AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

Vol. 43—No. 57
3-23-78
PAGES
11959-12271

federal register

THURSDAY, MARCH 23, 1978



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Monday	Tuesday	Wednesday	Thursday	Friday
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	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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federal register

Area Code 202 Phone 523-5240

Published daily, Monday through Friday (no publication on Saturdays, Sundays, or on official Federal holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C., Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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[3195-01]

Title 3—The President

PROCLAMATION 4556

National Farm Safety Week, 1978

By the President of the United States of America

A Proclamation

All Americans, and a sizeable portion of the rest of the world's people, depend upon American agriculture for much of their food and fiber. Anything that diminishes the ability of farmers and ranchers to meet these vital needs is of great concern. Farm accidents are among the costliest impediments to production and cause great suffering and economic loss.

Accidents can destroy the lives and bodies, as well as the economic resources of farm families. Neither the individuals involved, nor the Nation, can afford these losses. Farm safety leaders believe that most farm accidents could be prevented with greater care in controlling hazards and unsafe practices—the same kind of dedicated, careful management and attention to detail that has made possible our incredible increase in agricultural production.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, do hereby designate the week beginning July 25, 1978, as National Farm Safety Week. I call upon the men and women who operate the Nation's farms and ranches to regard safety as an integral part of all their activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-first day of March, in the year of our Lord nineteen hundred seventy-eight, and of the Independence of the United States of America the two hundred and second.

Jimmy Carter

[FR Doc. 78-7852 Filed 3-21-78; 2:36 pm]

rules and regulations

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

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

[3410-02]

Title 7—Agriculture

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

[Navel Orange Regulation 436]

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 March 24-30, 1978. 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: March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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 by tending to establish and maintain such orderly marketing conditions for such oranges as will provide, in the interests of producers and consumers, an orderly flow of the supply thereof to market throughout the normal marketing season to avoid unreasonable fluctuations in supplies and prices, and is not for the purpose of maintaining prices to farmers above the level which it is declared to be the policy of Congress to establish under the Act.

The committee met on March 21, 1978, 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 showed some improvement.

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 affectuate 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.

§ 907.736 Navel Orange Regulation 436.

Order. (a) The quantities of navel oranges grown in Arizona and California which may be handled during the period March 24, 1978, through March 30, 1978, are established as follows: (1) District 1: 847,000 cartons; (2) District 2: 253,000 cartons; (3) District 3: Unlimited movement.

(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: March 22, 1978.

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

[FR Doc. 78-7963 Filed 3-22-78; 12:25 am]

[3410-02]

[Valencia Orange Regulation 580]

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

Limitation of Handling

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This regulation establishes the quantity of fresh California-Arizona Valencia oranges that may be shipped to market during the period March 24-30, 1978. Such action is needed to provide for orderly marketing of fresh Valencia oranges for this period due to the marketing situation confronting the orange industry.

EFFECTIVE DATE: March 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

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

The committee met on March 21, 1978, to consider supply and market conditions and other factors affecting the need for regulation and recommended a quantity of Valencia oranges deemed advisable to be handled during the specified week. The committee reports the demand for Valencia oranges is good at this time.

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 in-

formation 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.

§ 908.880 Valencia Orange Regulation 580.

Order. (a) The quantities of Valencia oranges grown in Arizona and California which may be handled during the period March 24, 1978, through March 30, 1978, are established as follows: (1) District 1: Unlimited movement; (2) District 2: Unlimited movement; (3) District 3: 200,000 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: March 22, 1978.

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

[FR Doc. 78-7962 Filed 3-22-78; 12:24 am]

[7590-01]

Title 10—Energy

CHAPTER I—NUCLEAR REGULATORY COMMISSION

LICENSED NUCLEAR MATERIALS AND FACILITIES

Licensee Safeguards Contingency Plans

AGENCY: Nuclear Regulatory Commission.

ACTION: Final rule.

SUMMARY: The Nuclear Regulatory Commission is amending its regulations to require that licensees authorized to operate a nuclear reactor (other than certain research and test reactors), and those authorized to possess strategic quantities of plutonium, uranium-233, or uranium-235 develop and implement acceptable plans for responding to threats, thefts, and industrial sabotage of licensed nuclear materials and facilities.

The plans will provide a structured, orderly, and timely response to safeguards contingencies and will be an important segment of NRC's contingency planning programs. Licensee safeguards contingency plans will result in organizing licensee's safeguards resources in such a way that, in the unlikely event of a safeguards contingency, the responding participants will be identified, their several responsibilities specified, and their responses coordinated.

EFFECTIVE DATE: June 6, 1978.

NOTE.—The Nuclear Regulatory Commission has submitted this rule to the Comptroller General for review of its reporting requirement under the Federal Reports Act, as amended, 44 U.S.C. 3512. The date on which the reporting requirement of the rule becomes effective, unless advised to the contrary, includes a 45-day period which that statute allows for Comptroller General review (44 U.S.C. 3512(c)(2)).

FOR FURTHER INFORMATION CONTACT:

Thomas F. Carter, Jr., Chief, Contingency Planning Branch, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555 telephone 301-427-4191.

SUPPLEMENTARY INFORMATION: On May 19, 1977, the Nuclear Regulatory Commission (NRC) published in the FEDERAL REGISTER (42 FR 25744) proposed amendments to 10 CFR Parts 50, 70, and 73 of its regulations. Interested persons were invited to submit written comments and suggestions in connection with the proposed amendments within 60 days after publication in the FEDERAL REGISTER. The Commission also has under consideration other proposed amendments to 10 CFR Part 73 that relate to the response to a safeguards contingency. These were published on July 5, 1977 (42 FR 34310), and were titled, "Performance Oriented Safeguards Requirements." The comment period expired on September 19, 1977.

For administrative convenience the Commission is incorporating some sections of the proposed amendments published on July 5, 1977, in the final rule on safeguards contingency planning. Upon consideration of the comments received on the proposed amendments published on May 19, 1977, and on the pertinent sections of the proposed amendments published on July 5, 1977, and upon consideration of other factors involved, the Nuclear Regulatory Commission has adopted the proposed amendments with certain modifications as set forth below. (The pertinent sections of the proposed rule published on July 5, 1977, are paragraphs 73.26(c)(3)(iii), 73.26(d), 73.46(b)(3)(iii), 73.46(h), 73.55(b)(3)(iii) and 73.55(h).)

Significant differences from the proposed amendments published for comment on May 19, 1977, are: (1) licensees will be required to submit for NRC approval all categories of information in a safeguards contingency plan (as set forth in Appendix C to 10 CFR Part 73) except the implementing Procedures; the proposed rule required that implementing Procedures also be subject to NRC approval as part of the licensing process; (2) the observation that a goal of contingency planning is for licensee responses to be compatible with Federal responses has been removed; (3) the requirement concerning "a statement of the perceived danger" has been clarified by stating that such a statement promulgated by the Commission may be used by the licensee; (4) cross-reference to the licensee's physical security plan is explicitly permitted for topics that are adequately covered in that plan; (5) the requirement for periodic drills or tests of the licensee's safeguards contingency plan has been modified to relieve the licensee from responsibility for testing the response of entities not under the licensee's control; (6) paragraphs 73.50(g) and 73.55(h) have been revised to include an explicit requirement for safeguards contingency plans in accordance with the proposed rule published on July 5, 1977; and (7) the requirements on "Development and Maintenance of the Plan" have been removed from Appendix C of 10 CFR Part 73 and placed at appropriate places in the text of the rule.

The following discussion pertains to items (1) through (7) above.

(1) Several commenters suggested that the fifth category of information (Procedures) contained in a safeguards contingency plan as set forth in Appendix C of 10 CFR Part 73 should not be a part of a licensee's approved safeguards contingency plan because of the lack of flexibility associated with requiring NRC approval or concurrence of day-to-day operations. They cited other precedents in this area, such as § 50.59 of 10 CFR Part 50.

The amendments as proposed contained the flexibility suggested by these comments. In paragraphs 50.54(p) and 70.32(g) as proposed on May 19, 1977, the licensee would not be required to submit changes to the contingency plan to the NRC if the changes did not decrease the plan's effectiveness. Paragraph 50.54(p) has been revised to state this option more explicitly.

In consideration of the comments, however, the Commission has decided to omit the Procedures as part of the licensee safeguards contingency plan approved by the Commission. The procedures, which are derived from the Responsibility Matrix, will be a document that can be changed by the licensee. If the Responsibility Matrix is changed as a result of a procedure change, however, an amendment to the plan must be submitted for approval in accordance with paragraph 50.54(p) or 70.32(g). The Procedures will continue to be a part of the plan, and NRC's Office of Inspection and

Enforcement will insure that they conform to the licensee's Responsibility Matrix.

Paragraphs 50.34(d), 50.54(p), 70.22(g), 70.22(j), 70.32(g), 73.30(g), Section 73.40, and Appendix C to 10 CFR Part 73 have been revised to reflect this change.

(2) Several commenters suggested that the goal of having licensee contingency plans compatible with Federal responses should be the responsibility of the Nuclear Regulatory Commission rather than the licensee's, because the Commission is in a better position to integrate this capability.

The Commission did not intend to imply that licensees were responsible for insuring compatibility of licensee and Federal-level safeguards contingency plans. The goal that the plans be compatible will be achieved through licensee plans prepared in accordance with the "Standard Format and Content" guides that the Commission is furnishing to the licensees. The Commission will assure that the guides provide for the desired compatibility.

Nevertheless, because the statement regarding compatibility of licensee and Federal responses has been subject to misinterpretation, it has been deleted from the introduction to Appendix C of 10 CFR Part 73.

(3) Several commenters believed that a "statement of the perceived danger" is in the purview of the Commission and that further theorizing by the licensee on additional threats would be a drain on resources already allocated to implement existing plans.

The requirement for the licensee to submit a "statement of the perceived danger" in the *Background* section of his safeguards contingency plan (cf. Appendix C to 10 CFR Part 73) has been modified to permit the licensee to incorporate such a statement promulgated by the Commission if the licensee chooses to do so. However, the licensee should examine his facility or operation to determine its vulnerabilities in light of the adversary characteristics postulated by the Commission. This examination would make the licensee more aware of the total scope of a response and could promote the generation of additional stimuli in the Generic Planning Base.

(4) Many comments dealt with the contention that contingency plans duplicate other plans. Recommendations were made to combine all security-related plans into a single plan.

The licensee or applicant may submit a single security-related plan as long as he assures that all requirements of Appendix C of 10 CFR Part 73 have been addressed. The three "Standard Format and Content" guides that are being issued concurrently with these amendments provide guidance developed by the staff on the kind of information needed in the safeguards contingency plan and also permit reference to information that may have been submitted in an existing security plan. Section 50.34(d) and Appendix C (under Licensee Planning Base) have been revised to more explicitly state the acceptability of incorporation by reference of those topics treated in adequate detail in the licensee's or applicant's physical security plan. Paragraph 73.55(h) has also been revised to allow the incorporation of contingency plan information into security plans.

(5) The Commission recognizes the inappropriateness of holding licensees responsible for actions of persons not subject to licensee control. Therefore, licensee responsibility during periodic drills or tests has been clarified to exclude responsibility for testing the reaction of response forces not under his control.

(6) Paragraphs 73.50(g) and 73.55(h) have been revised to include an explicit requirement for safeguards contingency plans prepared in accordance with the criteria in Appendix C of 10 CFR Part 73, in order to eliminate an ambiguity that previously existed. Appropriate paragraphs, 73.46(h)(1), 73.46(h)(2) and 73.55(h)(1) of the proposed amendments published for comment in the FEDERAL REGISTER on July 5, 1977 (42 FR 34310) have been modified and used for this purpose.

(7) Upon further consideration, the Commission believes that the requirements in that section of the proposed Appendix C entitled "Development and Maintenance of the Plan" should more appropriately appear elsewhere in the rule. Hence, the requirement on assignment of responsibilities was moved to the discussion of the Responsibility Matrix and the other requirements were incorporated with the proposed amendments published on July 5, 1977, and moved to the body of the rule.

Concerning the proposed amendments published for comment on July 5, 1977, no substantive comments were received on the remaining portions of paragraph 73.46(h) nor on paragraphs 73.26(c)(3)(iii), 73.26(d), 73.46(b)(3)(iii), 73.55(b)(3)(iii), and 73.55(h). Appropriate portions of these paragraphs have therefore been incorporated into the final rule on safeguards contingency plans.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Chapter I, Code of Federal Regulations, Parts 50, 70, and 73 are published as a document subject to codification.

PART 50—DOMESTIC LICENSING OF PRODUCTION AND UTILIZATION FACILITIES

(1) Section 50.34 of 10 CFR Part 50 is amended by adding a new paragraph (d) to read as follows:

§ 50.34 Contents of applications; technical information.

* * * * *

(d) *Safeguards contingency plan.* Each application for a license to operate a production or utilization facility that shall be subject to §§ 73.50, 73.55, or 73.60 of this chapter shall include a licensee safeguards contingency plan in accordance with the criteria set forth in Appendix C to 10 CFR Part 73. The safeguards contingency plan shall include plans for dealing with threats, thefts, and industrial sabotage, as defined in Part 73 of this chapter, relating to the special nuclear material and nuclear facilities licensed under this chapter and in the applicant's possession and control. Each application for such a license shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)[5]

2. Section 50.54(p) of 10 CFR Part 50 is amended to read as follows:

§ 50.54 Conditions of licenses.

Whether stated therein or not, the following shall be deemed conditions in every license issued:

* * * * *

(p) The licensee shall prepare and maintain safeguards contingency plan Procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of the safeguards contingency plan. The licensee may make no change which would decrease the effectiveness of a security plan prepared pursuant to § 50.34(c) or Part 73 of this chapter, or of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, Responsibility Matrix) contained in a licensee safeguards contingency plan prepared pursuant to § 50.34(d) or Part 73, as applicable, without prior approval of the Commission. A licensee desiring to

[5] A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

make such a change shall submit an application for an amendment to his license pursuant to § 50.90. The licensee may make changes to the security plan or to the safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to the plans made without prior Commission approval for a period of two years from the date of the change, and shall furnish to the Director of Nuclear Material Safety and Safeguards (for enrichment and reprocessing facilities) or to the Director of Nuclear Reactor Regulation (for nuclear reactors), U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within two months after the change is made. Prior to the safeguards contingency plan being put into effect, the licensee shall have:

(1) All safeguards capabilities specified in the safeguards contingency plan available and functional,

(2) Detailed Procedures developed according to Appendix C to Part 73 available at the licensee's site, and

(3) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed Procedures.

The licensee shall provide for the development, revision, implementation, and maintenance of his safeguards contingency plan. To this end, the licensee shall provide for a review at least every 12 months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments establish for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years.

PART 70—DOMESTIC LICENSING OF SPECIAL NUCLEAR MATERIAL

3. In § 70.22 of 10 CFR Part 70, paragraph (g) is amended and a new paragraph (j) is added to read as follows:

§ 70.22 Contents of applications.

* * * * *

(g) Each application for a license that would authorize the transport or delivery to a carrier for transport of special nuclear material in an amount specified in § 73.1(b)(2) of this chapter shall include (1) a description of the plan for physical protection of special nuclear in transit in accordance with §§ 73.30 through 73.36 and 73.70(g) of this chapter, including a plan for the selection, qualification and training of armed escorts, or the specification and design of a specially designed truck or trailer as appropriate, and (2) a licensee safeguards contingency plan for dealing with threats, thefts, and industrial sabotage[3] relating to the special nuclear material in transit. Each application for such a license shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base, Licensee Planning Base and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

* * * * *

(j) Each application for a license to possess or use at any site or contiguous sites subject to control by the licensee uranium-235 (contained in uranium enriched to 20 percent or more in the uranium-235 isotope), uranium-233, or plutonium alone or in any combination in a quantity of 5,000 grams or more computed by the formula, grams = (grams contained U-235) + 2.5 (grams U-233 + grams plutonium) other than a license for possession or use of such material in the operation of a nuclear reactor licensed pursuant to Part 50 of this chapter, shall include, a licensee safeguards contingency plan for dealing with threats, thefts, and industrial sabotage, as defined in Part 73, relating to nuclear facilities licensed under Parts 50 or to the possession of special nuclear material licensed under Part 70 of this chapter. Each application for such a license shall include the first four categories of information contained in the applicant's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to 10 CFR Part 73, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)

4. Section 70.32 of 10 CFR Part 70 is amended by adding a new paragraph (g) to read as follows:

§ 70.32 Conditions of licenses.

* * * * *

(g) The licensee shall prepare and maintain safeguards contingency plan Procedures in accordance with Appendix C of 10 CFR Part 73 for effecting the actions and decisions contained in the Responsibility Matrix of his safeguards contingency plan. The licensee shall make no change that would decrease the safeguards effectiveness of the first four categories of information (Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix) contained in any licensee safeguards contingency plan prepared pursuant to §§ 70.22(g), 70.22(j), 73.30(g), or 73.40 of this chapter without the prior approval of the Commission. A licensee desiring to make such a change shall submit an application for an amendment to his license pursuant to § 70.34 of this chapter. The licensee may make changes to the licensee safeguards contingency plan without prior Commission approval if the changes do not decrease the safeguards effectiveness of the plan. The licensee shall maintain records of changes to any such plan made without prior approval for a period of 2 years from the date of the change and shall furnish to the Director of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, with a copy to the appropriate NRC Regional Office specified in Appendix A of Part 73 of this chapter, a report containing a description of each change within 2 months after the change is made.

PART 73—PHYSICAL PROTECTION OF PLANTS AND MATERIALS

5. Paragraph 73.30(g) of 10 CFR Part 73 is amended to read as follows:

§ 73.30 General requirements.

* * * * *

(g)(1) The licensee shall prepare a safeguards contingency plan in accordance with the criteria set forth in Appendix C to this part. The safeguards contingency plan shall include plans for dealing with threats, thefts, and industrial sabotage[1] related to strategic special nuclear material in transit subject to the provisions of this section. By September 19, 1978, each licensee subject to the requirements of paragraph (a) of this section shall submit to the Commission for approval the first four categories of information contained in the licensee's safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to this part, are Background, Generic Planning Base,

[3] Industrial sabotage as used in this paragraph has the same meaning as in § 73.2(p) of this chapter except that the deliberate acts are postulated to occur during transportation rather than at licensed sites.

[1] Industrial sabotage as used in this paragraph has the same meaning as in § 73.2(p) of this chapter except that the deliberate acts are postulated to occur during transportation rather than at a licensed site.

Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.) The plan shall become effective and be followed (when appropriate) by the licensee or his agent 30 days after approval by the Commission or 300 days after March 23, 1978, whichever is later.

(2) Prior to the plan becoming effective, the licensee shall have:

(i) All safeguards capabilities specified in his safeguards contingency plan available and functional,

(ii) Detailed Procedures developed according to Appendix C to this part available at the licensee's site or agent's operations center, and

(iii) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed Procedures.

(3) The licensee shall provide for the implementation, revision, and maintenance of his safeguards contingency plan. To this end, the licensee shall provide for a review at least every twelve months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years.

(6) Section 73.40 of 10 CFR Part 73 is amended to read as follows:

§ 73.40 Physical protection: General requirements at fixed sites

(a) Each licensee shall provide physical protection against industrial sabotage and against theft of special nuclear material at the fixed sites where licensed activities are conducted. The provisions of a licensee's security plan as approved by the Commission shall be followed by the licensee.

(b) Each licensee subject to the requirements of §§ 73.50, 73.55, and/or 73.60 shall prepare a safeguards contingency plan in accordance with the criteria set forth in Appendix C to this part. The safeguards contingency plan shall include plans for dealing with threats, thefts, and industrial sabotage relating to nuclear facilities licensed under Part 50 or to the possession of special nuclear material licensed under Part 70 of this chapter. By September 19, 1978, each licensee subject to the requirements of this paragraph, except for nuclear power plant licensees, from whom submittal is not required until March 23, 1979, shall submit to the Commission for approval the first four categories of information contained in the safeguards contingency plan. (The first four categories of information, as set forth in Appendix C to this part, are Background, Generic Planning Base, Licensee Planning Base, and Responsibility Matrix. The fifth category of information, Procedures, does not have to be submitted for approval.)[1] The plan shall become effective and be followed (when appropriate) by the licensee, except for nuclear power plants, 30 days after approval by the Commission or 300 days after January 17, 1979, whichever is later. For nuclear power plants, the plan shall become effective 30 days after approval by the Commission.

(c) Prior to the plan becoming effective, the licensee shall have:

(1) All safeguards capabilities specified in his safeguards contingency plan available and functional,

(2) Detailed Procedures developed according to Appendix C to this part available at the licensee's site, and

(3) All appropriate personnel trained to respond to safeguards incidents as outlined in the plan and specified in the detailed Procedures.

(d) The licensee shall provide for the implementation, revision, and maintenance of his safeguards contingency plan. To this end, the licensee shall provide for a review at least every twelve months of the safeguards contingency plan by individuals independent of both security program management and personnel who have direct responsibility for implementation of the security program. The review shall include a review and audit of safeguards contingency procedures and practices, an audit of the security system testing and maintenance program, and a test of the safeguards system along with commitments established for response by local law enforcement authorities. The results of the review and audit, along with recommendations for improvements, shall be documented, reported to the licensee's corporate and plant management, and kept available at the plant for inspection for a period of two years.

(7) Paragraphs g(2) and g(3) of § 73.50(g) of 10 CFR Part 73 are renumbered as g(3) and g(4) respectively, paragraph g(1) is revised and renumbered as paragraph g(2), and a new paragraph g(1) is added to read as follows:

§ 73.50 Requirements for physical protection of licensed activities.

* * * * *

(g) *Response requirement.* (1) The licensee shall have a safeguards contingency plan for dealing with threats, thefts, and industrial sabotage related to the special nuclear material and nuclear facilities subject to the provisions of this section. Safeguards contingency plans shall be in accordance with the criteria in Appendix C of this part, "Licensee Safeguards Contingency Plans."

(2) The licensee shall establish and document liaison with law enforcement authorities.

* * * * *

8. Paragraphs (h)(1) through (h)(4) of § 73.55(h) of 10 CFR Part 73 are renumbered as (h)(2) through (h)(5), respectively, and a new paragraph (h)(1) is added to read as follows:

§ 73.55 Requirements for physical protection of licensed activities in nuclear power reactors against industrial sabotage.

* * * * *

(h) *Response requirement.* (1) The licensee shall execute, when appropriate, a safeguards contingency plan for dealing with threats, thefts and industrial sabotage related to the nuclear facilities subject to the provisions of this section. Safeguards contingency plans shall be in accordance with the criteria in Appendix C to this part, "Licensee Safeguards Contingency Plans."

* * * * *

9. A new Appendix C is added to 10 CFR Part 73 to read as follows:

APPENDIX C—LICENSEE SAFEGUARDS CONTINGENCY PLANS

INTRODUCTION

A licensee safeguards contingency plan is a documented plan to give guidance to licensee personnel in order to accomplish specific, defined objectives in the event of threats, thefts, or industrial sabotage relating to special nuclear material or nuclear facilities licensed under the Atomic Energy Act of 1954, as amended. An acceptable safeguards contingency plan must contain (1) a predetermined set of decisions and actions to satisfy stated objectives, (2) an identification of the data, criteria, procedures, and mechanisms necessary to effect efficiently the decisions and actions, and (3) a specification of the individual, group, or organizational entity responsible for each decision and action.

[1] Licensees subject to § 73.55 may modify their physical security plans to incorporate contingency plan information specified in Appendix C to Part 73. A physical security plan that contains all the information required in both § 73.55 and Appendix C to Part 73 satisfies the requirement for a contingency plan.

The goals of licensee safeguards contingency plans for dealing with threats, thefts, and industrial sabotage are (1) to organize the response effort at the licensee level, (2) to provide predetermined, structured responses by licensees to safeguards contingencies, (3) to ensure the integration of the licensee response with the responses by other entities, and (4) to achieve a measurable performance in response capability. Licensee safeguards contingency planning should result in organizing the licensee's resources in such a way that the participants will be identified, their several responsibilities specified, and the responses coordinated. The responses should be timely and internally consistent among themselves.

It is important to note that a licensee's safeguards contingency plan is intended to be complementary to any emergency plans developed pursuant to Appendix E of Part 50 of this chapter or to § 70.22(i) of Part 70 of this chapter.

CONTENTS OF THE PLAN

Each licensee safeguards contingency plan shall include five categories of information:

1. Background
2. Generic Planning Base
3. Licensee Planning Base
4. Responsibility Matrix
5. Procedures

Although the implementing procedures (the fifth category of Plan information) are the culmination of the planning process, and therefore are an integral and important part of the safeguards contingency plan, they entail operating details subject to frequent changes. They need not be submitted to the Commission for approval, but will be inspected by NRC staff on a periodic basis. The licensee is responsible for ensuring that the implementing procedures reflect the information in the Responsibility Matrix, approximately summarized and suitably presented for effective use by the responding entities.

The following paragraphs describe the contents of the safeguards contingency plan.

1. *Background.* Under the following topics, this category of information shall identify and define the perceived dangers and incidents with which the plan will deal and the general way it will handle these:

a. Perceived Danger—A statement of the perceived danger to the security of special nuclear material, licensee personnel, and licensee property, including covert diversion of special nuclear material, industrial sabotage, and overt attacks. The statement of perceived danger should conform with that promulgated by the Nuclear Regulatory Commission. (The statement contained in 10 CFR 73.55(a) or subsequent Commission statements will suffice.)

b. Purpose of the Plan—A discussion of the general aims and operational concepts underlying implementation of the plan.

c. Scope of the Plan—A delineation of the types of incidents covered in the plan.

d. Definitions—A list of terms and their definitions used in describing operational and technical aspects of the plan.

2. *Generic Planning Base.* Under the following topics, this category of information shall define the criteria for initiation and termination of responses to safeguards contingencies together with the specific decisions, actions, and supporting information needed to bring about such responses:

a. Identification of those events that will be used for signaling the beginning or aggravation of a safeguards contingency according to how they are perceived initially by licensee's personnel. Such events may include alarms or other indications signaling penetration of a protected area, vital area, or material access area; material control or material accounting indications of material missing or unaccounted for; or threat indications—either verbal, such as telephoned threats, or implied, such as escalating civil disturbances.

b. Definition of the specific objetive to be accomplished relative to each identified event. The objective may be to obtain a level of awareness about the nature and severity of the safeguards contingency in order to prepare for further responses; to establish a level of response preparedness; or to successfully nullify or reduce any adverse safeguards consequences arising from the contingency.

3. *Licensee Planning Base.* This category of information shall include the factors affecting contingency planning that are specific for each facility or means of transportation. To the extent that the topics are treated in adequate detail in the licensee's approved physical security plan, they may be incorporated by cross reference to that plan. The following topics should be addressed:

a. Licensee's Organizational Structure for Contingency Responses—A delineation of the organization's chain of command and delegation of authority as these apply to safeguards contingencies.

b. Physical Layout—(i) Fixed Sites—A description of the physical structures and their location on the site, and a description of the site in relation to nearby town, roads, and other environmental features important to the effective coordination of response operations. Particular emphasis should be placed on main and alternate entry routes for law-enforcement assistance forces and the location of control points for marshalling and coordinating response activities.

(ii) Transportation—A description of the vehicles, shipping routes, preplanned alternate routes, and related features.

c. Safeguards Systems Hardware—A description of the physical security and accounting system hardware that influence how the licensee will respond to an event. Examples of systems to be discussed are communications, alarms, locks, seals, area access, armaments, and surveillance.

d. Law Enforcement Assistance—A listing of available local law enforcement agencies and a description of their response capabilities and their criteria for response; and a discussion of working agreements or arrangements for communicating with these agencies.

e. Policy Constraints and Assumptions—A discussion of State laws, local ordinances, and company policies and practices that govern licensee response to incidents. Examples that may be discussed include:

Use of deadly force;
Use of employee property;
Use of off-duty employees;
Site security jurisdictional boundaries.

f. Administrative and Logistical Considerations—Descriptions of licensee practices that may have an influence on the response to safeguards contingency events. The considerations shall include a description of the procedures that will be used for ensuring that all equipment needed to effect a successful response to a safeguards contingency will be easily accessible, in good working order, and in sufficient supply to provide redundancy in case of equipment failure.

4. *Responsibility Matrix.* This category of information consists of detailed identification of the organizational entities responsible for each decision and action associated with specific responses to safeguards contingencies. For each initiating event, a tabulation shall be made for each response entity depicting the assignment of responsibilities for all decisions and actions to be taken in response to the initiating event. (Not all entities will have assigned responsibilities for any given initiating event.) The tabulations in the Responsibility Matrix shall provide an overall picture of the response actions and their interrelationships. Safeguards responsibilities shall be assigned in a manner that precludes conflict in duties or responsibilities that would prevent the execution of the plan in any safeguards contingency.

5. *Procedures.* In order to aid execution of the detailed plan as developed in the Responsibility Matrix, this category of information shall detail the actions to be taken and decisions to be made by each member or unit of the organization as planned in the Responsibility Matrix.

(Sec. 161i, Pub. L. 83-703, 68 Stat. 948, secs. 201, 204(b)(1), Pub L. 93-438, 88 Stat. 1243, 1245 (42 U.S.C. 2201, 5841, 5844).)

Dated at Washington, D.C. this 21st day of March, 1978.

For the Nuclear Regulatory Commission.

SAMUEL J. CHILK,
Secretary of the Commission.

[FR Doc. 78-7861 Filed 3-22-78; 8:45 am]

[6210-01]

Title 12—Banks and Banking

CHAPTER II—FEDERAL RESERVE SYSTEM

SUBCHAPTER A—BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

[Reg. B; EC-0010]

PART 202—EQUAL CREDIT OPPORTUNITY

Official Staff Interpretations

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Official Staff Interpretations.

SUMMARY: In accordance with the Board's regulations, the Board is publishing the following official staff interpretation of Regulation B, issued by a duly authorized official of the Division of Consumer Affairs.

EFFECTIVE DATE: March 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Anne J. Geary, Acting Chief, Equal Credit Opportunity Section, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3946.

SUPPLEMENTARY INFORMATION: (1) Identifying details have been deleted to the extent required to prevent a clearly unwarranted invasion of personal privacy. The Board maintains and makes available for public inspection and copying a current index providing identifying information for the public subject to certain limitations stated in 12 CFR 261.6.

(2) Official staff interpretations may be reconsidered upon request of interested parties and in accordance with 12 CFR 202.1(d). A request for reconsideration should clearly identify the number of the official staff interpretation in question, and should be addressed to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

EC-0010 (SUPERSEDES EC-0007, WHICH IS RESCINDED)

[EC-0010]

MARCH 16, 1978.

On April 13, 1977, the staff issued an official interpretation, subsequently designated EC-007, in response to your letter of February 8, 1977. As you know, the Board was asked by the Federal Trade Commission and the Department of Justice to rescind that interpretation. In September 1977, the Board considered the matter and affirmed the staff's position.

New requests for rescission have been filed by the FTC, Justice, and consumer representatives. Upon consideration of those requests, the staff is rescinding EC-0007 and is issuing this revised interpretation (designated EC-0010) in its place. This revised interpretation does not change the substance of our earlier letter to you, but is intended to emphasize certain aspects of the staff interpretation.

Your letter of February 8, 1977 was written on behalf of a seller of religious books and was based on the following facts. Your client operates primarily through home solicitation sales and permits customers to purchase the merchandise under an open end credit arrangement. The sales agent orally requests and records information about the customer (such as age, address, employer, bank account, and credit references) on an applicant information form printed on the reverse of the credit agreement that is signed by the customer. The sales agent also inquires about an applicant's religious affiliation and records this information in a box labeled "Church (group)" located on the first line of the applicant information form.

You stated in your letter that, given the nature of your client's business, information about a customer's religion is essential to selling the books in an effective, non-offensive way. You expressed concern, however, that asking for information about religious affiliation, even for non-credit purposes, might violate § 202.5(d)(5) of Regulation B. That section specifies in relevant part that a creditor shall not request the "religion * * * of an applicant or any other person in connection with a credit transaction."

The staff's opinion is that your client may inquire about a customer's religion in connection with the marketing of its books, since that characteristic is specifically and directly related to your client's product. We remind your client, however, that:

(1) This exception is available to your client only with regard to a customer's religion; it does not extend to information about other characteristics that Regulation B bars a creditor from soliciting.

(2) Although the information is available to your client under this limited marketing exception, information about a client's religious affiliation may not be considered by your client in making any credit decision.

(3) The record retention provisions of Regulation B provide that your client is required to retain a copy of any credit application form for a period of 25 months. Under the facts you describe, the customer's religious affiliation will be noted on the credit application form itself and, thus, will be available for review by the Federal Trade Commission, the federal enforcement agency that has jurisdiction over your client, should the occasion arise.

(4) If the information concerning an applicant's religion is solicited on a document other than the application form, that document will be deemed to be part of the credit application subject to the retention requirements of § 202.12(b).

The staff emphasizes that this interpretation sanctions the soliciting of information about religious affiliation only for marketing purposes. The interpretation in no way alters the prohibition against considering this type of information in an evaluation of creditworthiness. Moreover, the risk remains of your client's having to demonstrate that it does not discriminate against applicants on the basis of religion, even though it possesses such information. Whether to accept that risk is, of course, a decision that your client must make.

This is an official staff interpretation of Regulation B, issued pursuant to § 202.1(d) and limited in its application to the facts discussed in this letter.

Sincerely,

NATHANIEL E. BUTLER,
Associate Director.

Board of Governors of the Federal Reserve System, effective March 16, 1978.

THEODORE E. ALLISON
Secretary of the Board.

[FR Doc. 78-7728 Filed 3-22-78; 8:45 am]

[6210-01]

[Reg. B; Docket No. R-0117]

PART 202—EQUAL CREDIT OPPORTUNITY

Amendment to Definition of Adverse Action

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule.

SUMMARY: This amendment to the Board's Equal Credit Opportunity regulation (Regulation B) clarifies the definition of adverse action and limits the cases in which failures or refusals to authorize an account transaction at point of sale or loan constitute adverse action for purposes of the regulation's notification requirements. The amendment corresponds to Proposal A, one of two alternative proposals published for comment on October 11, 1977 (42 FR 54834). It supersedes Official Staff Interpretation EC-0008, which is rescinded.

