate of $1.42 per Mcf in Opinion No. 770. (Footnote omitted.) In Opinion No. 770, we promulgated a rate which will encourage increased drilling activity and place interstate pipelines in a more competitive position to secure supplies from the onshore market." [Order Dismissing Petition, Docket No. RP76–88, mimeo. at 3.]

[38] Opinion No. 770, Commissioner Smith concurring in part and dissenting in part, at 11.

[39] *Id.* (emphasis in original).

[40] Opinion No. 770 at 116.

to $1.37.[41] In Exhibit 29 of Opinion No. 770, the Commission shows that the average spot price in June 1976 for No. 2 and No. 6 oil was $1.43 per Mcf equivalent, the same as the Opinion No. 770–A rate for new gas.[42] The American people have thus been treated to the sad spectacle of the Federal Power Commission, an agency of the Federal government sworn to protect consumers against exploitation at the hands of natural-gas companies, setting what it alleges is a cost-based rate at a level equal to that set by the OPEC cartel for oil. To complete the syllogism in support of its $1.42 rate, the FPC would have had to argue that the OPEC-set price for oil is cost based. No rebuttal to that contention, which to our knowledge has no sponsors, is necessary.[43]

The $1.42 per Mcf base rate with 1¢ per quarter escalations translates into a present value level rate of $1.61 per Mcf.[44] If further proof is required of the non-cost based nature of this rate, it is provided by the fact that the producers, which argued that the interstate price for gas should be set at the "true market" or "commodity value," unregulated level, requested in Docket No. RM75–14 a rate in the range of "only" $1.49 to $1.55 per Mcf, which was *less* than that actually approved by the FPC in Opinion No. 770–A.[45]

That the FPC saw nothing wrong wtih having set the regulated interstate new gas rate at a level equal to the unregulated prices of intrastate natural gas and No. 2 and No. 6 oil can be seen from its conclusions that *because* the Opinion No. 770–A new gas rate is in the range of the unregulated oil and gas prices, it is just and reasonable:

"[W]hen the $1.42 cost-based rate established in Opinion No. 770 is considered in relation to the intrastate prices for 1975 and 1976, it is clear that such rate is not unjust or unreasonable.[46]

* * * * *

"Again, after review of these commodity values, it cannot be said that the $1.42 per Mcf cost-based rate is unreasonable." [47]

On the contrary, the fact that the $1.42 rate of Opinion No. 770 was set at the intrastate level made it *per se* unlawful as an attempt to administratively deregulate interstate natural gas prices, because the anti-competitive structure of the natural gas producing industry was and remains the reason for regulating interstate gas rates so that they are not set at the unregulated, "what-the-market-will-bear", unjust and unreasonable level. The United State Supreme Court, the D.C. Circuit and the Fifth Circuit have all recognized in recent opinions that the unregulated intrastate market for natural gas in non-competitive and that the prices set therein are not "just and reasonable" as that term was intended by Congress in enacting the Natural Gas Act.

In "Federal Power Commission v. Texaco," [48] the Supreme Court held:

"For the purposes of the proceedings that may occur on remand, we should also stress that in our view the *prevailing price in the market-place cannot be the final measure of 'just and reasonable' rates mandated by the Act.* It is abundantly clear from the history of the Act and from the events that prompted its adoption that *Congress considered that the natural gas industry was heavily concentrated and that monopolistic forces were distorting the market price for natural gas.* (Footnote omitted.) *Hence, the necessity for regulation* and hence the statement in Sunray DX, 391 U.S., at 25, 20 L. Ed. 2d 388, that if contract prices for gas were set at the market price, this:

'Would necessarily be based on a belief that the current contract prices in an area approximate closely the 'true' market price—the just and reasonable rate. Although there is doubtless some relationship, and some economists have urged that it is intimate, such a belief would contradict the basic assumption that has caused natural gas production to be subjected to regulation * * *' (Footnote omitted.)

In subjecting producers to regulation because of anticompetitive conditions in the industry, Congress could not have assumed that 'just and reasonable' rates could conclusively be determined by reference to market price. Our holding in Phillips implies just the opposite." [49]

The D.C. Circuit applied the "Texaco" holding in "Consumer Federation of America v. FPC",[50] in striking down as unlawful the Commission's attempt to deregulate 180-days sales of natural gas by producers to the interstate market:

"Even if the producers charged the interstate pipelines no more than they charged other bidders in the unregulated intrastate market, "Texaco" took occasion to 'stress that in our view the prevailing price in the market place cannot be the final measure of "just and reasonable" rates mandated by the Act.' " [51]

The D.C. Circuit also reached this same conclusion in "MacDonald v. FPC".[52]

Even more recently, the Fifth Circuit rejected the view that "just and reasonable" interstate rates could be set at the level of unregulated intrastate prices in "Shell Oil Co. v. FPC",[53] because it found the unregulated intrastate market "inherently uncompetitive":

"Specifically, the producers base their argument for higher rates on a comparison between the FPC's new rate for natural gas and *higher price of both oil and natural gas in the unregulated intrastate market.* They argue that the national rate for regulated gas should equal the 'commodity value' of gas determined by comparison with substitutable fuels such as oil. *In essence, these petitionsers would have us set the price of natural gas at the rate that the market would bear.* The commodity price of gas would most likely be set by the prevailing price of oil and the cross-elasticity of demand between gas and oil. To accept this free market 'commodity value' would be to eschew the congressionally mandated responsibility of rate regulation which is devised to reach a 'just and reasonable' rate. *Fixing a 'just and reasonable' rate for a product sold in an inherently uncompetitive market requires more than mere subservience to national and international market forces."* [54]

The FPC's own Office of Economics [55] and the Pipeline and Producer Rates Division of the FPC's Bureau of Natural Gas [56] calculated cost based rates of 56.45¢ per Mcf and 61.71¢ per Mcf, respectively, barely a nickel apart and just slightly above the 52¢ per Mcf cost-based national rate of Opinion No. 699–H. Yet these cost-based rate recommendations, arrived at separately by two branches of the Commission's Staff, are each only approximately two fifths of the $1.42 per Mcf base rate established in Opinion No. 770–A, thus further emphasizing that the $1.42 rate is nothing more than an unlawful attempt by the Commission to administratively deregulate interstate natural gas prices by setting the interstate rate at the *per se* unjust and unreasonable intrastate market level.

Most significantly, neither of these Staff rate recommendations, which were totally ignored by the FPC, contained any Federal income tax allowance because the producers had not, and to date still have not, supplied any information revealing their actual taxes paid. Hence, since the producers have the burden of proof under Section 4(e) of the Natural Gas Act, 15 U.S.C. 717c(e), but have not begun to meet that burden on the tax issue, no Federal income tax component could properly be included in the Opinion No. 770–A rate. However, the FPC arbitrarily and unlawfully took the opposite approach and assumed, with no evidence [57] and with all common sense and common knowledge to the contrary, that producers would actually pay to the United States Treasury a 48 percent effective tax rate on the income from each well during the production period by viewing each well in a vacuum during the production period. Of course, this is absurd since during the time that one well is producing another well is in its preproduction period generating deductions to offset the income from the first well. In addition, other investments of the producers, both jurisdictional and non-jurisdictional, included in its consolidated tax return will yield tax deductions to further reduce the first well's production period income. Consequently, the 48 percent effective tax rate utilized for the production years in Opinion No. 770–A is

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[41] *Id.* at 118, Exhibit 28.

[42] *Id.* at 119, Exhibit 29.

[43] If the Arab oil embargo had not taken place and the price of oil had not quadrupled (which was not a cost-based event) such that the FPC found the price of No. 2 and No. 6 oil to be around 35¢ per Mcf equivalent, would the FPC still have found in Opinion No. 770–A that interstate natural gas *costs* $1.42 per Mcf to produce?

[44] Opinion No. 770–A at 89, 77.

[45] Joint Comments of Indicated Producer Respondents, Docket No. RM75–14 (May 30, 1975) at 47 ("the 'true market price', which equates to the 'just and reasonable rate' [footnote omitted] lies within the range of $1.49 to $1.55 per Mcf").

[46] Opinion No. 770–A at 113.

[47] *Id.*

[48] 417 U.S. 380 (1974).

[49] *Id.* at 397–99 (emphasis supplied).

[50] 169 U.S. App. D.C. 116, 515 F.2d 347, *cert. denied*, 423 U.S. 906 (1975).

[51] 515 F.2d at 357.

[52] 164 U.S. App. D.C. 248, 505 F.2d 355, 363–64 (1974).

[53] 520 F.2d 1061 (5th Cir. 1975), *cert. denied sub nom.*, California Co. v. FPC, 426 U.S. 941 (1976).

[54] *Id.* at 1083–84 (emphasis supplied).

[55] Clarification of Comments, Revision, and Revised Rate Recommendation of the Office of Economics of the Federal Power Commission, September 29, 1975 (issued by FPC October 3, 1975), at 3.

[56] Response of Federal Power Commission Staff, May 12, 1975 (issued by FPC March 23, 1976) at 1.

[57] In the Opinion No. 770–A proceeding the FPC refused to even order the producers to file their Federal income tax returns so that the Commission would determine what the actual taxes paid by the producers were. The FPC declared in Opinion No. 770–A (pp. 64–65) that "the 'average costs incurred by producers' as reflected in their past income tax returns, *are not relevant* for ascertaining future tax liabilities." (Emphasis supplied). The incorrectness of this Opinion No. 770–A holding is demonstrated by the exact opposite determination by FERC in its recent "Order Affirming Decision of Presiding Administrative Law Judge", issued on October 28, 1977, in *Southern California Edison Company*, Docket No. ER76–205 (p. 4 n. 5):

"It would appear self-evident that income tax returns *are the best evidence* of the reasonableness of any utility's claimed income tax allowance in rate cases." [Emphasis supplied.]

totally unsupported on a factual, legal, or even a theoretical basis.[58]

The D.C. Circuit's two-judge majority (Senior Judge Fahy dissented on the Federal income tax issue) in affirming Opinion No. 770–A made it clear that the FPC's tax model was being approved only tentatively and would be subject to rejection in the future if experience proved it to be fallacious

"In the circumstance and with the information at hand, the economic model is substantial evidence. In the light of experience, the standard of substantial evidence might require the agency to take a different course." [American Public Gas Association, *et al.* v. FPC, CADC Nos. 76–2000, *et al.*, order denying petitions for rehearing (August 17, 1977) at 3 n. 2.]

Moreover, the D.C. Circuit contemplated that the Commission's review in light of experience would take place quickly in the 1977–78 biennial review of the national rates, such that the adverse effect of the FPC's tax model would be minimized if it was found to be defective and not reflective of reality upon reconsideration by the Commission:

"The court's opinion sanctions the use of a model as substantial evidence, but it contemplates that this model will be subjected to the test of experience. If a flaw in the model is revealed, then there can be (slip opin. pp. 48–9) an adjustment for the future, an adjustment readily approached through withholding the benefit of future escalations. While this will not affect prices for gas already delivered, it would have substantial impact, and if error is found would forestall an undue perpetuation." [*Id.* at 3.]

Since the Commission has indefinitely postponed the biennial review of Docket No. RM77–13, it should reexamine the use of the FPC's tax model in this proceeding in order to comply with the D.C. Circuit's mandate.

In short, the 43.05¢ per Mcf Federal income tax component, which accounted for the difference between a 98.95¢ per Mcf rate and a $1.42 per Mcf rate, is a primary factor which was grossly inflated by the FPC as it manipulated the supposedly cost-based rate of Opinion No. 77–A up to the unregulated intrastate price level.[59] This entire $1.42 per Mcf rate, and especially the tax component, should be reconsidered and reduced by FERC on an expedited basis in order to terminate the windfall profits of the producers from their interstate sales in light of the Commission's jurisdiction to regulate the intrastate activities of "natural-gas company" producers to the extent necessary to eliminate the undue discrimination and irreparable injury which these producers have inflicted on the gas supply and pocketbooks of interstate consumers.

VI—Conclusion

Wherefore, for the foregoing reasons, Petitioners, the Consumer Coalition, respectfully request that in order to alleviate the interstate gas supply shortage and the curtailment and grossly inflated rates resulting therefrom during the present winter and into the future, the Commission (1) give this petition expedited consideration, (2) issue a declaratory order granting the relief set forth at the outset of this petition and (3) on its own initiative direct its Staff and counsel to seek out and recommend any and all other potential remedies within the authority and/or responsibility of FERC and adopt and apply such remedies as may assist in meeting the Commission's obligation to assure adequate supplies of natural gas in the interstate market at just and reasonable prices. Petitioners further request that FERC on its own initiative, without specific intervention by Petitioners, apply the foregoing principles to any and all other matters before the Commission to which they would or could apply.

Respectfully submitted,

Consumer Coalition

Charles F. Wheatley, Jr.
William T. Miller,
Stanley W. Balis.

Wheatley & Miller, 1112 Watergate Office Building, 2600 Virginia Avenue NW., Washington, D.C. 20037.

November 14, 1977.

Verification

District of Columbia/ss

Charles F. Wheatley, Jr., being first duly sworn on oath deposes and says that he has read the foregoing document and knows the contents thereof, that he has been authorized to present the same on behalf of the Petitioners and that the facts therein stated are true and correct as he verily believes.

Charles F. Wheatley, Jr.

Subscribed and sworn to before me this 14th day of November, 1977.

Notary Public

My Commission Expires:

Attachment

Appendix B.—*Natural gas (Federal domain) reserved by producers from interstate market*

Company	Gas transported as January 1977 (M ft³)	Gas to be transported in the future (M ft³)
(1) Gas authorized for producers' own use or disposition:		
Cities		29,500,000
Chevron, USA	389,037,988	729,417,299
Continental		29,500,000
Exxon		47,666,600
Getty	17,300,000	47,523,000
Mobil	45,318,458	42,765,700
Phillips	212,192,123	36,200,000
Shell	803,050,708	92,100,000
Sun	6,929,119	20,695,000
Tenneco		9,690,000
Texaco	[1] 601,435,754	46,130,000
(2) Gas the producers claim the right to reserve as specified by contracts on file with the FPC		[2] 831,000,000
Total	2,075,198,000	1,962,186,000
Total natural gas from the Federal domain reserved for producers' own use (4 trillion cubic feet)[3]	4,037,384,000	

[1] The FPC ruled that the transport of 580,000,000 M ft³ by Texaco has been "without proper authority."

[2] Not all producers have submitted their estimates of gas reserved for their own use—including such large producers as Mobil and Continental.

[3] Shortfall (excluding interruptible contracts) for winter 1976–77 was 1.527 trillion cubic feet.

[Docket No. RM78–3]

In the Matter of: Action To Alleviate Interstate Gas Supply Shortage and Resulting Curtailment and To Review Rates For Gas From Wells Drilled On or After January 1, 1973, In Light of Such Action

Motion To Dismiss of Certain Indicated Producers

On November 14, 1977, the "Consumers' Coalition" filed a "Petition for Declaratory Order and Expedited Consideration * * *." This Petition was docketed in No. RM78–3. Thereafter, without prior notice of the filing, the Federal Energy Regulatory Commission (Commission) on November 18, 1977, issued a News Release announcing its intention to consider the Petition at its meeting of November 22, 1977. Without prejudice to their right to make further filings as warranted in this matter, each of the undersigned producers hereby individually and jointly move to dismiss the above-referenced Petition.[1]

An examination of the pleading on its face reveals that the rulemaking proceeding sought by the Petition is either duplicative of existing proceedings before the Commission or else attacks Commission orders on appeal. As such, it constitutes an improper collateral attack on other agency proceedings, would put parties and the Commission to needless duplication of existing efforts, and would undercut substantive legal rights of the parties to those proceedings. An analysis of the points raised reveals these facts most clearly.

First, the "Consumers' Coalition" requests that the Commission reexamine producer reservations of offshore gas. A major case in point cited by the "Consumer Coalition" is "Tenneco Oil Co.", Docket No. CI75–45. Opinion No. 789 was issued in that proceeding on March 7, 1977 and is currently pending on rehearing. Producers point out that on November 9, 1977, this Commission expressly approved a reservation of offshore gas, allowing it to be transported onshore.[2] After that, in "Michigan Gas Storage Co.",[3] the Commission allowed a distribution company to receive gas from offshore reserves developed by its production affiliate. Along this same line, this Commission on November 16, 1977 issued an order in "Mesa Petroleum Co.",[4] in which the producer reserved an interest in the gas produced. Rather than intervening in these proceedings, the "Consumers' Coalition" now attempts to short-circuit the entire administrative proceeding by seeking a new proceeding on point, perhaps thereby rendering the record compiled at significant time and expense to both the parties and the agency a nullity. Such an attempted abuse of this Commission's procedures should not be allowed.

On this first point then, the Commission currently has before it proceedings on this

[1] Producers expressly reserve the right to supplement further the instant pleading. However, in view of the short notice received by producers of the Commission's intention to consider the matter aet the November 22, 1977 meeting, this motion is hereby filed at the present time to assist the Commission in its assessment of the Petition.

[2] Columbia Gas Transmission Corp., CP76–450.

[3] Docket No. CP74–322, Order issued November 10, 1977.

[4] Docket No. CI77–497.

[58] A review of the Annual Reports and Forms 10–K filed by a number of the major producers of natural gas with the Securities and Exchange Commission reveals that none of these companies paid anywhere near a 48 percent effective tax rate on their 1976 net income before taxes. The Commission's hypothetical tax component based on elimination of the percentage depletion allowance simply does not comport with reality. The facts available since the issuance of Opinion Nos. 770 and 770–A demonstrate that the FPC's model is defective and does not square with the real world, actual tax liability of producers.

[59] This non-cost price inflation applies equally to the 93¢ per Mcf base rate for 1973–74 gas, also set in Opinion No. 770–A under the same methodology.

very issue. Thus, the Petition constitutes a collateral attack on these proceedings.

Second, the Petition claims that intrastate sales of natural gas by natural gas companies constitute discrimination against the interstate consumer. The power of the Commission to regulate intrastate sales of natural gas pursuant to the nondiscrimination provisions of the Natural Gas Act[5] is currently pending on appeal in the D.C. Circuit,[6] the point having been pressed in that proceeding by members of the "Consumers' Coalition." That case has been argued, and the parties are currently awaiting a decision by the Court.

Nor is the fact that natural gas companies are making the intrastate sales availing to the position of the "Consumers' Coalition." The group's basic argument appears to be that whether or not Section 1(b) of the Natural Gas Act[7] applies to intrastate sales, *per se*, the Commission can nevertheless assert jurisdiction over such sales pursuant to Section 4(b) if made by natural gas companies.

The D.C. Circuit considered a similar argument advanced by the Commission in "Mobile Oil Co. v. FPC."[8] There, the Commission attempted to regulate the charges for the transportation of natural gas liquids, claiming it was required to regulate such charges to prevent discrimination against the interstate consumer.

The Court rejected the claim. Citing "Panhandle Eastern Pipe Line Co. v. Public Service Commission,"[9] the Court found that the Commission had not been delegated the power to regulate such charges pursuant to Section 1(b). Thus, the Court found the Commission had no power to regulate the rates charged, even though such rates were charged by a jurisdictional company. No less is the case here.