EFFECTIVE DATE: Immediately.

FOR FURTHER INFORMATION CONTACT:

Anne Geary, Chief Staff Attorney, Division of Consumer Affairs, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-2761.

SUPPLEMENTARY INFORMATION: The Equal Credit Opportunity Act and Regulation B require that written notification be given to an applicant when adverse action occurs. Section 202.2(c)(1) of Regulation B, as amended on March 23, 1977, provides that adverse action occurs in three instances:

When there is a refusal to grant credit in substantially the amount or on substantially the terms requested by an applicant, unless the applicant uses or expressly accepts the amount or terms that the creditor offers,

When there is a termination of an account or an unfavorable change in its terms that does not affect all or a substantial portion of a classification of the creditor's accounts, and

Finally, when there is a refusal to increase the amount of credit available to an applicant who has requested an increase in accordance with the creditor's procedures for that type of credit.

The regulation also excludes five events from the definition of adverse action. Among the events excluded is a refusal to extend credit at point of sale or loan because the credit requested would exceed a previously established credit limit. A question remains as to whether, given this exclusion, adverse action occurs at point of sale or loan when a customer applies for an increase in the credit limit and the increase is denied.

In addition, neither the Act nor the regulation is explicit as to whether adverse action occurs when a point of sale or loan transaction that would not exceed the credit limit is denied.

The amendment to the definition of adverse action resolves these ambiguities by providing that a refusal or failure to authorize a point of sale or loan transaction is not adverse action unless it is (1) an unfavorable change in the terms of an account, (2) a termination of an account, or (3) a denial of an application (made in accordance with the creditor's procedures) to increase the credit limit.

The exclusion in the existing regulation regarding transactions that exceed the credit limit is subsumed into the new subsection (2)(iii). That is to say, denial of a point of sale or loan transaction that exceeds an existing credit limit is not adverse action unless the customer is applying for an in-

creased credit limit and is rejected. The Board believes this construction of the statutory language is supported by the legislative history. Senate Report 94-589 makes clear that Congress did not intend to rule out the possibility that a formalized application for an increased credit limit could occur at point of sale. Rather, the legislative intent was to establish the general rule that a customer's inexplicit or implied request for an increase (by an attempted purchase exceeding the limit) does not trigger the adverse action notification requirements.

The Board believes that excluding point of sale or loan denials that are under the credit limit from the definition of adverse action, except where such denials constitute a basic, unilateral change by a creditor, is also consistent with the statutory provisions and with the legislative history regarding adverse action. The Board emphasizes that the exclusion of most point of sale or loan denials from the adverse action requirements does not relieve creditors of the obligation to make credit available to creditworthy customers without regard to race, color, national origin, sex, or any other prohibited basis. In particular, the Board reminds creditors that the judicially constructed "effects test" is applicable to credit transactions. Accordingly, creditors should examine their security mechanisms and other operational aspects of the credit extensions to ensure that these measures do not discriminate against a protected class in an unlawful manner.

Based on the statutory definition of "applicant," the term "application" is defined in the regulation not to include transactions that are within a previously established credit limit. The denial of these transactions, therefore, does not constitute the denial of an application for credit. This leaves the question of whether the denial in an under-the-limit transaction is "a denial or revocation of credit [or] a change in the terms of an existing credit arrangement." Proponents of a broad adverse action definition argue that a denial at point of sale or loan is at least a temporary revocation of credit and, thus, should be categorized as adverse action. There is no clear statutory guidance on this point. However, the Board believes adoption of such an interpretation would be inconsistent with the legislative intent as evidenced in Senate Committee Report 94-589.

The report of the Committee on Banking, Housing and Urban Affairs makes clear that: "The (adverse action) provision is intended to operate in a sensible and flexible way." The report also explains that the term "adverse action" refers to "unilateral" changes in the terms of a credit plan, and that: "The Committee does not intend to require the giving of reasons where no such explanation can reasonably be expected by the debtor."

Point of sale or loan denials will frequently result from action initiated by a customer—for example because the customer (1) has failed to present a current credit card or the additional identification required by a merchant, (2) has reported the credit card to be lost or stolen, (3) has moved without notifying the creditor of the new billing address, or (4) has disavowed responsibility on the account.

In other instances, turndowns are not the result of a "change" in terms but rather relate to terms (such as security devices designed to prevent fraudulent use of credit cards) that have applied to the account since it was established. In these cases, requiring a creditor to describe the specific safeguard that resulted in the turndown could be detrimental to its continued effectiveness.

The Board recognizes that the amendment adopted does not respond to the concern expressed regarding the embarrassment and indignity experienced by a person who presents a current credit card and is turned down at point of sale or loan. In the Board's opinion, however, this problem is distinct from the problem of credit discrimination on a prohibited basis.

Moreover, categorizing point of sale or loan turndowns as adverse action would do little to alleviate the embarrassment and indignity to the customer at point of sale or loan. While a rejected customer would be entitled to an explanation, a creditor would not have to provide that explanation immediately. Under the statutory and regulatory provisions, a creditor has 30 days within which to notify the customer of the reason for the denial or, at tne creditor's election, of the customer's right to request the reasons.

Explanation of Amendment

The words "in an application" have been substituted for the words "by an applicant" in subsection (1)(i) of the existing adverse action definition. The change is intended to clarify that this provision is applicable only with regard to a refusal of an application for credit. Action on an existing account is governed by the succeeding provisions regarding termination, unfavorable change, and a refusal to increase a credit limit.

"Application" as defined in the existing regulation means a request made "in accordance with procedures established by a creditor." Thus, adverse action does not occur if a customer applies for an increased credit limit and, while the application is pending, is turned down at point of sale or loan because the transaction would exceed the previously established credit limit.

As used in existing § 202.2(c)(1)(ii) and in the new § 202.2(c)(2)(iii), the phrase "unfavorable change in terms or conditions" refers, for example, to a change in such contract terms as the annual percentage rate, credit limits, schedule of repayments, and the like. Where the underlying credit arrangement remains in effect subject to its original terms, the phrase does not refer to a temporary failure or refusal to permit transactions on the account occasioned, for example, by the following types of occurrences:

1. Presentation of a credit card that has expired or that is presented in advance of its effective date,
2. A customer's failure to present the credit card or required identification,
3. A malfunction in equipment at the authorization center, at point of sale or loan, or elsewhere,
4. An inability to communicate with the authorization center because it is closed,
5. The application of security control mechanisms designed to prevent fraudulent use of credit cards (such as limits on the number or dollar amount of daily transactions, or patterns of use),
6. The reservation of the amount of a previous transaction, which when added to authorizations previously approved by the card issuer on that account, would exceed the credit limit, or
7. Presentation of a credit card reported by the cardholder as lost or stolen.

The amendment adopted is essentially the same as Proposal A, published for comment on October 11. The following clarifying changes are not intended to alter the effect of the proposed amendment in any substantive way:

(1) The language in subsection (c)(2)(iii) as proposed read: "The term does not include a refusal or failure to authorize the use of an account * * *, except when the refusal *is caused by* a termination or an unfavorable change * * * or when the refusal *results in* the denial of an application * * *" (Emphasis added).

The provision adopted substitutes "is" for the words "is caused by" and "results in." This change is intended to make clear that when an account is terminated, for example, this constitutes adverse action, and notice of adverse action is required as to that termination within 30 days. However, the creditor is not required to notify a customer whose account has been terminated each time the customer subsequently tries to use the account and is turned down at point of sale or loan.

(2) While the majority of point of sale or loan denials will occur in the context of an open end credit arrangement, there may also be some closed end credit plans involving under-the-

limit point of sale or loan turndowns. To make clear that the new § 202.2(c)(2)(iii) is not limited to open end credit, the words "the use of an account" in the phrase "* * * a refusal or failure to authorize the use of an account" have been changed to read "an account transaction."

(3) The new subsection (c)(3) establishes that the exclusions set forth in subsection (c)(2), defining what does not constitute adverse action, will take precedence over the provisions of subsection (c)(1) in the event an action has characteristics of both subsections.

The amendment supersedes Official Staff Interpretation EC-0008, which is rescinded.

TEXT OF AMENDMENT

Pursuant to the authority granted under section 703 of the Equal Credit Opportunity Act (15 U.S.C. 1691(b)), the Board amends 12 CFR 202.2(c) as follows:

§ 202.2 Definitions and rules of construction.

* * * * *

(c) *Adverse action.* (1) For the purpose of notification of action taken, statement of reasons for denial, and record retention, the term means:

(i) A refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor offers to grant credit other than in substantially the amount or on substantially the terms requested by the applicant and the applicant uses or expressly accepts the credit offered; or

* * * * *

(2) The term does not include:

* * * * *

(iii) A refusal or failure to authorize an account transaction at a point of sale or loan, except when the refusal is a termination or an unfavorable change in the terms of an account that does not affect all or a substantial portion of a classification of the creditor's accounts or when the refusal is a denial of an application to increase the amount of credit available under the account; or

* * * * *

(3) An action that falls within the definition of both paragraphs (c)(1) and (c)(2) of this section shall be governed by the provisions of paragraph (c)(2) of this section.

* * * * *

By order of the Board of Governors, effective March 13, 1978.

THEODORE E. ALLISON,
Secretary of the Board.

[FR Doc. 78-7727 Filed 3-22-78; 8:45 am]

[4910-13]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 77-CE-25-AD; Amdt. 39-3162]

PART 39—AIRWORTHINESS DIRECTIVES

Cessna 402B, 421B and 421C Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to certain Cessna 402B, 421B and 421C airplanes having Enviroform type passenger seats. The AD requires structural reinforcement of these seats to preclude failure which could result in injury in those situations where the seats and seat belts are relied on to restrain the passengers.

EFFECTIVE DATE: April 27, 1978.

COMPLIANCE: Required within the next 100 hours time-in-service after the effetive date of this AD.

ADDRESSES: Cessna Multi-Engine Service Letter Number ME77-30, dated October 31, 1977, applicable to this AD, may be obtained from Cessna Aircraft Co., Marketing Division, attention: Customer Service Department, Wichita, Kans. 67201, telephone 316-685-9111. A copy of the Service Letter cited above is contained in the Rules Docket, Office of the Regional Counsel, Room 1558, 601 East 12th Street, Kansas City, Mo. 64106 and at Room 916, 800 Independence Avenue, Southwest, Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT:

William L. Schroeder, Aerospace Engineer, Engineering and Manufacturing Branch, FAA, Central Region, 601 East 12th Street, Kansas City, Mo. 64106, telephone 816-374-3446.

SUPPLEMENTARY INFORMATION: On January 9, 1978, the FAA proposed to amend Part 39 of the Federal Aviation Regulations (14 CFR Part 39) by adding a new Ad applicable to certain Cerssna Model 402B, 421B and 421C airplanes (43 FR 1354, 1355). The AD requires structural reinforcement of Enviroform type passenger seats. Cessna Multi-Engine Service Letter Number ME77-30, dated October 31, 1977 pertains to this AD.

Interested persons were invited to participate in this rulemaking by submitting written comments on the proposal to the FAA. No comments were received.

This AD is necessary because there have been occurrences involving structural failure of Enviroform type passenger seats when occupants were entering or exiting the seats under normal conditions. Inspection of failed seats shows that separation of the seat and back assembly (upper part) from the pedestal (bottom part) was due to improper bonding during manufacture. Seat belts on Enviroform type seats are anchored to the seat and back assembly (upper part). Failure of the bond between this portion of the seat and the pedestal (bottom part) at a time when seat belts are relied on to restrain occupants could result in injuries. The FAA has concluded that improper bonding on in-service Enviroform seats is an unsafe condition that is likely to exist on other airplanes of the same type design. Accordingly, the AD is being issued as proposed in the Notice except for minor editorial changes.

DRAFTING INFORMATION

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

ADOPTION OF THE AMENDMENT

Accordingly, 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.

CESSNA. Applies to the following models and serial numbered airplanes certified in all categories:

Model:	*Serial Nos.*
402B.....	402B0802, 402B0806, 402B0810 through 402B0812, 402B0814, 402B0817, 402B0818, 402B0820, 402B0822 through 402B0824, 402B0826, 402B0829, 402B0834, 402B0837, 402B0840, 402B0841, 402B0844 through 402B0849, 402B0851 through 402B0853, 402B0855, 402B0860, 402B0861, 402B0865 through 402B0867, 402B0869, 402B0871 through 402B0873, 402B0875, 402B0877, 402B0881, 402B0882, 402B0886, 402B0888, 402B0889, 402B0391 through 402B0893, 402B0895, 402B0897, 402B0899, 402B0903, 402B0906, 402B0910, 402B0914 through 402B0919, 402B0921, 402B0922, 402B0928 through 402B0930, 402B0932, 402B0933, 402B1002, 402B1006, 402B1011, 402B1014, 402B1016, 402B1018, 402B1020, 402B1023, 402B1025, 402B1026, 402B1028, 402B1034, 402B1045, 402B1046.
421B.....	421B0833, 421B0878, 421B0880, 421B0913, 421B0942, 421B0943.
421C.....	421C0026, 421C0054.

Compliance required as indicated unless already accomplished.

To assure structural integrity of the bond between seat and seat back assemblies (upper part) to seat pedestal (bottom part) assemblies of Enviroform type passenger seats, within the next 100 hours time-in-service after the effective date of this AD, accomplish the following in accordance with Cessna Service Letter Number ME77-30 dated October 31, 1977 or later revisions and Cessna Service Kit Number SK 421-78 or later revisions:

(A) Install the structural reinforcement provided with Cessna Service Kit SK 421-78 on each Enviroform type passenger seat in the cabin of airplanes affected by this AD.

(B) The 100 hour compliance time for paragraph "A" may be extended up to a maximum of 110 hours time-in-service to allow compliance at previously scheduled maintenance periods.

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

This amendment becomes effective April 27, 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 sec. 11.89 of the Federal Aviation Regulations (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 Kansas City, Mo. on March 13, 1978.

C. R. MELUGIN, Jr.,
Director, Central Region.

[FR Doc. 78-7608 Filed 3-22-78; 8:45 am]

[4910-13]

[Docket No. 77-NE-25; Amdt. 39-3147]

PART 39—AIRWORTHINESS DIRECTIVES

Sikorsky S-61N Rotorcraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires an electrical wiring change to the landing gear control circuit on Sikorsky Model S-61N rotorcraft. The AD is needed to prevent an electrical short from causing an inadvertent gear retraction.

EFFECTIVE DATE: May 1, 1978. Compliance required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.

ADDRESSES: The applicable service bulletin may be obtained from: Sikorsky Aircraft, United Technologies Corp., Commercial Customer Service, Stratford, Conn. 06602. A copy of the service bulletin is contained in the Rules Docket, Room 311, 12 New England Executive Park, Burlington, Mass. 01803.

FOR FURTHER INFORMATION CONTACT:

Ronald L. Vavruska, Staff Engineer, Engineering and Manufacturing Branch, FAA, New England Region, 12 New England Executive Park, Burlington, Mass. 01803, telephone 617-273-7332.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive requiring an electrical wiring change to the landing gear control circuit of Sikorsky Model S-61N rotorcraft was published in the FEDERAL REGISTER 42 FR 63646. The proposal was prompted by reports of inadvertent landing gear retractions on Sikorsky Model S-61N rotorcraft.

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

The principal authors of this document are Ronald L. Vavruska, Staff Engineer, Flight Standards Division, and George L. Thompson, Associate Regional Counsel, Office of the Regional Counsel, DOT, FAA, New England Region, 12 New England Executive Park, Burlington, Mass. 01803.

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) is amended by adding the following new airworthiness directive:

SIKORSKY. Applies to Model S-61N rotorcraft prior to and including Sikorsky Serial No. 61805.

Compliance required within the next 300 hours time in service after the effective date of this AD, unless already accomplished.

To prevent inadvertent landing gear retraction, modify the main landing gear electrical system in accordance with Sikorsky Service Bulletin 61B55-40 or later FAA approved revision.

The manufacturer's service bulletin identified and described in this directive is incorporated herein and made a part hereof pursuant to 5 U.S.C. 552(a)(1). All persons affected by this directive who have not already received these documents from the manufacturer may obtain copies upon request to Sikorsky Aircraft, Commercial Customer Service, Stratford, Conn. 06602. These documents may also be examined at the Office of the Regional Counsel, New England Region, Federal Aviation Administration, 12 New England Executive Park, Burlington, Mass. 01803.

This amendment becomes effective May 1, 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); 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 Burlington, Mass., on March 14, 1978.

ALBERT E. HOUCK,
Acting Director,
New England Region.

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

[FR Doc. 78-7609 Filed 3-22-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-WA-24]

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

Alteration of Federal Airways

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment realigns a segment of the V-7/V-115 airway northwest of Montgomery, Ala. This action reduces the airway distance between Birmingham, Ala., and Montgomery. Additionally, airspace is made available for a new instrument approach procedure to Dannelly Field at Montgomery.

EFFECTIVE DATE: May 18, 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 February 9, 1978, the FAA published for comment a proposal to realign a segment of V-7/V-115 between Montgomery, Ala., and Birmingham, Ala., via the INT of Montgomery 323° T (320° M) and Birmingham 177° T (175° M) radials (43 FR 5523). Interested persons were invited to participate in the rulemaking proceeding by submitting written comments on the proposal to the FAA. The two comments received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations realigns a segment of V-7/V-115 (an identical route) as proposed via an intersection between Montgomery and Birmingham.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 307) and amended (42 FR 60123 and 43 FR 3545) is further amended, effective 0901 GMT, May 18, 1978, as follows:

In V-7 "INT Montgomery 308°" is deleted and "INT Montgomery 323°" is substituted therefor.

In V-115 "INT Montgomery 308°" is deleted and "INT Montgomery 323°" 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 March 15, 1978.

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

[FR Doc. 78-7610 Filed 3-22-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-EA-86]

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

Alteration of Control Zone and Transition Area: Plattsburgh, N.Y.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters the Plattsburgh, N.Y., control zone and transition area, over Plattsburgh AFB, Plattsburgh, N.Y. It is intended to designate new controlled airspace to protect aircraft executing new approach and departure procedures which have been developed for runway 35 at the air force base.

EFFECTIVE DATE: 0901 G.m.t. May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Frank Trent, Airspace and Procedures Branch, AEA-530, Air Traffic Division, Federal Aviation Administration, Federal Building, J.F.K. International Airport, Jamaica, N.Y. 11430, telephone 212-995-3391.

SUPPLEMENTARY INFORMATION: The purpose of this amendment to subpart F and G of Part 71 of the Federal Aviation regulations (14 CFR Part 71) is to alter the Plattsburgh, N.Y., control zone and transition area. The alteration will result in revocation of the northwest control zone extension and designation of a short control zone extension to the southeast. Also some additional 700-foot floor transition area airspace will be designated northwest and southeast of the basic radius area.

The NPRM had been published on page 64134 of the FEDERAL REGISTER for December 22, 1977, with a request for comments by January 23, 1978. An objection was received from a Mr. K. Richter suggesting that the southeast extension of the transition area will block the VFR route to Clinton County Airport, Plattsburgh, N.Y. He requested a 1,000-foot floor to the area instead of 700-foot. However, agency criteria require that a transition area have a minimum of 700 feet above the surface to properly protect IFR traffic. Therefore, no change in the rule has been made.

DRAFTING INFORMATION

The principal authors of this document are Frank Trent, Air Traffic Division, and Thomas C. Halloran, Esq., 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) is amended, effective 0901 G.m.t. May 18, 1978, as published.

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

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

Issued in Jamaica, N.Y., on February 27, 1978.

WILLIAM E. MORGAN,
Director, Eastern Region.

1. Amend § 71.171 of part 71 of the Federal Aviation regulations by deleting the description of the Plattsburg, N.Y., control zone and by inserting the following in lieu thereof:

Within a 5-mile radius of the center, 44°39'05" N., 73°28'08" W. of Plattsburgh, AFB; within a 5-mile radius of the center 44°41'10" N., 73°31'10" W., of Clinton County Airport; within 3 miles each side of the Clinton County Airport ILS localizer south course, extending from the localizer to 3 miles south of the OM; within 1.5 miles each side of the Valcour, N.Y. TACAN 157° radial, extending from the TACAN to 2 miles southeast of the TACAN.

2. Amend § 71.181 of Part 71 of the Federal Aviation regulations by deleting the description of the Plattsburgh, N.Y., 700-foot floor transition area and by inserting the following in lieu therof:

That airspace extending upward from 700 feet above the surface within a 13-mile radius of the center, 44°39'05" N., 73°28'08" W., of Plattsburgh, AFB; within 5 miles each side of the Valcour, N.Y., TACAN 337° radial, extending from the 13-mile radius area to 20 miles northwest of the TACAN; within 4.5 miles each side of the Valcour, N.Y., TACAN 157° radial, extending from the 13-mile radius area to 16.5 miles southeast of the TACAN.

[FR Doc. 78-7486 Filed 3-22-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-CE-14]

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

Extension of Federal Airway

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment alters V-307 airway by extending it from Neosho, Mo., to Harrison, Ark. This route is presently used as a direct route without benefit of charted radials and minimum flight altitudes. Its designation as an airway will provide valuable charted data and reduce the coordination and communication time required for the use of this route.

EFFECTIVE DATE: May 18, 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 December 22, 1977, the FAA proposed to amend Part 71 of the Federal Aviation regulations (14 CFR Part 71) to extend V-307 from Neosho, Mo., to Harrison, Ark. (42 FR 64130). Interest-

ed persons were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. Two comments were received which expressed no objection, and due consideration has been given to all matters presented. Except for editorial changes, this amendment is the same as proposed in the notice. Section 71.123 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

THE RULE

This amendment to Part 71 of the Federal Aviation regulations (14 CFR Part 71) extends V-307 from Neosho, Mo., to Harrison, Ark. Flights currently operate direct between Neosho and Harrison without benefit of charted radials and minimum en route flight altitudes. Establishment of this route as an airway will provide valuable charted data for the pilot and will reduce coordination and communication currently required for flight between Neosho and Harrison.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, § 71.123 of Part 71 of the Federal Aviation regulations (14 CFR Part 71) as republished (43 FR 307) is amended, effective 0901 G.m.t., May 18, 1978, as follows:

In V-307 "From Neosho, Mo., via" is deleted and "From Harrison, Ark., via Neosho, Mo.;" 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 March 14, 1978.

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

[FR Doc. 78-7488 Filed 3-22-78; 8:45 am]

[4910-13]

[Airspace Docket No. 77-NW-05]

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

Alteration of Controlled Airspace, Transition Area

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule alters the 700-foot transition area at Moses Lake, Wash. This action is necessary to provide controlled airspace for aircraft executing the VOR RWY 14L standard instrument approach to Grant County Airport.

EFFECTIVE DATE: May 18, 1978.

FOR FURTHER INFORMATION CONTACT:

Dale C. Jepsen, Airspace Specialist (ANW-533), Operations, Procedures and Airspace Branch, Air Traffic Division, Federal Aviation Administration, Northwest Region, FAA Building, Boeing Field, Seattle, Wash., 98108; telephone 206-767-2610.

SUPPLEMENTARY INFORMATION:

HISTORY

A notice of proposed rulemaking (NPRM) was published in the FEDERAL REGISTER on Monday, January 23, 1978, which described the proposed Moses Lake, Washington, transition area. Interested persons were invited to participate in this rule making proceeding by submitting written comments on the proposal to the FAA. The one comment received expressed no objection.

THE RULE

This amendment to Part 71 of the Federal Aviation Regulations (FARs) designates additional 700 foot transition area as controlled airspace to encompass aircraft executing the VOR RWY 14L standard instrument approach to the Grant County Airport.

DRAFTING INFORMATION

The principal authors of this document are Dale C. Jepsen, Airspace Specialist, Operations, Procedures and Airspace Branch, and Jonathan Howe, Regional Counsel, Northwest Region.

ADOPTION OF THE AMENDMENT

Accordingly, pursuant to the authority delegated to me by the Administrator, the Moses Lake Transition Area in Section 71.181 of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) is amended, effective 0901 G.m.t., May 18, 1978, as follows:

MOSES LAKE, WASH.

That airspace extending upward from 700 feet above the surface within a 19-mile radius of Grant County Airport (latitude 47°12'29" N., longitude 119°19'05" W.), within a 19-mile radius of the Ephrata VORTAC (latitude 47°22'41" N., longitude 119°25'22" W.); that airspace extending upward from 1,200 feet above the surface bounded on the north by latitude 47°45'00" N., on the east by the arc of a 52-mile radius circle centered on Fairchild Air Force Base, Wash. (latitude 47°36'55" N., longitude 117°39'20" W.), on the southeast by V-112W, on the south by V-298 and on the west by longitude 120°00'00" W.

(Sec. 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a); sec. 6(c) of the 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 Seattle, Wash., on March 13, 1978.

C. B. WALK, Jr.,
Director, Northwest Region.

[FR Doc. 78-7489 Filed 3-22-78; 8:45 am]

[4910-13]

SUBCHAPTER F—AIR TRAFFIC AND GENERAL OPERATING RULES

[Docket No. 17695; Amdt. No. 1107]

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 June 1, 1978:*

Bad Axe, Mich.—Huron County Memorial, VOR Rwy 3, Amdt. 4.
Bad Axe, Mich.—Huron County Memorial, VOR Rwy 21, Amdt. 3.
Cheboygan, Mich.—Cheboygan City-County, VOR Rwy 9, Amdt. 1.
Romeo, Mich.—Romeo, VOR/DME-A, Amdt. 2.

* * * *effective May 18, 1978:*

Annette Island, Alaska—Annette Island, VORTAC Rwy 30, Amdt. 7, cancelled.
Annette Island, Alaska—Annette Island, VORTAC-A, Amdt. 8, cancelled.
Nome, Alaska—Nome, VOR Rwy 27, Amdt. 11.
Monte Vista, Colo.—San Luis Valley, VOR/DME-A, Original.
Manhattan, Kans.—Manhattan Municipal, VOR Rwy 3, Amdt. 9.
Manhattan, Kans.—Manhattan Municipal, VOR-H, Amdt. 8.
Kalamazoo, Mich.—Kalamazoo Municipal, VOR Rwy 17, Amdt. 9.
Kalamazoo, Mich.—Kalamazoo Municipal, VOR Rwy 23, Amdt. 10.
Kalamazoo, Mich.—Kalamazoo Municipal, VOR Rwy 35, Amdt. 8.
Columbia, Mo.—E. W. Cotton Woods Memorial, VOR-A, Amdt. 3.
Columbia, Mo.—E. W. Cotton Woods Memorial, VOR-B, Original.
Grundy, Va.—Grundy Muni., VOR Rwy 4, Original.

* * * *effective May 4, 1978:*

Rogers, Ark.—Rogers Municipal—Carter Field, VOR/DME Rwy 19, Amdt. 3.
Palm Springs, Calif.—Palm Springs Muni., VOR-A, Amdt. 2.
Santa Ana, Calif.—Orange County Airport, VOR Rwy 1L, Original.
Santa Ana, Calif.—Orange County Airport, VOR Rwy 19R, Amdt. 17.
Santa Rosa, Calif.—Sonoma County, VOR Rwy 32, Amdt. 11.
Bozeman, Mont.—Gallatin Field, VOR Rwy 12, Amdt. 11.
Keene, N.H.—Dillant-Hopkins, VOR Rwy 2, Amdt. 6.
Monticello, N.Y.—Monticello, VOR Rwy 1, Amdt. 1.
Syracuse, N.Y.—Syracuse Hancock Int'l, VOR Rwy 14, Amdt. 15.
Grand Forks, N. Dak.—Grand Forks International, VOR Rwy 17, Original.
Grand Forks, N. Dak.—Grand Forks International, VOR Rwy 35, Original.
Grand Forks, N. Dak.—Grand Forks International, VOR/DME or TACAN Rwy 17, Amdt. 7.
Grand Forks, N. Dak.—Grand Forks International, VOR/DME or TACAN Rwy 35, Amdt. 7.
Charleston, S.C.—Charleston AFB/MUNI, VOR Rwy 3 (TAC), Amdt. 8.
Charleston, S.C.—Charleston AFB/MUNI, VOR Rwy 21 (TAC), Amdt. 8.
Knoxville, Tenn.—McGhee Tyson, VOR Rwy 22L, Amdt. 1.
Knoxville, Tenn.—McGhee Tyson, VOR/DME Rwy 22R, Amdt. 2.
Knoxville, Tenn.—McGhee Tyson, VOR/DME Rwy 4R, Amdt. 2.
McAllen, Tex.—Miller International, VOR Rwy 13, Amdt. 11.
McAllen, Tex.—Miller International, VOR-A, Amdt. 10.

* * * *effective April 20, 1978:*

Phoenix, Ariz.—Phoenix Sky Harbor Int'l, VOR Rwy 26R, Original.
Memphis, Tenn.—Memphis International, VOR Rwy 35L, Amdt. 1.
Memphis, Tenn.—Memphis International, VOR Rwy 35R, Amdt. 1.

* * * *effective April 6, 1978:*

Miami, Fla.—Miami International, VOR Rwy 30, Original (Ident BSY).
Miami, Fla.—Miami International, VOR Rwy 30, Original cancelled.
Decatur, Ill.—Decatur, VOR Rwy 36, Amdt. 11.

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

* * * *effective May 18, 1978:*

Kalamazoo, Mich.—Kalamazoo Municipal, LOC BC Rwy 17, Amdt. 10.

* * * *effective May 4, 1978:*

Santa Ana, Calif.—Orange County Airport, LOC Rwy 19R, Amdt. 7.
Santa Ana, Calif.—Orange County Airport, LOC BC Rwy 1L, Amdt. 7.
San Diego, Calif.—San Diego Int'l-Lindbergh Field, LOC BC-A, Amdt. 17.
San Diego, Calif.—San Diego Int'l-Lindbergh Field, LOC/DME BC Rwy 27, Amdt. 4.
Pensacola, Fla.—Pensacola Regional, LOC BC Rwy 34, Amdt. 7.
Atlanta, Ga.—DeKalb-Peachtree, LOC Rwy 20L, Amdt. 3.
Cape Girardeau, Mo.—Cape Girardeau Muni., LOC/DME BC Rwy 28, Amdt. 1.
Monticello, N.Y.—Sullivan County Int'l, LOC Rwy 15, Amdt. 2.
Grand Forks, N. Dak.—Grand Forks International, LOC BC Rwy 17, Amdt. 3.
McAllen, Tex.—Miller International, LOC BC Rwy 31, Amdt. 1.

** * effective April 6, 1978:*

Decatur, Ill.—Decatur, LOC(BC) Rwy 24, Amdt. 3.
Laconia, N.H.—Laconia Muni, LOC Rwy 8, Amdt. 3.

** * effective March 23, 1978:*

Anderson, Ind.—Anderson Municipal, LOC(BC) Rwy 12, Original.

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

** * effective June 1, 1978:*

Cadillac, Mich.—Wexford County, NDB Rwy 25, Original.

** * effective May 18, 1978:*

Annette Island, Alaska—Annette Island, NDB-B Amdt. 9, canceled.
Manhattan, Kans.—Manhattan Municipal, NDB-A, Amdt. 12.
Belfast, Maine—Belfast Municipal, NDB Rwy 15, Original.
Kalamazoo, Mich.—Kalamazoo Municipal, NDB Rwy 35, Amdt. 10.
Wayne, Nebr.—Wayne Muni., NDB Rwy 22, Original.

** * effective May 4, 1978:*

Ontario, Calif.—Ontario Int'l, NDB Rwy 25, Amdt. 28.
San Diego, Calif.—San Diego Int'l-Lindbergh Field, NDB Rwy 9, Amdt. 16.
San Diego, Calif.—San Diego Int'l-Lindbergh Field, NDB-B, Amdt. 2.
Pensacola, Fla.—Pensacola Regional, NDB Rwy 34, Amdt. 12.
Bozeman, Mont.—Gallatin Field, NDB Rwy 12, Amdt. 3.
Monticello, N.Y.—Sullivan County Int'l, NDB Rwy 15, Amdt. 2.
Charleston, D.C.—Charleston AFB/MUNI., NDB Rwy 15, Amdt. 16.
Knoxville, Tenn.—McGhee Tyson, NDB Rwy 4L, Amdt. 1
Knoxville, Tenn.—McGhee Tyson, NDB Rwy 4R, Amdt. 1
Houston, Tex.—Houston Intercontinental, NDB Rwy 8, Amdt. 5.
McAllen, Tex.—Miller International, NDB Rwy 13, Amdt. 3.
Salt Lake City, Utah—Salt Lake City Int'l, NDB/DME Rwy 34L, Original, canceled.

** * effective April 20, 1978:*

Memphis, Tenn.—Memphis International, NDB Rwy 35R, Amdt. 4.

** * effective April 6, 1978:*

Decatur, Ill.—Decatur, NDB Rwy 6, Original.
Laconia, N.H.—Laconia Muni., NDB Rwy 8, Amdt. 3.

** * effective March 23, 1978:*

Babelthuap Island, Caroline Island—Babelthuap/Koror, NDB Rwy 9, Original.

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

** * effective May 18, 1978:*

Kalamazoo, Mich.—Kalamazoo Municipal, ILS Rwy 35, Amdt. 12.

** * effective May 4, 1978:*

Ontario, Calif.—Ontario Int'l, ILS Rwy 25, Amdt. 29.
Santa Ana, Calif.—Orange County Airport, ILS Rwy 19R, Amdt. 6.
San Diego, Calif.—San Diego Int'l-Lindbergh Fld, ILS Rwy 9, Amdt. 8.
Santa Rosa, Calif.—Sonoma County, ILS Rwy 32, Amdt. 5.
Bozeman, Mont.—Gallatin Field, ILS Rwy 12, Amdt. 4.
Keene, N.H.—Dillant-Hopkins, ILS Rwy 2, Amdt. 8.
Grand Forks, N. Dak.—Grand Forks International, ILS Rwy 35, Amdt. 17.
Charleston, S.C.—Charleston AFB/MUNI., ILS Rwy 15, Amdt. 17.
Knoxville, Tenn.—McGee Tyson, ILS Rwy 4L, Amdt. 1.
Knoxville, Tenn.—McGee Tyson, ILS Rwy 22R, Amdt. 3.
McAllen, Tex.—Miller International, ILS Rwy 13, Amdt. 3.