Thus, existing precedent refutes the validity of the second point raised by the "Consumers' Coalition." Further, as the issue is currently being considered by the D.C. Circuit, the Commission properly, in the interests of comity, administrative and judicial economy, and the substantive and procedural rights of the parties involved, should await the decision of the Court.

The third point raised by the Petition involves the setting of minimum daily delivery obligations. The "Consumers' Coalition" nowhere points out that this was a specific issue considered by the Commission in Order Nos. 539, 539–A, and 539–B.[10] In fact, members of the "Consumers' Coalition" pressed the point in the proceeding; the position was at first adopted and then rejected by the Commission in its final order on rehearing. Even the standard adopted, however, was challenged by certain producers as being beyond the scope of the power delegated the Commission under Section 1(b) of the Natural Gas Act. The "Consumers' Coalition's" attempt to undermine the Court's consideration of the legal issue, as well as the legal right of review guaranteed producers under Section 19(b),[11] should be rejected out of hand.

The fourth point pressed by the "Consumers' Coalition" is that the Commission should review immediately the "new" gas rates established by the Commission in Opinion No. 770–A. Producers herein would point out that such a review is currently under way by the Commission in Docket No. RM77–13. In fact, several of the undersigned producers have repeatedly sought expedited filing and consideration of rate evidence in that proceeding that new rates may be promptly set and the concomitant uncertainty dispelled. Thus, the "Consumers' Coalition" asks the Commission to institute a rate proceeding wholly duplicative of an existing proceeding already initiated by the Commission itself.

Finally, "Consumers' Coalition" attacks the orders entered in Docket No. RM75–25 as being illegal under the Natural Gas Act.[12] As before, the legality of such orders has been argued to a reviewing Court: Members of the "Consumers' Coalition" have urged the same issues on appeal as urged in this petition. They now seek to undermine the power of the Court to exercise its lawful jurisdiction to determine the legal issues raised by that appeal. Rather, they apparently seek to have a duplicative proceeding consider the legal issue at the same time as the Court considers it. Certainly, economy of administrative and judicial resources demands that the Court have opportunity to rule in a definitive manner, since the issue has been fully briefed and argued. Any attempt to abort the proceeding at this point undermines and subverts the integrity of judicial review. Further, it leaves the issue open, putting the parties again to the redundant task of briefing these issues to the Commission and the Court.

In closing, the undersigned producers note that the instant Petition constitutes a wholesale attack upon the integrity of the administrative and judicial process under the Natural Gas Act, being nothing more than a collateral attack upon proceedings pending before both this Commission and the Courts. By its Petition, the "Consumers' Coalition" attempts to thwart existing agency action, current judicial consideration of pending legal issues, and substantive rights guaranteed the party litigants by law. This attempt must be summarily and explicitly rejected.

Wherefore, the undersigned producers respectfully request that the "Petition for Declaratory Order and Expedited Consideration of the Consumer Coalition," filed in Docket No. RM78–3, be dismissed.

Respectfully submitted,

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Attorneys for Tenneco Oil Co., Pennzoil Co., Pennzoil Producing Co., Pennzoil Louisiana and Texas Offshore, Inc., Pogo Producing Co., and Texasgulf, Inc., and on behalf of: Edwin W. Parker, II, P.O. Box 2040, Tulsa, Okla. 74102.

Attorney for Amerada Hess Corp., William H. Emerson, P.O. Box 5910–A, Chicago, Ill. 60680.

Attorney for Amoco Production Co., Edward J. Kremer, David Aston, P.O. Box 2810, Dallas, Tex. 75221.

Attorneys for Atlantic Richfield Co., John Wild, 575 Market Street, San Francisco, Calif. 94105; Justin R. Wolf, 1625 K Street NW., Washington, D.C. 20006.

Attorneys for Chevron U.S.A. Inc., Robert S. Wheeler, Robert F. LeBlanc, P.O. Box 300, Tulsa, Okla. 74102.

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Attorney for Shell Oil Co., James D. Olsen, P.O. Box 20, Dallas, Tex. 75221.

Attorneys for Sun Gas Co., John A. Ramsey, Roger L. Brandt, Elliam T. Benham, P.O. Box 52332, Houston, Tex. 77052.

Attorney for Texaco Inc., George W. Hugo, 1100 The Milam Building, Houston, Tex. 77002.

Attorneys for Texasgulf, Inc., George C. Bond, Kenneth L. Riedman, Jr., David M. Hatfield, Union Oil Center, Room 907, P.O. Box 7600, Los Angeles, Calif. 90051.

Attorneys for Union Oil Co. of California:

UNITED STATES OF AMERICA $
$
DISTRICT OF COLUMBIA $

BEFORE ME, the undersigned authority, on this day personally appeared in said District CHARLES M. DARLING, IV who after first being duly sworn, on his oath deposed and said: That he is an attorney for Tenneco Oil Company, et al. that as such he has signed the foregoing document; that he is authorized to do so; that he has read said document and is familiar with the contents thereof; and that the matters and things set forth therein are true and correct to the best of his knowledge, information and belief.

CHARLES M. DARLING, IV

SUBSCRIBED and SWORN TO BEFORE ME this 22nd day of November, 1977.

Notary Public in and for The District of Columbia

My Commission Expires: June 14, 1978

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document has been served this date upon each person designated on the official service list compiled by the Secretary in this proceeding in accordance with the requirements of §1.17 of the Rules of Practice and Procedure.

Dated at Washington, D.C. this 22nd day of November, 1977.

CHARLES M. DARLING, IV

[FR Doc.77-34349 Filed 11-30-77;8:45 am]

[5] § 4(b), 15 U.S.C. 717c(b).

[6] American Public Gas Association v. FERC, No. 75–2105.

[7] 15 U.S.C. 717(b).

[8] 483 F. 2d 1238 (D.C. Cir. 1973).

[9] 332 U.S. 507 (1947).

[10] Docket No. RM76–8, issued October 14, 1975, March 26, 1976, and July 30, 1976, respectively, *pending on appeal sub nom.* Shell Oil Co. v. FERC, 5th Cir. No. 76–3066.

[11] 15 U.S.C. § 717r(b).

[12] Order Nos. 533 (issued August 28, 1975) and 533–A (issued November 10, 1975), *appeal pending sub nom.* APGA v. FPC, D.C. Cir. No. 75–2105.

federal register

THURSDAY, DECEMBER 1, 1977
PART V



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

CAREER EDUCATION AND CAREER DEVELOPMENT PROGRAMS

Grant Award Regulations

[4110-02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 163—FEDERAL ASSISTANCE TO ALLOTTEES TO ENABLE THEM TO PLAN FOR THE DEVELOPMENT OF CAREER EDUCATION AND CAREER DEVELOPMENT PROGRAMS FOR INDIVIDUALS OF ALL AGES

PART 163a—COMMISSIONER'S AUTHORIZATION TO GATHER, ANALYZE, AND DISSEMINATE CAREER INFORMATION

Final Regulations

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: These regulations govern the award of grants for two new career education programs authorized by the Education Amendments of 1976. Part 163 contains provisions for a one year program during Fiscal Year 1978 of financial assistance to States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands to enable them to plan for the improvement and development of career education and career development programs and activities for persons of all ages. Part 163a contains provisions for the Commissioner of Education to collect, analyze and disseminate information pertaining to career trends and options in the United States as well as exemplary career education and career development programs and material.

EFFECTIVE DATE: Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with its publication in the FEDERAL REGISTER. Section 431(d) provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION CONTACT:

Dr. Sidney C. High, Jr., U.S. Office of Education, 7th and D Streets SW., room 3108-A, Washington, D.C. 20202.

SUPPLEMENTARY INFORMATION: It should be noted that the Administration has not requested funding to implement either of these programs nor has the Congress provided funding for them in the Fiscal Year 1978 Labor-HEW Appropriations Bill as agreed upon by House and Senate Conferees. In connection with these two new programs, the Commissioner published in the FEDERAL REGISTER on November 22, 1976 (41 FR 51550) a Notice of Intent to Issue Regulations. Comments received in response to this Notice were considered in drafting the Notice of Proposed Rulemaking published in the FEDERAL REGISTER of June 2, 1977 (42 FR 28159). During the thirty days allowed for comment in response to the proposed rules eight comments were received. All of these comments pertained to the program of Federal assistance to States and other allottees to enable them to plan for the improvement and development of career education and career development programs for individuals of all ages, described in Part 163. The following is a summary of the comments received and the responses.

SECTION 163.2 DEFINITIONS

Comment. One commenter suggested that the definition of career education be amended to include "counseling and guidance as a required area of the career educational process." Specifically, the commenter urged that the definition be changed to read: "career education means an educational process in the areas of awareness, exploration, planning, decisionmaking, and counseling and guidance * * *."

Response. No change has been made in the regulation. The fact that counseling and guidance is an important aspect of the educational process that comprises career education is made clear by part (b) of the definition which provides that the career educational process is designed to, among other things, "provide opportunities for counseling, guidance, and career development for individuals of all ages."

Comment. One commenter suggested that the word "school" as used throughout the definition of "career education" connoted to many people kindergarten through grade twelve, while the program is intended to assist planning for individuals of all ages. The commenter suggested that the term "educational institutions" be used instead.

Response. While the definition of career education provided in § 163.2 is not mandated by Pub. L. 94-482, with minor exceptions it is exactly the same definition of career education that Congress provided in Section 406(d) of Pub. L. 93-380. ("The Education Amendments of 1974") (20 U.S.C. 1865(d)). Section 163.5(a) clearly states that the Federal assistance provided under this program is intended for the ultimate benefit of "individuals of all ages." Therefore, no change has been made in the regulations.

Comment. One commenter suggested that the word "society" as used in part (a) of the definition be replaced by the word "community."