** * effective April 6, 1978:*

Decatur, Ill.—Decatur, ILS Rwy 6, Amdt. 7.

NOTE.—Spirit of St. Louis, St. Louis, Mo., ILS Rwy 7, Amdt. 4, dated March 9, 1978, in transmittal letter 78-5, is a corrected copy of procedure published in transmittal letter 78-2.

The FAA published an amendment in Docket No. 17678, Amdt. No. 1106, to Part 97 of the Federal Aviation Regulations (Vol. 43, FR, No. 47, page 9598, dated March 9, 1978) under section 97.29, effective February 22, 1978, which is hereby amended as follows: Tulsa, Okla.—Tulsa International ILS Rwy 35R, Amdt. 25, effective date changed to March 8, 1978.

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

** * effective May 18, 1978:*

Kalamazoo, Mich.—Kalamazoo Municipal, RADAR-1, Original.

** * effective May 4, 1978:*

New Orleans, La.—Lakefront, RADAR-1, Amdt. 3.
Walls, Miss.—Twinkle Town, RADAR-1, Original.
Knoxville, Tenn.—McGhee Tyson, RADAR-1, Amdt. 17.

** * effective April 20, 1978:*

Memphis, Tenn.—Memphis International, RADAR-1, Amdt. 34.

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

** * effective May 4, 1978:*

Hawthorne, Calif.—Hawthorne Municipal, RNAV Rwy 25, Amdt. 3, canceled.

(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 March 17, 1978.

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. 78-7607 Filed 3-22-78; 8:45 am]

[4910-13]

[Docket No. 17142; Amdt. No. 121-142]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG, AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

Aviation Security; Carriage of Weapons and Armed Escorts

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment specifies requirements governing the carriage of persons in the custody of armed escorts and the carriage of firearms in checked baggage aboard aircraft. Administrative experience indicates that this amendment is necessary to provide adequately for safety in air commerce.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert P. Jones, Air Operations Security Division, Civil Aviation Security Service, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591, telephone 202-426-8409.

SUPPLEMENTARY INFORMATION: This amendment is based on a notice of proposed rulemaking issued as Notice No. 77-16 and published in the FEDERAL REGISTER on August 25, 1977.

Interested persons have been afforded an opportunity to participate in the making of this amendment and due consideration has been given to all matter presented.

DISCUSSION OF COMMENTS

A majority of the comments received supported the proposed amendment.

However, certain comments recommended changes in the wording of the proposal. One commentator suggested that the term "law enforcement officer" should be defined in § 121.584 in a manner similar to the definition in the airport security regulations prescribed in Part 107 of the Federal Aviation Regulations. The FAA does not consider the definition in Part 107 to be appropriate for the purposes of § 121.584. For example, there does not appear to be the same justification for a law enforcement officer escorting a passenger under § 121.584 to have the public power of arrest required under Part 107. Moreover, the FAA believes adoption of the more specific requirements prescribed in Part 107 for a law enforcement officer would go beyond the scope of Notice No. 77-16. Acccordingly, that recommendation is not adopted in this amendment.

Nor does there appear to be any need to include a requirement in § 121.584, as comment recommended, for an armed law enforcement officer to provide the certificate holder with a statement that he meets the definition prescribed. Section 121.585 currently requires an armed law enforcement officer to satisfy the certificate holder with respect to the officer's identity, authority to carry a weapon, and his familiarity with procedures for carrying a weapon aboard aircraft.

The FAA believes the combined provisions of §§ 121.584 and 121.585 provide adequate procedures to ensure the safety of an aircraft operation when armed law enforcement officers with passengers in their custody are carried.

Two commentators expressed opposition to the proposal to amend § 121.585(b) and require firearms in checked baggage to be carried in containers the certificate holder considers appropriate. However, experience indicates that firearms inadvertently left loaded in checked baggage have discharged while the baggage was being handled. It is the opinion of the FAA that requiring firearms to be carried in appropriate containers will reduce the likelihood of any loaded firearm in checked baggage discharging and causing serious injury to personnel of the certificate holder or to passengers.

As suggested in comments received, the FAA has taken action to ensure that law enforcement agencies and carriers subject to this amendment are fully informed about it.

DRAFTING INFORMATION

The principal authors of this document are Robert P. Jones, Civil Aviation Security Service and R. G. Leary, Office of the Chief Counsel.

In consideration of the foregoing, Part 121 of the Federal Aviation Regulations is amended, effective April 24, 1978, as follows:

1. By revising § 121.584 to read as follows:

§ 121.584 Carriage of passengers under the control of armed law enforcement officers, other than passengers under voluntary protective escort.

(a) Except as provided in paragraph (e) of this section, no domestic or flag air carrier may knowingly carry a passenger in the custody of an armed escort on an airplane in scheduled passenger operations unless—

(1) The armed escort is a law enforcement officer. For the purpose of this paragraph, "law enforcement officer" means an official or employee (including military personnel) of the United States, of a State or political subdivision of a State, or of a municipality who is required by appropriate authority to maintain custody and control over an individual aboard an airplane;

(2) The air carrier is notified by the responsible government entity at least one hour, or in case of emergency as soon as possible, before departure—

(i) Of the identity of the passenger to be carried and the flight on which it is proposed to carry the passenger; and

(ii) Whether the passenger is considered to be in a maximum risk category or not;

(3) If the passenger is considered to be in a maximum risk category, the passenger is under the control of at least two armed law enforcement officers and no other passengers are under the control of those two law enforcement officers;

(4) No more than one passenger who the certificate holder has been notified is in a maximum risk category is carried on the airplane;

(5) If the passenger is considered to be not in a maximum risk category, the passenger is under the control of at least one armed law enforcement officer. No more than two of these persons may be carried under the control of any one law enforcement officer;

(6) The air carrier is assured, prior to departure, by each law enforcement officer that—

(i) The officer is equiped with adequate restraining devices to be used in the event restraint of any passenger under the control of the officer becomes necessary; and

(ii) Each passenger under the control of the officer has been searched and does not have on or about their person or property anything that could be used as a deadly or dangerous weapon;

(7) Each passenger under the control of a law enforcement officer is—

(i) Boarded before any other passengers when boarding at the airport where the flight originates and deplaned at the destination after all other deplaning passengers have deplaned.

(ii) Seated in the rear-most passenger seat when boarding at the airport where the flight originates; and

(iii) Seated in a seat that is neither located in any lounge area, nor located next to or directly across from any exit; and

(8) A law enforcement officer having control of a passenger is seated between the passenger and any aisle.

(b) No air carrier operating an airplane under paragraph (a) of this section may—

(1) Serve food and beverage or provide metal eating utensils, to a passenger under the control of a law enforcement officer aboard the airplane unless authorized to do so by the law enforcement officer; or

(2) Serve a law enforcement officer or the passenger under the control of the officer any alcoholic beverages while aboard the airplane.

(c) Each law enforcement officer carried under the provisions of paragraph (a) of this section shall, at all times, accompany the passenger under the control of the officer and keep the passenger under surveillance while aboard the airplane.

(d) No law enforcement officer carried under paragraph (a) of this section or any passenger under the control of the officer may drink any alcoholic beverages while aboard the airplane.

(e) This section does not apply to the carriage of passengers under voluntary protective escort.

2. In § 121.585 by redesignating paragraph (c) as (d), by adding a new paragraph (c), and by revising paragraph (b) to read as follows:

§ 121.585 Carriage of weapons.

* * * * *

(b) No certificate holder may knowingly permit any passenger to carry, nor may any passenger carry, while aboard an aircraft being operated by that certificate holder, in checked baggage, a loaded firearm.

(c) No certificate holder may knowingly permit any passenger to carry, nor may any passenger carry, while aboard an aircraft being operated by that certificate holder, in checked baggage, any unloaded firearm unless the following conditions are met:

(1) The passenger has declared to the certificate holder before checking the baggage that a firearm is in the baggage; and the certificate holder has obtained from the passenger, before checking the baggage, a declaration that any firearm carried in the baggage is unloaded. The declaration may be oral or written, as the certificate holder considers appropriate.

(2) The firearm is carried in a container the certificate holder considers appropriate for air transportation.

(3) When the firearm is other than a shotgun, rifle, or other firearm normally fired from the shoulder position, the baggage in which it is carried is locked, and only the passenger checking the baggage retains the key.

(4) The baggage containing any firearm is carried in an area that is inaccessible to passengers, other than the flight crew compartment.

(d) No person having a deadly or dangerous weapon accessible to that person may drink any alcoholic beverage while aboard an aircraft operated under this part.

(Secs. 313(a), 316, 601, 604, and 902(l) of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1354(a), 1357, 1421, 1424, and 1472(l)); and Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)).)

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

Issued in Washington, D.C., on March 16, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-7606 Filed 3-22-78; 8:45 am]

[4910-13]

[Docket No. 16614; Amdt. Nos. 121-141 and 129-8]

PART 121—CERTIFICATION AND OPERATIONS: DOMESTIC, FLAG AND SUPPLEMENTAL AIR CARRIERS AND COMMERCIAL OPERATORS OF LARGE AIRCRAFT

PART 129—OPERATIONS OF FOREIGN AIR CARRIERS

Use of X-ray Security Systems

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This rule amends the regulations pertaining to the use of X-ray security systems by domestic, flag and foreign air carriers, and by commercial operators of large aircraft engaging in common carriage. It requires that a copy of the most recent radiation survey be maintained at the certificate holders principal business office and at the place where the X-ray system is in operation and that it be made available for inspection upon request by the Administrator. In addition, this rule requires that a sign be posted informing passengers that they may request a physical inspection of their photographic equipment and film packages without exposure to an X-ray system. The FAA believes that these amendments are necessary to enable the agency to monitor the performance of X-ray systems in a more effective manner and to inform the public that agency regulations allow a physical inspection, in lieu of an X-ray inspection, for photographic equipment and film.

DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

T. P. Tsacoumis, Technical Security Division, Federal Aviation Administration, 800 Independence Avenue SW., Washington, D.C. 20591; telephone 202-426-8491.

SUPPLEMENTARY INFORMATION:

REGULATORY HISTORY

In Notice No. 77-3 (42 FR 17141, March 31, 1977), the FAA issued a notice of proposed rulemaking pertaining to the use of X-ray security systems by domestic, flag and foreign air carriers, and by commercial operators of large aircraft engaging in common carriage. This notice proposed that affected certificate holders: (1) maintain a copy of the most recent radiation survey at their principal business office (except foreign air carriers) and at the place where the X-ray system is in operation and make it available for inspection upon request by the Administrator; (2) post a sign informing passengers that they may request a physical inspection of their photographic equipment and film without exposure to an X-ray system; (3) post a sign informing passengers, in the event their X-ray system exposes any carry-on baggage or item to 0.01 milliroentgen or less of radiation during the inspection, that X-ray inspection will not be harmful to any type of film; and (4) post a sign informing passengers, in the event their X-ray system exposes any carry-on baggage or item to more than 0.01 milliroentgen of radiation during the inspection, to remove all X-ray and scientific film from their carry-on baggage before inspection.

Notice No. 77-3 solicited comments with respect to these proposals and also requested comments concerning the continued need for the use of personnel dosimeters by operators of X-ray systems and for the maintenance of records of operator duty time and the results of dosimeter evaluations. Although §§121.538a(4) and 129.26(a)(4) require the use of personnel dosimeters and the keeping of records pertaining to their use, the agency solicited these comments in an attempt to determine whether these requirements should be retained. However, no FAA action pertaining to this aspect of the current rules was proposed in Notice No. 77-3 and the agency now believes that further study will be necessary before deciding whether to propose that these requirements be deleted from the regulations.

COMMENTS RECEIVED

In response to Notice No. 77-3, comments were received from American Science and Engineering, Inc. (AS&E), the U.S. Department of Health, Education, and Welfare, Food and Drug Administration (HEW/FDA), Astrophysics Research Corp. (ARC) and the Air Transport Association (ATA).

AS&E commented in favor of all proposals contained in Notice No. 77-3. HEW/FDA stated that it did not believe that personnel dosimeters were necessary for operators of these X-ray systems, provided the equipment in use complied with pertinent FDA requirements. Sections 121.538a and 129.26 currently require compliance with these standards.

ARC stated that it was not necessary to inform passengers, in the event machine radiation levels were 0.01 milliroentgen or less during inspection, that X-ray inspection would not damage any type of film. ARC was opposed to this proposal because it believed that the current approach to film safety at airports is adequate.

ATA stated that the requirement to use personnel dosimeters and to evaluate their performance should be retained but that records of operator duty time were not necessary. ATA opposed the proposal to require that a copy of the most recent radiation survey be kept at the place where the X-ray system is in operation, since it believes that retention of a copy at the certificate holder's principal business office is sufficient. ATA stated that radiation surveys should be conducted annually (current rules require evaluations on a 6-month basis) and opposed the proposals to change existing signs since it believes these signs are adequate to protect the travelling public.

EXPLANATION OF AMENDMENTS

As proposed in Notice No. 77-3, §§121.538a and 129.26 are being amended to require all affected certificate holders to post a sign informing passengers that they have the right to request that a physical inspection be made of their photographic equipment and film packages without exposure to an X-ray system.

Although §§121.538a(e) and 129.26(b)(4) currently require that a physical inspection of photographic equipment and film packages be made upon passenger request, these rules did not require certificate holders to inform passengers that they could request a physical inspection of these items. The agency believes that such a statement is necessary to make sure that passengers understand that FAA regulations do not require them to expose their photographic equipment and film to X-ray inspection.

Signs previously made available to certificate holders by this agency contain a statement informing passengers

of this right, so operators using these signs would not be required to change them. Certificate holders desiring to obtain FAA-prepared signs may do so by contacting their respective principal security inspectors.

In Notice No. 77-3, the agency also proposed to amend §§121.538 and 129.26 by requiring that a copy of the results of the most recent radiation survey be maintained at the certificate holder's principal business office (except for foreign air carriers) and at the place where the X-ray system is in operation. The agency proposed that this amendment be made by adding a new paragraph (1) to §121.538 and a new paragraph (c) to §129.26.

The FAA now believes that it would be more appropriate to include this requirement in a new paragraph (f) in §121.538a, since that section prescribes the requirements for the use of X-ray systems. As proposed in Notice No. 77-3, this provision will be incorporated into §129.26 by adding a new paragraph (c).

In addition, Notice No. 77-3, incorrectly assumed that the most recent radiation survey would always be conducted pursuant to the 6-month requirement contained in §121.538a(b) or §129.26(b)(1) when, in fact, it could be conducted pursuant to §121.538a(c) or §129.26(b)(2) if the X-ray system had been initially installed or moved to another location.

Since the FAA proposed that a copy of the results of the most recent radiation survey be maintained at these specified locations, new §121.538a(f) will reflect the fact that the most recent radiation survey could be conducted pursuant to either §121.538 (b) or (c). To accomplish the same purpose, new §129.26(c) will reflect the fact that the most recent radiation survey could be conducted pursuant to either §129.26 (b)(1) or (b)(2).

The FAA believes that adoption of this proposal is necessary to assure that the results of the most recent radiation survey are immediately available to security inspectors in the field. The agency does not believe that this need would be satisfied if a certificate holder was only required to maintain a copy of the survey results at its principal business office, since security inspectors frequently have a need to examine these documents during the course of inspecting a particular X-ray installation. Requiring that a copy of the survey results be maintained wherever a certificate holder operates an X-ray system assures that agency personnel will have immediate access to these results whenever necessary for the effective performance of their duties.

Differences Between Proposed Rule and Final Rule

If the agency did adopt the 0.01 milliroentgen standard contained in Notice No. 77-3, certificate holders would be required to advise passengers, in the event radiation levels were 0.01 milliroentgen or less, that X-ray inspection would not be harmful to any kind of film. In the event radiation levels were greater than 0.01 milliroentgen, passengers would have to be advised to remove all X-ray and scientific film.

The FAA believes that the current requirement to advise passengers to remove all X-ray and scientific film from carry-on baggage prior to X-ray inspection (without regard to radiation levels) and to remove all film from carry-on baggage in the event radiation exposure exceeds 1 milliroentgen is adequate to protect photographic equipment and film packages from being adversely affected by radiation. Experience under these rules has not revealed any substantiated incidents of damage to film as a result of it being exposed to an X-ray system utilized pursuant to §121.538a or §129.26.

Although the agency does not believe that all kinds of X-ray and scientific film will be damaged whenever exposed to radiation levels of 0.01 milliroentgen or less, we do believe that damage to certain types of highly sensitive X-ray and scientific film is possible and that passengers would be well-advised not to take any chances by exposing their X-ray and scientific film to any amount of unnecessary radiation. In addition, since X-ray exposure has a cumulative effect on film, those passengers subjecting the same package of X-ray or scientific film to numerous X-ray inspections would have a greater chance of experiencing film damage.

In addition, the FAA believes that signs advising passengers about X-ray inspections should be as uniform as possible. Under the current rules, all certificate holders may use an identical sign unless a carrier utilizes a system emitting more than 1 milliroentgen of radiation. In this case, passengers must be advised to remove all film prior to inspection, rather than just X-ray and scientific film. However, since only one X-ray system out of the 495 currently in use in the United States is designed to emit more than 1 milliroentgen of radiation, virtually all certificate holders use a standard sign supplied to them by the FAA. Moreover, the International Civil Aviation Organization (ICAO) also recommends that signs posted at airport X-ray systems advise passengers to remove all scientific and X-ray film prior to X-ray inspection (without regard to radiation levels) and to remove all film in the event radiation from the system exceeds 1 milliroentgen.

If the 0.01 milliroentgen standard proposed in Notice No. 77-17 were adopted, air carriers would then be required to use one of three statements relating to film safety (rather than one of two statements as provided for in the current rules), depending upon the radiation levels emitted from their X-ray systems. The FAA believes that signs relating to film safety should differ only when necessary to protect photographic equipment and film packages from being adversely affected by exposure to radiation. The agency further believes that amending the regulations to require an additional statement relating to film safety in the event radiation levels are 0.01 milliroentgen or less (i.e. X-ray inspection will not be harmful to any type of film) can only expose certain scientific and X-ray film to an increased risk of damage. In addition, adoption of the 0.01 milliroentgen standard could result in passenger confusion as to what type of inspection should be requested, since many passengers would not be aware that signs would vary with the technical performance characteristics of the system in use. Accordingly, the agency does not believe that adoption of this proposal would be in the public interest.

Drafting Information

The principal authors of this document are T. P. Tsacoumis, Civil Aviation Security Service and Marshall S. Filler, Office of the Chief Counsel.

The Amendments

In consideration of the foregoing, Parts 121 and 129 of the Federal Aviation Regulations (14 CFR Parts 121 and 129) are amended effective April 24, 1978, as follows:

1. By revising paragraph (e) and adding a new paragraph (f) to §121.538a to read as follows:

§121.538a Use of X-ray system.

* * * * *

(e) No certificate holder may use an X-ray system to inspect carry-on baggage or items, unless a sign is posted in a conspicuous place which notifies passengers that such items are being inspected by an X-ray system and advises them to remove all X-ray and scientific film from their carry-on baggage and items before inspection. This sign shall also advise passengers that they may request a physical inspection to be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any carry-on baggage or item to more than one milliroentgen during the inspection, the certificate holder shall post a sign which advises passengers to remove film of all kinds from their carry-on baggage and items before inspection. If requested by passengers, their photographic equipment and film packages shall be physcially inspected without exposure to an X-ray system.

(f) Each certificate holder shall maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b) or (c) of this section, and shall make it available for inspection upon request by the Administrator, at each of the following locations:

(1) The certificate holder's principal business office; and

(2) The place where the X-ray system is in operation.

2. By revising paragraph (b)(4) and adding a new paragraph (c) to § 129.26 to read as follows:

§ 129.26 Use of X-ray system.

* * * * *

(b) * * *

(4) Unless a sign is posted in a conspicuous place which notifies passengers that carry-on baggage or items are being inspected by an X-ray system and advises them to remove all X-ray and scientific film from their carry-on baggage and items before inspection. This sign shall also advise passengers that they may request a physicial inspection to be made of their photographic equipment and film packages without exposure to an X-ray system. If the X-ray system exposes any carry-on baggage or item to more than one milliroentgen during the inspection, the foreign air carrier shall post a sign which advises passengers to remove film of all kinds from their carry-on baggage and items before inspection. If requested by passengers, their photographic equipment and film packages shall be physically inspected without exposure to an X-ray system.

(c) Each foreign air carrier shall maintain at least one copy of the results of the most recent radiation survey conducted under paragraph (b)(1) or (b)(2) of this section at the place where the X-ray system is in operation and shall make it available for inspection upon request by the Administrator.

(Secs. 313(a), 315, 316, and 601 of the Federal Aviation Act of 1958 (49 U.S.C. 1354(a), 1356, 1357, and 1421), and Sec. 6(c) of the Department of Transportation Act (49 U.S.C. 1655(c)).)

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

Issued in Washington, D.C., on March 16, 1978.

LANGHORNE BOND,
Administrator.

[FR Doc. 78-7605 Filed 3-22-78; 8:45 am]

[6750-01]

Title 16—Commercial Practices

CHAPTER I—FEDERAL TRADE COMMISSION

SUBCHAPTER A—ORGANIZATION, PROCEDURES AND RULES OF PRACTICE

PART 3—MISCELLANEOUS RULES

Commencement of Proceedings

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This rule specifies that the adjudicative proceeding is commenced by the issuance of a complaint by the Commission. This change is designed to clearly indicate that a complaint is issued when an affirmative vote is taken by the Commission.

The determination of when a complaint is issued is necessary because the commencement of an adjudicative proceeding is an important reference date (e.g., the applicability of ex parte rules and the tolling of the period of limitations in redress cases begin with the commencement of adjudicative proceedings).

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Thomas A. Sheehan, III, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3990.

SUPPLEMENTARY INFORMATION: Accordingly, § 3.11(a) of 16 CFR is amended to read as follows:

§ 3.11 Commencement of proceedings.

(a) *Complaint.*—Except as provided in § 3.13, and adjudicative proceeding is commenced when an affirmative vote is taken by the Commission to issue a complaint.

* * * * *

(15 U.S.C. § 46(g).)

By direction of the Commission, dated March 15, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-7876 Filed 3-22-78; 8:45 am]

[6750-01]

PART 4—MISCELLANEOUS RULES

Availability of Public Information

AGENCY: Federal Trade Commission.

ACTION: Final rule.

SUMMARY: This rule was first published in the FEDERAL REGISTER, 43 FR 779, on January 4, 1978, as a proposed rule. Public comment was invited for a period of 30 days ending February 3, 1978. No comments were received and the Commission has adopted the proposed rule as a final rule.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Kay Kiner, Office of General Counsel, Federal Trade Commission, Washington, D.C. 20580, 202-523-3786.

SUPPLEMENTARY INFORMATION: Accordingly, the Commission amends § 4.8(c)(2) of 16 CFR to read as follows:

§ 4.8 Availability of public information.

* * * * *

(c) * * *

(2) The following uniform schedule of fees applies to all constituent units of the Commission:

REPORDUCTION

Paper copy, 12 cents per page.

MICROFILM SERVICES—PRODUCTION OF MICROFILM

16 MM, 6 cents per frame.
Microfiche 4" x 6", 6 cents per frame.

DUPLICATION OF MICROFILM

16 MM, $4.30 per 100 ft. roll.
16 MM developing, $1.70 per 100 ft. roll.
Microfiche 4" x 6", 15 cents each.
3M cartridge, $1.28 each.
Load cartridge, 50 cents each.

COMPUTER SERVICES—INFORMATION RETRIEVAL

Programmer, $8.75 per hour.
Hard Copy (paper) of each request, 30 cents.

SEARCH FEES

Clerical—1st hour, free.
2nd and subsequent hrs, $5.50 per hour.
Para-professional—1st hour, free.
2nd and subsequent hrs, $6.15 per hour.
Professional—1st hour, free.
2nd and subsequent hrs, $13.25 per hour.
Certification, $3.00 each.

* * * * *

AUTHORITY: 5 U.S.C. § 552; 15 U.S.C. § 46(g).

By direction of the Commission, dated March 16, 1978.

CAROL M. THOMAS,
Secretary.

[FR Doc. 78-7875 Filed 3-22-78; 8:45 am]

[6355-01]

CHAPTER II—CONSUMER PRODUCT SAFETY COMMISSION

SUBCHAPTER E—POISON PREVENTION PACKAGING ACT OF 1970 REGULATIONS

PART 1701—STATEMENTS OF POLICY AND INTERPRETATION

Prescription Drugs Distributed to Pharmacies

AGENCY: Consumer Product Safety Commission.

ACTION: Final rule.

SUMMARY: The Consumer Product Safety Commission is amending its regulations to add an interpretation under the Poison Prevention Packaging Act to require that all prescription drugs subject to a child-resistant packaging standard that are distributed to pharmacies shall be in child-resistant packaging if the immediate packages in which the drugs are distributed by the manufacturers are intended to be the packages in which the drugs are dispensed to the consumer. The regulation is necessary to insure that the pharmacist will actually dispense the drug in the proper package. The Commission has received inquiries that indicate that some manufacturers may not be aware of the proper interpretation of the act.

DATES: This statement of policy and interpretation is effective March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Wade Anderson, Directorate of Compliance and Enforcement, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6760.

SUPPLEMENTARY INFORMATION: Section 3 of the Poison Prevention Packaging Act of 1970 ("the act"), 15 U.S.C. 1472, authorizes the establishment of standards requiring "special packaging" for certain household substances in order to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances. "Special packaging" is packaging that is designed or constructed to be: (1) Significantly difficult for children under 5 years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time, and (2) not difficult for normal adults to use properly (15 U.S.C. 1471(4)). A "household substance" is one which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household.

In the FEDERAL REGISTER of April 16, 1973 (38 FR 9431, 9432), a regulation (now 16 CFR 1700.14(a)(10)) was issued that requires that all oral prescription human drugs be supplied in special packaging. In the preamble to that notice, the criterion for determining when a manufacturer has the obligation for providing special packaging for an item that will be dispensed pursuant to the order of a licensed medical practitioner was stated as follows:

"* * * the person who *places* a household substance subject to these standards *into* a container must determine if that container is in fact a package in which the substance may be delivered to the consumer for use or storage in the household. If it is, these standards apply. The responsibility, however, for *repackaging* (bulk) prescription drugs in accordance with those standards rests with the individual dispensing such substances at the retail level" [emphasis supplied].

Manufacturers of prescription drugs generally package them in different types of packages, depending on whether the manufacturer intends that the original package will be the one in which the drug is ultimately given to the consumer or whether it is intended that the drug will be repackaged before it is dispensed to the consumer. If the drug is intended by the manufacturer to be repackaged (bulk package), the manufacturer need not utilize special packaging.

The policy of the Consumer Product Safety Commission and the Food and Drug Administration, which preceded the Commission in administering the Poison Prevention Packaging Act, has uniformly been that all prescription drugs subject to a special packaging standard that are distributed to pharmacies shall be in special packaging if the immediate package in which the drugs are distributed by the manufacturer is intended to be the package in which the drugs are dispensed to the consumer. Whether a manufacturer intends that a package will be the one in which the drugs are dispensed to the consumer can be determined from the type of package, whether the ancillary instructions provided on the package (such as for storage, handling, or use) are intended for consumers, and other factors. Bulk packages of drugs that are intended to be repackaged by the pharmacist for dispensing to consumers need not, of course, consist of special packaging. Such drugs must, however, be placed in special packaging by the pharmacy at the time of dispensing to the consumer unless, pursuant to section 4(b) of the act, the prescribing practitioner orders, or the purchaser requests, otherwise.

The Commission believes that this interpretation of the manufacturer's responsibility is necessary in order to insure that the pharmacist will actually dispense the drug in the proper package. If manufacturers were to place prescription drugs in packages that are intended for consumers but that do not comply with the standard, it is likely that these drugs would be distributed to consumers in such noncomplying packaging regardless of whether such packaging was ordered by the prescribing practitioner or requested by the consumer. The Commission believes such a likelihood exists because, unlike bulk-packaged drugs that must be repackaged, drugs placed in consumer packages by manufacturers in many instances cannot be repackaged without some inconvenience and ordinarily need only be labeled by the pharmacy before they can be dispensed to a consumer. The legislative history of the act shows that it was the intent of the act for special packaging to be the rule and not the exception.

The Commission has received inquiries that indicate that some manufacturers may not be aware of the proper interpretation of the act as expressed in this policy. Therefore, in order to assist manufacturers of prescription drugs in discharging their responsibilities under the act concerning such drugs that are distributed to pharmacies, the Consumer Product Safety Commission has codified (in § 1701.1) the following statement of its policy concerning which packages of prescription drugs must consist of "special" (child-resistant) packaging that complies with the standards in 16 CFR 1700.15.

Manufacturers should also note that section 4(a) of the act (which allows manufacturers to package a single size of a regulated product in noncomplying packaging under certain circumstances) does not apply to substances subject to section 4(b) of the act. Thus, since the section 4(a) single-size exemption for over-the-counter drugs and other household substances does not apply to prescription drugs, every unit of a prescription drug subject to a special packaging standard which is distributed by the manufacturer to a pharmacy in a package intended to be dispensed to a consumer shall be in special packaging. A pharmacy may, however, upon the request of a patient or an order of the medical practitioner prescribing the drug, convert the packaging to conventional (noncomplying) packaging or repackage it in such packaging.

This statement of policy and interpretation, which merely codifies a long-standing Commission policy, is being issued as § 1701.1 of a new Part 1701, which will also contain any future statements of policy and interpretation concerning the Poison Prevention Packaging Act of 1970. Since § 1701.1 is an interpretive rule and a statement of policy, the provisions of the Administrative Procedure Act (5 U.S.C. 553) relating to notice of proposed rulemaking, opportunity for

comment, and delayed effective date do not apply, and §1701.1 will become effective immediately.

Therefore, under provisions of the Poison Prevention Packaging Act of 1970 (secs. 2-4, Pub. L. 91-601, 84 Stat. 1670, 1671; 15 U.S.C. 1471-1473) and the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055, 21 U.S.C. 371(a)) and by the authority granted by the Consumer Product Safety Act (sec. 30(a), Pub. L. 92-573, 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission amends Title 16, Chapter II, of the Code of Federal Regulations by adding to Subchapter E a new Part 1701 reading as follows:

Sec.
1701.1 Special packaging for substances subject to a standard that are distributed to pharmacies to be dispensed pursuant to an order of a licensed medical practitioner.

AUTHORITY: Secs. 2-4, Pub. L. 91-601, 84 Stat. 1670, 1671 (15 U.S.C. 1471-1473); sec. 701(a), 52 Stat. 1055 (21 U.S.C. 371(a)).

§1701.1 Special packaging for substances subject to a standard that are distributed to pharmacies to be dispensed pursuant to an order of a licensed medical practitioner.

(a) In order to assist manufacturers of prescription drugs in discharging their responsibilities under the act concerning such drugs that are distributed to pharmacies, the Consumer Product Safety Commission has codified this statement of its policy concerning which prescription drug packages supplied by manufacturers to pharmacies must comply with the "special" (child-resistant) packaging requirements contained in 16 CFR 1700.15.

(b) Manufacturers of prescription drugs may package such drugs for distribution to pharmacies in different types of packages, depending on whether the manufacturer intends that the package will be the one in which the drug is ultimately given to the consumer or whether it is intended that the pharmacist will repackage the drug before it is dispensed to the consumer. If the drug is supplied in a bulk package from which individual prescriptions are intended to be repackaged by the pharmacist, the manufacturer need not utilize special packaging. However, the Commission interprets the provision of the act as requiring that all prescription drugs subject to a special packaging standard that are distributed to pharmacies shall be in special packaging if the immediate package in which the drugs are distributed by the manufacturer is intended to be the package in which the drugs are dispensed to the consumer. Examples of such packages include mnemonic dispensing devices; dropper bottles; packages with "tear off" labels; packages which incorporate ancillary instructions for consumer handling, storage, or use on permanently affixed portions of their labels; and products intended to be reconstituted in their original containers. The Commission believes that this interpretation is necessary in order to insure that the pharmacist will actually dispense the drug in the proper package. If the pharmacist receives a request from the consumer or an order from the prescribing medical practitioner for conventional (noncomplying) packaging, section 4(b) of the act permits the pharmacist to convert the package to conventional packaging or repackage the drug in conventional packaging.

(c) Manufacturers should also note that section 4(a) of the act (which allows a product to be marketed in noncomplying packaging of a single size under certain circumstances) does not apply to prescription drugs subject to section 4(b) of the act. Thus, since the section 4(a) single-size exemption for over-the-counter drugs and other household substances does not apply to prescription drugs, every unit of a prescription drug subject to a special packaging standard which is distributed to a pharmacy in a package intended by the manufacturer to be dispensed to a consumer shall be in special packaging.

(d) Nothing in this statement of policy and interpretation should be interpreted as relieving the pharmacist of the responsibility of insuring that all prescription drugs subject to a special packaging standard are dispensed to the consumer in special packaging unless otherwise ordered by the prescribing practitioner or otherwise requested by the consumer.

Effective date: This part is effective March 23, 1978.

Dated: March 16, 1978.

SADYE E. DUNN,

Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-7690 Filed 3-22-78; 8:45 am]

[8010-01]

Title 17—Commodity and Securities Exchanges

CHAPTER II—SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-14570]

PART 200—ORGANIZATION; CONDUCT AND ETHICS; AND INFORMATION AND REQUESTS

Delegation of Authority to the Director of the Division of Market Regulation

AGENCY: Securities and Exchange Commission.

ACTION: Final rule amendment.

SUMMARY: The Commission today announced the amendment of its Rules of Organization to delegate to the Director of the Division of Market Regulation limited authority to exempt SECO broker-dealers from the Commission's regulations governing the participation of a SECO broker-dealer in the public offering of its own securities or those of an affiliate. The delegation of authority will extend only to exemptions for public offerings of debt securities issued by an affiliate of a SECO broker-dealer.

EFFECTIVE DATE: March 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles M. Horn, Esquire, Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, 202-755-8747.