Response. The suggestion has not been adopted. Part (a) of the definition is taken from the definition of career education provided by Section 406(d) of Pub. L. 93-380. As articulated by Congress, one of the goals of career education is to expand the role schools of all varieties play in society at large. While this goal necessarily involves expanding the relationship between individual schools and their particular communities, career education is not intended to address peculiarly local interests or needs.

Comment. One commenter disagreed with part (g) of the definition of career education and stated that vocational education, general education and career education "each have their own place."

Response. No change has been made in the regulations. Part (g) also tracks the Congressional definition in Pub. L. 93-380. Career education is not intended to blur the distinction between vocational and general or academic education. However, it is intended to eliminate any differences in status that may be perceived in our society.

SECTION 163.5 PURPOSES

Comment. One commenter suggested that subsection (a) be amended to require that the planning undertaken with this Federal assistance be "for the development of career education and career development programs which include career counseling and guidance by (certified) counselors."

Response. No change has been made in the regulations. Section 163.5, which sets out the types of planning that may be conducted under this program, is taken from section 331 of Pub. L. 94-482. As noted above, the fact that guidance and counseling is an important aspect of career education is made clear by part (b) of the definition of career education. However, Pub. L. 94-482 does not authorize the Commisioner to require that career counseling and guidance be planned for specifically.

Comment. Section 163.5(a)(3) provides that allottees may use the assistance provided under this program to assess "the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or sex." One commenter suggested that the list of stereotyping factors be expanded to include "creed, national origin and (religious) belief."

Response. No change has been made in the regulations. Section 163.5(a)(3) tracks exactly Section 331(3) of Pub. L. 94-482.

Comment. Section 406(f)(2) of Pub. L. 93-380 (20 U.S.C. 1865(f)(2)) and 45 CFR Part 160d authorize a program of Federal assistance to States wishing to develop State plans for the development and implementation of career education programs in the State's local educational agencies. In view of this, one commenter suggested that § 163.5 place an emphasis on planning for individuals at the post-secondary level.

Response. The suggestion has not been adopted. Section 331 of Pub. L. 94-482, which provides, in part, that the purpose of this program is "to provide Federal assistance to States to enable them to plan for the development of career education and career development programs * * * for individuals of all ages, and to plan for the improvement of existing programs and activities * * * for individual * * * throughout the lifetimes of such individuals," does not authorize the Commissioner to regulate with respect to the age group for whom planning is undertaken. However § 163.6(b) provides that "[i]f the State educational agency of the allottee received a career education planning grant authorized by section 406 of Pub. L. 93-380. * * * and the appli-

cant proposes to conduct planning activities designed to affect children in grades K–12, the application must contain an explanation of the relationship between the two planning efforts."

SECTION 163.6 APPLICATIONS

Comment. Two commenters suggested that the State education agency should be designated as the recipient of funds provided under this program.

Response. No change has been made in the regulations. Unlike section 406(f)(2) of Pub. L. 93–380, which specifies the State education agency as the recipient of the grant, sections 331 through 334 of Pub. L. 94–482 do not specify a particular type of grantee. This is, of course, consistent with a planning focus upon "individuals of all ages" rather than children in kindergarten through grade 12. Therefore, the Commissioner lacks the authority to single out the State educational agency as the designated grantee in each State. The regulations provide that an "applicant" may be any "agency, board or commission." (§ 163.2) However, to minimize the danger of multiple application from a single State, § 163.6 (a) requires that applications include "(a) statement from the governor * * * that the applicant has broad enough authority to coordinate and conduct planning activities for the career education and career development of individuals of those age groups for whom the allottee proposes to plan, and that the applicant is the sole agent authorized by the allottee to apply * * *."

SECTION 163.7 REPORTS

Comment. Section 163.7(e) provides that allottees may, in satisfaction of the requirement that they report on planning conducted under this program, submit planning proposals for "[f]ostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation services, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development and guidance and counseling." One commenter suggested that "local labor organizations and local management organiaztions" be added to this list.

Response. No change has been made in the regulations. Section 163.7(e) tracks section 334(5) of Pub. L. 94–482. However, the Office of Education believes that local labor or management organizations may be included within the meaning of "community groups" and "other community resources concerned with vocational development."

These final regulations contain minor editorial changes from the Notice of Proposed Rulemaking, which do not affect their substance. In addition, one minor organizational change is made. Section 163a.5, "Grants," as it appears in the Notice of Proposed Rulemaking has been separated into two sections, § 163a.5, Applications and § 163a.6, Evaluation Criteria.

After consideration of all comments, Parts 163 and 163a of Title 45 of the Code of Federal Regulations are amended 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 Inflationary Impact Statement under Executive Order No. 11821 and OMB Circular A–107.

(Catalog of Federal Domestic Assistance Number 13.554; Career Education Program.)

Dated: August 18, 1977.

JOHN ELLIS,
Acting U.S.
Commissioner of Education.

Approved: November 21, 1977.

HALE CHAMPION,
Acting Secretary of Health,
Education, and Welfare.

Subpart A—Scope

Sec.
163.1 Applicability.
163.2 Definitions.

Subpart B—Allotment Procedures

163.3 Eligible allottees.
163.4 Allotments.
163.5 Purposes.
163.6 Applications.
163.7 Reports.
163.8 Optional application information.

Appendix

AUTHORITY: Sec. 331–334, Pub. L. 94–482, 90 Stat. 2221 (20 U.S.C. 2501–2504), unless otherwise noted.

Subpart A—Scope

§ 163.1 Applicability.

(a) This Part applies to the program of Federal assistance to States and other allottees to enable them to plan for the improvement and development of career education and career development programs authorized by sections 331–334 of Pub. L. 94–482 and Subpart B of this Part.

(b) Assistance provided under this Part is subject to applicable provisions (and relevant appendices) of the Office of Education General Provisions Regulations, 45 CFR Parts 100 and 100b.

(c) The text of sections 331–336 of Pub. L. 94–482 is set out in the appendix to this Part.

(20 U.S.C. 2501–2504.)

§ 163.2 Definitions.

As used in this Part: "Allottee" means any of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands.

"Applicant" means the agency, board, or commission submitting the application for assistance authorized by Subpart B on behalf of the allottee.

"Career education" means an educational process in the areas of awareness, exploration, planning, and decisionmaking designed to—

(a) Increase the relationship between schools and society as a whole;

(b) Provide opportunities for counseling, guidance, and career development for individuals of all ages;

(c) Relate the subject matter of the curricula of schools to the need of persons to function fully in society;

(d) Extend the concept of the education process beyond the school into the area of employment and the community;

(e) Foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(f) Make education more relevant to employment and functioning in society; and

(g) Eliminate any distinction between education for vocational purposes and general or academic education.

"Career development" means a process which is part of human growth and development, which extends over the life cycle, and which involves career awareness, exploration, decisionmaking, planning, implementation, and maintenance designed to make work, paid and unpaid, a meaningful part of the individual's total lifestyle.

"State" means any of the several States and the District of Columbia.

"State Educational Agency" means the State Board of Education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools; or, if there is no such agency or officer, an agency or officer designated by the governor or by State law.

(20 U.S.C. 2501–2504.)

Subpart B—Allotment Procedures

§ 163.3 Eligible allottees.

Each State, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands may apply for the assistance allotted them by this subpart.

(20 U.S.C. 2502.)

§ 163.4 Allotments.

(a) The Commissioner allots to Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands no more than three percent of the sum reserved for allotments under this subpart according to their relative need.

(b) From the remainder of the sum reserved for allotments under this subpart, the Commissioner first allots $100,000 to each State. If a portion of the sum remains unallotted, the Commissioner allots the remaining sum among the States according to a ratio which bears the same relation as the population of each State does to the population of all the States.

(20 U.S.C. 2502.)

§ 163.5 Purposes.

(a) This subpart authorizes Federal assistance to allottees to support planning for the development and improvement of career education and career development programs and activities for individuals of all ages. Allottees must use this assistance to plan for one or any combination of the following purposes—

(1) The development of information on the needs for career education and career development;

(2) Promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each agency;

(3) Assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) Demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career education centers;

(5) The training and retraining of persons for conducting career education and career development programs; and

(6) The development of State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in American society according to his or her ability.

(b) Allottees shall use the assistance authorized under this subpart exclusively for planning purposes.

(20 U.S.C. 2501.)

§ 163.6 Applications.

Each allottee requesting assistance under this subpart submits an application to the Commissioner which contains the following information—

(a) A statement from the governor or chief executive officer that the applicant has broad enough authority to coordinate and conduct planning activities for the career education and career development of individuals of those age groups for whom the allottee proposes to plan, and that the applicant is the sole agent authorized by the allottee to apply for the assistance provided under this subpart.

(b) A description of the proposed planning purposes and activities, including the ages of the persons to be affected by the planning undertaken with this assistance. If the State educational agency of the allottee received a career education planning grant authorized by section 406 of Pub. L. 93-380 (Education Amendments of 1974), and the applicant proposes to conduct planning activities designed to affect children in grades K-12, the applicant must show the relationship between the two planning efforts.

(c) A budget showing that the allottee's contribution to the total cost of the planning will not be less than 20 percent.

(d) An assurance that the allottee will submit to the Commissioner, by December 31, 1978, a report of any planning undertaken pursuant to this subpart.

(20 U.S.C. 2501-2504, 20 U.S.C. 1232c.)

§ 163.7 Reports.

Each allottee must submit to the Commissioner by December 31, 1978, a report on any planning conducted pursuant to this subpart. The report may be in whatever form the allottee desires and may include planning proposals for:

(a) Extending career education and career development programs and services to all individuals in the State;

(b) Extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curricula of schools to the needs of individuals to function in society;

(c) The implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(d) The development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(e) Fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation services, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development and guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and

(f) Inventories of State, local, and private resources available for the development of career education and career development programs and services.

(20 U.S.C. 2504.)

§ 163.8 Optional application information.

To assure accountability and efficient use of resources, the applicant may include in the application an operational plan which provides the following information—

(a) The nature and scope of the planning the applicant intends to conduct;

(b) The specific planning objectives the applicant intends to achieve;

(c) The methods the applicant plans to use to achieve these objectives including—

(1) The techniques for involving representatives of business, industry, labor, and the professions, and other segments of the community in the planning process;

(2) A description of the relationship between this planning and previous career education planning efforts; and

(3) A description of any consideration given to planning for special populations, such as the handicapped, minorities, and the educationally disadvantaged.

(d) A description of the personnel and other resources the applicant intends to use in the planning process;

(e) The procedures the applicant plans to use to evaluate the extent to which planning objectives are achieved; and

(f) A timeline indicating the planning objectives and the dates by which the applicant intends to achieve them.

(20 U.S.C. 2501-2504, 20 U.S.C. 1232c.)

APPENDIX—PART C OF TITLE III OF PUB. L. 94-482

PART C—CAREER EDUCATION AND CAREER DEVELOPMENT

PURPOSE

SEC. 331. It is the purpose of this part to provide Federal assistance to States to enable them to plan for the development of career education and career development programs and activities for individuals of all ages, and to plan for the improvement of existing programs and activities, in the areas of awareness, exploration, planning, and decisionmaking of individuals served with regard to career opportunities and career development throughout the lifetimes of such individuals, through—

(1) planning for the development of information on the needs for career education and career development for all individuals;

(2) planning for the promotion of a national dialogue on career education and career development designed to encourage each State and local educational agency to determine and adopt the approach best suited to the needs of the individuals served by each such agency;

(3) planning for the assessment of the status of career education and career development programs and practices, including a reassessment of the stereotyping of career opportunities by race or by sex;

(4) planning for the demonstration of the best of the current career education and career development programs and practices by planning to develop and test exemplary programs and practices using various theories, concepts, and approaches with respect to career education and through planning for a nationwide system of regional career educational centers;

(5) planning for the training and retraining of persons for conducting career education and career development programs; and

(6) developing State and local plans for implementing programs designed to ensure that every person has the opportunity to gain the knowledge and skills necessary for gainful or maximum employment and for full participation in our society according to his or her ability.

AUTHORIZATION OF APPROPRIATIONS; ALLOTMENT

SEC. 322. (a) There are authorized to be appropriated for the purpose of this part $10,000,000 for fiscal year 1978. The provisions of section 414 of the General Education Provisions Act shall not apply to the authorization made by this subsection.

(b) (1) From the sums appropriated under this part, the Commissioner of Education shall reserve an amount not to exceed $2,000,000, for the purpose of carrying out section 335 of this part.

(2) From the remainder of the sums appropriated under this part, the Commissioner shall reserve such amount, not to exceed 3 per centum thereof, as he may determine necessary and shall allot such amount among the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands, according to their relative need for assistance under this part.

(3) (A) Of the remainder of the sums appropriated, the Commissioner shall allot to each State $100,000, and of the remainder of the sums appropriated the Commissioner shall allot to each State an amount which bears the same ratio to such sums for such year as the population of the State bears to

the population of all States, for purposes of carrying out section 331.

(B) For purposes of this paragraph, the term "State" means any of the Several States and the District of Columbia.

(c) The Federal share of funds allotted to States under this part shall not exceed 80 per centum of the total cost of the planning undertaken pursuant to this part.

PROGRAM ADMINISTRATION

SEC. 333. The provisions of this part shall be carried out by the Commissioner through the Office of Career Education established pursuant to section 406(c) of the Education Amendments of 1974.

USE OF FUNDS

SEC. 334. Any State desiring to receive the amount for which it is eligible for any fiscal year pursuant to this part shall agree to submit to the Commisisoner by December 31, 1978, a report of any planning undertaken pursuant to this part. Such report shall be in such form as the State may desire, and may include planning proposals for—

(1) Extending career education and career development programs and services to all individuals in the State;

(2) Extending the concept of the education process beyond the school into the area of employment and community affairs, and relating the subject matter curriculums of schools to the needs of individuals to function in society;

(3) The implementation of new concepts in career education and career development and for the replication of concepts which have demonstrated success;

(4) The development of training programs, including inservice training programs, for teachers, counselors, other educators, and administrators;

(5) Fostering cooperative arrangements with such community groups and agencies as the public employment services, vocational rehabilitation service, community mental health agencies, education opportunity centers, and other community resources concerned with vocational development guidance and counseling, in order to avoid unnecessary duplication in the provision of services in the community or area to be served; and

(6) Inventories of State, local, and private resources available for the development of career education and career development programs and services.

CAREER INFORMATION

SEC. 335. (a) The Commissioner shall provide, either directly or by grant or contract, for—

(1) The gathering, cataloging, storing, analyzing, and disseminating information related to the availability of, and preparation for, careers in the United States, including information concerning current career options, future career trends, and career education;

(2) The ongoing analysis of career trends and options in the United States, using information from both the public and private sectors, including such sources as the Bureau of Labor Statistics, the Department of Commerce, the Tariff Commission, economic analysts, labor unions, and private industry;

(3) The publication of periodic reports and reference works using analysis prepared pursuant to this section and containing exemplary materials from the career education field, including research findings, results, and techniques from successful projects and programs, and highlights of ongoing analyses of career trends in the United States; and

(4) The conduct of seminars, workshops, and career information sessions for the purpose of disseminating to teachers, guidance counselors, other career educators, administrators, other education personnel, and the general public information compiled and analyzed under this section.

(b) In carrying out the provisions of this part, and to the extent practicable, the Commissioner shall (1) make use of existing offices, centers, clearinghouses, and research capabilities, (2) coordinate among the offices, centers, clearinghouses and research capabilities in carrying out his career information responsibilities, and (3) use the career information capabilities of the Education Division.

NATIONAL ADVISORY COUNCIL

SEC. 336. The National Advisory Council for Career Education established pursuant to section 406(g) of the Education Amendments of 1974 shall, in addition to its duties under that section, advise the Commissioner with respect to the implementation of this part.

Subpart A—Scope

Sec.

163a.1 Applicability.
163a.2 Definitions.

Subpart B—Career Information

163a.3 Eligible applicants.
163a.4 Program purposes.
163a.5 Applications.
163a.6 Evaluation criteria.
163a.7 Duration.

AUTHORITY: Sec. 335, Pub. L. 94-482, 90 Stat. 2223 (20 U.S.C. 2505) unless otherwise noted.

Subpart A—Scope

§ 163a.1 Applicability.

(a) This part applies to the Commissioner's program to provide either directly or by grant or contract for gathering, analyzing, and disseminating information pertaining to career trends and options in the United States as well as exemplary materials from the career education field, authorized by section 335 of Pub. L. 94-482 and subpart B of this Part.

(b) If the Commissioner proceeds, as authorized by subpart B of this Part, by contract, the Commissioner is also subject to the applicable provisions of the Federal Procurement Regulations, 41 CFR Chapters 1 and 3. If the Commissioner proceeds by grant, the applicable provisions of 45 CFR Part 100a, the Office of Education's General Provisions Regulations, shall also apply.

(c) The text of section 335 of Pub. L. 94-482 is set out in the appendix to Part 163.

(20 U.S.C. 2505.)

§ 163a.2 Definitions.

As used in this Part, "Career education" means an educational process in the areas of awareness, exploration, planning, and decisionmaking designed to—

(a) Increase the relationship between between schools and society as a whole;

(b) Provide opportunities for counseling, guidance, and career development for individuals of all ages;

(c) Relate the subject matter of the curricula of schools to the needs of persons to function fully in society;

(d) Extend the concept of the education process beyond the school into the area of employment and the community;

(e) Foster flexibility in attitudes, skills, and knowledge in order to enable persons to cope with accelerating change and obsolescence;

(f) Make education more relevant to employment and functioning in society; and

(g) Eliminate any distinction between education for vocational purposes and general or academic education.

"Career information" means knowledge or data concerning career education programs and practices in the United States as well as career options and trends.

"Exemplary career education programs" means those career education projects which have achieved the standard of performance prescribed by the Joint Dissemination Review Panel of the Education Division of the Department of Health, Education, and Welfare.

(20 U.S.C. 2505.)

Subpart B—Career Information

§ 163a.3 Eligible applicants.

This subpart authorizes the Commissioner to provide for the gathering, analyzing and dissemination of information pertaining to career trends and options in the United States as well as materials from exemplary career education programs during fiscal year 1978. In the event the Commissioner chooses to award grants or enter into contracts, both public and private agencies and organizations may apply.

(20 U.S.C. 2505.)

§ 163a.4 Program purposes.

The Commissioner may make grants, enter into contracts, or provide directly for one or both of the following purposes—

(a) To provide information about the availability of and preparation for careers in the United States, including information concerning current career options and future trends through the:

(1) Gathering, cataloging, and storing of information;

(2) Ongoing analysis of career trends and options; and

(3) Dissemination of information gathered and analyzed by publishing periodic reports and research findings, and by conducting seminars, workshops, and career information sessions for career educators, other education personnel, and the general public.

(b) To provide information about exemplary career education programs and practices in the United States through the—

(1) Gathering, cataloging, and storing of information;

(2) The analysis of exemplary program materials and techniques; and

(3) The dissemination of findings through periodic reports, seminars, workshops, and career information sessions for career educators, other educational personnel, administrators, and the general public.

(20 U.S.C. 2505)

§ 163a.5 Applications.