SUPPLEMENTARY INFORMATION: Securities Exchange Act Rule 15b10-9 (17 CFR 240.15b10-9) establishes standards for the participation by a broker-dealer which is not a member of a national securities association (a "SECO broker-dealer") in the public offering of its own or an affiliate's securities. Paragraph (d) of that Rule allows the Commission to grant exemptions from the provisions of the Rule if the proposed activities of the SECO broker-dealer do not fall within the intended meaning and purpose of the Rule. The Commission has granted conditional exemptions to SECO broker-dealers participating in the distribution of debt securities issued by affiliates of such broker-dealers and believes that those exemptions offer sufficiently clear guidance to warrant a delegation of its authority to the Director of the Division of Market Regulation. Moreover, by delegating its authority, the Commission also believes it will facilitate the processing, under the Securities Act of 1933, of registration statements for debt securities offered by a SECO broker-dealer affili-

ated with the issuer. Accordingly, the Commission is today amending its rules with regard to delegation of authority in order to permit the Director of the Division of Market Regulation to grant such exemptions with respect to the participation of a SECO broker-dealer in the public offering of debt securities issued by an affiliate of such broker-dealer.

The Commission finds that this amendment relates solely to agency organization, procedure, or practice, and that notice and public procedure in accordance with 5 U.S.C. 553 are not necessary, pursuant to subsection (b) thereof and that, in view of the foregoing, good cause exists for dispensing with the normal 30-day delay in effectiveness.

Accordingly, 17 CFR 200.30-3 is amended, effective immediately, by adding a new paragraph (27), which reads as follows:

§ 200.30-3 Delegation of authority to Director of Division of Market Regulation.

* * * * *

(a) * * *

(27) Pursuant to Rule 15b10-9(d) (§ 240.15b10-9(d) of this chapter), to grant exemptions from Rule 15b10-9 with respect to the participation of a non-member broker-dealer in a public offering of debt securities issued by an affiliate of the broker-dealer.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 16, 1978.

[FR Doc. 78-7647 Filed 3-22-78; 8:45 am]

[8010-01]

[Release Nos. 34-14573, IC-10160; File No. S7-654]

PART 240—GENERAL RULES AND REGULATIONS; SECURITIES EXCHANGE ACT OF 1934

Securities Confirmations

AGENCY: Securities and Exchange Commission.

ACTION: Rule amendment; postponement of effective date of rule.

SUMMARY: The Commission has postponed until August 1, 1978, the effective date of its rule prescribing delivery and disclosure requirements for confirmations sent to customers by brokers and dealers. The confirmation rule was to become effective on April 1, 1978, with the exception of certain paragraphs which had previously become effective on June 1, 1977. The Commission has postponed that effective date in order to coordinate implementation of the new rule with the possible adoption of amendments to that rule currently under consideration. This postponement of the effective date has also required a technical amendment to the text of the rule.

EFFECTIVE DATE: March 16, 1978.

FOR FURTHER INFORMATION CONTACT:

Richard Chase, Esq., Office of Chief Counsel, Division of Market Regulation, Securities and Exchange Commission, Washington, D.C. 20549, 202-755-7621.

SUPPLEMENTARY INFORMATION: The Commission today announced the postponement of the effective date of rule 10b-10 (17 CFR 240.10b-10) until August 1, 1978, with the exception of the several paragraphs of the rule which became effective on June 1, 1977. The Commission adopted rule 10b-10 under the Securities Exchange Act of 1934 (the "Act") on May 5, 1977,[1] and, with the exception of those paragraphs which became effective on June 1, 1977, the rule was to become effective on January 1, 1978. On November 17, 1977, however, the Commission postponed until April 1, 1978, the rule's effective date.[2]

The Commission announced when it adpoted rule 10b-10 that it intended to propose amendments to rule 10b-10, which it subsequently did on June 23, 1977.[3] Those proposed amendments are currently under consideration, and postponement of the April 1, 1978, effective date will permit the Commission additional time to consider those amendments and will allow both rule 10b-10 and any of the amendments adopted to become effective at one time. A single effective date for the rule as adopted and any amendments adopted in the near future will minimize any burden on brokers and dealers who must revise printed confirmation forms, computer programs, and internal procedures in order to comply with the new confirmation requirements. Rule 15c1-4 (17 CFR 240.15c1-4), which currently prescribes confirmation delivery and disclosure requirements, will remain in effect until August 1, 1978.

AMENDMENT TO RULE 10b-10

This change in the effective date also requires a technical amendment to rule 10b-10, to reflect the fact that rule 15c1-4 will remain effective until August 1, 1978. Paragraph (b) of rule 10b-10 currently provides that brokers and dealers effecting transactions pursuant to qualified "periodic" plans may send to customers quarterly statements in lieu of the "written notification" described in paragraph (a) of rule 15c1-4 (until April 1, 1978) and paragraph (a) of rule 10b-10 (after that date). By postponing the effective date of rule 10b-10 until August 1, 1978, it has become necessary to amend the April 1, 1978, date that appears in paragraph (b) of the rule. This amendment is only technical in nature and imposes no new requirements upon brokers and dealers.

For the reasons stated above and pursuant to the Administrative Procedure Act (5 U.S.C. 551 et seq.), the Commission finds for good cause that notice and public procedure on this amendment to rule 10b-10 is both impracticable and unnecessary and that there is good cause for making this technical amendment to the rule effective immediately. The Commission also finds that adoption of this amendment to rule 10b-10 does not impose any burdens on competition that are not necessary or appropriate in furtherance of the purposes of the Act.

STATUTORY BASIS

The Securities and Exchange Commission, acting pursuant to the Act, and particularly sections 3, 9, 10, 11, 15, 17, and 23 thereof (15 U.S.C. 78c, 78i, 78j, 78k, 78o, 78q, and 78w) hereby postpones until August 1, 1978, the effective date of paragraph (a) of § 240.10b-10 and amends paragraph (b) of § 240.10b-10 of title 17 of the Code of Federal Regulations to reflect that delay in the effective date.

Accordingly, 17 CFR 240.10b-10(b) is amended to read as follows:

§ 240.10b-10 Confirmations of transactions

* * * * *

(b) A broker or dealer may effect transactions for or with the account of a customer without giving or sending to such customer the written notification described in paragraph (a) of this section (until August 1, 1978, § 240.15c1-4(a)) if:

* * * * *

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 16, 1978.

[FR Doc. 78-7646 Filed 3-22-78; 8:45 am]

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[1] Securities Exchange Act Release No. 13508 (May 5, 1977), 41 FR 25318 (May 17, 1977).

[2] Securities Exchange Act Release No. 14184 (Nov. 17, 1977), 42 FR 60734 (Nov. 29, 1977).

[3] Securities Exchange Act Release No. 13661 (June 23, 1977), 42 FR 33348 (June 30, 1977).

[4810-22]

Title 19—Customs Duties

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

[T.D. 78-95]

PART 153—ANTIDUMPING

Disclosure Conferences

AGENCY: United States Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to provide that a disclosure conference will be held by the Customs Service, at the request of any interested person, after the publication of a tentative determination in a proceeding under the Antidumping Act, 1921, as amended. In the absence of a tentative determination, the conference will be held, at the request of any interested person, before the final determination is published. At the conference, interested persons may obtain disclosure of the bases for the tentative or final determination. These Conferences are a means for providing information to interested persons concerning the bases for the Treasury Department's determinations.

EFFECTIVE DATE: April 24, 1978.

FOR FURTHER INFORMATION CONTACT:

Theodore Hume, Office of the General Counsel, Treasury Department, 1500 Pennsylvania Avenue NW., Washington, D.C. 20220, 202-566-2941.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On January 6, 1978, notice was published in the FEDERAL REGISTER (43 FR 1099) of a proposal to amend part 153 of the Customs Regulations (19 CFR part 153) by adding a new §153.31(d) to set forth procedures to be followed by the Customs Service at informal disclosure conferences in advising interested persons of the bases for tentative, and in some cases final, determinations in antidumping proceedings. These conferences are a means for providing information to interested persons concerning the bases for the Treasury Department's determinations. In the case of a withholding of appraisement or other tentative determination, the disclosure conference will be held after the publication of the tentative determination. If no tentative determination is made, the disclosure conference will be held before publication of the final determination.

Written comments on the proposed amendment to be received on or before February 6, 1978, were invited from interested persons. As explained below, the comments have not resulted in any changes to the proposal.

DISCUSSION OF COMMENTS

All commenters supported the adoption of regulations specifically providing for informal disclosure conferences in antidumping proceedings. However, some commenters objected to the proposal that the disclosure conferences be held after publication in the FEDERAL REGISTER of a "Withholding of Appraisement Notice" or other notice of tentative disposition of an antidumping investigation. These commenters urged that holding the conference after the tentative determination would deny interested persons, particularly importers and foreign exporters and manufacturers, the opportunity, at an early stage in the proceedings, to provide additional information, to present their views, and to minimize or eliminate dumping margins through price adjustments.

Under present procedures, after Customs has initially reviewed the available data for determining foreign market value or constructed value and purchase price or exporter's sales price, as applicable, and has made any tentative adjustments considered appropriate, interested persons may request a disclosure conference to discuss the tentative calculations and adjustments. The calculations and adjustments discussed at the conference, however, are subject to further analysis and review within Customs, and all available information is subject to a complete analysis and review by the Treasury Department before a tentative or final determination is published in the proceeding.

Because of the complex issues of fact and law involved in antidumping proceedings, the Treasury Department has concluded that meaningful disclosure of the bases for a tentative determination is possible only after the analysis and review process is completed. Ample time is provided thereafter for the presentation of information and views. The regulations provide that interested persons may submit information and views at any time during the course of an antidumping proceeding (19 FR 153.31): *Provided*, That such submissions are received within the time limits established. These provisions are in addition to the provisions for a hearing to be held after the publication of a notice of withholding of appraisement or other tentative determination (19 CFR 153.40). In addition, any price changes made by foreign manufacturers or exporters to minimize or eliminate dumping margins before the publication of the tentative determination must be regarded as speculative to the extent that the price changes are based on assumptions as to what the final calculations and adjustments will be.

For these reasons, and after consideration of all comments received and further review of this matter, it has been determined to adopt the amendment as proposed.

DRAFTING INFORMATION

The principal author of this document was Edward T. Rosse, Regulations and Legal Publications Division, U.S. Customs Service. However, other personnel in the Customs Service and the Treasury Department assisted in its development.

AMENDMENT TO THE REGULATIONS

Part 153 of the Customs Regulations (19 CFR part 153) is amended as set forth below.

R. E. CHASEN,
Commissioner of Customs.

Approved: March 14, 1978.

Robert H. Mundheim,
General Counsel of the Treasury.

Section 153.31 is amended by adding a new paragraph (d) to read as follows:

§ 153.31 Full-scale investigation.

* * * * *

(d) *Disclosure Conference.* After the publication in the FEDERAL REGISTER of a "Withholding of Appraisement Notice," or any other notice of tentative disposition of an antidumping investigation, the Commissioner of customs shall conduct, at the request of any interested person, a disclosure conference during which the Customs Service will disclose to such interested person the bases for the tentative disposition of an antidumping investigation. Where it appears to the Secretary that an affirmative determination pursuant to § 153.36 is required, and no request has been made for a withholding of appraisement under § 153.35(b), persons known to be interested in the proceeding will be so informed in sufficient time so they may request a disclosure prior to the hearing which may be requested pursuant to § 153.40. Confidential information will be treated consistently with the procedures set forth in § 153.22. Nothing in this subsection will affect access to information which is otherwise available pursuant to § 153.21."

(Secs. 201-212, 407, 42 Stat. 11 et seq., as amended, sec. 5, 72 Stat. 585, secs. 406, 407, 42 Stat. 18 (5 U.S.C. 301, 19 U.S.C. 160-173).)

[FR Doc. 78-7648 Filed 3-22-78; 8:45 am]

[1505-01]

Title 20—Employees' Benefits

CHAPTER III—SOCIAL SECURITY ADMINISTRATION, DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

[Reg. No. 16]

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

Subpart B—Eligibility

Eligibility of Individuals Residing in Publicly Operated Community Residences Serving No More Than 16 Residents

Correction

In FR Doc. 78-2461, appearing at page 4004 in the issue for Tuesday, January 31, 1978, in the paragraph entitled "SUMMARY," the second line should read "provides that the term "public institu-".

[4310-02]

Title 25—Indians

CHAPTER I—BUREAU OF INDIAN AFFAIRS, DEPARTMENT OF THE INTERIOR

SUBCHAPTER U—ELECTRICAL POWER SYSTEM

PART 231—COLORADO RIVER IRRIGATION PROJECT, ARIZ.

Revision of Regulations and Rates; Correction

MARCH 16, 1978.

AGENCY: Bureau of Indian Affairs, Department of the Interior.

ACTION: Final revision of regulations and rates correction.

SUMMARY: The purpose of this document is to correct section 231.51 Rate Schedule No. 1—residential rate published on page 6228 FEDERAL REGISTER, Vol. 43, No. 31, Tuesday, February 14, 1978 [FR Doc. 78-4026 Filed 2-13-78; 8:45 am]. Two subparagraphs were erroneously left out of the final revision.

DATE: This revised rate shall become effective on February 14, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles P. Corke, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. 20245, telephone number 202-343-2287.

SUPPLEMENTARY INFORMATION: Beginning on page 6227 of the February 14, 1978, FEDERAL REGISTER, there was published a notice of final revision of rates.

Section 231.51 to be corrected as follows:

§ 231.51 Rate schedule No. 1—residential rate.

(a) *Application.* This schedule applies to electrical service required for residential purposes in individual private dwellings and in individually metered apartments delivered through one meter to a customer at one premise either urban or rural, for domestic use only. The electric service is to be used only on the consumer's own premises and must not be resold.

(b) *Type of service.* Single phase, 60 cycle, 120/240 volts.

(c) *Monthly rate.* (1) $6 for the first 100 kilowatt-hours or less.

(2) 4.6 cents per kilowatt-hour for the next 300 kilowatt-hours.

(3) 4 cents per kilowatt-hour for the next 800 kilowatt-hours.

(4) 3 cents per kilowatt-hour for all additional kilowatt-hours.

(d) *Fuel cost adjustment.* An adjustment shall be added to each kilowatt-hour used equal to the estimated average purchase power adjustment paid by the project to the Project's power supplier.

RICK LAVIS,
Deputy Assistant Secretary.

[FR Doc. 78-7666 Filed 3-22-78; 8:45 am]

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 76-175]

PART 117—DRAWBRIDGE OPERATION REGULATIONS

Weymouth Fore River, Mass.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises the regulations for the Route 3A drawbridge across the Weymouth Fore River, mile 3.5, to permit closed periods from Monday through Friday, during the morning and evening peak vehicular traffic periods to all except commercial vessels. This change is being made because of an increase in vehicular traffic and should provide for a smoother flow of traffic during peak periods.

EFFECTIVE DATE: This amendment is effective on April 24, 1978.

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 September 23, 1976, the Coast Guard published a proposed rule (41 FR 41711) concerning this amendment. The Commander, First Coast Guard District, also published the proposal as a Public Notice dated September 21, 1976. Interested persons were given until October 29, 1976, 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

Fifty-six comments were received. The majority of the comments favored the regulations as proposed. However, an evaluation of the replies to the public notice and of other pertinent information has revealed that the exclusion of all marine traffic through the Weymouth Fore River bridge during morning and afternoon rush hours might be detrimental to the marine interests located above the bridge and to public safety.

The minimum depth of water in the channel in Weymouth Fore River is adequate for many of the vessels which pass through the drawspan of the Fore River bridge. However, the larger vessels operating in the river must do so on the higher stages of the tide. The closing of the drawspan to navigation during certain hours would not be an equitable solution to the existing traffic problem. The Coast Guard, therefore, has decided that commercial vessels should be passed through the draw on demand. This matter will be closely monitored and if changes are considered necessary, they will be made in another rule making action.

Accordingly, Part 117 of Title 33 of the Code of Federal Regulations, is amended as follows:

1. In § 117.75(c) and (f) by striking the letter "(l)" in the first sentence of each paragraph and inserting the letter "(m)" in place thereof.

2. By adding a new paragraph § 117.75(m) immediately after paragraph § 117.75(l) to read as follows:

§ 117.75 Boston Harbor, Mass., and adjacent waters; bridges.

* * * * *

(m) *Weymouth Fore River.* State Route 3A between Quincy Point and Weymouth. The draw shall open on signal, except that the draw need not open from 6:30 a.m. to 9 a.m. and 4:30

p.m. to 6:30 p.m., Monday through Friday, except on legal holidays observed in the locality. However, the draw shall open at any time for commercial vessels, public vessels of the United States, any vessels of state or municipal governments used for public safety, and in case of emergency or during severe storm conditions.

(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: March 17, 1978.

E. L. PERRY,
Vice Admiral, U.S. Coast Guard,
Acting Commandant

[FR Doc. 78-7762 Filed 3-22-78; 8:45 am]

[6560-01]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

[FRL 870-4]

PART 60—STANDARDS OF PERFORMANCE FOR NEW STATIONARY SOURCES

Amendments to Reference Methods 1-8; Correction

AGENCY: Environmental Protection Agency.

ACTION: Correction.

SUMMARY: This document corrects typographical errors to certain Reference Methods and makes amendments to others for purposes of clarification. These Reference Methods were published as final rules in the FEDERAL REGISTER for Thursday, 42 FR 41754, August 18, 1977, in FR Doc. 77-13608.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Don R. Goodwin, Emission Standards and Engineering Division (MD-13), Environmental Protection Agency, Research Triangle Park, N.C. 27711, telephone 919-541-5271.

SUPPLEMENTARY INFORMATION: After publication of revisions to Reference Methods 1-8 on August 18, 1977, we found many typographical errors. We also received comments which showed that the procedures in Reference Methods 1, 4, 6, and 7 needed additional clarification or revision. Additional explanation of the procedures to be used are provided by this correction notice. In addition to the errors in the methods themselves, two typographical errors were discovered in the preamble. On page 41754, under "Method 7," the phrase "variable wave length" is corrected to read "single and double-beam." On page 41755, under "Method 8," the word "content" (in point No. 4) is corrected to read "components."

NOTE.—The Environmental Protection Agency has determined that this document does not contain a major proposal requiring preparation of an Economic Impact Analysis.

Dated: March 13, 1978.

DAVID A. HAWKINS,
Assistant Administrator for Air and Waste Management.

Part 60 of Chapter I, Title 40 of the Code of Federal Regulations is amended as follows:

APPENDIX A—REFERENCE METHODS

In Method 1 of Appendix A, Sections 2.3.1, 2.3.2, and 2.4 and Table 1-1 are amended as follows:

1. In Section 2.3.1, the word "adcording" in the second line is corrected to read "according."

2. In Section 2.3.2, insert after the first paragraph the following:

If the tester desires to use more than the minimum number of traverse points, expand the "minimum number of traverse points" matrix (see Table 1-1) by adding the extra traverse points along one or the other or both legs of the matrix; the final matrix need not be balanced. For example, if a 4x3 "minimum number of points" matrix were expanded to 36 points, the final matrix could be 9x4 or 12x3, and would not necessarily have to be 6x6. After constructing the final matrix, divide the stack cross-section into as many equal rectangular, elemental areas as traverse points, and locate a traverse point at the centroid of each equal area.

3. In Section 2.4, the word "travrse" in the fifteenth line of the second paragraph is corrected to read "traverse."

4. In Table 1-1, move the words "Number of traverse points" to the left, so that they are centered above the numbers listed in the left-hand column.

In Method 2 of Appendix A, Sections 2.1, 2.2, 2.4, 3.2, 4.1, 4.1.2, 4.1.4.1, 4.1.5.2, and 6 are amended as follows;

1. In Section 2.1, "±" is inserted in front of the "5 percent" in the fourteenth line of the third paragraph.

2. In Section 2.2, "measuremen t" in the next-to-the last line of the first paragraph is corrected to read "measurement."

3. In Section 2.4, "Type X" in the fifth line is corrected to read "Type S."

4. In Section 3.2, "ma" in the first line is corrected to read "ma-."

5. In Section 4.1, "R_t" in the seventh line of the second paragraph is replaced with "D_t."

6. In Section 4.1.2, "B." is inserted between the words "other," and "Calibration."

7. In Section 4.1.4.1, "$C_{p(s)}$=Type S pilot tube coefficient" is corrected to read "$C_{p(s)}$=Type S pitot tube coefficient."

8. In Section 4.1.5.2, the words "pitot-nozzel" in the third line are corrected to read "pitot-nozzle."

9. In Section 6, Citations 9, 13, and 18 are amended as follows:

a. In No. 9, the word "Tiangle" is corrected to read "Triangle."

b. In No. 13, the "s" in "Techniques" is deleted.

c. In No. 18, the word "survey" is corrected to read "Survey."

In Method 3 of Appendix A, Sections 1.2, 3.2.4, 4.2.6.2, 6.2, and 7 are amended as follows:

1. In Section 1.2, the title ".U. S. Environmental Protection Agency." is inserted at the end of the second paragraph.

2. In Section 3.2.4, "CO" in the tenth line is corrected to read "CO_2."

3. In Section 4.2.6.2(b), the phrase "or equal to" is inserted between "than" and "15.0."

4. In Section 6.2, Equation 3-1 is corrected to read as follows:

$$\%EA = \left[\frac{\%O_2 - 0.5\%\ CO}{0.264\ \%N_2 - (\%O_2 - 0.5\%\ CO)}\right] 100$$

5. In Section 7, Bibliography, No. 2, the word "with" is inserted between the words "Sampling" and "Plastic."

In Method 4 of Appendix A, Sections 2.1.2, 2.2.1, 2.2.3, 2.3.1, 3.1.8, 3.2.1, 3.3.1, 3.3.3, 3.3.4, and Figure 4-2 are amended as follows:

1. In Section 2.1.2, the word "neasurement" in the third line of the third paragraph is corrected to read "measurement."

2. In Section 2.2.1, the word "travers" in the sixth line is corrected to read "traverse."

3. In Section 2.2.3, the work "eak" in the last sentence is corrected to read "leak."

4. In Figure 4-2, the word "ocation" in the second line on top of the figure, is corrected to read "Location."

5. In Section 2.3.1, "M_w" is changed to read "M_w" and "P_w" is changed to read "ρ_w."

6. In Section 3.1.8, "31 pm" is corrected to read "3 1pm".

7. In Section 3.2.1. delete all of first paragraph except the first sentence and insert the following:

Leak check the sampling train as follows: Temporarily insert a vacuum gauge at or near the probe inlet; then, plug the probe inlet and pull a vacuum of at least 250 mm Hg (10 in. Hg). Note, the time rate of change of the dry gas meter dial; alternatively, a rotameter (0-40 cc/min) may be tem-

porarily attached to the dry gas meter outlet to determine the leakage rate. A leak rate not in excess of 2 percent of the average sampling rate is acceptable.

NOTE.—Carefully release the probe inlet plug before turning off the pump.

8. In Section 3.3.1, add the following definition to the list:

Y = Dry gas meter calibration factor.

Also, "ρ_w" is corrected to read "ρ_w".

9. In Section 3.3.3, Equation 4-6 is corrected to read as follows:

$$V_{m(std)} = V_m Y \left(\frac{P_m}{P_{std}}\right)\left(\frac{T_{std}}{T_m}\right) = K_2 Y \frac{V_m P_m}{T_m}$$

10. In Section 3.3.4, Equation 4-7 is corrected to read as follows:

$$B_{ws} = \frac{V_{wc(std)}}{V_{wc(std)} + V_{m(std)}} + B_{wm} = \frac{V_{wc(std)}}{V_{wc(std)} + V_{m(std)}} + (0.025)$$

In Method 5 of Appendix A, Sections 2.1.1, 2.2.4, 4.1.2, 4.1.4.2, 4.2, 6.1, 6.3, 6.11.1, and 6.11.2 are amended as follows:

1. In Section 2.1.1, the word "proble" in the fourth line is corrected to read "probe."

2. In Section 2.2.4, "pol0-" is corrected to read "poly-".

3. In Section 4.1.2, the sentence "The sampling time at each point shall be the same." is inserted at the end of the fifth paragraph.

4. In Section 4.1.4.2, the word "It" in the seventh line is corrected to read "it."

5. In Section 4.2, the word "nylon" in the seventh, ninth, and thirteenth paragraphs is corrected to read "Nylon."

6. In Section 6.1 Nomenclature, "C_a=Acetone blank residue concentrations, mg/g" is corrected to read "C_a=Acetone blank residue concentration, mg/g" and "V_s" is changed to read "v_s."

7. In Section 6.3, page 41782, "m_1=0.3858 °K/mm Hg for metric units" is corrected to read "K_1=0.3858 °K/mm Hg for metric units."

8. In Section 6.11.1, Equation 5-7 is corrected to read as follows:

$$I = \frac{100\ T_s \left[K_3 V_{lc} + \left(V_m Y / T_m\right)\left(P_{bar} + \Delta H/13.6\right)\right]}{60\ \Theta v_s P_s A_n}$$

9. In Section 6.11.2, the second form of Equation 5-8 is corrected to read as follows:

$$= K_4 \frac{T_s V_{m(std)}}{P_s v_s A_n \Theta \left(1 - I_{acc}\right)}$$

In Method 6 of Appendix A, Sections 2.1, 2.1.6, 2.1.7, 2.1.8, 2.1.11, 2.1.12, 2.3.2, 3.3.4, 4.1.2, 4.1.3, and 5.1.1 are amended as follows:

1. In Section 2.1, the word "perioxide" in the fourth line of the second paragraph is corrected to read "peroxide."

2. In Section 2.1.6, the word "siliac" in the third line is corrected to read "silica."

3. In Section 2.1.7, the word "value", which appears twice is corrected to read "valve."

4. In Section 2.1.8, the word "disphragm" is corrected to read "diaphragm" and the word "surge" is inserted between the words "small" and "tank."

5. In Section 2.1.11, the word "ameroid" is corrected to read "aneroid."

6. In Section 2.1.12, the phrase "and Rotameter." is inserted after the phrase "Vacuum Gauge" and the phrase "and 0–40 cc/min rotameter" is inserted between the words "gauge" and ", to."

7. In Section 2.3.2, the phrase "and 100-ml size" is corrected to read "and 1000-ml size."

8. In Section 3.3.4, the word "sopropanol" in the fourth line is corrected to read "isopropanol."

9. In Section 4.1.2, delete the last sentence of the last paragraph. Also delete the second paragraph and replace it with the following paragraphs:

Temporarily attach a suitable (e.g., 0–40 cc/min) rotameter to the outlet of the dry gas meter and place a vacuum gauge at or near the probe inlet. Plug the probe inlet, pull a vacuum of at least 250 mm Hg (10 in. Hg), and note the flow rate as indicated by the rotameter. A leakage rate not in excess of 2 percent of the average sampling rate is acceptable.

NOTE: Carefully release the probe inlet plug before turning off the pump.

It is suggested (not mandatory) that the pump be leak-checked separately, either prior to or after the sampling run. If done prior to the sampling run, the pump leak-check shall precede the leak check of the sampling train described immediately above; if done after the sampling run, the pump leak-check shall follow the train leak-check. To leak check the pump, proceed as follows: Disconnect the drying tube from the probe-impinger assembly. Place a vacuum gauge at the inlet to either the drying tube or the pump, pull a vacuum of 250 mm (10 in.) Hg, plug or pinch off the outlet of the flow meter and then turn off the pump. The vacuum should remain stable for at least 30 seconds.

10. In Section 4.1.3, the sentence "If a leak is found, void the test run" on the sixteenth line is corrected to read "If a leak is found, void the test run, or use procedures acceptable to the Administrator to adjust the sample volume for the leakage."

11. In Section 5.1.1, the word "or" on the sixth line is corrected to read "of."

In Method 7 of Appendix A, Sections 2.3.2, 2.3.7, 4.2, 4.3, 5.2.1, 5.2.2, 6 and 7 are amended as follows:

1. In Section 2.3.2, a semicolon replaces the comma between the words "step" and "the."

2. In Section 2.3.7, the phrase "(one for each sample)" in the first line is corrected to read "(one for each sample and each standard)."

3. In Section 4.2, the letter "n" in the seventh line is corrected to read "in."

4. In Section 4.3, the word "poylethylene" in the seventeenth line is corrected to read "polyethylene."

5. In Section 5.2.1, delete the entire section and insert the following:

Optimum Wavelength Determination. Calibrate the wavelength scale of the spectrophotometer every 6 months. The calibration may be accomplished by using an energy source with an intense line emission such as a mercury lamp, or by using a series of glass filters spanning the measuring range of the spectrophotometer. Calibration materials are available commercially and from the National Bureau of Standards. Specific details on the use of such materials should be supplied by the vendor; general information about calibration techniques can be obtained from general reference books on analytical chemistry. The wavelength scale of the spectrophotometer must read correctly within ± 5 nm at all calibration points; otherwise, the spectrophotometer shall be repaired and recalibrated. Once the wavelength scale of the spectrophotometer is in proper calibration, use 410 nm as the optimum wavelength for the measurement of the absorbance of the standards and samples.

Alternatively, a scanning procedure may be employed to determine the proper measuring wavelength. If the instrument is a double-beam spectrophotometer, scan the spectrum between 400 and 415 nm using a 200 μg NO_2 standard solution in the sample cell and a blank solution in the reference cell. If a peak does not occur, the spectrophotometer is probably malfunctioning and should be repaired. When a peak is obtained within the 400 to 415 nm range, the wavelength at which this peak occurs shall be the optimum wavelength for the measurement of absorbance of both the standards and the samples. For a single-beam spectrophotometer, follow the scanning procedure described above, except that the blank and standard solutions shall be scanned separately. The optimum wavelength shall be the wavelength at which the maximum difference in absorbance between the standard and the blank occurs.

6. In Section 5.2.2, delete the first seven lines and insert the following:

Determination of Spectrophotometer Calibration Factor K_c. Add 0.0 ml, 2 ml, 4 ml, 6 ml, and 8 ml of the KNO_3 working standard solution (1 ml=100 μg NO_2) to a series of five 50-ml volumetric flasks. To each flask, add 25 ml of absorbing solution, 10 ml deionized, distilled water, and sodium hydroxide (1 N) dropwise until the pH is be-

tween 9 and 12 (about 25 to 35 drops each). Dilute to the mark with deionized, distilled water. Mix thoroughly and pipette a 25-ml aliquot of each solution into a separate porcelain evaporating dish.

7. In Section 6.1, the word "Hass" in the tenth line is corrected to read "Mass."

8. In Section 7, the word "Vna" in (1) is corrected to read "Van." The word "drtermination" in (6) is corrected to read "Determination."

In Method 8 of Appendix A, Sections 1.2, 2.32, 4.1.4, 4.2.1, 4.3.2, 6.1, and 6.7.1 are amended as follows:

1. In Section 1.2, the phrase "U.S. EPA," is inserted in the fifth line of the second paragraph between the words "Administrator," and "are." Also, delete the third paragraph and insert the following:

Filterable particulate matter may be determined along with SO_3 and SO_4 (subject to the approval of the Administrator) by inserting a heated glass fiber filter between the probe and isopropanol impinger (see Section 2.1 of Method 6). If this option is chosen, particulate analysis is gravimetric only; H_2SO_4 acid mist is not determined separately.

2. In Section 2.3.2, the word "Burrette" is corrected to read "Burette."

3. In Section 4.1.4, the stars "* * *" are corrected to read as periods ". . .".

4. In Section 4.2.1, the word "het" on the eighth line of the second paragraph is corrected to read "the."

5. In Section 4.3.2, the number "40" is inserted in the fourth line between the words "Add" and "ml."

6. In Section 6.1, Nomenclature, the following are corrected to read as shown with subscripts "$C_{H_2SO_4}$, C_{SO_2}, P_{bar}, P_{std}, T_{std}, $V_{m(std)}$, and V_{soln}."

7. In Section 6.7.1, Equation 8-4 is corrected to read as follows:

$$I = \frac{100\, T_s\, [K_4\, V_{lc} + (V_m Y / T_m)(P_{bar} + \Delta H/13.6)]}{60\, \theta\, v_s\, P_s\, A_n}$$

(Secs. 111, 114, 301(a), Clean Air Act as amended (42 U.S.C. 7411, 7414, 7601).)

[FR Doc. 78-7686 Filed 3-22-78; 8:45 am]

[6820-24]

Title 41—Public Contracts and Property Management

CHAPTER 1—FEDERAL PROCUREMENT REGULATIONS

[FPR Amdt. 190]

PART 1-3—PROCUREMENT BY NEGOTIATION

PART 1-12—LABOR

Price Negotiation Policies and Techniques and the Service Contract Act of 1965

AGENCY: General Services Administration.

ACTION: Final rule.

SUMMARY: The Federal Procurement Regulations (FPR) are amended to change the dollar levels for requesting cost or pricing data and preaward audits, prescribe a new definition of "service employee," and revise the procedures regarding wage rates and tipped employees. The circumstances which created the need for the amendment are as follows: (1) Changes have been made regarding the use of cost or pricing data and preaward audits because of insufficient cost benefits at lower dollar levels and the decreased value of money due to inflation, (2) it is desirable to codify the changes effected by Temporary Regulation 29 and Supplement 1 to the regulation which reflected amendments to the Service Contract Act of 1965, and the Fair Labor Standards Act of 1938 regarding the minimum wage rate and tipped employees, and (3) it is necessary to adopt the new definition of "service employee" prescribed by a further amendment of the Service Contract Act. The intended effect of these actions is to increase the efficiency of the contract award process and to make permanent changes in the regulation required by the referenced amendments to the Service Contract Act of 1965.

EFFECTIVE DATE: May 12, 1978, but may be observed earlier.

FOR FURTHER INFORMATION CONTACT:

Philip G. Read, Director of Federal Procurement Regulations, 703-557-8947.

SUPPLEMENTARY INFORMATION: This amendment of the Federal Procurement Regulations provides revised procedures regarding cost or pricing data, preaward audits, and the Service Contract Act.

The minimum dollar level for requesting cost or pricing data previously was $10,000. This amendment raises the amount to $25,000. The minimum dollar level for requesting preaward audits for contract proposals previously was $100,000. This amendment retains the level at $100,000 for firm fixed-price and fixed-price with economic price adjustment proposals and increases the dollar level to $250,000 for all others.