Each applicant for a grant authorized by this subpart submits an application which contains the following information—

(a) An identification of the purpose or purposes from § 163a.4 (a) and (b) for which the application is submitted and a description of the applicant's resources and experience in conducting this type of activity;

(b) The objectives the applicant intends to achieve;

(c) The methods, resources, and activities the applicant proposes to use to achieve the objectives, including a description of the duties, responsibilities, and qualifications of personnel;

(d) A description of the methods the applicant plans to use to evaluate the extent to which it achieves each stated objective, including a description of the—

(1) Procedures the applicant proposes to use to evaluate the processes it uses to gather, analyze, and disseminate information;

(2) Methods the applicant proposes to use to assess the needs of its audiences at workshops, seminars, or other career information sessions as well as the impact of the career information it disseminates; and

(3) Criteria to be used to determine when and to what extent each of the applicant's objectives have been achieved.

§ 163a.6 Evaluation criteria.

In selecting applications for grants, the Commissioner applies the following objective criteria (100 points)—

(a) (15 points) The applicant's ability to respond to the purposes identified in § 163a.4, including evidence of the applicant's resources, the qualifications and experience of its personnel, the extent to which the applicant proposes to use information obtained from both the public and private sectors, and the extent to which the applicant proposes to coordinate its activities with other offices, centers, and clearinghouses;

(b) (20 points) The extent to which the applicant identifies objectives which are specific, capable of being measured, capable of being attained, and which respond to the purposes specified in the application;

(c) (30 points) The extent to which the application describes the resources, methods, and activities to be used to achieve the stated objectives, and the extent to which those methods, resources, and activities are appropriate to achieve the stated objectives;

(d) (20 points) The extent to which the application describes the:

(1) Procedures used to evaluate the attainment of each objective;

(2) Methods used to evaluate the process or means of achieving each objective; and

(3) Methods used to determine the needs of audiences at workshops, seminars, and other career information sessions, as well as the impact of the information disseminated to them;

(e) (10 points) The extent to which the applicant presents evidence that the individuals and groups whose assistance is needed are willing to provide assistance; and

(f) (5 points) The extent to which the application contains evidence to assure that the size, scope, and duration of the project are reasonable, and that the estimated cost is reasonable in relation to the anticipated results.

(20 U.S.C. 2505.)

§ 163a.7 Duration.

The Commissioner shall provide funds for the purposes set out in § 163a.4 only during Fiscal Year 1978. Grants awarded and contracts entered into for these purposes shall not exceed two years.

(20 U.S.C. 2505.)

[FR Doc.77-34476 Filed 11-30-77;8:45 am]

federal register

THURSDAY, DECEMBER 1, 1977

PART VI



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

TRAINING FOR HIGHER EDUCATION PERSONNEL

Grant Regulations

[4110–02]

Title 45—Public Welfare

CHAPTER I—OFFICE OF EDUCATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

PART 198—TRAINING FOR HIGHER EDUCATION PERSONNEL

AGENCY: Office of Education, HEW.

ACTION: Final Regulation.

SUMMARY: This final regulation governs grants to institutions of higher education under the Higher Education Personnel Training Program and is designed to support projects of three kinds: (1) Specialized training to assist individuals studying to become teachers, including guidance and counseling personnel, administrative personnel or education specialists, in institutions of higher education, if these individuals are from cultural or educational backgrounds which have hindered such persons from achieving success in education; (2) specialized training for individuals who are preparing to meet the special need of the individuals from the backgrounds described in item (1) above; and (3) inservice training for persons already serving as faculty or staff members in institutions of higher education who need the training in order to meet changing personnel needs in these institutions.

EFFECTIVE DATE: Pursuant to Section 431(d) of the General Education Provisions Act, as amended (20 U.S.C. 1232 (d)), this regulation has been transmitted to the Congress concurrently with the publication in the FEDERAL REGISTER. That section provides that regulations subject thereto shall become effective on the forty-fifth day following the date of such transmission, subject to the provisions therein concerning Congressional action and adjournment.

FOR FURTHER INFORMATION, CONTACT:

Dr. A. Bruce Gaarder, Regional Office Building No. 3, room 5652, 7th and D Streets SW., Washington, D.C. 20202, telephone: 202–245–9786.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking for the Higher Education Personnel Training Program, inviting public comment, was published in the FEDERAL REGISTER on April 6, 1977 (42 FR 18284). During the subsequent 45-day period of public comment, written suggestions and recommendations were received from fifteen persons and organizations. A summary of these comments and responses is included in this document. The comments and responses are identified with the section of the proposed regulation to which they refer. They are presented in the numerical sequence of the regulation. In each case, a brief heading is used to identify the subject of the comment.

SUMMARY OF COMMENTS AND RESPONSES

SECTION 198.1—ACADEMIC CREDIT

Comment. One commenter wanted a clarification as to whether the training provided under the program should or should not bear academic credit. The commenter found in the concept of "specialized training" an implication that the training should not be part of a "degree-credit" program, but believed that it would benefit the participating students if credit were granted.

Response. Since the statute and its legislative history do not address this point, the Commissioner prefers to leave the matter of granting credit to the discretion of the grantee, within the limitation of § 198.4(b)(2) which rules out Federal support of the overall, or general, course of study of trainees participating in projects described in § 198.3 (a) and (b). No change is made in the regulation.

SECTION 198.2—WOMEN AS A DISADVANTAGED CATEGORY

Comment. Several commenters recommended that the regulation explicitly include women (particularly minority women) as a category of persons who as a result of sex bias, are from disadvantaged cultural or educational backgrounds. One commenter recommended that the regulation clarify whether women, as such, are considered to be a disadvantaged group. The need for more women at the highest levels of college and university administration was emphasized.

Response. No change is made in the regulation. Women may participate as trainees in a number of ways under the regulation. With respect to training for individuals from disadvantaged backgrounds under § 198.3(a), women may be eligible, on the same basis as men, because they reside in neighborhoods characterized by a high concentration of low income families, come from background of rural isolation, are of limited English-speaking ability, or have attended a minority group isolated school. Women may also participate on the same basis as men in projects to train individuals preparing to serve persons from disadvantaged backgrounds (§ 198.3(b)) and in projects to meet changing personnel needs (§ 198.3(c)).

However, there is no evidence to suggest any congressional intent to make this an affirmative action program to assist women in general. On the contrary, while the Senate committee report does indicate that the training program is for educational personnel from "minority or disadvantaged backgrounds including those with limited English-speaking ability," (S. Rep. No. 882, 94th Cong. 2d Sess. 37 (1976)), there is no reference to women or to sex bias in the statute or its legislative history.

The Commissioner shares the concerns underlying the comments that there is a need to foster opportunities for greater numbers of women in higher education. Projects directed specifically to this end are being funded by the Office of Education under the Women's Educational Equity Act. However, the absence of any reference to women in Section 533 of the Higher Education Act or in its legislative history makes it inappropriate to treat women differently from men under this program.

SECTION 198.2—HANDICAPPED PERSONS

Comment. Three commenters recommended that physically handicapped persons be designated as a category of persons whose cultural or educational backgrounds have hindered them from achieving success in the field of education.

Response. It would not appear that "physical handicap" necessarily involves a "cultural or educational background" which has hindered individuals from achieving success in the field of education, within the ambit of the statute. Therefore, the category of "physically handicapped persons" has not been added to the definition in the regulation. Nevertheless, it is possible that particular types of physical handicap related to limited English-speaking ability, such as deafness, may come within the statutory intent. This would have to be examined on case-by-case basis in the light of information provided in the project application.

SECTION 198.3—SUPPORT FOR UNDERGRADUATE WORK

Comment. Three commenters recommended that the regulation be amended to permit support of training, study, and special services for eligible persons at the undergraduate college level. They reasoned that the need for the assistance is equally great at the undergraduate level and that the statute does not preclude it. One commenter strongly approved limiting the program to post-baccalaureate students.

Response. The recommendation to support training at the baccalaureate level is not accepted, for two reasons. First, there are other programs of Federal financial assistance to the same categories of disadvantaged persons at the undergraduate level, for example, Talent Search and the Special Services for Disadvantaged Students authorized by Title IV of the Higher Education Act. Second, the Higher Education Personnel Training Program is specifically designed for individuals preparing to serve as teachers, including guidance and counseling personnel, administrative personnel or education specialists, in colleges or universities. Given the educational requirements for these positions, the Commissioner believes that it is only at the post-baccalaureate level that students can realistically be said to be preparing for these positions. A further consideration is that because of the prospect of very limited funding for this program, the funds should be concentrated for maximum effect.

Comment. Two commenters commended the use of generic terms, rather than racial or ethnic classifications, to identify the classes of persons to be served. One commenter objected to use of the term "target group" in the preamble of the notice of proposed rulemaking, because it is an inappropriate military metaphor.

Response. The final regulation continues not to identify eligible partici-

pants in terms of racial or ethnic classifications. Use of the expression "target group" is discontinued.

Comment. One commenter found the reference to "Appalachian whites" in item (d) of the preamble to the notice of proposed rulemaking to have objectionable "geographic overtones," and suggested that another term such as "culturally disadvantaged whites" be used instead.

Response. The criticism is well taken, and in the final regulation the objectionable term is not used.

SECTION 198.3—POST-DOCTORAL TRAINING

Comment. One commenter urged that the regulation explicitly permit post-doctoral training or study, on the grounds that for administrative positions at the highest level the doctorate alone seldom suffices.

Response. The recommendation is not accepted. There is nothing in the statute or its legislative history to preclude the provision of training, study, or other allowable services at the post-doctoral level. However, to specifically mention training at the post-doctoral level in the regulation would give it undue emphasis in view of the fact that the Congress did not mention activity at that level, and taking into consideration the desirability of concentrating the limited resources of the program. No change is made in the regulation.

SECTION 198.3—QUALITY OF THE PROGRAMS OFFERED

Comment. One commenter suggests that the regulation should attempt explicitly to assure that the training provided is of high quality, on the grounds that experience and observation reveal that the quality could vary greatly among institutions.

Response. The Commissioner is aware of the need for high quality and hopes to satisfy it by use of the criteria set forth in 198.7 for reviewing and evaluating applications for assistance, particularly criteria (b) and (f).

SECTION 198.3—NATURE OF TRAINING PROVIDED

Comment. One commenter saw in § 198.3(a)(2) a limitation on the kinds of training that may be provided to students from disadvantaged backgrounds that is not supported by the statute. This commenter suggested that these students might also benefit from pursuing courses on how to teach or counsel the disadvantaged. The assumption of the commenter is that many of these students will eventually be teaching similarly disadvantaged persons.

Response. The regulation does not limit in any way the kind of training to be provided beyond stipulating that it must be designed to help the eligible participants complete their studies successfully, and that it must be "specialized," i.e., other than the overall, general, course of study of the participating trainees. The examples given in § 198.3 (a)(2) and (b)(2) are only illustrative.

SECTION 198.3—EMPHASIS ON TRAINING

Comment. One commenter felt that the regulation's emphasis on "training" may be too mechanistic to achieve the program's goals. The commenter urged that the emphasis should be on "broad competencies required for participation in the higher education process."

Response. The terms "training" and "to train" should be read as synonomous with "education" and "to educate." The statute and regulation do not limit the content of the training, study or other services to be provided, except that payment of the costs of the trainees overall, or general, program of study is not permitted.

SECTION 198.3—PRESERVICE TRAINING

Comment. One commenter questioned whether the statute authorizes grants to provide preservice training. The commenter noted that Section 533(b) of the Act provides that "grants made under this section may be used only to assist in paying the cost of courses of training * * * or *other inservice training* * * *." [Emphasis added.]

Response. The above reference to "other inservice training" must be read in the context of the entire statute. Section 533 (a)(1) authorizes grants to provide training to "individuals preparing to serve as teachers * * *", while Section 533(a)(2) authorizes grants to provide training to individuals serving as teachers * * *." The term "other inservice training" is read to apply only to those individuals who are already serving in institutions of higher education. As the commenter pointed out, the conference committee report does not use the term "other inservice training" but rather states that "the Senate bill limited grants under this section to costs of courses of training, including institutes and symposia, and to fellowships and traineeships. The House recedes with an amendment deleting the authority to make grants for fellowships and traineeships." (Conf. Rep. No. 1701, 94th Cong. 2d Sess. 205 (1976)). Training provided to individuals preparing to serve—but not yet serving—must by definition be preservice training. Therefore, no change is made in the final regulation.

SECTION 198.4—ALLOWABLE COSTS

Comment. One commenter asked whether compensation for some direct expenses of the participating student, such as transportation or released time, is allowable.

Response. The statute prohibits direct financial assistance to trainees, but all direct and indirect costs incurred by the grantee in providing allowable services may be paid from the Federal funds. For example, if a part of the training is to be provided at a special site different and distant from the on-campus site usually *utilized*, the grantee's expense of providing transportation for the trainees between the on-campus site and the off-campus site, using its own buses or public vehicles, is an allowable cost, but provision of funds by the grantee to the trainees to enable them to secure their own transportation is not allowable.

SECTION 198.4—NEED FOR CLEAR LANGUAGE

Comment. One commenter found a lack of clarity in the expression "Other inservice training" (§ 198.4(a)(1)(iv)) since its reference to the preceding items, (i), (ii), and (iii), includes both preservice and inservice training.

Response. The comment is well taken, and the final regulation is amended to read "other appropriate training."

SECTION 198.4—TUITION GRANTS

Comment. One commenter hoped that the program will be interpreted to make it possible for college instructors who are members of the disadvantaged groups "to continue work toward the Ph. D. degree at a nearby graduate university through tuition grants." Under this plan the instructor would continue to teach part-time at the college in order to gain experience and earn a modest salary.

Response. While an eligible participant may teach part-time or receive financial assistance while participating, the statute and its legislative history make it clear that the payment of stipends and other direct allowances to participants is not a permissible use of program funds. Nor is it allowable to use program funds to pay the costs of a participant's overall program of study. Therefore, the tuition grants envisaged by the commenter are not allowable program costs. No change is made in the regulation.

SECTION 198.5—CHANGING PERSONNEL NEEDS

Comment. One commenter stated that there is a need for teachers who are functionally competent, i.e., able to speak, read and write, in one or more American Indian languages, particularly to serve as trainers of other teachers.

Response. Functional competence in an American Indian language, as described by the commenter, is an acceptable example of the "professional capabilities" referred to in § 198.5(a)(2), and therefore training to develop and strengthen this competence is permissible under the program. Such training may also be provided to individuals preparing to serve persons from disadvantaged backgrounds, under § 198.3(b).

Comment. Another commenter pointed out the relatively great need for members of the underrepresented minority groups who have been trained to assume the highest positions—deanships, vice presidencies, presidencies—in colleges and universities.

Response. Individuals from disadvantaged backgrounds are eligible for training under § 198.3(a). Until the Commissioner identifies and publishes the areas of greatest personnel needs referred to in § 198.5(b), applicants are allowed to propose categories of need. In such cases the applicant must document the proposed personnel need to the Commissioner's satisfaction.

SECTION 198.6—NON-TRADITIONAL SETTINGS FOR TRAINING

Comment. One commenter wanted grantee institutions to be allowed to "develop programs [serving native American Indians] which combine elements of regular courses of study with opportunities for inservice training in both traditional and non-traditional settings" such as tribal agencies and Bureau of Indian Affairs schools and offices, and for participation in tribal activities of a cultural and social nature.

Response. The statute and regulation do not restrict a grantee from using non-traditional settings such as those suggested by the commenter. There is no limitation on the content or nature of the training or study provided. However, support of the overall course of study of participating trainees is not an allowable cost in projects described in § 198.3 (a) and (b). It should be noted that the Bureau of Indian Affairs does not qualify as a grantee, i.e., as an institution of higher education.

SECTION 198.7—CONSORTIA AS GRANTEES

Comment. One commenter urged that eligibility to apply for assistance be extended to consortia of "institutions of higher education, State systems of higher education or educational associations."

Response. Only institutions of higher education are eligible to receive awards under the statute. An award may be made to a single institution of higher education, or a joint award may be made to two or more institutions of higher education which carry out the project on a cooperative basis. If provided for in the approved grant application, a grantee may contract with other types of organizations for services to assist in carrying out a portion of the project. However, the grantee may not serve as a conduit to pass through responsibility for the grant to another entity. (40 CFR 100a.30)

SECTION 198.8—DURATION OF AN INDIVIDUAL'S PARTICIPATION

Comment. One commenter noted that "individual doctoral programs" often require more than three years of post-baccalaureate work. He therefore urged that it be made possible to extend the 36-month period referred to in parargaph (a) of § 198.8 of the regulation.

Response. The 36-month limit is set because the statute authorizes appropriations for the program only until October 1, 1979. The limit refers to the duration of the grant of Federal assistance rather than to the total period during which an eligible student, faculty, or staff member may participate in the program. Thus, if the grantee institution sought, on a competitive basis, and was awarded a new project of assistance under the Higher Education Personnel Training Program, it is possible that eligible participants could continue beyond the 36-month limit.

SECTION 198.8—BEST INTEREST OF THE GOVERNMENT

Comment. One commenter recommended that the phrase "best interest of the Government" be defined, elaborated upon, or eliminated completely. The commenter speculated that "without some indication of what 'Government interests' might be, review of (continuation projects) would be open to subjective, and possibly biased opinions * * *."

Response. The recommendation is accepted. The phrase "best interest of the Government," is not used in the final regulation.

In consideration of the foregoing, a new Part 198 is added to Title 45 of the Code of Federal Regulations to read as set forth below.

Authority. These regulations are issued under the authority of Section 533 of the Higher Education Amendments Act of 1965 as enacted by section 153 of the Education Amendments of 1976, Pub. L. 94–482, 20 U.S.C. 1119a–1.

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: 13.417.)

Dated: September 1, 1977.

JOHN ELLIS,
Acting U.S.
Commissioner of Education.

Approved: November 22, 1977.

HALE CHAMPION,
Acting Secretary, Health,
Education, and Welfare.

Sec.
198.1 Scope and purpose.
198.2 Definitions.
198.3 Types of projects; eligible participants.
198.4 Allowable and unallowable project activities and costs.
198.5 Changing personnel needs.
198.6 Application requirements.
198.7 Evaluation criteria.
198.8 Project duration.

AUTHORITY: Sec. 533, Higher Education Act of 1965 as enacted by Pub. L. 94–482 (20 U.S.C. 1119a–1).

§ 198.1 Scope and purpose.

(a) *Scope.* (1) This part applies to the award of grants with funds appropriated to carry out section 533 of Title V of the Higher Education Act of 1965 as enacted by Pub. L. 94–482, which authorizes the higher education personnel training program.

(2) The award of grants under this part is subject to applicable provisions contained in general provisions regulations of the Office of Education (Parts 100, 100a of this chapter), except that the criteria in § 100a.26(b) do not apply to applications under this part.

(Sec. 533, 20 U.S.C. 1119a–1, 1221c, 1232c(b), (3).)

(b) *Purpose.* The purpose of the higher education personnel training program is to provide—

(1) Specialized training to prepare persons from cultural or edcuational backgrounds which have hindered such individuals in achieving success in the field of education to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists;

(Sec. 533(a)(1)(A), 20 U.S.C. 119a–1(a)(1)(A))

(2) Specialized training to prepare persons to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists, if they are preparing to serve in educational programs designed to meet the special needs of students from the backgrounds noted in subparagraph (b)(1) of this section; and

(Sec. 533(a)(2), 20 U.S.C. 119a–1(a)(2))(B))

(3) Inservice training for persons serving in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists to meet changing personnel needs in institutions of higher education.