With respect to the Service Contract Act of 1965 and the Fair Labor Standards Act of 1938, the amendment makes changes which reflect four statutory revisions. The first change involves Pub. L. 92-473, October 9, 1972. The Public Law prescribed additional requirements applicable to the computation of wage rates payable under the Service Contract Act. These requirements give effect to existing collective bargaining agreements covering rates and fringe benefits for the services involved and require payment in accordance with the rates and benefits involved at no less an amount than was required by the predecessor contractor's collective bargaining agreement. The Public Law also required that consideration be given to the wages which agencies pay directly for such services. The Department of Labor and the General Services Administration issued a memorandum and a TWX, respectively, to provide interim guidance to the heads of agencies. These documents authorized agencies to deviate from the provisions of the FPR to permit compliance with the Public Law. Subsequently, the Department of Labor amended its regulations in 29 CFR Part 4 (37 FR 25468, November 30, 1972) pertaining to the Service Contract Act. Temporary Regulation 29 (37 FR 26714, December 15, 1972) made changes that were necessary to give effect to the Public Law and to the changes in the Department of Labor regulations.

The second change involves Pub. L. 93-259, April 8, 1974, and Pub. L. 95-151, November 1, 1977, which amended the Fair Labor Standards Act of 1938 (29 U.S.C. 201-219) to increase the minimum wage rates prescribed by the Act, and for other purposes. The Department of Labor amended 29 CFR 4.6 and 4.167 (39 FR 14943, April 29, 1974) to make the provisions of its regulations relative to tipped employees consistent with the Public Law. Following this action by the department, FPR Temporary Regulation 29, Supplement 1 (40 FR 8853, March 3, 1975) was issued. The regulation made an appropriate change in the contract clause which is prescribed for use in service contracts in excess of $2,500.

The third change involves Pub. L. 94-489, October 13, 1976, which amended the Service Contract Act of 1965. A new definition of "service employee" was adopted by this amendment of the Act. The new definition includes all service employees other than bona fide executive, administrative, or professional employees.

The revisions effected by the amendment appear in §§ 1-3.807-3 and 1-3.809 and Subpart 1-12.9.

PART 1-3—PROCUREMENT BY NEGOTIATION

Supart 1-3.8—Price Negotiation Policies and Techniques

1. Section 1-3.807-3 is amended to revise paragraph (g)(1) as follows:

§ 1-3.807-3 Cost or pricing data.

* * * * *

(g)(1) Certified cost or pricing data shall not be requested prior to the award of any contract anticipated to be for $25,000 or less and generally should not be requested for modifications in those amounts. There should be relatively few instances where certified cost or pricing data and the inclusion of defective pricing clauses would be justified in awards between $25,000 and $100,000. In most such awards, the administrative costs will outweigh the benefits which might otherwise accrue from receipt of certified cost or pricing data. Accordingly, all other means of determining reasonableness of price should be utilized. When less than complete cost analysis (e.g., analysis of only specific factors) will provide a reasonable pricing result (see § 1-3.807-2(a)) on awards under $100,000 without the submission of complete cost or pricing data, the contracting officer shall request, without certification, only those data which he considers adequate to support the limited extent of the cost analysis required.

* * * * *

2. Section 1-3.809 is amended by revising the introductory material in paragraph (b)(1), paragraph (b)(1)(i), and the introductory sentence in paragraph (b)(1)(ii), as follows:

§ 1-3.809 Contract audit as a pricing aid.

* * * * *

(b) *Auditor's reports on contract price proposals.* (1) The contracting officer or his authorized representative shall request an audit review by the contract audit activity in accordance with this paragraph (b). Audit reviews shall be requested prior to the negotiation of any contract or modification resulting from proposals in excess of $100,000 which are firm fixed-price or fixed price with economic price adjustment or proposals in excess of $250,000 of any other types when the price is based on cost or pricing data (see § 1-3.807-3) submitted by the contractor. These include initial prices, estimated costs of cost-reimbursement type contracts, interim and final price redeterminations, economic price adjustments, target prices, settlement of incentive type contracts, and modifications of formally advertised contracts. In arriving at the aggregate amount involved in a contract or modification, all supplies and services shall be included (including construction) which properly would be grouped together in a single transaction. Requirements shall not be split into several contracts or modifications which individually would be less than (but in the aggregate would be more than) the amounts set forth in this paragraph (b)(1) for the type of contract anticipated.

(i) The requirement to audit (A) proposals in excess of $100,000 which are firm fixed-price or fixed price with economic price adjustment or (B) proposals in excess of $250,000 of any other types when the cost is based on cost or pricing data, may be waived by the contracting officer whenever it is clear that information already available is adequate for the proposed procurement. In such cases, the contract files shall be documented to reflect the reasons for the waivers. However, independent Government estimates of cost or price shall not be used as the sole justification for a waiver (see § 1-3.811(a)(4)).

(ii) Audits should be requested for proposals which are (A) less than $100,000 and involve a firm fixed-price or a fixed price with economic price adjustment or (B) less than $250,000 and involve any other types when the cost is based on cost or pricing data, where a valid need exists, such as:

* * * * *

PART 1-12—LABOR

The table of contents is amended to change one entry and to add one entry, as follows:

Sec.
1-12.902-2 Definitions.
1-12.905-11 Hearings.

Subpart 1-12.9—Service Contract Act of 1965

1. Section 1-12.900 is revised to read as follows:

§ 1-12.900 Scope of subpart.

This subpart sets forth policies and procedures for carrying out the provisions of the Service Contract Act of 1965, as amended by Pub. L. 92-473, October 9, 1972, and Pub. L. 94-489, October 13, 1976 (41 U.S.C. 351-357), the provisions of the Fair Labor Standards Act of 1938, as amended by Pub. L. 93-259, April 8, 1974 and Pub. L. 95-151, November 1, 1977, (29 U.S.C. 201-219), and the implementing regulations and instructions (29 CFR Parts 4 and 1925) issued by the Secretary of Labor, as they pertain to service contracts.

2. Section 1-12.901 is amended to revise paragraph (c), as follows:

§ 1-12.901 Statutory requirements.

* * * * *

(c) The Act, as amended, and the Department of Labor's regulations impose on successor contractors certain requirements with respect to the payment of wages and fringe benefits based on those agreed upon for substantially the same services at the same location in collective bargaining agreements entered into by their predecessor contractors (unless such agreed compensation is substantially at variance with that which prevails locally or the agreement was not negotiated at arm's length). The Act also requires the Secretary of Labor to give effect to the provisions of such collective bargaining agreements in his wage determinations under section 2 of the Act. In addition, the Act requires that Government service contracts include a statement of the rates applicable to the wages that would be paid by the contracting agency if the agency employed directly the classes of service employees to be employed on the contract work. Employees so directly employed by the agency would receive wages determined in accordance with the provisions of 5 U.S.C. 5341. In this connection, the Secretary of Labor is required by the Act to give due consideration to such rates in determining minimum monetary wages and fringe benefits. A further provision of the Act is designed to ensure extension of coverage by wage determinations of the Secretary to substantially all service contracts subject to section 2(a) of the Act at the earliest administratively feasible time. The Act also provides (in addition to the conditions previously specified for issuance of administrative limitations, variations, tolerances, and exemptions) that administrative action in this regard shall be taken only in special circumstances where the Secretary determines that it is in accord with the remedial purpose of the Act to protect prevailing labor standards. As amended, the Act provides for the award of service contracts where the term of the contract does not exceed 5 years. It also provides for periodic adjustments of minimum wage rates and fringe benefits payable thereunder by the issuance of wage determinations by the Secretary of Labor during the term of the contract. With respect to violations, the Act requires that when a contractor is found to have violated the Act the name of the contractor shall be submitted for inclusion on the debarment list not later than 90 days after the hearing examiner's finding of violation unless the Secretary of Labor recommends relief. However, such recommendations for relief may be made only in unusual circumstances.

3. Section 1-12.902-1(a)(2) is revised to read as follows:

§ 1-12.902-1 Geographical coverage of the Act.

(a) * * *

(2) The Act is not applicable to any services to be furnished outside the United States.

* * * * *

4. Section 1-12.902-2 is revised to read as follows:

§ 1-12.902-2 Definitions.

For the purpose of this subpart, unless otherwise indicated, the terms used therein are defined as follows:

(a) "Service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7 of the Act (FPR § 1-12.902-3), whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractural relationship that may be alleged to exist between a contractor or subcontractor and such person.

(b) "Secretary" includes the Secretary of Labor, the Assistant Secretary of Labor for Employment Standards, and their authorized representatives.

(c) "Administrator" means the Deputy Assistant Secretary for Employment Standards in the Employment Standards Administration of the Department of Labor who is also Administrator of the Wage and Hour Division, or his authorized representative as set forth in this part. In the absence of the Deputy Assistant Secretary/Wage-Hour Administrator, the Deputy Administrator of the Wage and Hour Division/Director of Office of Wage and Compensation Programs is designated to act for him with respect to matters covered by this subpart. Except as otherwise provided in this subpart, the Assistant Administrator is the authorized representatives of the Administrator for the performance of functions relating to the making and effectuating of wage determinations under the Service Contract Act of 1965, as amended, and this subpart.

(d) "Office of Special Wage Standards" (OSWS) means the organizational unit in the Employment Standards Administration to which is assigned the performance of functions of the Secretary under the Service Contract Act of 1965, as amended.

(e) "Contract" includes any contract subject wholly or in part to provisions of the Service Contract Act of 1965, as amended, and any subcontract at any tier thereunder.

(f) "Contractor" includes a subcontractor whose subcontract is subject to provisions of the Act.

(g) "Wage determination" includes any determination of minimum wage rates or fringe benefits made pursuant to the provisions of section 2(a) of the Act for application to the employment in a locality of any class or classes of service employees in the performance of any contract in excess of $2,500 which is subject to the provisions of the Service Contract Act of 1965, as amended.

(h) "Act," "Service Contract Act," or "Service Contract Act of 1965" shall mean the Service Contract Act of 1965, as amended by Pub. L. 92-473, October 9, 1972, and Pub. L. 94-489, October 13, 1976 (41 U.S.C. 351-357).

5. Section 1-12.903 is amended to change the reference to Part 1516 to Part 1925 in the introductory paragraph and in paragraph (d), as follows:

§ 1-12.903 Department of Labor regulations.

The Department of Labor has issued Parts 4 and 1925, Title 29, Code of Federal Regulations, providing for the adminstration and enforcement of the Act. The regulations include coverage of the following matters relating to the requirements of the Act:

* * * * *

(d) Safe and sanitary working conditions (see 29 CFR 1925); and

* * * * *

6. Section 1-12.904-1 is amended to prescribe a revised contract clause, as follows:

§ 1-12.904-1 Clause for Federal service contracts in excess of $2,500.

* * * * *

SERVICE CONTRACT ACT OF 1965, AS AMENDED

This contract, to the extent that it is of the character to which the Service Contract Act of 1965, as amended (41 U.S.C. 351-357) applies, is subject to the following provisions and to all other applicable provisions of the Act and regulations of the Secretary of Labor thereunder.

(a) *Compensation.* Each service employee employed in the performance of this contract by the Contractor or any subcontractor shall be paid not less than the minimum monetary wage and shall be furnished fringe benefits in accordance with the wages and fringe benefits determined by the Secretary of Labor or his authorized representative, as specified in any attachment to this contract. If there is such an attachment, any class of service employees which is not listed therein, but which is to be employed under this contract, shall be classified by the Contractor so as to provide a reasonable relationship between such classifications and those listed in the attachment, and shall be paid such monetary wages and furnished such fringe benefits as are determined by agreement of the interested parties, who shall be deemed to be the contracting agency, the Contractor, and the employees who will perform on the contract or their representatives. If the interested parties do not agree on a classification or reclassification which is, in fact, conformable, the Contracting Officer shall submit the question, together with his recommendation, to the Office of Special Wage Standards, Employment Standards Administration (ESA), Department of Labor for final determination. Failure to pay such employees the compensation agreed upon by the interested parties or finally determined by the Administrator or his authorized representative shall be a violation of this contract. No employee engaged in performing work on this contract shall in any event be paid less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended.

(b) *Adjustment.* If, as authorized pursuant to section 4(d) of the Service Contract Act of 1965, as amended, the term of this contract is more than 1 year, the minimum monetary wages and fringe benefits required to be paid or furnished thereunder to service employees shall be subject to adjustment after 1 year and not less often than once every 2 years, pursuant to wage determinations to be issued by the Employment Standards Administration, Department of Labor as provided in the Act.

(c) *Obligation to furnish fringe benefits.* The Contractor or subcontractor may discharge the obligation to furnish fringe benefits specified in the attachment or determined conformably thereto by furnishing any equivalent combinations of finge benefits, or by making equivalent or differential payments in cash in accordance with the applicable rules set forth in 29 CFR Part 4, Subparts B and C, and not otherwise.

(d) *Minimum wage.* In the absence of a minimum wage attachment for this contract, neither the Contractor nor any subcontractor under this contract shall pay any of his employees performing work under the contract (regardless of whether they are service employees) less than the minimum wage specified by section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. Nothing in this provision shall relieve the Contractor or any subcontractor of any other obligation under law or contract for the payment of a higher wage to any employee.

(e) *Obligations attributable to predecessor contracts.* If this contract succeeds a contract, subject to the Service Contract Act of 1965, as amended, under which substantially the same services were furnished and service employees were paid wages and fringe benefits provided for in a collective bargaining agreement, then in the absence of a minimum wage attachment for this contract neither the Contractor nor any subcontractor under this contract shall pay any service employee performing any of the contract work less than the wages and fringe benefits, provided for in such collective bargaining agreements, to which such employee would be entitled if employed under the predecessor contract, including accrued wages and fringe benefits and any prospective increases in wages and fringe benefits provided for under such agreement. No Contractor or subcontractor under this contract may be relieved of the foregoing obligation unless the Secretary of Labor or his authorized representative determines that the collective bargaining agreement applicable to service employees employed under the predecessor contract was not entered into as a result of arm's-length negotiations, or finds, after a hearing as provided in Department

of Labor regulations, 29 CFR 4.10, that the wages and fringe benefits provided for in such agreement are substantially at variance with those which prevail for services of a similar character in the locality.

(f) *Notification to employees.* The Contractor and any subcontractor under this contract shall notify each service employee commencing work on this contract of the minimum wage and any fringe benefits required to be paid pursuant to this contract, or shall post a notice of such wages and benefits in a prominent and accessible place at the worksite, using such poster as may be provided by the Department of Labor.

(g) *Safe and sanitary working conditions.* The Contractor or subcontractor shall not permit any part of the services called for by this contract to be performed in buildings or surroundings or under working conditions provided by or under the control or supervision of the Contractor or subcontractor which are unsanitary or hazardous or dangerous to the health or safety of service employees engaged to furnish these services, and the Contractor or subcontractor shall comply with the safety and health standards applied under 29 CFR Part 1925.

(h) *Records.* The Contractor and each subcontractor performing work subject to the Act shall make and maintain for 3 years from the completion of the work records containing the information specified in subparagraphs (1) through (5) of this paragraph for each employee subject to the Act and shall make them available for inspection and transcription by authorized representatives of the Employment Standards Administration (ESA), Department of Labor.

(1) His name and address.

(2) His work classification or classifications, rate or rates of monetary wages and fringe benefits provided, rate or rates of fringe benefit payments in lieu thereof, and total daily and weekly compensation.

(3) His daily and weekly hours so worked.

(4) Any deductions, rebates, or refunds from his total daily or weekly compensation.

(5) A list of monetary wages and fringe benefits for those classes of service employees not included in the minimum wage attachment to this contract, but for which such wage rates or fringe benefits have been determined by the interested parties or by the Administrator (as defined in 41 CFR 1-12.902-2(c)) or his authorized representative pursuant to the Labor Standards Clause in paragraph (a) of this clause. A copy of the report required in paragraph (m)(1) of this clause shall be deemed to be such a list.

(i) *Withholding of payment and termination of contract.* The Contracting Officer shall withhold or cause to be withheld from the Government Prime Contractor under this or any other Government contract with the prime Contractor such sums as he, or an appropriate officer of the Department of Labor, decides may be necessary to pay underpaid employees. Additionally, any failure to comply with the requirements of this clause relating to the Service Contract Act of 1965 may be grounds for termination of the right to proceed with the contract work. In such event, the Government may enter into other contracts or arrangements for completion of the work, charging the Contractor in default with any additional cost.

(j) *Subcontractors.* The Contractor agrees to insert this clause relating to the Service Contract Act of 1965 in all subcontracts. The term "Contractor" as used in this clause in any subcontract, shall be deemed to refer to the subcontractor, except in the term "Government Prime Contractor."

(k) *Service employee.* As used in this clause relating to the Service Contract Act of 1965, as amended, the term "service employee" means any person engaged in the performance of a contract entered into by the United States and not exempted under section 7, whether negotiated or advertised, the principal purpose of which is to furnish services in the United States (other than any person employed in a bona fide executive, administrative, or professional capacity, as those terms are defined in Part 541 of Title 29, Code of Federal Regulations, as of July 30, 1976, and any subsequent revision of those regulations); and shall include all such persons regardless of any contractual relationship that may be alleged to exist between a contractor or subcontractor and such persons.

(l) *Comparable rates.* The following classes of service employees expected to be employed under the contract with the Government would be subject, if employed by the contracting agency, to the provisions of 5 U.S.C. 5341 and would, if so employed, be paid not less than the following rates of wages and fringe benefits:

Employee class: _____
Monetary wage—fringe benefits: _____

(m) *Contractor's report.* (1) If there is a wage determination attachment to this contract and one or more classes of service employees which are not listed thereon are to be employed under the contract, the Contractor shall report to the Contracting Officer the monetary wages to be paid and the fringe benefits to be provided each such class of service employee. Such report shall be made promptly as soon as such compensation has been determined, as provided in paragraph (a) of this clause.

(2) If wages to be paid or fringe benefits to be furnished any service employees employed by the Government Prime Contractor or any subcontractor under the contract are provided for in a collective bargaining agreement which is or will be effective during any period in which the contract is being performed, the Government Prime Contractor shall report such fact to the Contracting Officer, together with full information as to the application and accrual of such wages and fringe benefits, including any prospective increases, to service employees engaged in work on the contract, and a copy of the collective bargaining agreement. Such report shall be made upon commencing performance of the contract, in the case of collective bargaining agreements effective at such time, and in the case of such agreements or provisions or amendments thereof effective at a later time during the period of contract performance, such agreements shall be reported promptly after negotiation thereof.

(n) *Regulations incorporated by reference.* All interpretations of the Service Contract Act of 1965 expressed in 29 CFR Part 4, Subpart C, are hereby incorporated by reference in this contract.

(o) *Exemptions.* This clause relating to the Service Contract Act of 1965 shall not apply to the following:

(1) Any contract of the United States or District of Columbia for construction, alteration, and/or repair, including painting and decorating of public buildings or public works;

(2) Any work required to be done in accordance with the provisions of the Walsh-Healey Public Contracts Act (41 U.S.C. 35-45);

(3) Any contract for the carriage of freight or personnel by vessel, airplane, bus, truck, express, railway line, or oil or gas pipeline where published tariff rates are in effect, or where such carriage is subject to rates covered by section 22 of the Interstate Commerce Act;

(4) Any contract for the furnishing of services by radio, telephone, telegraph, or cable companies, subject to the Communications Act of 1934;

(5) Any contract for public utility services, including electric light and power, water, steam, or gas;

(6) Any employment contract providing for direct services to a Federal agency by an individual or individuals;

(7) Any contract with the Post Office Department (U.S. Postal Service), the principal purpose of which is the operation of postal contract stations;

(8) Any services to be furnished outside the United States. For geographic purposes, the "United States" is defined in section 8(d) of the Service Contract Act of 1965 to include any State of the United States, the District of Columbia, Puerto Rico, the Virgin Islands, Outer Continental Shelf lands, as defined in the Outer Continental Shelf Lands Act, American Samoa, Guam, Wake Island, Eniwetok Atoll, Kwajalein Atoll, Johnston Island, and Canton Island. It does not include any other territory under the jurisdiction of the United States or any United States base or possession within a foreign country;

(9) Any of the following contracts exempted from all provisions of the Service Contract Act of 1965, pursuant to section 4(b) of the Act, which exemptions the Secretary of Labor, prior to amendment of such section by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(i) Contracts entered into by the United States with common carriers for the carriage of mail by rail, air (except air star routes), bus, and ocean vessel, where such carriage is performed on regularly scheduled runs of the trains, airplanes, buses, and vessels over regularly established routes and accounts for an insubstantial portion of the revenue therefrom;

(ii) Any contract entered into by the U.S. Postal Service with an individual owner-operator for mail service where it is not contemplated at the time the contract is made that such owner-operator will hire any service employee to perform the services under the contract except for short periods of vacation time or for unexpected contingencies or emergency situations such as illness or accident.

(p) *Special employees.* Notwithstanding any of the provisions in paragraphs (a) through (n) of this clause relating to the Service Contract Act of 1965, the following employees may be employed in accordance with the following variations, tolerances, and exemptions, which the Secretary of Labor, pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473, found to be necessary and proper in the public interest or to avoid serious impairment of the conduct of Government business:

(1)(i) Apprentices, student-learners, and workers whose earning capacity is impaired by age, physical, or mental deficiency or injury may be employed at wages lower

than the minimum wages otherwise required by section 2(a)(1) or 2 (b)(1) of the Service Contract Act of 1965, without diminishing any fringe benefits or cash payments in lieu thereof required under section 2(a)(2) of that Act, in accordance with the procedures prescribed for the employment of apprentices, student-learners, handicapped persons, and handicapped clients of sheltered workshops under section 14 of the Fair Labor Standards Act of 1938, (29 U.S.C. 201 et seq.) in the regulations issued by the Administrator (29 CFR Parts 520, 521, 524, and 525).

(ii) The Administrator will issue certificates under the Service contract Act of 1965 for the employment of apprentices, student-learners, handicapped persons, or handicapped clients of sheltered workshops not subject to the Fair Labor Standards Act of 1938, or subject to different minimum rates of pay under the two Acts, authorizing appropriate rates of minimum wages (but without changing requirements concerning fringe benefits or supplementary cash payments in lieu thereof), applying procedures prescribed by the applicable regulations issued under the Fair Labor Standards Act of 1938 (29 CFR Parts 520, 521, 524, and 525);

(iii) The Administrator will also withdraw, annul, or cancel such certificates in accordance with the regulations in Parts 525 and 528 of Title 29 of the Code of Federal Regulations.

(2) An employee engaged in an occupation in which he customarily and regularly receives more than $30 a month in tips may have the amount of his tips credited by his employer against the minimum wage required by section 2(a)(1) or section 2(b)(1) of the Act, in accordance with the regulations in 29 CFR Part 531: *Provided, however,* That the amount of such credit may not exceed $1.325 per hour beginning January 1, 1978, $1.305 per hour beginning January 1, 1979, $1.24 per hour beginning January 1, 1980 and $1.34 per hour after December 31, 1980. If the employer pays in full cents the $1.325 figure must be rounded down to $1.32 and the $1.305 figure to $1.30, in order that the employer will not be crediting more than the permissible percentage. [End of clause.]

7. Section 1-12.904-2 is amended to revise the clause prescribed by the section, as follows:

§ 1-12.904-2 Clause for Federal service contracts not exceeding $2,500.

* * * * *

SERVICE CONTRACT ACT OF 1965, AS AMENDED

Except to the extent that an exemption, variation, or tolerance would apply pursuant to 29 CFR 4.6 if this were a contract in excess of $2,500, the contractor and any subcontractor hereunder shall pay all of his employees engaged in performing work on the contract not less than the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. All regulations and interpretations of the Service Contract Act of 1965 expressed by 29 CFR Part 4 are hereby incorporated by reference in this contract. [End of clause.]

8. Section 1-12.905-2 is revised to read as follows:

§ 1-12.905-2 Register of wage determinations and fringe benefits.

(a) The minimum monetary wages and fringe benefits for service employees which the Act requires to be specified in contracts and bid specifications subject to section 2(a) thereof will be set forth in wage determinations issued by the Administrator as an orderly series constituting a register of such minimum wages and fringe benefits. The register shall include, as soon as administratively feasible, wage determinations applicable to all contracts subject to section 2(a) of the Act, and will include, in any event, for the localities in which services under such contracts are to be furnished, wage determinations applicable to all contracts entered into during the following periods under which more than the stated number of service employees are to be employed: (1) Fiscal year ending June 30, 1973—25, (2) Fiscal year ending June 30, 1974—20, (3) Fiscal year ending June 30, 1975—15, (4) Fiscal year ending June 30, 1976—10, (5) and one and after July 1, 1976—5.

(b) Such wage determinations will be set forth, for the various classes of service employees to be employed in furnishing services under such contracts in the several localities, minimum monetary wage rates to be paid and minimum fringe benefits to be furnished them during the periods when they are engaged in the performance of such contracts, including, where appropriate under the Act, provisions for adjustments in such minimum rates and benefits to be placed in effect under such contracts at specified future times. The wage rates and fringe benefits set forth in such wage determinations shall be determined in accordance with the provisions of sections 2(a) (1), (2), and (5); 4(c); and 4(d) of the Act from those prevailing in the locality for such employees and from pertinent collective bargaining agreements, with due consideration of the rates that would be paid for direct Federal employment of any classes of such employees whose wages, if federally employed, would be determined as provided in 5 U.S.C. 5341. Unless otherwise specified in the wage determination, the wage rates and fringe benefits so determined for any class of service employees to be engaged in furnishing covered contract services in a locality shall be made applicable by contract to all service employees of such class employed to perform such services in the locality under any contract subject to section 2(a) of the Act which is entered into thereafter and before such determination has been rendered obsolete by a withdrawal, modification, or supersedure.

(c) Wage determinations included in the register will be available for public inspection during business hours at the Office of Special Wage Standards in the Employment Standards Administration, Department of Labor. Copies will be made available on request at regional offices of the Administration.

9. Section 1-12.905-3 is revised to read as follows:

§ 1-12.905-3 Notice of intention to make a service contract.

(a) Not less than 30 days prior to any invitation for bids, request for proposals, or commencement of negotiations for any contract exceeding $2,500 which may be subject to the Act, the contracting agency shall file with the Office of the Special Wage Standards, Employment Standards Administration, Department of Labor, its notice of intention to make a service contract. Such notice shall be submitted on Standard Form 98, Notice of Intention to Make a Service Contract and Response to Notice, which shall be completed in accordance with the instructions provided and shall be supplemented by the information required under paragraphs (b) and (c) of this section. Supplies of Standard Form 98 may be obtained by submitting a requisition in FEDSTRIP/MILSTRIP format to the GSA regional office providing support to the requesting activity. Include national stock number 7540-00-926-8972 on the requisition.

(b) The contracting agency shall file with the Standard Form 98 a statement in writing containing the following information concerning the service employees expected by the agency to be employed by the contractor and any subcontractors in performing the contract:

(1) The number of such employees of all classes, or a statement indicating whether such number will or will not exceed the number for which a wage determination is mandatory under the provisions of 29 CFR 4.3(a); and

(2) A listing of those classes of service employees expected to be employed under the contract which, if employed by the agency, would be subject to the wage provisions of 5 U.S.C. 5341, together with a specification of the rates of wages and fringe benefits that would be paid by the Government to employees of each such class if such statute were applicable to them. (Under section 2(a)(5) of the Act and 29 CFR 4.6, inclusion of such a statement in the service contract is required.)

(c) If the services to be furnished under the proposed contract will be substantially the same as services being furnished for the same location by an incumbent contractor whose contract the proposed contract will succeed, and if such incumbent contractor is furnishing such services through the use of service employees whose wage rates and fringe benefits

are the subject of one or more collective bargaining agreements, the contracting agency shall file with the Standard Form 98 a copy of each such collective bargaining agreement together with any related documents specifying the wage rates and fringe benefits currently or prospectively payable under such agreement. If such services are being furnished for more than one location and the collectively bargained wage rates and fringe benefits are different for different locations or do not apply for one or more locations, the agency shall identify the locations to which such agreements have application. In the event that the agency has reason to believe that any such collective bargaining agreement was not entered into as a result of arm's-length negotiations, a full statement of the facts so indicating shall be transmitted with the copy of such agreement. If the agency has information indicating that any such collectively bargained wage rates and fringe benefits are substantially at variance with those prevailing for services of a similar character in the locality, the agency shall so advise the Office of Special Wage Standards and, if it believes a hearing thereon pursuant to section 4(c) of the Act is warranted, shall file its request for such hearing pursuant to 29 CFR 4.10 at the time of filing Standard Form 98.

(d) Any Standard Form 98 submitted by a contracting agency without the information required under paragraphs (b) and (c) of this section will be returned to the agency for further action.

(e) If exceptional circumstances prevent the filing of the notice of intention and supplemental information required by this section on a date at least 30 days prior to any invitation for bids, request for proposals, or commencement of negotiations for a proposed contract subject to section 2(a) of the Act, the notice shall be submitted to the Office of Special Wage Standards as soon as practicable with a detailed explanation of the special circumstances which prevented timely submission.

10. Section 1-12.905-4 is revised to read as follows:

§ 1-12.905-4 Use of minimum wage determinations and fringe benefit specifications.

(a) Any contract agreed upon in excess of $2,500 shall contain an attachment specifying the minimum wages and fringe benefits for service employees to be employed thereunder, as determined in any applicable currently effective wage determination made and included in the register as provided in 29 CFR 4.3, including any expressed in any document referred to in subparagraph (1) or (2) of this paragraph (a):

(1) Any communication from the Office of Special Wage Standards, Employment Standards Administration, Department of Labor, responsive to the notice required by 29 CFR 4.4; or

(2) Any revision of the register by a wage determination issued prior to the award of the contract or contracts which specifies minimum wage rates or fringe benefits for classes of service employees whose wages or fringe benefits were not previously covered by wage determinations in the register, or which changes previously determined minimum wage rates and fringe benefits for service employees employed on covered contracts in the locality. However, revisions received by the Federal agency later than 10 days before the opening of bids, in the case of contracts entered into pursuant to competitive bidding procedures, shall not be effective if the Federal agency finds that there is not a reasonable time still available to notify bidders of the revision.

(b) (1) The following exemptions from the compensation requirements of section 2(a) of the Act apply, subject to the limitations set forth in subparagraphs (2), (3), and (4) of this paragraph (b): To avoid serious impairment of the conduct of Government business, it has been found necessary and proper to provide exemptions (i) from the determined wage and fringe benefits section of the Act (sections 2(a) (1) and (2)), but not the minimum wage specified under section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended (section 2(b) of this Act), of all contracts for which no such wage or fringe benefit has been determined for any class of service employees to be employed thereunder; and (ii) from the fringe benefits section (section 2(a)(2) of the Act) of all contracts and of all classes of service employees employed thereunder if no such benefits have been determined for any such class of service employees.

(2) The exemptions provided in subparagraph (1) of this paragraph (b) (adopted pursuant to section 4(b) of the Act prior to its amendment by Pub. L. 92-473) do not extend to undetermined wages or fringe benefits in contracts for which one or more, but not all, classes of service employees are the subject of an applicable wage determination. The procedure for determination of wage rates and fringe benefits for any class of service employees engaged in performing such contracts whose wages and fringe benefits are not specified in a wage determination included in the register is set forth in 29 CFR 4.6(b).

(3) The exemptions provided in subparagraph (1) of this paragraph (b) do not apply to any contract for which section 10 of the Act, as amended, and 29 CFR 4.3 require an applicable wage determination.

(4) The exemptions provided in subparagraph (1) of this paragraph (b) do not exempt any contract from the application of the provisions of section 4(c) of the Act, as amended.

(c) If the notice of intention required by 29 CFR 4.4 is not filed with the required supporting documents within the time provided in such section, the contracting agency shall exercise any and all of its power that may be needed (including, where necessary, its power to negotiate, its power to pay any necessary additional costs, and its power under any provision of the contract authorizing changes) to include in the contract any wage determinations communicated to it within 30 days of the filing of such notice or of the discovery by the Employment Standards Administration, Department of Labor, of such omission.

11. Section 1-12.905-6 is amended by revising the introductory paragraph, as follows:

§ 1-12.905-6 Notice of award.

Whenever an agency of the United States shall award a contract which may be in excess of $2,500 subject to the Act, it shall furnish the Office of Special Wage Standards, ESA, an original and one copy of Standard Form 99, Notice of Award of Contract. The form shall be completed as follows:

* * * * *

12. Section 1-12.905-11 is added as follows:

§ 1-12.905-11 Hearings.

Detailed procedures with respect to hearings arising under questions pertaining to this Subpart 1-12.9 are contained in 29 CFR 4.10.

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

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

Dated: March 10, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-7750 Filed 3-22-78; 8:45 am]

[4310-84]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT

APPENDIX—PUBLIC LAND ORDERS

[Public Land Order 5631; ES-4012]

ARKANSAS

Addition to National Forest

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This document will extend the boundary of the Ozark National Forest to include 12,123.71 acres of nonpublic lands and add 40 acres of public lands to the forest. The purpose of this action is to allow the Forest Service to negotiate for the purpose of acquiring the available lands.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701, et seq.), it is ordered as follows:

1. Subject to valid existing rights, the boundaries of the Ozark National Forest are hereby extended to include the following described nonpublic lands, which shall upon acquisition become subject to all laws and regulations applicable to national forest lands:

FIFTH PRINCIPAL MERIDIAN

T. 11 N., R. 32 W.,
Sec. 1, W½NE¼, NW¼, S½;
Sec. 4, S½SW¼, S½SW¼SE¼;
Sec. 7, E½, SE¼NW¼, SW¼;
Secs. 8 to 11, except the SW¼NE¼ sec. 8;
Sec. 12, N½, N½SW¼, SE¼SW¼, SE¼;
Sec. 14, NW¼NE¼, S½NE¼, NW¼, N½S½;
Sec. 15, N½NE¼, NW¼;
Sec. 16, N½, SW¼, W½SE¼;
Sec. 17, N½, N½S½;
Sec. 18, N½NE¼, NE¼NW¼, N½NW¼NW¼;
Sec. 31;
Sec. 32, W½.
T. 12 N., R. 32 W.,
Sec. 24, SW¼NE¼, W½, portion of SE¼ not presently within national forest;
Sec. 25;
Sec. 36, W½NE¼, W½.
T. 11 N., R. 33 W.,
Sec. 11, E½E½;
Sec. 12, SW¼NE¼, W½NW¼, SE¼NW¼, S½;
Secs. 13, 14, 23, 25, 26 and 36, inclusive to the Arkansas-Oklahoma State line.

The areas described aggregate 12,123.71 acres.

2. Subject to valid existing rights, the following described public land is hereby reserved, added to, and made a part of the Ozark National Forest, and shall hereafter be subject to all laws and regulations applicable thereto:

FIFTH PRINCIPAL MERIDIAN

T. 11 N., R. 32 W.,
Sec. 8, SW¼NE¼.
Containing 40 acres.

GUY MARTIN,
Assistant Secretary of the Interior.

MARCH 10, 1978.

[FR Doc. 78-7668 Filed 3-22-78; 8:45 am]

[4310-84]

[Public Land Order 5632; Idaho 13370, 14044]

IDAHO

Partial Revocation of Reclamation Project and Forest Service Administrative Site Withdrawal

AGENCY: Bureau of Land Management (Interior).

ACTION: Final rule.

SUMMARY: This order will revoke a Reclamation withdrawal and a Forest Service administrative site withdrawal. The lands are no longer needed for the purpose withdrawn. The Forest Service intends to consummate an exchange in the furtherance of its programs.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Eldon G. Hayes, 202-343-8731.

By virtue of the authority contained in section 204 of the Federal Land Policy and Management Act of October 21, 1976, 90 Stat. 2751, 43 U.S.C. 1714, it is ordered as follows:

1. The Secretarial Orders of October 23, 1908, and November 9, 1937, withdrawing national forest lands as an administrative site and the Boise Reclamation Project, respectively, are hereby revoked so far as they affect the following described lands:

BOISE NATIONAL FOREST

BOISE MERIDIAN

T. 13 N., R. 3 E.,
Sec. 25, N½SE¼, SW¼SE¼.

The area described contains 120 acres in Valley County.

2. Effective immediately, the above described lands shall be open to applications for the disposal of the lands under the General Exchange Act of March 20, 1922, 42 Stat. 465, as amended, 16 U.S.C. 485, subject to valid existing rights, the provisions of existing withdrawals and the requirements of applicable law.

GUY MARTIN,
Assistant Secretary of the Interior.

MARCH 10, 1978.

[FR Doc. 78-7669 Filed 3-22-78; 8:45 am]

[6730-01]

Title 46—Shipping

CHAPTER IV—FEDERAL MARITIME COMMISSION

[General Order 16, Amendment 14; Docket 75-36]

PART 502—RULES OF PRACTICE AND PROCEDURE

Allowance of Replies to Petitions for Reconsideration; Notice Regarding Effective Date

AGENCY: Federal Maritime Commission.

ACTION: Clarification of effective date.

SUMMARY: The effective date provision of the Commission's rule allowing replies to petitions for reconsideration is amended so that the rule will apply to future petitions in all proceedings without regard to date of initiation of the proceeding. No logical basis exists for applying two sets of rules. The change will eliminate current confusion.

DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Francis C. Hurney, Secretary, Federal Maritime Commission, 1100 L Street NW., Washington, D.C. 20573, 202-523-5725.

SUPPLEMENTARY INFORMATION: The Commission by order published May 19, 1976 (41 FR 20585) amended section 502.262 of its rules of practice to permit the filing of replies to petitions for reconsideration. Previously such replies were permitted only if solicited by the Commission. The amendment permitting replies was ordered effective May 19, 1976, and was made applicable only to proceedings instituted on and after that date. Thus, with respect to replies to petitions for reconsideration, there are two applicable rules depending on when the proceeding was instituted.

This dichotomy has caused considerable difficulty among practitioners because only the new provision appears in the Code of Federal Regulations and no notation is made there to show the effective date of the provision or to show that it only applies to certain proceedings.

In retrospect, there is no logical basis for making a distinction between the categories of cases. Accordingly, notice is hereby given that the May 19, 1976 amendment will apply to all proceedings, whenever instituted, and replies to petitions for reconsideration will be permitted as provided in that amendment. The only exceptions will be those petitions for reconsideration which have already been filed and which are pending disposition by the Commission.

By the Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-7778 Filed 3-22-78; 8:45 am]

[6712-01]

Title 47—Telecommunication

CHAPTER I—FEDERAL COMMUNICATIONS COMMISSION

[Docket No. 21395; FCC 78-190]

PART 91—INDUSTRIAL RADIO SERVICES

PART 93—LAND TRANSPORTATION RADIO SERVICES

Permitting Interservice Geographic Sharing of Certain 450 MHz Band Taxicab Radio Service Channels

AGENCY: Federal Communications Commission.

ACTION: First report and order.

SUMMARY: This action finalizes with certain modifications a proposed rule change to provide for limited geographic shared use in the Forest Products Radio Service (part 91) of certain 450 MHz band frequencies that are presently allocated for base/mobile operations in the Taxicab Radio Service (part 93). The shared use will be authorized in the States of Idaho, Montana, Oregon, and Washington, on eight 450 MHz band frequency pairs within areas 40 miles removed from Urbanized Areas having a population of 200,000 or more (1970 Decennial Census). A further notice of proposed rulemaking considers allocation of four additional 450 MHz frequency pairs for the same uses.

EFFECTIVE DATE: April 26, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Richard Taube, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, Telephone 202-632-6497.

SUPPLEMENTARY INFORMATION: In the matter of amendment of parts 91 and 93 of the Commission's Rules to permit interservice geographic sharing of certain 450 MHz band Taxicab Radio Service Channels. First report and order (Docket No. 21395). (See 42 FR 48899.)

Adopted: March 8, 1978.

Released: March 21, 1978.

By the Commission:

1. On September 21, 1977, the Commission released a Notice of Proposed Rulemaking in this proceeding. The notice concerns the use of 12 frequency pairs in the 452/457 MHz bands[1] that are presently primarily assignable for base/mobile operations in the Taxicab Radio Service.[2] The proposal in this proceeding is to additionally allocate these frequencies to the Forest Products Radio Service for interservice geographic sharing for base/mobile systems to be operated in the Northwestern States of Idaho, Montana, Oregon, and Washington. However, within these States, the use of the frequencies for Forest Products operations would not be authorized within standard metropolitan areas (SMA's) having a population of 50,000 or more.

2. Comments in response to the Notice were submitted by Forest Industries Telecommunications (FIT), the original petitioner in this proceeding, and reply comments were received from the International Taxicab Association (ITA).

3. The FIT comments express concern that the proposed excluded stand- ard metropolitan areas include rural timber regions.[3] FIT argues:

> In the subject proposal, however, the Commission proposes to exclude Clackmas, Multnomah, and Washington Counties, Oreg., and Clark, King, Pierre, Snohomish, and Spokane Counties, Wash., thus the actual relief would be minimal if not nonexistent. In these two states it is in these very counties that the heaviest concentration of Forest Products operations occur. Portland, Oreg., Seattle, Tacoma, and Spokane, Wash., are the centers of these areas and are in the heart of the timber industry. It is, of course, these very areas where relief is needed the most. In fact, referring to our original petition, it is these areas where channel loading [for Forest Products licensees] has far exceeded the maximum standard of seventy (70) generally accepted by the Commission. Therefore, we again ask the Commission to make no exclusions regarding Forest Products Radio Service use in counties having 50,000 or more population.[4]

4. In its reply comments, ITA states that it "can live with" the frequency sharing proposed by the Commission for the 450 MHz band. However, it contends that the designated SMA's do not in all instances adequately protect taxicab operations in major population centers since some of these urban areas are adjacent to counties where there is no restriction on Forest Products systems. ITA contends that mileage separation limits are additionally required to assure compatibility. In any event, ITA states that with regard to FIT's request for unlimited sharing of these frequencies, the Commission should "not deviate from the limited sharing of its Notice". It argues that in the urban areas of the Northwest:

> Taxicab companies are using these frequencies now and counting on their availability for future systems and services. A reallocation of these channels in the urban areas would drastically reduce the possibilities of tariffed para-transit services for the elderly and handicapped and hinder the normal growth of taxicab operations.

5. It is apparent that the difficulties noted by these two parties stem from the use of "standard metropolitan areas" for the limited geographic sharing plan proposed by the Commission. For FIT, the use of SMA's appears to unreasonably exclude rural areas where forest products activities are prolific but where taxicab operations are not facing any significant frequency spectrum shortages. ITA, however, finds the problem to be that the use of SMA's does not afford adequate separation in many urban areas where the 450 MHz band frequency channels are needed for taxicab operations rather than for forest products systems.

6. Apparently, these issues can both be addressed and resolved by certain modifications to the proposed rule changes as are indicated from the comments and from our further study and evaluation of the relative spectrum requirements in the two radio services involved. We have determined first to modify the designated protection areas by replacing "standard metropolitan areas" with "urbanized areas of the United States" of 200,000 or more population (1970 Decennial

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[1] The specific frequency pairs are: 452.050/457.050, 452.100/457.100, 452.150/457.150, 452.200/457.200, 452.225/457.225, 452.250/457.250, 452.275/457.275, 452.300/457.300, 452.350/457.350, 452.400/457.400, 452.450/457.450, 452.500/457.500 MHz.

[2] On a secondary basis, these frequencies are assignable for Fixed station operations in the Public Safety and in the Industrial (other than Business) Radio Services.

[3] The geographic area for a "standard metropolitan area" is normally an entire county. Thus, for example, the "SMA" for Seattle, Wash., includes not only metropolitan Seattle but the entire area of King County in which it is located.

[4] The Notice references only some of the standard metropolitan areas (counties) of 50,000 or more population in Oregon and Washington. There are, however, other SMA's under this standard in these states and also in Idaho and Montana, as was noted in the ITA reply comments. It is assumed that the issues raised in the FIT comments would apply as well to its operations in these additional areas.

Census).[3] For the Northwestern states involved, these areas include Seattle, Tacoma, and Spokane in Washington, and Portland in Oregon.

7. We are also adding mileage limits to provide for exclusive taxicab operations in these urbanized areas. ITA has suggested a 100 mile protection radius. However, we find that a 40 mile limit from the center of each protected urbanized area will be adequate. Beyond that range, requisite interserv- ice frequency coordination requirements should provide satisfactory protection for co-channel operations.

8. Finally, we believe that modifying the number of 450 MHz band frequencies which are to be available for shared use between the two radio services involved may be appropriate. As noted, the Commission's proposal was to allow Forest Products assignments on all 12 pairs of frequencies allocated to the Taxicab Radio Service in the 450 MHz UHF band. However, with the expansion of the area in which shared Forest Products Service operations is to be allowed, it appears appropriate to maintain a minimum number of these frequency pairs for exclusive taxicab operations. This would permit unimpeded growth and expansion of existing base/mobile systems in that radio service. On this basis, four of these 450 MHz band pairs would be retained for taxicab use. The four frequency pairs selected are 452.050/457.050, 452.150/457.150, 452.300/457.300, and 452.500/457.500 MHz. These frequencies are the UHF channels presently in use for taxicab systems in the states involved. They would be required to be fully utilized under normal loading standards for taxicab systems before applications will be accepted to use any of the frequency pairs to be shared with the Forest Products Radio Service. In consideration of these factors, we have determined to finalize the proposed rule changes only as regards the other eight frequency pairs involved. To ascertain the merits of retaining the four indicated frequency pairs for exclusive taxicab service operations, a Further Notice of Proposed Rulemaking is being adopted at this time.

9. It is noted that the FIT comments also re-assert its request in its original petition for allocation of certain 150 MHz band frequencies for use in Southeastern states in the Forest Products Radio Service. Denial of this proposal was discussed in the Notice and was predicated primarily on the unavailability at this time of a frequency coordination mechanism which would allow use of the requested channels. The FIT comments do not provide any suggested solution to this coordination problem and we see no basis for re-visiting this matter in this proceeding.

10. In consideration of the foregoing, the Commission finds that adoption of the rule changes proposed in the Notice, as modified herein, for re-allocation of eight pairs of 450 MHz band frequencies in the Taxicab Radio Service for geographic shared use in the Forest Products Radio Service is in the public interest. The re-allocation of the remaining four frequency pairs is to be considered in a Further Notice of Proposed Rulemaking being adopted at this time.

11. Accordingly, *It is ordered*, That, pursuant to sections 4(i) and 303(r) of the Communications Act of 1934, as amended, parts 91 and 93 of the Commission's rules are amended, effective April 26, 1978, as shown below. *It is further ordered*, That further rule changes in this proceeding are to be considered in a Further Notice of Proposed Rulemaking being adopted as a companion item this date.

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

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

I. Part 91 of the rules is amended as follows:

Section 91.354(a) table is amended by changing the class of station on several frequencies and adding the limitation (36), and paragraph (b)(36) to read as follows:

§ 91.354 Frequencies available.

(a) * * *

FOREST PRODUCTS RADIO SERVICE FREQUENCY TABLE

Frequency or band	Class of station(s)	Limitations
Megahertz:		
* * * * *		
451.750	do	11, 32
452.100	do	36
452.200	do	36
452.225	do	36
452.250	do	36
452.275	do	36
452.350	do	36
452.400	do	36
452.450	do	36
* * * * *		
456.750	do	5, 33
457.050	Mobile only	33
457.100	do	33, 36
457.150	do	33
457.200	do	33, 36
457.225	do	33, 36
457.250	do	33, 36
457.275	do	33, 36
457.300	do	33
457.350	do	33, 36
457.400	do	33, 36
457.450	do	33, 36
457.500	do	33
* * * * *		

(b) * * *

(36) This frequency is shared with the Taxicab Radio Service. It is available for assignment in this service only in the states of Washington, Oregon, Idaho, and Montana in areas at least 40 miles removed from the center of Urbanized Areas of 200,000 or more population (1970 Decennial Census). The maximum output power is limited to 75 watts.

* * * * *

II. Part 93 of the rules is amended as follows:

Section 93.402(c) is amended as follows:

§ 93.402 Frequencies below 952 MHz available for base and mobile operations.

* * * * *

(c) The following frequencies are available for base or mobile stations in the Taxicab Radio Service on a shared basis with other stations in the same service. In addition, except for 452.050/457.050, 452.150/457.150, 452.300/457.300, and 452.500/457.500 MHz, these frequencies are shared in the Forest Products Radio Service in the states of Washington, Oregon, Idaho, and Montana in areas at least 40 miles removed from the center of Urbanized Areas of 200,000 or more population, 1970 Decennial Census. (Provided that, taxicab operations within the specified Urbanized Areas will not be authorized on frequencies shared with the Forest Products Radio Service until the excepted frequencies are fully utilized.) For two-frequency systems, separation between base and mobile transmit frequencies is 5 MHz, however, a mobile station may be assigned the frequency of an associated base station. (Such operation may, however, subject the single-frequency system to interference that would not occur to a two-frequency system.)

[In megahertz]

Base and mobile	*Mobile only*
452.050	457.050
452.100	457.100
452.150	457.150
452.000	457.200
452.225	457.225
452.250	457.250
452.275	457.275
452.300	457.300
452.350	457.350
452.400	457.400
452.450	457.450
452.500	457.500

* * * * *

[FR Doc. 78-7765 Filed 3-22-78; 8:45 am]

[3] An "urbanized area" consists of a city of 50,000 persons or more plus the densely built-up adjoining area, whether incorporated or not.

[1505-01]

Title 49—Transportation

CHAPTER V—NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

PART 501—ORGANIZATION AND DELEGATION OF POWERS AND DUTIES

Correction

In FR Doc. 78-5385, appearing on page 8525 in the issue of Thursday, March 2, 1978, on page 8526, in the 3rd column, the last line was inadvertently omitted. § 501.7(b) (4) and (5) should read as follows:

§ 501.7 Administrator's reservations of authority.

* * * * *

(b) * * *

(4) Amend or revoke State and community highway safety standards and appurtenant regulations; and,

(5) Fix the rate of compensation for nongovernment members of the National Highway Safety Advisory Committee.

[4910-59]

[Docket No. FE-77-05; Notice 4]

PART 523—VEHICLE CLASSIFICATION

PART 533—LIGHT TRUCK FUEL ECONOMY STANDARDS

Standards for Model Years 1980 and 1981

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This notice establishes average fuel economy standards for light trucks (pickup trucks and vans, generally) manufactured in model years 1980 and 1981. This notice also extends the applicability of light truck fuel economy standards and labeling requirements to vehicles with gross vehicle weight ratings (GVWR) from 6001 to 8500 pounds beginning in model year 1980. The issuance of these standards is required by section 502(b) of the Motor Vehicle Information and Cost Savings Act, as amended ("the Act"). The standards are intended to result in the savings of approximately 8 billion more gallons of gasoline over the life of the light trucks manufactured in these 2 years than would be saved if the standards were set at the estimated model year 1979 fuel economy levels for these vehicles.

DATE: These standards will apply in model years 1980 and 1981.

FOR FURTHER INFORMATION CONTACT:

Mr. George L. Parker, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590, 202-472-6902.

SUPPLEMENTARY INFORMATION:

I. Background Information

Title V of the Act provides for the establishment of average fuel economy standards for various types of automobiles. Under section 501(1) of the Act, the term "automobile" is defined to include "any 4-wheeled vehicle propelled by fuel which is manufactured primarily for use on public streets, roads, and highways * * *" and which either has a gross vehicle weight rating of 6000 pounds or less or which is rated between 6000 and 10,000 pounds and meets certain additional requirements (described below), as determined by the Secretary of Transportation. Automobiles manufactured primarily for use in the transportation of not more than 10 individuals are defined as "passenger automobiles" under section 501(2), and are subject to fuel economy standards established in or pursuant to section 502(a). The residual category comprised of all automobiles other than passenger automobiles is subject to fuel economy standards established pursuant to section 502(b) of the Act. They include most pickup trucks, vans, and light utility vehicles. Automobiles in this rapidly growing residual category were previously called "nonpassenger automobiles" in rulemaking to establish fuel economy standards, but will henceforth be called "light trucks," to more closely reflect the common terminology used to describe the affected vehicles. This change is strictly one of name; it has no substantive significance.

Section 502(b) of the Act provides that fuel economy standards for light trucks must be established by the Secretary of Transportation beginning with the 1979 model year and for each model year thereafter. Authority to conduct the automotive fuel economy program was delegated by the Secretary of Transportation to the Administrator of the National Highway Traffic Safety Administration (NHTSA) in 41 FR 25015, June 22, 1976. The standards are *average* fuel economy standards. As long as the average fuel economy of the entire fleet of automobiles subject to a standard meet or exceed the standard, the fuel economy of some individual vehicles may be below the standard. Standards are required to be set at the "maximum feasible average fuel economy level" for each year, considering technological feasibility, economic practicability, the effect of other Federal motor vehicle standards on fuel economy, and the need of the Nation to conserve energy. See section 502(e). On March 14, 1977, standards for light trucks manufactured in model year 1979 were published in 42 FR 13807. This notice establishes standards for light trucks manufactured in model years 1980 and 1981.

The starting point for this rulemaking proceeding was the information gathered during the rulemaking for model year 1979 conducted between March 1976 and March 1977. In March 1977, the agency issued a 29-page questionnaire (DN-001)[1] to the major light truck manufacturers to obtain information relating to the light trucks currently produced by those companies and their capabilities to improve the average fuel economy of their light truck fleet for 1980 and 1981. During June 1977, the agency met with each of the domestic respondents to discuss their responses to the questionnaire. Because the responses to the questionnaire did not adequately discuss all of the manufacturer's capabilities for improving fuel economy, the agency sent special orders in August 1977 to the light truck manufacturers to obtain additional information regarding those capabilities. These were followed in September with special orders to component manufacturers and material suppliers to obtain their views and data regarding various technological methods for improving fuel economy.

On December 15, 1977, in 42 FR 63184, a notice of proposed rulemaking ("NPRM") was published. It was based on the extensive material submitted in response to the information-gathering initiatives discussed in the preceding paragraph and on other information available to the agency. In addition to proposing standards for the 1980 and 1981 model years, the notice also proposed extending the applicability of the light truck fuel economy standards for the first time to certain vehicles with GVWR's between 6001 and 8500 pounds.

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[1] The abbreviation "DN" followed by a number refers to the docket number of material in NHTSA docket FE 77-05-N01. This docket is located in Room 5108 of the Nassif Building, 400 Seventh Street SW., Washington, D.C., and is open to the public during normal business hours. References to the materials in the docket and other materials are intended as an aid to persons dealing with the voluminous materials in this rulemaking, and may not be exhaustive.

It should be noted that a truck's GVWR is the weight of the vehicle when loaded to maximum rated capacity. The curb weight of a light truck is typically much less than its GVWR. For example, a pickup truck with a GVWR of 5600 pounds can weigh about 3600 pounds, almost 1200 pounds *less* than a full-size sedan. DN-067, App. V, Ex.D (Ford). A large van with a GVWR of 9500 pounds (which would not be subject to these standards) can weigh slightly less than that same 4800 pound full-size sedan. Id.

In addition, the NPRM generally discussed the problems of captive imports, i.e., those produced outside the United States and Canada and imported by a domestic company for sale here, and set forth in detail two out of a wide range of possible alternative schedules for imposing a requirement that a company's "captive import" light trucks not be counted together with that company's domestic light trucks in the calculation of its average fuel economy for standards compliance purposes. The notice also proposed requiring fuel economy labeling of light trucks with GVWR's between 6001 and 8500 pounds beginning with the 1979 model year. Currently, consumers are not consistently provided with any reliable information regarding the fuel economy of these vehicles.

The NPRM also announced a public hearing to be held in Washington, D.C. on January 16 and 17, 1978, and invited applications for financial assistance from individuals or organizations which desired to participate in the rulemaking but which were financially unable to do so. Four applications by public interest groups for assistance were granted.

Concurrent with the issuance of the NPRM, the agency released three documents which discussed the basis for and impacts of the proposed standards. The first document, titled "Rulemaking Support Paper for the 1980 and 1981 Model Year Nonpassenger Automobile Fuel Economy Standards" (hereafter called "the RSP"), described the technical and economic basis for the proposed standards. The second document, titled "Preliminary Impact Assessment of the Nonpassenger Automobile Fuel Economy Standards for Model Years 1980 and 1981" (hereafter called "the PIA"), further discussed the economic impacts of the proposed standards on the manufacturers and on consumers and certain alternatives to the proposal. The third document was a draft environmental impact statement.

The January 16-17 public hearing was not one required by statute, but was held to provide interested parties an additional opportunity to present their views on the proposal. The NHTSA Administrator and Deputy Administrator presided over the hearing. Thirty-one organizations or officials, including all the major domestic light truck manufacturers, several parts and materials suppliers, four Congressmen, labor union representatives, and several community organizations and public interest groups testified at the hearing. Representatives of the Environmental Protection Agency (EPA) and the Department of Energy (DOE) participated on the panel of officials which queried the witnesses.

A similarly wide range of individuals and organizations, including most of the hearing participants, provided written comments on the proposal. The NPRM established a deadline of January 30, 1978, for the submission of written comments on the proposal. A limited extension of this deadline was granted in 43 FR 3600 (January 26, 1978) for submission of supplemental material. However, in keeping with the agency's policy of considering later submissions to the extent practicable (DN-38, -41, -43) additional material provided by participants up to the time of final drafting of this notice was also considered.

Material contained in the RSP and the PIA, together with written submissions from interested persons, hearing statements, special order responses, and other relevant material were all considered in developing the standards promulgated in this notice. More detailed information on the technical and economic bases for these standards are contained in the Supplement to the Rulemaking Support Paper (hereafter called "RSP-S") and Final Impact Assessment ("FIA"). Copies of these documents will be available soon from the Office of Automotive Fuel Economy Standards, NHTSA, 400 Seventh Street SW., Washington, D.C. 20590.

II. Principal Changes Made in the Final Rule

As a result of new information generated by the vehicle manufacturers and others and submitted in response to the NPRM, substantial changes to the proposed regulations have been made. The most common comment was that the proposed standards were too stringent and would result in reduced production and employment. These comments were generally based upon information from the light truck manufacturers that was not available to the agency until after the issuance of its proposal. The standards have been established at levels significantly above the projected model year 1979 levels, but substantially below the proposed levels. Also, the agency has established a separate class for "captive import" light trucks beginning with the 1980 model year to prevent the standards from encouraging the increased importation of these vehicles and exportation of domestic jobs. A separate class with a lower fuel economy standard is also established for light trucks manufactured by companies which do not produce passenger automobiles and thus have limited access to passenger automobile engine and emission control technology. This latter class was adopted to take into account the difficulties of International Harvester Corporation in meeting fuel economy standards. Finally, the proposed requirement that light trucks with GVWR's of 6001-8500 pounds have fuel economy labels beginning with the 1979 model year was delayed at the request of EPA until the 1980 model year.

III. Comments on the NPRM and NHTSA's Assessment

a. Informal rulemaking process

The responses of many commenters to the NPRM suggest it would be useful to recite several aspects of the theory of informal rulemaking, i.e., the process by which the fuel economy standards are developed. Informal rulemaking is essentially like the legislative process in which there is extensive, continuous gathering of information and adjustment of proposals. Many commenters appeared to regard the NPRM more as the culmination of the agency fact gathering process than as a further step in that process. The agency attempted to make the tentative nature of the proposal and the need for additional information as plain as possible. The agency itemized a variety of issues on which further comment and data were desired. It was expressly noted that such additional information could substantially affect the level of the final standards. (42 FR 63195.)

b. Scope and applicability of the standards

Some commenters suggested that there was no forewarning that light trucks above 6000 pounds GVWR might be regulated in model years 1980-81. Neither the statute nor events support this contention. Given the well-known urgent need to conserve energy and the equally well-known bases for finding under section 501(1) of the Act that fuel economy standards should be extended for these vehicles, such extension should have been anticipated since the passage of the Act for these reasons alone. There were, moreover, far more direct reasons for anticipating the extension. The notice of proposed rulemaking (41 FR 52087, at 52088; November 26, 1976) for 1979 light truck fuel economy standards stated that the agency was considering regulating these higher rated light trucks beginning in model year 1980. The agency's March 1977 questionnaire made this

intention clearer still by requesting information for these vehicles. Any remaining doubt was removed by the agency deputy administrator's prepared statement for an July 1977 Congressional hearing on fuel economy legislation. He announced that the agency would issue standards covering 1980-81 light trucks with GVWR's up to 8500 pounds.

International Harvester Corporation (IH) argued that NHTSA lacks the authority to establish fuel ecomony standards for light trucks in the 6001-8500 pound GVWR range. DN-097, p. 2. This extension of the "automobile" category was proposed primarily because of the potential energy savings. The GVWR ratings of many light trucks have been raised over the past six years, resulting in the number of light trucks in the 6001-8500 pound range increasing from approximately a one-third share of total 0-8500 pound GVWR sales to approximately a two-thirds share in 1977 and continuing into 1978. This trend was due in part to the fact that more stringent emission standards have been applied to vehicles with GVWR's up to 6000 pounds, with the attendant need for catalytic converters and unleaded gas. DN-055, p. II-11. Ford Motor Company (Ford) endorses the extension of fuel economy standards up to the 8500 pound GVWR level (DN-067, p. 15), and General Motors Corporation (GM) found the 8500 pound GVWR level to be an appropriate limit for fuel economy standards and "a reasonable cut off between the commercial and mixed personal/commercial use vehicles." DN-096, p. 7.

International Harvester disputed NHTSA's tentative conclusions that significant energy savings are achievable for the 6001-8500 pound GVWR light trucks, and that those light trucks are used substantially for the same purposes as the 0-6000 pound GVWR fleet. Under the statute, the extension of the "automobile" category could be based on either of these findings. NHTSA reaffirms both of those findings. As noted in the preceding paragraph, there are currently almost twice as many light trucks being sold in the 6001-8500 pound GVWR range as in the 0-6000 pound GVWR range. The agency's technical assessment (as set forth in the supplement to the agency's Rulemaking Support Paper) demonstrated that the over-6000 pound GVWR trucks had as much fuel economy improvement potential as did the 0-6000 pound GVWR light trucks on a per-vehicle basis. Congress found the fuel saving potential associated with the 0-6000 pound GVWR light trucks so significant that it *required* that those vehicles be subject to fuel economy standards. Since the fuel saving potential of the latter vehicles is "significant," then the fuel saving potential for the 6001-8500 pound GVWR vehicles is significant too, a fortiori.

The matter is clearer still when it is considered that, as the NPRM noted, a 10 percent improvement in the fuel economy of the 6001-8500 pound GVWR light trucks would save about 1.4 billion gallons of gasoline per year over the lifetime of one model year's production, a savings closely approximating that resulting from the 1979 standard for 0-6000 pound GVWR light trucks.

With respect to the question of the usage of all these light trucks, it is instructive to note the personal and recreational uses for which the trucks are frequently advertised. The Center for Auto Safety reviewed various periodicals going back to 1960 and concluded that the emphasis in light truck advertising has shifted from commercial capabilities to the sale of trucks as passenger car substitutes. DN-095, p. 12. This advertising trend is consistent with information submitted by the manufacturers which indicates a mixture of commercial and personal usage for light trucks up to 8500 pounds GVWR. DN-096, App. A, Figure A.1 (GM); DN-067, App. V. p. 5 (Ford); DN-120, App. M (Chrysler). See also DN-156 (Recreation Vehicle Industry Association).

The Public Interest Campaign argued that limiting the extension of the light truck category to 8500 pound GVWR may not end the problem created when manufacturers increase the GVWR of their vehicles to avoid the applicability of standards. DN-160, p. 22. This problem is inherent whenever a regulatory line is drawn. It is likely that some light trucks which currently have GVWR's just below 8500 pounds will in the future be rated by their manufacturers just above that point. However, the agency does not expect any circumvention of this type to be as prevalent as the shift in GVWR's across the previous 6000 pound dividing line. This expectation is based on the fact that relatively few light trucks are currently sold in the 8000-8500 pound GVWR range, compared to the number rated just below 6000 pounds prior to the imposition of emission standards up to that level. Further, vehicles rated much above 7000 pounds are equipped with heavy duty suspensions and other components which make them unattractive for personal uses. Thus, greater owner sacrifices would be required to shift over the 8500 pound GVWR line than was the case for a shift over the 6000 pound GVWR line. However, if the agency's projection in this regard proves to be incorrect, the light truck category could be further expanded to avoid circumvention of the fuel economy standards.

American Motors Corporation (AM) requested that light trucks sold to the Government for military use be exempted from the fuel economy standard. AM argues that such vehicles are not designed for use primarily on roadways, and are therefore not "automobiles" as that term is defined in section 501(1) of the Act. The Act contains no specific provision for exemption of military vehicles. The vehicles in question, the M-151 Jeep, are subject to emission standards under the Clean Air Act, despite the existence of such an exemption provision in that statute, 42 U.S.C. 1857f-2(b)(1). The existence of this emission data provides a potential source of fuel economy data to determine compliance with fuel economy standards. The sales of these vehicles have historically not constituted a large enough portion of AM's light truck sales to substantially affect that company's fuel economy average. All information currently available to the agency indicates that the use of these vehicles differs in no significant respect from the use of nonmilitary Jeeps, which have previously been determined to be subject to fuel economy standards. 42 FR 38364, July 28, 1977. Therefore, based on this information, the military Jeeps are subject to fuel economy standards. In any event, the agency would be very cautious in projecting changes to those vehicles which might impair their functional attributes. The agency would consider any further submissions by AM or any other interested party relating to the extent to which the uses of these military Jeeps differ from the uses for which publicly marketed Jeeps are manufactured.

Two possible changes in the proposed classification scheme for light trucks were suggested in the comments. Ford argued that manufacturers be given the option of complying with a combined standard applying to all light trucks or with the proposed separate 2-wheel drive and 4-wheel drive standards. The combined standard would be set at a level between the 2-wheel drive and 4-wheel drive standards, with the exact level depending on the relative sales levels of those two classes of light trucks for a particular manufacturer. DN-067, p. 13. Chrysler and Toyota supported this option. DN-120, p. 7; DN-088, p. 7. International Harvester argued for a separate classification and standard for 4-wheel drive light trucks with GVWR's between 6001 and 8500 pounds, and 2-wheel drive light trucks which are derived from those vehicles. All of IH's light trucks would fall in that class. The Public Interest economics Foundation made a similar proposal. DN-173, p. 5.

With respect to the Ford proposal, the three largest domestic light truck manufacturers and Toyota have all argued at some point in this proceeding for a single standard applicable to

all light trucks. DN-001-02, p. 4 (Ford); DN-001-05, p. 9 (Chrysler); DN-096, p. 4 (GM); DN-088, p. 7 (Toyota). The main advantage of a single, all-inclusive standard is that it provides the greatest flexibility for a manufacturer with a broad product line to select among possible methods for achieving a given level of fuel economy improvement. For example, where separate classes exist, a manufacturer is required to make certain improvements to vehicles in each class in order to comply with the separate standards. On the other hand, if a single, all-inclusive standard were established, a manufacturer would have the option of concentrating its available resources on making major improvements (such as a total vehicle redesign) to certain classes of vehicles. See 42 FR 63186.

However, the smaller manufacturers with more limited product lines may be disadvantaged under a single-standard approach, since the larger manufacturers may be able to avoid making changes to their vehicles in the same classes as the smaller manufacturers' vehicles, through the judicious use of the previously described flexibility. The smaller manufacturers would have to undertake product changes to their vehicles. This would increase the price of the small manufacturers' vehicles compared to the price of the similar vehicles of the large manufacturers. DN-098, p. 2 (AM). For example, AM and IH both manufacture primarily 4-wheel drive vehicles. Under a single-standard approach, the larger manufacturers could focus their fuel economy improvement efforts on their 2-wheel drive vehicles, an option unavailable to AM or IH. AM and IH would have to change their 4-wheel drive vehicles, possibly placing those vehicles at a competitive disadvantage vis-a-vis the 4-wheel drive vehicles of the larger manufacturers.

Although recognizing that the Ford proposal has some merit, the agency is extremely concerned that the classification of automobiles for fuel economy standards purposes not have a major anti-competitive effect. AM and IH rely extensively on the sale of 4-wheel drive vehicles to generate profits, to a much greater extent than do the larger companies. The agency observes that an optional combined standard could permit the companies with full product lines to obtain price and possibly performance advantages over AM and IH for comparable 4-wheel drive vehicles, through the mechanism described in the preceding paragraph. These competitive factors did not present as serious a problem in the agency's 1979 light truck rulemaking, where standards were set at levels more in line with manufacturer's planned fuel economy levels. Therefore, in consideration of these advantages and the effect of the small manufacturers on level of the combined standard, the agency is not adopting the Ford proposal.