(Sec. 533(a)(2), 20 U.S.C. 119a–1(a)(2).)

§ 198.2 Definitions.

As used in this part:

"Act" means section 533 of the Higher Education Act of 1965, as enacted by the Education Amendments of 1976, Pub. L. 94–482.

(Sec. 533, 20 U.S.C. 1119a–1)

"Cultural or educational backgrounds which have hindered individuals from achieving success in the field of education" include but are not limited to: (a) Residence in a neighborhood characterized by a high concentration of low-income families, (b) rural isolation, (c) limited English-speaking ability, as defined in section 703(a)(1) of the Bilingual Education Act (20 U.S.C. 880b–1(a)(1)), or (d) attendance at a minority group isolated school, as defined for purposes of the Emergency School Aid Act in § 185.02(g) of this chapter.

(Interprets Sec. 533(a), 20 U.S.C. 1119a–1(a))

"Education specialist" means a person who trains teachers, or performs other professional services closely related to the training of teachers, for service at the higher education level.

(Interprets Sec. 533(a), 20 U.S.C. 1119a–1(a))

"Institution of higher education" means an institution of higher education in any State as defined under section 1201(a) of the Higher Education Act of 1965, as amended.

(Sec. 1201(a), 20 U.S.C. 1141)

§ 198.3 Types of projects; eligible participants.

The Commissioner funds three types of projects under this part:

(a) *Training for individuals from disadvantaged backgrounds*—(1) *Eligible participants.* Persons with a baccalaureate degree are eligible to receive training under this paragraph if they are—

(i) Preparing to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists, and

(ii) From cultural or educational backgrounds which have hindered such persons in achieving success in the field of education. As used in this paragraph, "education" is meant in the general sense, including all academic disciplines.

(2) *Nature of training.* Training under this paragraph may include only specialized training for eligible participants designed to help them successfully complete their studies. Examples of permissible training services include tutoring, counseling, orientation to research methods, training in speed reading, and vocabulary development.

(Interprets and implements Sec. 533 (a)(1)(A), (b), 20 U.S.C. 1119a–1 (a)(1)(A), (b))

(b) *Training for individuals preparing to serve persons from disadvantaged backgrounds.*

(1) *Eligible participants.* Persons with a baccalaureate degree are eligible to receive training under this paragraph if they are:

(i) Preparing to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists; and

(ii) Preparing to serve in educational programs designed to meet the special needs of college or university students from the cultural or educational backgrounds described in § 198.2.

(2) *Nature of training.* Training under this paragraph may include only specialized training for eligible participants designed to prepare them to provide training or services to meet the special needs of students from the cultural or educational backgrounds described in § 198.2.

(Interprets and implements Sec. 533(a)(1)(B), (b), 20 U.S.C. 1119a–1 (a)(1)(B), (b))

(c) *Training to meet changing personnel needs.* Training under this paragraph may include only inservice training for persons serving in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists, to prepare them to meet changing personnel needs in institutions of higher education.

(Interprets and implements Sec. 533 (a)(2), (b), 20 U.S.C. 1119a–1 (a)(2), (b))

§ 198.4 Allowable and unallowable project activities and costs.

(a) *Allowable costs.* An institution of higher education may file an application under this part to carry out one or more of the three types of project activities described in § 198.3.

(1) Training activities funded under this part may include—

(i) Courses of training or study in academic year institutes;

(ii) Courses of training or study in short-term institutes;

(iii) Symposia; and

(iv) Other appropriate training.

(2) Direct and indirect costs incurred by a grantee in carrying out allowable activities described in § 198.3 and paragraph (a)(1) of this section, in accordance with the cost principles in Appendix C to subchapter A of this chapter (Office of Education General Provisions Regulations), are allowable.

(Implements Sec. 533, 20 U.S.C. 1119a–1)

(b) *Unallowable costs.* (1) Stipends and other direct financial assistance to participating trainees are not allowable costs.

(Interprets and implements Sec. 533(b), 20 U.S.C. 1119a–1(b))

(2) Support of the overall, or general, course of study of participating trainees is not an allowable cost in projects described in § 198.3 (a) and (b).

(Interprets and implements Sec. 533 (a)(1), (b), 20 U.S.C. 1119a–1 (a)(1), (b))

(3) The costs of construction and remodeling are not allowable.

(Implements Sec. 533(b), 20 U.S.C. 1119a–1(b))

§ 198.5 Changing personnel needs.

(a) Projects designed to meet changing personnel needs, under § 198.3(c) may address the following areas of need:

(1) The need for more persons from the disadvantaged cultural or educational backgrounds defined in § 198.2 to serve in institutions of higher education as teachers, guidance and counseling personnel, administrative personnel, or education specialists.

(Sen. Rep. No. 94–882 on S. 2657, p. 37 (1976))

(2) The need for persons with professional capabilities (including a high degree of literacy) in a non-English language to serve in programs of bilingual education.

(3) Such other categories of personnel needs as may be proposed by an applicant, and as supported by evidence of need in the application.

(b) During the first year of operation of the higher education personnel training program and until such time as the national priority areas of need for educational personnel shall have been determined pursuant to section 406(b)(5) of the General Education Provisions Act, the Commissioner funds applications under this section without according priority to particular types of personnel needs, subject to the assignment of extra points under § 198.70(h) to projects serving students with the cultural or educational backgrounds described in § 198.2.

(Interprets and implements Sec. 533(a)(2), 20 U.S.C. 1119a–1(a)(2))

§ 198.6 Application requirements.

Each institution of higher education seeking assistance shall submit an application to the Commission.

(a) The application must—

(1) State, in terms of § 198.3, the category or categories of service or training to be provided;

(2) State the need for the services or training in terms that reflect—

(i) In the case of an application under § 198.3(a), the number of students in the category described in § 198.3(a) who are enrolled in the applicant institution, the number of participants in the project, the groups represented by those students, including information documenting the eligibility of those students under § 198.3(a), and the criteria used for their identification and selection for participation in the project;

(ii) In the case of an application under § 198.3(b), the number of persons in the category described in § 198.3(b) who are enrolled or employed by the applicant institution, and the criteria used for their identification; and

(iii) In the case of an application under § 198.3(c), the number of persons employed by the applicant institution with needs addressed by the project, the number to be trained under the project, and the personnel need which the proposed training or study is designed to meet.

(3) Certify, with respect to applications under § 198.3 (a) and (b), that trainees are in fact preparing to serve in institutions of higher education as teachers, including guidance and counseling personnel, administrative personnel, or education specialists.

(4) Describe the program of training or study proposed.

(b) In addition to the requirements in paragraph (a) of this section, if similar training to that proposed is already being provided by the applicant institution, the application must include—

(1) A description of the current activities and the cost thereof; and

(2) Information to satisfy the Commissioner that Federal funds will be used only to expand or improve the training and study provided without Federal funds.

(c) The application should contain information responding to each applicable criterion in § 198.7 in order to permit an evaluation of the application by the Commissioner. Failure of an application to contain information responding to an applicable criterion in § 198.7 will deny the applicant of the opportunity to earn points attached to that criterion.

(Implements Sec. 533, 20 U.S.C. 1119a–1)

§ 198.7 Evaluation criteria.

An application for a grant under this part which meets all of the application requirements in § 198.6 will be evaluated by the Commissioner on the basis of the following criteria. The maximum number of points which will be assigned to an application for each criterion is indicated in parenthesis next to the criterion. The maximum number of points for all criteria is 100. An application must receive a minimum of 50 points to be considered for funding.

(a) The extent of need for the proposed training, as documented in the

application, and the responsiveness of the proposed training to that need. (15 points)

(b) Adequacy of qualifications and experience of personnel designated to carry out the proposed project. (15 points)

(c) Adequacy of facilities and other resources. (10 points)

(d) Reasonableness of estimated cost in relation to anticipated results. (10 points)

(e) Sufficiency of size, scope, and duration of the project so as to secure productive results. (5 points)

(f) Soundness of the proposed plan of operation, including consideration of the extent to which:

(1) The objectives of the proposed project are sharply defined, clearly stated, and capable of being attained by the proposed procedures. (10 points)

(2) Provision is made for adequate evaluation of the effectiveness of the project and for determining the extent to which the objectives are accomplished. (10 points)

(3) Provision is made for disseminating the results of the project and for making materials, techniques, and other outputs resulting therefrom available to the general public and specifically to those concerned with the area of education with which the project is itself concerned. (5 points)

(g) Adequacy of the methods used to determine the eligibility of persons to be served by the project. (5 points)

(Implements Sec. 533, 20 U.S.C. 1119a–1)

(h) The extent to which the persons to be trained are from the cultural or educational backgrounds described in § 198.2. (15 points)

(Sen. Rep. No. 94–882 on S. 2657, p. 37 (1976))

§ 198.8 Project duration.

(a) The Commissioner awards projects under this part for a specified project period which generally will not exceed 36 months, subject to the availability of funds.

(b) The Commissioner may permit applicants for assistance under the Act to project their goals and activities over a period of up to three years. Approval of multi-year projects is intended to offer programs or projects a reasonable degree of stability over time and to facilitate additional long range planning.

(c) Applications proposing multi-year projects must be accompanied by an explanation of the need for multi-year support, an overview of the objectives and activities proposed, and budget estimates to attain these objectives in any proposed subsequent year.

(d) Subject to the availability of funds, applications for assistance to continue a project during the project period will be reviewed on a non-competitive basis to determine:

(1) If the award recipient has complied with the award terms and conditions, the Act, and applicable regulations;

(2) The effectiveness of the project to date in terms of progress toward its goals, or the constructive changes proposed as a result of the ongoing evaluation of the project.

(Implements Sec. 533, 20 U.S.C. 1119a–1)

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