Nor can the agency accept IH's proposal, which might tend to exacerbate the trend toward higher GVWR's that has occurred over the past five years and which was due at least in part to different Federal standards above and below the 6000 pound GVWR dividing line. However, the agency recognizes that IH has unique problems given its limited sales volume, restricted product line, and the fact that its engines are derivatives of medium duty truck (above 10,000 pounds GVWR) engines. Further, IH has not had experience with state-of-the-art emission control technology, which the other manufacturers have obtained in the passenger automobile market.

Therefore, NHTSA is establishing a separate class and fuel economy standard pursuant to section 502(b) of the Act for all light trucks manufactured by a manufacturer whose light truck fleet is powered by basic engines which are not also used in passenger automobiles. This separate class is established for only two model years' duration. The agency concludes that IH should be able to achieve levels of fuel efficiency in line with the other manufacturers by the 1982 model year either through purchasing engines from outside sources or by making improvements to current engines. This resolution of the separate classification question satisfies the concerns expressed by IH in recommending a separate standard for 4-wheel drive vehicles with GVWR's over 6000 pounds, without perpetuating the incentive for increasing light truck GVWR's above the 6000 pound level or maintaining GVWR's at those levels.

An issue on which the agency requested comment in the NPRM (42 FR 63187) is whether a manufacturer's "captive import" light trucks should be permitted to be counted together with its domestic light trucks in the calculation of that manufacturer's fuel economy average for compliance purposes, or whether those trucks should be treated separately as are captive import passenger automobiles under passenger automobile fuel economy standards. The former approach would encourage importation of foreign produced, captive import light trucks and the exportation of domestic jobs. The latter approach would prevent the standards from encouraging domestic manufacturers from taking these steps. The agency discussed in detail two of the many possible resolutions of the issue in the NPRM. One suggestion was to provide for separate treatment of captive imports beginning with the 1980 model year. The other suggestion permitted manufacturers to include captive imports for 1980 and 1981 (with separate treatment beginning with the 1982 model year) in their calculation of domestic fuel economy averages, but to limit the number of includable captive imports to 6 percent of the total number of light trucks manufactured in each class for each model year.

The first suggestion was supported by the United Auto Workers (DN-093), General Motors (DN-096, p. 15, Section III), and the Center for Auto Safety (DN-056, p. 115). The UAW (DN-056, p. 587) and the Center for Auto Safety base their suggestions on the belief that separate treatment of captive imports would encourage the earliest possible domestic production of these smaller, more fuel efficient trucks. On the other hand, Chrysler, Ford, and Toyo Kogyo argue that the Act provides no legal authority for requiring separate treatment of captive imports, and that such a requirement would promote neither domestic employment nor maximum fuel conservation (DN-120, p. 14 (Chrysler); DN-149, App. VIII, Tab. B (Ford); DN-103, p. 2 (Toyo Kogyo).) Alternatively Chrysler argues that a requirement for separate treatment of captive imports should be delayed until such time as sales levels justify and lead-time permits their domestic production. DN-056, p. 373.

NHTSA believes that a requirement for the separate treatment of captive import light trucks would produce desirable results from the point of view of promoting energy conservation, preserving competition within the automobile industry, and promoting domestic employment. The agency also disagrees with the arguments that it lacks adequate authority to impose such a requirement. After reviewing the comments of the various participants in the rulemaking proceeding, NHTSA finds no substantial reason to delay any longer the effective date for a requirement of separate compliance of captive import light trucks. Therefore, the regulations promulgated herein establish such a requirement beginning with the 1980 model year.

The importation of captive import trucks posed a threat to domestic employment similar to that posed by the importation of captive import passenger automobiles. The agency's authority to require that captive import light trucks comply separately with fuel economy standards is the authority to establish "separate standards for different classes" of light trucks in section 502(b) of the Act. Ford and Chrysler argue that this classification authority is restricted to classes based on attributes of a vehicle, such as size or intended use. However, these arguments overlook the broad meaning of "class" as defined in various dictionaries. Further, nothing in section 502(b) establishes the sort of limita-

tion argued for by Ford and Chrysler. In fact, the Act's legislative history shows that a broad reading of the term is intended. The Conference Report (S. Rep. 94-516, 94th Cong., 1st Sess., at p. 155) states, in discussing the classification authority, that separate classes "could be based on functional classifications *or other factors.*" (Emphasis added).

Ford and Chrysler also argue that the definitions of "manufacture" and "manufacturer" in section 501 of the Act include both domestically produced and imported automobiles, and therefore conclude that a fuel economy standard must apply to both categories or classes of vehicles. In fact, these definitions establish only that both of these classes of automobiles are to be regulated. They do not establish how the vehicles are to be classified for that purpose. They could be placed in the same or separate classes.

Ford also claimed that language on page 91 of the House Report, which contemplates the establishment of "similar" procedures for treating captive import light trucks as those specified for captive import passenger automobiles under section 503(b)(1) of the Act, requires that some transition period be established between model years when captive imports are fully includable and fully excluded from domestic fuel economy average calculations. However, a "similar" requirement need not be *identical* in every respect. The separate classification was not immediately applied, but delayed one year to 1980. The manufacturers have been on notice for a substantial period of time that a requirement of this general nature was being seriously considered by the agency, permitting them to make their plans accordingly. 42 FR 13810-11; March 14, 1977.

Ford also pointed out that if a separate class were established for captive import light trucks, that class would be required to have a standard set at the maximum feasible level for that class. Ford argued that the agency had failed to set the standard for the captive import class at that level in the NPRM. However, NHTSA concludes that the maximum feasible average fuel economy level for the captive import class is the same as for the residual class of all other light trucks. That reference point is the same one suggested in the NPRM for captive import light trucks. Captive import light trucks currently have higher fuel economy in general than domestically manufactured light trucks, due to the fact that the captive imports are typically more compact in size. However, if the captive imports were subject to a more stringent fuel economy standard than all other light trucks, virtually identical vehicles (such as the Ford Courier, a captive import, and the Mazda pickup truck, which is imported by Toyo Kogyo of Japan) would be subject to different fuel economy standards. In that case, the captive import vehicle might be required to make fuel economy improvements (at some cost) which a similar vehicle imported by a foreign company might not have to make. Thus, the captive imports would be placed at a competitive disadvantage, due to the extra cost resulting from efforts to comply with fuel economy standards. In that case, where similar vehicles sell for different prices, it would be expected that the sales of the captive import vehicles would suffer, resulting in less energy conservation than would otherwise be the case. Therefore, the agency concludes that imposing a more stringent standard for captive import light trucks than is applicable to all other light trucks would be inconsistent with the "economic practicability" consideration in section 502(e) of the Act.

Finally, Ford argues that a separate standard for captive imports does not promote the general purposes of the Act. The primary purpose of the Act is energy conservation. However, section 503(b), the "runaway plant" provision, unambiguously establishes that Congress regarded domestic employment as a paramount consideration with respect to captive imports. The agency concludes that the separate standard for captive imports will promote energy savings since it will encourage greater efforts to improve the fuel economy of domestically produced light trucks and in the longer run will encourage use of an additional method (domestic production of small light trucks) for complying with fuel economy standards at the option of the manufacturer. Vigorous efforts to sell these domestic compact trucks would produce a market shift and concomitant energy savings. As measured by relative degree of marketing effort, the attitude of the major domestic producers toward smaller trucks has not been markedly positive. It is likely that it will take every available method or incentive to change this view and thus promote both energy savings and domestic employment. See DN-056, p. 346 (Chrysler) and p. 355-6 (remarks by NHTSA Administrator Claybrook). With a provision for the separate compliance of captive import light trucks, NHTSA will be able to base its fuel economy standards in future model years on the projected domestic production of these smaller trucks, providing a further incentive for switching from foreign to domestic production. As noted above, a second purpose of the statute is the promotion of domestic employment. Cong. Rec. H 5383, 5386 (daily ed., June 12, 1975). To the extent the captive import requirement provides an additional incentive to shift to domestic production of vehicles which are currently produced abroad and imported, domestic employment will benefit. Therefore, the agency concludes that this requirement promotes the general purposes of the statute.

It is important to note that the separate class for captive import light trucks does not prohibit the importation of such vehicles. It simply keeps the fuel economy program from inducing manufacturers to increase their importation of those vehicles instead of producing those small vehicles domestically or making improvements to their larger domestic vehicles. Assuring that those improvements are made was one of the express purposes of the sponsor of the "runaway plant" amendment. Cong. Rec., H 5386 (daily ed. June 12,1975). In view of the domestic manufacturers' investment in captive import light trucks, the profitability of those vehicles, and competition from foreign manufacturers of similar vehicles, the agency anticipates that the domestic companies will continue to market their captive imports. If the foreign manufacturers improve the fuel economy of their compact light trucks, the domestic manufacturers will presumably make similar improvements to remain competitive.

b. FUEL ECONOMY PROJECTION METHODOLOGY

One of the problems which confronted the agency in developing the proposed standards was the absence of fuel economy test data for the light trucks in the 6001-8500 pound GVWR range. These trucks will be tested for emissions in a manner which yields fuel economy data for the first time beginning with the 1979 model year. Initial test data for these vehicles are just now becoming available. Therefore, the agency utilized a regression equation which relates vehicle characteristics such as engine displacement, test weight, and drivetrain ratios to measured fuel economy for passenger automobiles and light trucks. The regression equation was used to extrapolate and interpolate from actual test data to develop baseline fuel economy projections for vehicles which have not yet been tested, adjusting for differences in relevant vehicle characteristics. DN-055; DN-152. Many of the manufacturers objected to the use of this equation, but none offered a method before the issuance of the NPRM which the agency could demonstrate to be superior to the one it had developed.

Since the issuance of the NPRM, some of the manufacturers have begun testing prototype 1979 model year vehicles in the 6001-8500 pound GVWR class and have submitted their test results to NHTSA. This data would clearly be the best evidence of the actual fuel economy ratings these

vehicles will achieve in 1979, assuming that this early testing of development vehicles accurately reflects the fuel economy ratings those vehicles will achieve in final testing for that year. However, this may well not be the case, given that major improvements in fuel economy typically occur between early development testing and final emission certification and fuel economy testing. DN-259 (GM). The use of the regression equation would take this phenomenon into account, in that extrapolations and interpolations are made from final test data, not from early development vehicles. For this reason, GM, which concluded that the agency was "not too far off" in its baseline assessment, recommended that the agency wait until the 1979 certification data become available, and then modify the projected baseline where necessary. DN-056, p. 77. Ford, on the other hand, claims that development data for its 1978 vehicles closely approximated final certification values. DN-067, App. IV, Ex. A, p. 2. Ford's conclusion, however, relates to a model year in which emission standards were carried over from several prior years, by which time calibrations would be expected to more closely approach full optimization. This is not the case for the 1979 model year, when new emission standards and several test procedure amendments will apply for the first time to these light trucks. Therefore, Ford's 1978 experience is not a valid indicator for 1979.

Despite Ford's protests that the agency's methodology is inaccurate in projecting their fuel economy for 1980-81 and that their test data should be used instead to develop a baseline, NHTSA cannot conclude that Ford's procedure is superior. In fact, the agency has taken Ford's pre-1979 data and attempted to reconcile it with NHTSA's projections for Ford, and has concluded that the results yielded by the two procedures can be fully reconciled (in terms of projecting the same level of average fuel economy for the light truck fleet). See RSP-S.

Only in the cases of GM and IH has the agency been unable to reconcile completely the baseline information submitted by the manufacturers with NHTSA's projection. In these two cases, NHTSA has based its fuel economy projections on those manufacturers' supplied baselines. In the case of IH, the discrepancy is likely due to the difference in engine efficiency between that company's engines and those of the other manufacturers (see section III.c.3 of this notice). In all other cases, the agency has used its originally projected baseline as set forth in the NPRM, with minor adjustments discussed in the RSP-S.

C. METHODS FOR IMPROVING FUEL ECONOMY.

The proposed standards were based on the use of technology which is either currently being used on some vehicles or which is under development with commercial use planned by at least some manufacturers in the 1980-81 time frame. The technological changes are in general minor, evolutionary changes which individually produce small benefits, but which when taken together can add up to a substantial fuel economy improvement. Although the manufacturers generally agreed with NHTSA as to which methods for improving fuel economy are feasible for the 1980-81 model years (cf. DN-067, p. 4 (Ford)), there was not general agreement as to the magnitude of the fuel economy benefit achievable through the use of each item or the extent to which the items could be used given the leadtime remaining until the 1980 and 1981 model years. The manufacturers' specific objections and NHTSA's response are set forth in the immediately following sections.

1. *Weight reduction.* The agency projected weight reductions ranging from approximately 69 pounds to over 600 pounds for portions of the individual manufacturer's fleets, averaging nearly 400 pounds per vehicle by 1981, compared to a 1977 base. 42 FR 63189. Between 200 and 300 pounds of this weight reduction was due to the use of aluminum, plastics, and high strength steel in certain specified light trucks, as substitutes for current materials. The remainder of the weight reduction was due to the introduction of new, more efficiently designed truck models which were either planned or being considered by certain manufacturers. Under current fuel economy test procedures, the benefit of this weight reduction would be realized only to the extent the reduction is great enough to place a particular vehicle in a lower "inertia weight class." Beginning with the 1980 model year, the width of these inertia weight class bands will generally be halved, thereby providing a greater incentive for manufacturers to reduce the weight of their vehicles. However, the new "test weight" class changes may result in some vehicles being tested at higher simulated weights than under the old procedure, and other vehicles being tested at lower weights. DN-096, p. 11 (GM). It appears that the manufacturers have carefully targeted the weights of their current vehicles to take maximum advantage of the current inertia weight classes, so that the test procedure change will result in a trend toward lower measured fuel economy. This anomaly was taken into account in the methodology used to develop the proposed standards.

The agency projected the introduction of new, redesigned light trucks only where the manufacturers indicated in response to a special order (DN-010) issued under section 505(b)(1) of the Act that a new model was either planned by the manufacturer or at a development stage where introduction was judged feasible by NHTSA in the 1980-81 period. This conservative approach to new model introduction was taken by the agency despite the fact that additional new models would be expected for much of the domestic light truck fleet in the 1980-81 time frame if historical vehicle redesign cycles were followed (DN-001-02, Att. 1, p. 1 (Ford)), and despite the fact that the manufacturers have been on notice since December 1975 that they would be required to make maximum feasible improvements in their light trucks beginning with the 1979 model year, at least for their trucks in the 0-6000 pound GVWR range. See section 502(b) of the Act. However, none of the manufacturers apparently plan to offer a new truck model in the 1980-81 time which is designed to achieve maximum feasible weight reduction.

Some of the manufacturers have projected feasible weight reductions of a magnitude very close to those projected by NHTSA. See, e.g., DN-097-A, p. 6 (IH); DN-010-02, p. 8 (AM). Many of the manufacturers' projections of weight reduction potential for 1980 and 1981 have increased significantly during the course of the rulemaking, indicating that leadtime may still not limit this potential to currently planned weight levels as claimed by the manufacturers. DN-001-06, p. 7 (IH); DN-120, App. D, p. 2 (Chrysler); DN-001-01, p. 26 (GM 50 to 100 pounds for 1980) and DN-096, p. 11 (160 pounds). Ford's weight reduction projections have also varied considerably, and have become increasingly pessimistic. For example, Ford's projected average inertia weight for 1979 model year 2-wheel drive light trucks increased 123 pounds in five months, and the similar 1980 figure increased by nearly 300 pounds, between Ford's responses to NHTSA's August 10 special order (DN-010-02, App. F) and its comments on the NPRM (DN-067, App. IV, Ex. J, p. 2). See also DN-149 Volume II, Addendum II, p. 10, where Ford cites the "evolutionary" nature of its product planning in explaining how its projected average test weight increased as much as 188 pounds over 5 months. Part of these changes is due to changes in fuel economy test procedures, according to Ford. Ford now claims that its new, lightweight pickup truck, which will be introduced in the 1980 model year and will have a lower test weight than the current pickup truck by 263-396 pounds, will result in only a 1 percent fleet-wide fuel economy benefit. Id. p. 1.

In order to obtain independent verification of the weight reduction

achievable through material substitution, the agency issued special orders to various aluminum, steel, and plastics suppliers. DN-018. These companies indicated that weight reductions in excess of those projected by NHTSA will be technologically feasible in the early 1980's, in some cases as much as 900 pounds total. See, e.g., DN-018-44 (Kaiser Aluminum Co.) and DN-018-60 (ALCOA).

The agency concluded on the basis of all this information that although the ultimate weight reduction potential for current light trucks is greater than that initially projected by NHTSA, reductions feasible in the near term (particularly the 1980 model year) are more limited. Further, it appears that in most cases, the weight reductions projected by the manufacturers differed from NHTSA's projections primarily due to discrepancies in estimated baseline inertia weights and in the effect of the inclusion of optional equipment on test vehicles. With respect to the latter points, NHTSA has deferred to the manufacturers' presumably better knowledge of their current light truck fleets. The agency has also not projected the redesign of some vehicle components when a complete vehicle redesign is planned by the manufacturer in 1982 or 1983. Therefore, NHTSA, has generally adopted the manufacturers' projected weight reduction plans in the standard-setting analysis. However, NHTSA has projected, based on statements by GM, that GM could offer a redesigned pickup truck for the 1981 model year (as a mid-model year entry, resulting in an additional fleet average 250 pounds weight reduction for 2-wheel drive vehicles in that model year. NHTSA has retained its initial weight reduction projection for Chrysler, in the absence of any information which indicates that that projection is not feasible. NHTSA has made relatively minor upward adjustments to Ford's 1981 2-wheel drive weight reduction projection, and adopted Ford's other projections. However, NHTSA has been unable to completely reconcile all of Ford's various weight reduction projections, and remains skeptical, in view of the substantial weight reduction potential, that Ford's 4-year program will result in only the relatively small weight reduction benefit it apparently projects for its new pickup truck line.

2. *Aerodynamic improvements.* The proposed fuel economy standards were based on improvements in vehicle aerodynamic characteristics only where a manufacturer planned to introduce a new vehicle. In those cases, a 4 percent fuel economy improvement was projected. 42 FR 63189. Information submitted by the manufacturers indicates that the agency's projections in this area were pessimistic. On the basis of Ford's planned redesign of its pickup trucks for 1980, it appears that fuel economy can be improved up to 5 to 6 percent through reductions in vehicle frontal area and aerodynamic drag coefficient. Some of the manufacturers indicated that aerodynamic improvements could be achieved without undertaking a complete vehicle redesign, through minor body modifications such as the addition of air dams and the use of smaller mirrors. DN-001-01, p. 48, DN-096, App. B, p. 27 (GM); DN-120, App. G (Chrysler). Therefore, the agency adopted the fuel economy improvement achieved for Ford's new pickup truck, and projects a fuel ecomony improvement of 2.3 percent for GM and approximately 1 percent for Chrysler in the 1980 and 1981 model years for minor aerodynamic improvements. (See RSP-S) No improvements are projected for the other manufacturers.

3. *Engine efficiency improvements.* In the NPRM, the agency projected that engine efficiency improvements on the order of 8 percent were feasible for all manufacturers other than AM, with AM capable of an improvement of 11 percent because of its currently less efficient engines. 42 FR 63190. Among the methods for obtaining this improvement are improved fuel metering, redesigned combustion chambers, increased expansion ratio and compression ratio, reduced internal friction, intake system and valve timing optimization, electronic spark advance, and improved exhaust gas recirculation. The percent fuel economy improvements projected for each manufacturer were based on responses to a detailed technical questionnaire (DN-001) sent to each manufacturer, and in particular a detailed response by Chrysler Corp. (DN-001-05). Subsequent engine mapping studies of typical light truck engines support the agency's original projections. Chrysler indicated efficiency improvements in the areas listed above would result in improvements at least of the magnitude projected in the NPRM. Improvements of this magnitude were also projected by IH (DN-001-06, p. 24) and were in fact experienced in the past when engines were optimized. DN-149, Add, 2, sect. II.

However, at the January 16-17 public hearing, Chrysler indicated that it could not support engine efficiency improvements of the magnitude which NHTSA concluded Chrysler had projected as being feasible for 1980 in its questionnaire response. Several reasons were given by Chrysler at the hearing for this apparent change of position, including that the Chrysler questionnaire response information was merely "a gleam in the eyes of the engineers" and did not have "the highest level of corporate approval." DN-056, pp. 370-1. Subsequently, Chrysler advanced another theory for the apparent discrepancy between their questionnaire response and their position at the public hearing, i.e., that it misinterpreted certain language in the questionnaire. Chrysler argues that, in their interpretation, technology is "applied" not when it is used on production vehicles as NHTSA intended that term in its questionnaire to be interpreted, but when technology advances one stage in the research and development process. DN-120, App. Q, p. 7. In effect, Chrysler now argues that not all of the technology in question will be available for the 1980 or 1981 model years. Chrysler also reduced some of its prior projections of expected fuel economy improvements attributable to technology.

Subsequent information submitted by the other manufacturers indicated that much of the technology projected to be used in the NPRM was either not feasible for 1980 or 1981, already being used and thus not a means available for future improvement, or part of the advanced emission control technology which would permit the attainment of more stringent 1979 emission standards with minimum reduction in fuel economy, but would produce no net fuel economy benefit. DN-067, App. IV, Ex. A, p. 2 (Ford). GM indicated that no improvement in fuel economy is expected from the use of electronic engine controls, since mechanical systems can be (and to some extent already have been) optimized to provide similar results. DN-146-A, pp. 47-53. An analysis by the Department's Transportation Systems Center refutes this claim. DN-283.

Several items of technology (other than improved exhaust gas recirculation or optimized engine calibrations) will be available for engine efficiency improvements. GM indicates that it will be making certain minor carburetor improvements for 1980. DN-096, p. 11. In 1979, Ford will be implementing certain engine efficiency improvements, such as increased compression ratio, for all light trucks with GVWR's between 6,001 and 8,500 pounds. DN-067, App. IV, Ex. A, p. 2. This benefit is accounted for by the use of the agency's regression equation, since trucks in the 0-6,000 pound GVWR category already have these improvements and those were extrapolated for the 6,001-8,500 pound GVWR trucks. However, two Ford engine families have not yet been optimized through combustion chamber revisions, but could be for 1980. Id, at p. 4. Ford also states that it will begin using some electronic engine controls beginning with the 1978 model year, but has no plan to use these controls on trucks until 1981, and then only in California. Id, at 13-14. NHTSA sees no reason why these electronics could not be more widely applied in light trucks by

Ford, especially since Chrysler may begin using some of these electronic controls as early as 1980 in trucks. DN-120, App. J. Chrysler also plans improved intake manifolds for two of its engines for 1980. Id. AM indicates that improvements of up to 5.5 percent are feasible (DN-098, p. 1) and stated at the hearing that improvements up to 8 percent might be feasible. DN-056, p. 468. IH originally projected substantial fuel economy improvements for the use of electronics, heat inlet charge, and combustion chamber and intake manifold redesign (the latter for the 1979 model year). DN-001-06, p. 24. IH's later submissions were less optimistic on this point. The potential for engine efficiency improvements by IH is highlighted by data submitted by that company (id, App. G) which indicate that its four cylinder engines obtain the same or even slightly worse fuel economy than its V-8, about 13 mpg. The agency's anaylsis indicates that the IH V-8 engine too could be improved since it obtains about 1 mpg less than a comparable engine from Chrysler, Ford, or GM.

The agency concludes that fuel economy improvements up to the levels originally proposed are technologically feasible, but probably cannot be fully implemented in the 1980-81 period, because of competing demands (due to stringent emission standards) from passenger automobiles. Rather, the agency projects that manufacturers will be able to optimize emission control systems during this period to eliminate any fuel economy penalty resulting from changes in emission standards. In the case of GM and Chrysler, more extensive improvements are already planned, thus avoiding the leadtime problem. Therefore, the agency has incorporated those companies' projections of a net 2.4 percent (1.4 percent for 4-wheel drive light trucks) fuel economy improvement for Chrysler in 1981 and 1.2 percent for GM in 1980, beyond the optimization of the emission system. For the other manufacturers, no net improvement is projected (beyond emission control system optimization).

4. *Engine accessory efficiency improvements.* The agency originally projected that accessory efficiency and accessory drive improvements amounting to 2 percent could be achieved. 42 FR 63189. The achievability of a 2 percent fuel economy improvement through the use of improved accessory drives was not generally challenged by the manufacturers. See, e.g., DN-001-05, Table 4 (Chrysler); DN-067, App. IV, Ex. E (Ford). However, questions were raised as to whether the leadtime is sufficient to implement these improvements by the 1980-81 model years. Id., Ford. The agency agrees that leadtime may not be adequate to implement new accessory drives by 1981, unless already planned. A number of accessory efficiency improvements appear feasible for the 1980-81 period, however, such as improved water pumps and power steering pumps, reduced alternator loads, installing viscous fan clutches, the use of flex fans, and the optimization of accessory drive ratios. See, e.g., DN-096, App. B, p. 27 (GM). These efficiency improvements are projected by NHTSA to obtain a fuel economy improvement of approximately 1 percent by 1981.

5. *Diesel engines.* None of the manufacturers took major exception to the agency's projections with respect to the use of diesel engines. The agency's position on this matter was that until the unknown potentially adverse health effects associated with widespread use of diesel engines are better quantified, the maximum feasible use of these engines will not be projected. The agency took the posture of acknowledging the existence of any plans on the part of manufacturers to use diesels but did not base standards on further dieselization beyond that currently planned.

Citizens for Clean Air argues that the agency should not rely on the projected use of diesel engines to any extent until the issue of adverse health effects is resolved. DN-056, p. 563. Conversely, the Public Interest Campaign argued that the agency lacks authority to base fuel economy standards on less than maximum feasible use of diesels. DN-160, p. 6. That organization argues that it is for EPA, not NHTSA, to determine whether any health problems is associated with the use of diesel engines, and if a problem does exist, to set an appropriate emission standard.

The agency recognizes the danger in basing administrative standards on extra-statutory considerations. See, e.g., *Union Electric Company* v. *Train*, 427 U.S. 246, 257 (1976). However, NHTSA feels that there is at least a possibility that EPA may determine that certain currently unregulated, emissions from diesel powered vehicles must be regulated, and that control of these emissions to the required level may either be impossible or may be achievable only with a fuel economy penalty so substantial that the diesel engine offers no net fuel economy benefit. NHTSA, EPA, and DOE are jointly studying these issues.

NHTSA deems it inappropriate to encourge the manufacturers to make investments in tooling for diesel engines when the use of those engines may not be tolerated in the future. Therefore, the final fuel economy standards for 1980-81 will not be based on any projected use of diesel engines, even where they are currently offered or planned. This will permit reduction of any current manufacturer plans to offer diesels if a health problem is found. This should not be viewed as a determination by the agency that unavoidable adverse health effects would result from widespread dieselization.

6. *Variable displacement engine technology.* NHTSA projected limited use of variable or dual displacement engine technology (based on the Eaton valve selector system) for the 1980 and 1981 model years. This technology would permit engines to operate on a portion of their cylinders during light load operating modes such as idle and cruising at constant speed.

The agency projected that a 10 percent fuel economy benefit would be achievable by vehicles using this technology. DN-056, p. 419 (Eaton); DN-001-05, Table IV (Chrysler); DN-001-06, p. 24 (IH). Ford indicated plans to use this technology as early as the 1978 model year (DN-001-02, Att. 14, p. 2) and IH stated that use was expected by the 1981 model year (IH, id).

Since the issuance of the NPRM, the prospects for use of this technology have apparently deteriorated considerably. Ford planned to use this system on its 300 CID, six cylinder engine, despite warnings from the system's developer that that particular engine was the worst possible candidate for dual displacement. DN-056, p. 406 (Eaton). As Eaton had warned, rough running and lack of reserve power made the system unworkable in the six cylinder engine, resulting in the termination of that particular program. DN-067, Supp. App. IV, Ex. C (Ford). Ford now plans to implement the technology first on 8 cylinder passenger cars, despite the fact that any drivability problems associated with the technology would be more likely tolerated by truck owners than by passenger car owners. Id. GM (DN-096, App. B, p. 30) and Chrysler (DN-120, App. F) have also experienced a variety of problems with the technology, although GM still targets usage of variable displacement engines for the 1981 model year (DN-146-A, p. 143).

In view of the uncertain future of this particular item of technology, NHTSA is not basing the 1980-81 fuel economy standards on the projected use of variable displacement engine technology. Rather, it is recognized that technical problems remain to be solved, and if those problems can be solved, the use of variable displacement engines will provide the manufacturers with some degree of flexibility in meeting the standards.

7. *Turbochargers.* The agency did not base its proposed standards on the projected use of turbochargers. Turbochargers, when used with spark ignition engines, do not directly improve fuel economy, but rather increase engine horsepower, thereby permit-

ting the substitution of smaller displacement engines in a given application. When used with diesel engines, turbochargers apparently result in additional benefits, including direct improvements in engine fuel efficiency and reduced particulate emissions. (DN-146-A, p. 148). The reasons for not basing the proposed standards on the use of turbochargers were primarily that in order to take optimal advantage of turbocharging, shifts in small engine production capacity would be necessary, and the smaller engines should be initially designed with turbocharging in mind. See 42 FR 63190. Leadtime was judged insufficient to accomplish this.

Although the agency's projected 10 percent fuel economy benefit from turbocharging was supported by participants in the rulemaking proceeding, so were the reasons supporting the need for substantial leadtime for any high production volume turbocharging program. DN-067, App. IV, Ex. D (Ford); DN-056, p. 715 (Schwitzer); DN-096, p. 32 (GM—with respect to leadtime issue). Therefore, the agency is not basing the 1980-81 fuel economy standards on the projected use of tubochargers, in conjunction with smaller displacement engines. However, at least one manufacturer apparently plans to use a limited number of turbochargers on light trucks in the 1980-81 time frame, and it is possible that others will as well. Therefore, turbochargers, along with variable displacement and diesel engines, are options that may be available to at least some of the manufacturers to provide the flexibility of additional methods for meeting the fuel economy standards.

8. *Automatic transmission improvements.* The agency projected that a 3.5 percent fuel economy improvement could be achieved for the portion of the fleet which uses automatic transmissions through the addition of lockup clutches to those transmissions. In addition, based on the indicated plans of Ford, it was projected that limited use of that manufacturer's integral overdrive automatic transmission could occur as early as the 1980 model year, producing a 10 percent benefit where applied. The 3.5 percent benefit from the use of the lock-up clutch was based primarily on information from Chrysler. DN-001-05, Table IV. GM and Ford also supported the magnitude of that improvement. DN-096, App. B, p. 23 (GM); DN-067, App. IV, Ex. G (Ford).

An additional area of automatic transmission improvement is minor transmission efficiency improvements through the use of larger torque converters. Ford attributes a 0.5 percent fuel economy increase to these improvements (id.) and GM projects 2 percent, although that benefit is not fully additive to the 3.5 percent benefit for the use of the lockup clutch.

By the time of the January 16-17 public hearing, some of the manufacturers had reduced their preproposal projections of planned usage and expected fuel economy benefit from the various automatic transmission improvements. Ford indicated that no integral overdrive transmissions would be available for 1980 model year light trucks, since it claimed that all those transmissions would be necessary for passenger car application. DN-067, App. IV, Ex. G, p. 2. No detailed information to support this claim was provided. Chrysler, which had originally claimed that the benefit associated with lockup clutch is 3.5 percent, and had raised that estimate on one occasion, subsequently claimed that the benefits were reduced to 3 percent, because of a reported need to mitigate drivability problems. DN-120, App. B, p. 1. Ford also claimed that it is unreasonable to expect it to implement the lockup clutch for 1980 and 1981, given that it is in the process of implementing the integral overdrive transmission, albeit over an extended period of years. Id., App. G, p. 2. With regard to the latter point, it should be noted that the other companies are also developing advanced transmissions similar to the Ford integral overdrive, but are planning on implementing the lockup clutch as an interim measure.

The agency concludes that by implementing lockup clutches, minor transmission efficiency improvements, and advanced transmissions like the integral overdrive to the maximum feasible extent, fuel economy improvements of 3.5 percent for the automatic transmission portion of the fleets of GM and Chrysler in 1980, and of AM and IH in 1981 are feasible. In the case of Ford, a transmission efficiency improvement of 0.5 percent is projected for 1980. For 1981, the agency has adopted Ford's projection that its FIOD transmission will be available for approximately 18 percent of its light trucks. However, NHTSA finds no basis for concluding that the fuel economy benefit of that transmission will be less than the originally projected 10 percent, in the absence of any tests by Ford. In addition, NHTSA projects that Ford could offer a lockup clutch or other equivalent improvement on the remainder of its automatic transmission-equipped light trucks, in the absence of any plan by Ford to make a complete switch to FIOD's in the foreseeable future.

9. *Improved manual transmissions.* The agency projected the substitution of overdrive or wide ratio manual transmissions or manual transmissions with additional driven gears for current (primarily 3-speed) manual transmissions beginning with the 1980 model year. These transmissions have generally been available as options at extra cost on passenger automobiles for several years. A 5 percent fuel economy benefit was projected for these transmissions. GM supported this figure (DN-096, App. B, p. 24), Chrysler projected a 4 percent improvement (DN-120, App. L, p. 5), and Ford found the 5 percent figure to be at the upper end of the expected range. DN-067, App. IV, Ex. G. However, objections were raised as to the extent of the projected usage of these transmissions.

Beginning with the 1981 model year, GM apparently plans to make these more fuel efficient transmissions standard equipment on their light trucks. DN-146-A p. 126. With GM taking this action, the other manufacturers would likely follow suit for competitive reasons, to the extent production capacity permits. Indications are that, at least by the 1981 model year, additional production capacity for improved manual transmissions will be available for Ford and Chrysler. DN-067, App. IV, Ex. G, p. 8 (Ford—additional capacity available for 1981); DN-056, p. 345 (Chrylser—current constraint on increased usage is marketing, not production capacity, and increased marketing efforts will be undertaken in the future). With respect to AM and IH, transmissions are supplier items, so that marketability is likely to be the only possible major constraint to the change to improved manual transmissions. Therefore, the agency has adopted the manufacturers's projections for the usage levels of these improved transmissions in 1980, and has revised upward by a moderate amount the projections of the companies with respect to the 1981 usage, where feasible. See RSP-S. The initially projected 5 percent fuel economy benefit per affected vehicle was retained from the NPRM.

10. *Improved 4-wheel drive transfer cases.* Another item of technology which was not included in the projections on which the proposed standards were based is the use of "part-time" 4-wheel drive, where "full-time" 4-wheel drive transfer cases are currently used. These new transfer cases, which permit reduction of frictional losses by minimizing the number of transfer case components which are moving in the 2-wheel drive mode, should result in fuel economy improvements of 4 to 8 percent for those 4-wheel drive light trucks which currently use full-time 4-wheel drive. DN-184, Table B-1a (GM); DN-120, Att. B, p. 27 (Chrysler). Part of AM's and Ford's 4-wheel drive fleet also uses full-time 4-wheel drive currently, and NHTSA concludes that both could use this new transfer case. Therefore, fuel economy improvements consistent with the manufacturer's projections have been included in the analysis for the final standards.

11, *Improved crankcase, rear axle, and transmission lubricants.* The agency projected fuel economy improvements of 2 percent for 1980 and 6 percent for 1981 through the use of a variety of improved lubricants. The principal lubricants expected to be available to achieve these benefits are lower viscosity real axle lubricants (1 percent benefit) and friction modified motor oils such as those currently offered by Exxon and Arco in the aftermarket (5 percent benefit).

The vehicle manufacturers raised three major objections to the agency's projections in this area. First, it was argued that on the basis of the vehicle manufacturers' tests of these improved lubricants, the fuel economy benefits attributed to the lubricants were overstated. Second, the manufacturers noted that EPA approval of some of these lubricants (friction modified or synthetic base motor oils) would be necessary to use these lubricants in fuel economy testing, and that approval had previously been withheld. Third, it was argued that extensive durability tests of these lubricants would be necessary before they could be used as factory fill lubricants and recommended for use thereafter.

With respect to the first point, Exxon and Arco both supported the agency's 5 percent projection for friction modified motor oils. DN-056, p. 157 (Exxon—5½ percent on the EPA test); Id, p. 516 (Arco—4.85 percent, based on road tests of 147 vehicles). Arco indicated that an additional 2 percent benefit (or a total of 7 percent for motor oils alone) was expected in less than 2 years, when that company expects to offer a lower viscosity version of its friction modified oil. Id, p. 534. Many other oil companies will be offering lubricants of this general type in the near future. DN-113. GM projected fuel economy improvements of 3-6 percent from improved crankcase and axle lubricants (up to 4 percent with friction modified crankcase oils) but claimed that these improvements would not be feasible until the 1982 model year or later. DN-096, pp. 10-11.

GM, Ford, and Chrysler all submitted data showing lesser fuel economy improvements than shown by the oil companies. GM submitted data on the fuel economy benefit associated with low viscosity engine lubricants (DN-184, p. 2), which showed a lower fuel economy benefit than would be expected through the use of friction modified oils. DN-056, p. 516 (Arco). GM also submitted data on tests (generally 2-3 tests each) of various unspecified lubricants compared to an unspecified base oil, and found fuel economy improvements of up to 3.8 percent. Chrysler conducted a series of test on both the Arco and Exxon lubricants, and found fuel economy improvements of up to approximately 3 percent. DN-120, Att. B, p. 21. Most of these tests were conducted with reference to a 10W30 base oil (the Arco and Exxon lubricants are both 10W40), thereby possibly reducing the benefit which would be achieved had viscosity been held constant in the testing. Further, there appears to be no reason why 10W30 versions of these improved lubricants could not be made available for use by the manufacturers by 1980, which should result in fuel economy improvements in line with the Exxon and Arco data, which compared 10W40 oils. DN-056, p. 536, DN-185 (Arco). In addition, Chrysler's tests were conducted at low mileage, and showed a trend toward greater fuel economy improvement at higher mileage. Exxon indicated that the fuel economy benefit achieved by their lubricant would appear primarily after 2000 miles, beyond the mileage at which Chrysler's tests were conducted. DN-056, p. 171. Taking these factors into account, Chrysler's data is not inconsistent with that of the oil companies.

Ford's test program for friction modified lubricants also showed low fuel economy improvements. DN-067, App. IV., Ex. K, p. 9. Tests were conducted on the Exxon oil and another blend (not Arco), and the base oil for comparison purposes was 10W30, creating the same problem of comparability as the Chrysler tests. The Ford data consisted of triplicate tests of four vehicles using each type of lubricant.

With respect to improved rear axle and transmission lubricants, tests of Mobil's synthetic axle lubricant support an improvement of 1 percent. DN-109, DN-056, p. 695-6. GM projects an improvement of 0.7 percent for lower viscosity axle lubricants. DN-096, App. B, p. 8. Ford's tests of lower viscosity axle lubricants showed no fuel economy benefit, and it has not tested friction modified axle lubricants yet. DN-149, App. IV, Ex. K, p. 13. Ford claims that SAE papers on the subject indicate that no fuel economy improvement, rather than a 1 percent improvement, would show up on the current fuel economy test from the use of friction modified axle lubricants, but NHTSA finds nothing in the cited paper to support Ford's reading. Chrysler also found "no significant improvement" when switching to lower viscosity axle lubricant, DN-120, App. H, p. 3.

Ford projects that manual transmission vehicles will begin using lower viscosity automatic transmission fluid as a lubricant. DN-149, App. IV, Ex. K, p. 17. NHTSA's analysis indicates that such a change could, because of the similarity to using improved axle lubricants, result in a fuel economy improvement of 1 percent by 1981.

As to the second point, EPA has not previously approved the use of the improved crankcase lubricants in fuel economy and emission testing because of its valid concern that the lubricants may not be used in actual service by consumers. If the lubricants were used in EPA testing but not in actual service, the EPA tests results would be unrepresentative of actual driving experience, over-stating actual fuel economy and thereby possibly misleading consumers. EPA is also concerned that some lubricant additives may reduce emission control system durability. Therefore, EPA has indicated that it would not approve the use of friction modified and synthetic engine lubricants until it received reasonable assurances that the lubricants would likely be used by consumers. Possible methods for demonstrating this likelihood are competitive retail prices, widespread commercial availability, and the existence of a generic definition for these lubricants so that the vehicle manufacturers can identify them and encourage their use. DN-120, App. H, Att. B.

EPA has recently taken the position that friction modified and synthetic engine lubricants could be used in durability testing for 1980 model year emission certification. DN-195. Further, it appears very likely that remaining impediments to the use of these lubricants in fuel economy testing will be removed in time to permit full use of these lubricants as factory-fill for the 1980 model year. One previous impediment, the lack of a procedure to define these oils generically, is expected to be removed by December of this year, when the American Society for Testing Materials (ASTM) is scheduled to complete development of such a procedure. DN-056, p. 175.

The general availability of these lubricants in time for the 1980 model year, another requirement for their permitted use in fuel economy testing, also seems assured, given the expanding activity of the oil companies in this field. DN-056, p. 523, DN-112, 113. Current selling prices of many of these lubricants appear to be adequate to satisfy EPA's concern that it be likely that consumers will in fact use these lubricants. These latter two requirements are necessary to provide an assurance that the lubricants will be used as replacement lubricants, not just for fuel economy testing. Therefore, it is quite likely that these lubricants can be used by the 1980 model year in fuel economy testing. See also DN-160, p. 7 (Public Interest Campaign). However, neither this agency nor EPA can predict with complete certainty when approval of those lubricants will become possible.

With respect to the vehicle manufacturers' third objection, the agency concludes that the manufacturers should be able to complete all necessary durability testing of these friction

modified lubricants by the 1980 model year. DN-096, p. 10 (GM). Judging from the data submitted by the manufacturers, the agency believes that testing of these lubricants has already progressed significantly. The oil companies which produce these improved lubricants have already conducted substantial testing of the lubricants before they were first marketed. DN-056, p. 175-6 (Exxon). In fact, the oil companies argue that one of the major advantages of using the friction modified lubricants is that engine wear is reduced. Id., at 535 (Arco). Since these oils also meet American Petroleum Institute Criteria for SE grade lubricants, engine durability should be improved. The oil companies found no reason to expect any adverse impacts from switching to these oils, which are of the same viscosity, come from the same base stock, and have most of the same additives as current factory fill oils. Id., at p. 175 (Exxon). In fact, it appears that a less extensive durability program would be necessary in switching to friction modified oils than in switching to a lower vciscosity oil, which GM indicates could be done by 1980. See also id., at 296 (Ford). Ford apparently was willing to use these lubricants as early as the 1978 model year. DN-149, App. IV, Ex. K, p. 2. In fact, GM's oil durability test requirements which were provided to NHTSA recently refer only to tests for lower viscosity engine oils, not friction modified oils. DN-184, p. 4.

Therefore, the agency projects that a total fuel economy benefit of at least 3 percent is achievable through the use of improved lubricants (crankcase and axle). To assure ample time for the approval of these lubricants for use in vehicle fuel economy testing by EPA, NHTSA will not project their use prior to the 1981 model year. It should be noted that it is possible that, by that model year, further improvements in crankcase lubricants may result in additional fuel economy improvements, considering the agency's conservative projection of the currently achievable benefit. Also, the use of improved manual transmission lubricants may expand in 1981. This could provide a further safety margin for the manufacturers. However, since the eventual approval of these lubricants is beyond the agency's control, alternative fuel economy standards for the 1981 model year will be established. In the unlikely event that EPA has not yet approved the use of these improved lubricants by January 1, 1980, a lower fuel economy standard, excluding the projected use of the lubricants, will be in effect. If, as the agency expects, this approval is given by then, a higher (by 0.5 mpg) standard will apply. NHTSA expects that the manufacturers will still have a strong incentive to seek the expeditious approval of those lubricants, in order to use the lubricants in passenger automobiles as well as for light trucks.

12. *Reduced rolling resistance.* The agency projected that a fuel economy improvement of 4.5 percent would be achievable by the 1980 model year through the use of current or advanced radial tires on all light trucks, rather than the bias ply and bias belted tires currently used. This improvement was based on measured differences (using the tire companies' own test procedures) in tire rolling resistance between radial and bias tires and the known relationship between rolling resistance and fuel economy for passenger automobiles. See, e.g., DN-018-28, Table I (Goodyear); DN-018-49, p. 1 (Firestone); DN-018-46, p. 2 (Uniroyal). Further significant reductions in tire rolling resistance through increased tire inflation pressure and other means were anticipated for the near future. DN-018-28, p. 4 (Goodyear); DN-018-46, p. 2 (Uniroyal); DN-018-49, p. 2 (Firestone). Goodyear indicated that there is a possibility that their new elliptic tire, for which they project a fuel economy benefit of up to 6 percent compared to current radial tires, could be available for use on a portion of those light trucks which use passenger car type tires (primarily those under 6400 pounds GVWR), by the 1980 model year. DN-145; DN-146-A, p. 106-7. GM indicated that the same benefits achievable with the elliptic tire would be achievable with more conventional tires by increasing inflation pressure. Id.

After the issuance of the NPRM, it became increasingly clear that the fuel economy benefits associated solely with a switch to current radial tires would not equal 5 percent. A number of participants in the proceeding indicated that radial tires were inappropriate for use on off-road vehicles, due to the greater vulnerability of radial tires to sidewall damage. DN-056, p. 190 (Goodyear); DN-097, p. 5 (IH); DN-098, p. 1 (AM); DN-096, p. 9 (GM). In addition, problems exist in measuring the radial-bias tire fuel economy differential on current EPA fuel economy test procedures. Current test procedures apparently accurately simulate the characteristics of radial tires but overestimate the fuel economy characteristics of bias tires. DN-067, App. IV, Ex. F (Ford); DN-018-49 (Firestone); DN-145 (Goodyear). The light truck manufacturers generally projected fuel economy improvements in the range of 2 percent for the portion of their fleets which use passenger car type tires, assuming that the optional "coast-down" test procedure could be used to measure the fuel economy benefit of switching to radial tires. DN-120, App. C (Chrysler—2½ percent); DN—906, p. 9 (GM—1½ percent); DN-067, App. IV, Ex. F (Ford); DN-088, p. 4 (Toyota).

In view of this new information submitted after the issuance of the NPRM, the agency has re-analyzed the potential for fuel economy improvements from switching to radial tires. On the basis of this detailed analysis of the tires currently used by the manufacturers on light trucks and current recommended inflation pressures, the agency now projects that fuel economy improvements ranging from 1.6 to 2.5 percent can be achieved for approximately 80 percent of the light truck fleet (excluding off-road applications) by switching to radial tires and by making minor inflation pressure increases. See RSP-S. It should be noted that to the extent new tire concepts such as the elliptic tire become available for use in light trucks in the 1980-81 period, the manufacturers will have additional flexibility in meeting the fuel economy standards. It is possible that the agency's originally projected fuel economy benefit will be achieved with these advanced tire concepts.

13. *Engine displacement or drive ratio reductions.* The agency projected that reductions in average engine displacement or drive ratios (gear ratios or axle ratios) or both could be implemented by the 1980 model year for each manufacturer. Specifically, it was projected that the product of engine displacement multiplied by total drivetrain ratio (CID x N/V) could be reduced 10 percent from 1977 levels for each manufacturer, in addition to reductions made in conjunction with weight reduction, to maintain constant vehicle performance. Drive ratio changes can be accomplished with relatively short lead time. Such reductions were projected to result in fuel economy improvements of approximately 4 percent. Reductions in engine displacement or drive ratio tend to diminish a vehicle's acceleration and grade-climbing ability, thereby limiting the extent to which these reductions can be implemented without impairing the vehicle's functional capabilities.

It should be noted that these reductions are projections of reductions in average engine displacement or drivetrain ratio, and not every vehicle would be expected to achieve such a reduction. For example, vehicles incorporating overdrive transmissions would not be expected to fully implement such reductions, and other vehicles would be expected to achieve reductions greater than 10 percent. The 10 percent figure was based on an analysis by the Department of Transportation which indicated that much larger reductions, i.e., as high as 30 percent, could be achieved without violating any of the minimum perfor-

mance criteria specified by the manufacturers. DN-036, App. B. The agency used a 10 percent reduction instead of the 30 percent reduction projected in that document based on the agency's judgment that major reductions in acceleration performance occurring over a relatively short period of time might result in consumer dissatisfaction and possibly reduced sales, notwithstanding the ability of the vehicles to satisfy minimum performance requirements.

The manufacturers and many other participants in the rulemaking expressed concern as to whether the proposed standards could be achieved while still maintaining acceptable levels of light truck performance and utility. However, no participant advanced any specific vehicle performance criteria different from those previously analyzed by the agency, and no specific information was presented which contradicted the original conclusion as to the feasibility of a 10 percent reduction in engine displacement or drivetrain ratio or both. In fact, it appears that all of the manufacturers except Chrysler and IH have presented information which indicates that the 10 percent reduction is feasible and in some cases currently planned. DN-096, App. B, p. 25 (GM); DN-149, App. IV. Ex. I (Ford); DN-010-02, p. 10 (AM). Chrysler is apparently investigating certain specific approaches for reducing engine displacement or drive ratio. DN-120, Att. B, p. 25. Further, it appears that even with a 10 percent reduction in CID x N/V, Chrysler's average performance level for a given test weight would be higher than those of many of the other manufacturers. See RSP-S.

An example of the difference between the arguments made at the January 16-17 hearing or in written comments and the actual manufacturer plans and capabilities relating to this issue is the position taken by Ford. At various times in the rulemaking, Ford stated on one hand that it could not reduce average engine displacement because of production capacity constraints (DN-149, App. IV, Ex. I, p. 2) and because such reductions might be fatal to their truck's functional capabilities, but on the other hand that reductions in CID alone of more than 10 percent were planned. DN-010-02, App. F; DN-149, App. IV, Ex. I, p. 1. Ford similarly raised numerous objections to NHTSA's projections of feasible reductions in N/V ratio (DN-149, App. IV, Ex. 1), despite the fact that significant reductions of that parameter are also planned by Ford. DN-149, App. IV, Ex. I, p. 1. Thus, Ford objected strenuously to the feasibility of NHTSA's projections of CID x N/V reductions, despite the fact that it plans to make even greater reductions than those projected by the agency. With respect to the issue of whether these reductions will improve fuel economy by the amount projected by NHTSA, Ford's own test data for 1979 light trucks supports improvements of at least the level projected. See RSP-S.

Therefore, the reductions in engine displacement or drivetrain ratio projected initially by the agency have been retained, except where the manufacturers' plans exeed those projections. In the latter cases, the final projections were based on the manufacturers' plans. However, the agency projects a more limited 7 percent reduction for Chrysler in 1980. The agency projects that Chrysler may need an additional year to phase-in maximum reductions, given its limited current plans to make these changes and its past reliance on high performance levels as a marketing technique.

14. *Mix shifts.* For the 1980-81 model years, the agency projected negligible shifts in the 1977 product mix of the manufacturers beyond those projected by the manufacturers, or, looked at another way, the agency projected that the manufacturers would take such actions as necessary to assure that product sales would not shift toward the higher test weight classes. The one exception to this statement is that the agency projected the sale of a limited number of "mini-vans" and other new truck concepts by General Motors in the 1980-81 model years. GM now indicates that sales of the mini-van, at least in a light truck configuration, are not planned. DN-056, p. 51-3. Because of the limited variety of market class offerings currently available in the light truck market, as compared to passenger automobiles, mix shifts could occur in the future primarily through new product offerings. New offerings which are not currently planned are not feasible in the limited time left before the 1980 and 1981 model years.

However, the agency projects that one limited type of mix shift is feasible for the 1980 model year. Because of recent changes in the fuel economy and emissions test procedures by EPA, optional equipment must be included on test vehicles if it is projected to be sold on 33 percent of the vehicles in a particular "car line." Under the previous test procedure, optional equipment was included only if it was projected to be sold on 33 percent of the vehicles in a particular "engine family." An "engine family" is, generally, a combination of basic engine and emission control systems, independent of the vehicle in which the engine is placed. This test procedure revision would be expected to have a random impact on the manufacturers, with no trend toward either higher or lower test weights. However, it appears that the manufacturers have carefully targeted the availability of optional equipment to take maximum advantage of the option rule (e.g., restricting options on some engine families to 30 percent usage), so that the change to the "car line" test will initially increase average test weights. However, given time between the test procedure change and the 1980 model year, there is no reason to believe that the manufacturers will not be able to reallocate their option offerings among engine families (e.g., restricted option sales to 30 percent for some car lines which currently have option sales levels of just over 33 percent) to offset the effect of the rule change. In fact, it appears that such efforts are already planned. DN-146-A, p. 26-8. No net reduction in the total number of options sold for all light trucks need result from such actions.

d. ECONOMIC PRACTICABILITY

Relatively few objections were raised with respect to the costs attributed by the agency to various technological improvements. None of the comments suggested that the cost of implementing the technologies upon which the proposed standards were based would exceed the bounds of economic practicability. However, the manufacturers and others did argue that compliance with standards at the levels of the proposal, which to those commenters implied taking steps beyond implementing the projected technologies, would be economically impracticable. With respect to the latter issue, the difference between the agency's position and that of the manufacturers resulted from differences in the projected fuel economy benefit achievable with the various technological improvements and the extent to which these improvements could be implemented by a particular model year, and from the consequent assumption by the manufacturers that compliance measures beyond those specified in the proposal would be necessary. These differences have been discussed in section III.c above, and the final standards are established at levels closer to what the manufacturers projected than the proposed standards.

The increase in capital expenditures necessary for individual manufacturers to comply with the 1980 and 1981 standards is not large, either absolutely or relatively. Almost no increase in capital investment will be necessary for the manufacturers to achieve the standards instead of their lower recommended levels of average fuel economy. Typically, the difference between the standards and the recommended levels consisted of low capital measures such as performance reductions and lubricants. The capital investment necessary to make up this difference is not the full investment attributable to the standard. A portion, but not all, of

the capital investment necessary to achieve the manufacturer's recommended levels is also attributable to the standards. The reason for not attributing all of this latter investment to the standards is that the agency anticipates that the need to remain competitive with other manufacturers and the marketability of increased fuel economy would have led the manufacturers to voluntarily make fuel economy improvements even if there were no fuel economy standards. The legislative record for the fuel economy provisions of the Act is replete with statements supporting the reasonableness of anticipating that result. Even if the entire capital investment for raising average fuel economy to the level of the standards were attributed to the standards, the increase in business-as-usual capital expenditures would be negligible, on the order of 3 percent. That small figure may be an overstatement because it is based on the pessimistic assumption that none of the capital investments could be offset through normal business expenditures.

With respect to the issue of the specific types of analysis which should be undertaken in a determination of economic practicability, GM and Ford argued that NHTSA should consider the impact of fuel economy standards on the economy as a whole, not just the industry itself. DN-067, App. V, p. 1 (Ford); DN-096, App. D, p. 1, DN-056, p. 93 (GM). NHTSA recognizes the need to consider such factors as the impacts of standards on employment in the auto industry and its suppliers, inflation, vehicle sales, and the trade balance, and the agency did so in its impact assessment. DN-067, App. V, p. 1 (Ford). These matters are, of course, interrelated, in that product changes which are not accepted by some consumers will reduce industry sales, at least in the short term, with resulting decreases in employment and industry profitability. However, the agency believes that limited visible or otherwise perceptible product changes that may be necessary to comply with these standards will be accepted by consumers.

Several of the manufacturers urged that the economic practicability of the fuel economy standards be determined in the context of the other Federal vehicle standards which the manufacturers must meet. The assumption of these commenters appeared to be that it would be sufficient in making such an analysis simply to know the expenditures necessitated by the various Federal vehicle regulatory programs. The shortcomings of such an analysis are obvious. A definitive analysis of the sort urged by these commenters implies the availability of extensive information regarding all of the manufacturers' resources and demands on those resources. None of these commenters provided or offered to provide such information.

Ford argues that greater emphasis should be placed on cost-benefit analysis in determining economic practicability. Id. Ford states that greater reliance should be placed on the language of section 325(a) of title III of the Act, relating to appliance energy efficiency and not automotive fuel efficiency. That section clearly envisions substantial reliance on cost-benefit analysis in setting standards. However, section 325 also goes to great lengths to differentiate between the concepts of "feasibility" and whether standards are "economically justified," with cost-benefit analysis being tied to the latter concept only. Since the language in section 502 of the Act is expressed in terms of "feasibility" and "practicability," the agency remains of the view that Congress intended that these terms be interpreted consistently in different sections of the same statute. See 42 FR 33537. Nevertheless, the agency notes that the benefits of the technology projected by NHTSA to be used in meeting the 1980-81 fuel economy standards would meet a cost-benefit test. This result could change depending on the retail price increases which the various manufacturers elect to impose, and depending on whether the manufacturers elect to purchase technology from outside sources or produce it themselves. See FIA.

No slowdown in the growth of the light truck market should occur as a result of these standards. Of all the projected methods for improving fuel economy, only engine displacement or drive ratio reductions and the use of diesel engines have the potential to be viewed by consumers as having adverse impacts on the utility of light trucks despite their contributions to increased fuel economy. In both cases, NHTSA projected changes no more stringent than those already contemplated by the manufacturers. The unplanned production of new, downsized trucks is not projected due to leadtime constraints and is not necessary to meet the standards promulgated herein. The other projected changes will hardly be perceived by vehicle owners, except with respect to slight initial vehicle price changes and significant fuel economy improvements.

The possibility of adverse sales and employment impacts resulting from retail price increases can be roughly projected through the use of economic models. Since the retail price increases associated with this rule are expected to be small, absolutely as well as compared to the fuel savings, compliance with these standards should not result in any significant sales or employment effects. See Final Impact Assessment. Similarly, the vehicle and price changes should not lead to retention by owners of older vehicles instead of buying the new more efficient ones.

GM argues that the fuel savings associated with the proposed standards are small in comparison to the risks associated with compliance with those standards. DN-096, App. D. GM's comment about risks clearly applies to standards set at the proposed levels. Since the final standards have been reduced as a result of new information received since the proposal and are near the levels recommended by the manufacturers, they presumably do not present the risks mentioned by GM. Because of changes in the baseline pursuant to manufacturers' comments, however, the savings are similar to those for the proposed standards. Those methods of improving fuel economy which involve possible marketing risk, such as engine displacement reductions, have been established at levels equal to GM's own projections. With respect to the magnitude of the potential energy savings associated with these standards, the light truck fuel economy standards should not be considered in a vacuum, but rather must be viewed in the context of the entire national energy conservation program. If each element of that program were to be cut back or eliminated on the grounds that the savings achievable with that element is small in comparison to the total energy problem, then the overall program could not be successful.

Ford objected to the exclusion of the cost for their new pickup truck line in the agency's economic analysis. This cost was not included in the agency's Preliminary Economic Impact Assessment because the new truck series was not an extraordinary cost associated with these fuel economy standards. The introduction of these new models is consistent with Ford's historic redesign cycle, and would have occurred at approximately the planned time regardless of the existence of standards. DN-001-02, Att. 1, p. 1. Ford began work on the new truck prior to the enactment of the Act, and Ford stated that the fuel economy standards were only one factor considered in the design. DN-056, p. 225. Further, it is apparent from the other factors specified by Ford that the standards were not the only reason for making fuel economy improvements. The fact that the fuel economy standards were one of the concerns in planning that truck does not necessarily imply that additional costs were associated with that concern. Ford submitted no information which would indicate that the cost of introducing a new light truck for general marketing, competitive, and compliance purposes is any greater than the cost of introducing a new light truck for marketing and competitive purposes alone. Therefore, no

costs associated with this new light truck, other than those for the technological improvements discussed in this notice (e.g., improved lubricants, radial tires, etc.) have been attributed to this rulemaking.

Ford also argued that the cost of electronic engine controls and three-way catalysts is so high that their use is unjustifiable for light trucks in 1980-81. DN-067, App. IV, Ex. A, p. 15. The agency has never suggested that three-way catalysts be used on all light trucks for 1980-81. With respect to the use of electronic engine controls for spark advance, air-to-fuel ratio, and exhaust gas recirculation rate, Ford submitted only "retail price equivalents" for the cost of those items, which includes an unspecified mark-up. Information currently available to the agency from suppliers of electronic components indicates that the cost of these items on a high volume, per unit basis, would not justify retail price increases to the level specified by Ford ($128). It is impossible for the agency to analyze Ford's objection as to the cost for variable displacement engine technology, which Ford also provides in terms of a retail price equivalent. Id, App. V, p. 13. Ford's objection to the agency's projected cost for engine displacement and/or drive ratio reductions (Id, App. V, p. 12) is based on Ford's assumption that it would have to introduce a new line of engines beyond its current plans. That assumption is unfounded. See section III.c.13 of this notice. Ford's objection to the cost of weight reduction is also based on its assumption that product changes beyond those projected by NHTSA would be necessary to achieve the fuel economy benefit specified by the agency. As discussed in section III.c.1 of this notice, the agency's revised weight reduction projection for Ford is based on the agency's best estimate of the benefit achievable from Ford's planned new truck line and other actions such as option restrictions which have no associated cost.

Chrysler (DN-120, App. N) and IH (DN-097-A, App. J) objected to the costs used by the agency for weight reduction by material substitution. Although Chrysler provided no basis for its estimate of a 35¢ per pound cost penalty for weight reduction by material substitution, and IH failed to provide any detailed information (such as breakdowns of material and fabrication costs) in support of its claimed costs for various component substitutions, from other information it appears that the agency's cost projections for some components were too low. Alcoa (DN-018-60) provided detailed cost information for aluminum components, and other material suppliers provided similar information for various plastic and high strength steel items. Therefore, the cost estimate for weight reduction by material substitution has been adjusted in accordance with this newly supplied information. See Final Impact Assessment.

Chrysler also objected to the cost associated with diesel engines. Since the agency has not projected any use of diesel engines, the cost of dieselization is not attributable to these fuel economy standards, and is therefore not included in the agency's analysis. However, Chrysler correctly points out that the agency's cost estimate for diesel engines was based on the cost resulting from conversion of a current engine production facility to produce a dieselized version of an existing engine, and high volume sales of that engine. Docket FE-76-01-GR-003, Document 3, App. B. This scenario accurately reflects the dieselization program of only GM among the domestic manufacturers, at the present time. If a manufacturer were to purchase engines from an outside source, the cost of dieselization to the consumer would be much higher. DN-120, App. N. Chrysler and IH both plan to continue purchasing diesel engines, at least for the near future.

Perhaps the most frequent comment in the entire rulemaking involved the concern expressed by the light truck industry, Congressmen, community groups, and others that the proposed standards would result in substantial unemployment. Based on the post-proposal statements of the manufacturers, many commenters assumed that the agency had given insufficient consideration to the possible employment impacts of its proposal. This is manifestly not so. The agency sought, based on the information available to it, to propose standards that could be met without any significant employment impact. The analysis of that information indicated that no unplanned major design changes, new engines or new models would be necessary to meet the proposed standards.

In their post-proposal comments, the light truck manufacturers submitted new information which contradicted or clarified previous submissions or which filled previous information gaps. The new information showed that some technology would not yield the degree of fuel economy improvement indicated by the pre-proposal information and that some technology could not be used to the extent previously indicated by agency analysis. Some manufacturers noted that the technological projections underlying the proposal would not yield the proposed levels of average fuel economy and imputed to the agency an intent to require the manufacturers to make technological changes not feasible within the available leadtime or to make drastic reductions in product offerings. Neither the proposal nor its supporting documents were based on such an intent.

As noted above, the agency sought to propose standards that would not adversely affect employment. The agency continues to embrace that goal.

With respect to the issue raised by Ford and others, NHTSA has made adjustments to the proposed fuel economy standards in light of information submitted after the issuance of the NPRM in December. On the basis of all this information, NHTSA concludes that the fuel economy standards established herein can be met without elimination of any current product offerings, and without any necessary loss in employment. By making the various relatively minor technological improvements discussed in this notice, NHTSA projects that each manufacturer can achieve the final standards. The impact on employment of making these vehicle improvements may well be positive. DN-160, pp. 16-18 (Public Interest Campaign), and FIA. The final standards are set at levels significantly lower than the proposed standards, due to the post-proposal submissions, comments, and data from a wide range of participants in the proceeding. Such revisions are entirely consistent with the informal rulemaking process, in which an agency makes a proposal based on the best information it then has available, solicits additional information from all interested individuals and organizations, and then establishes a final rule based on all available information, including changes based on comments on the proposal. See 5 U.S.C. 553. "International Harvester v. Ruckleshaus," 478 F. 2d 615, 632.

Chrysler responded to the proposal by announcing that it was delaying the conversion of its Jefferson Avenue assembly plant in Detroit from the production of full-size passenger cars to van production. DN-120, p. 13. Chrysler stated further that issuance of final standards at the proposed level would lead to a closing of the plant permanently. Subsequently, the company indicated that the plant would definitely remain open if the standards were established at a much lower level specified by Chrysler. However, Chrysler declined to state the maximum level of standards which could be set without that company's deciding to close the plant. Therefore, the agency issued a special order under section 505(b) of the Act to Chrysler to obtain information related to Chrysler's statements, e.g., information about current and future van sales and production capacity. DN-191. Chrysler did not respond, or provided incomplete answers to several crucial questions and requests for documents in the special order, particularly those

items bearing on the relationship of the proposed standards and decision to delay the conversion. DN-191, 191-A.

The final standards established by this notice should not cause or pose the possibility of plant closings. They reflect the agency's consideration of all of the post-proposal information submitted by the manufacturers regarding the fuel economy improvements to be gained from particular technologies and the extent to which those technologies can be implemented in 1980-81. Significant changes have been made to the agency's original projections concerning these matters. There is ample leadtime for modest departures required from the manufacturer's plans for 1980 and the only slightly less modest extra effort necessary for 1981.

e. THE EFFECT OF OTHER FEDERAL MOTOR VEHICLE STANDARDS

A number of changes in Federal emission standards and associated test procedures will occur between 1977 (the base year for our calculations) and 1980-81. The major change is the tightening of the light truck emission standards from 2 grams per mile of hydrocarbons (HC), 20 grams per mile of carbon monoxide (CO), and 3.1 grams per mile of oxides of nitrogen (NOx) for 0-6,000 pound GVWR trucks only to levels of 1.7/18/2.3, respectively, for 1979 model year light trucks with GVWR's up to 8,500 pounds. The manufacturers claimed fuel economy penalties ranging from 3 to 5 percent largely associated with the change in the NOx standard, with changes in the other two standards apparently having a much less effect. In the 1979 fuel economy standard rulemaking, the same issue arose, and the agency took the position that none of the manufacturers had demonstrated the existence of an unavoidable penalty. 42 FR 13813-4. Only Chrysler and Ford have since submitted additional data or arguments to support their claims of penalties.

Chrysler's argument for a 3 percent penalty is based upon a comparison of 1978 data from the California light truck fleet subject to standards of 0.9/17/2.0 and the "49-state" fleet subject to Federal standards. NHTSA finds a number of serious errors in this comparison. First, the California 1978 standards are more stringent than the 1979 Federal standards. Chrysler assumes that the differences between these two sets of standards can be accounted for by making the assumption that the fuel economy penalty resulting from more stringent emission standards is linearly related to the change in the NOx standard. Chrysler offers no basis for this assumed relationship, and NHTSA knows of no reason why such a relationship should exist, particularly when more advanced control technology may be available for compliance with the more stringent standard. Second, Chrysler compared these standards based on 1978 technology, while NHTSA methodology requires a comparison based on 1977 versus 1980-81 emission control technology. Therefore, under Chrysler's procedure, the fuel economy of vehicles subject to Federal emission standards has the advantage of one additional year of technology development, while the fuel economy of California vehicles is understated because is does not reflect, as it should, the technological development that will occur between 1977 and 1980-81. Thus, the measured penalty was inappropriately increased. In this rulemaking, NHTSA must determine the fuel economy achievable in 1980-81 based on the technology available and the emission standards applicable in those years, compared to the fuel economy that was achievable in model year 1977 with 1977 emission standards and control technology. Thus, Chrysler's analysis failed to account for advances in technology between 1977 and 1980-81. Third, and perhaps most significant, California experience has in general not been a valid indicator of 49-state experience with respect to emission standards effects. The reason for the past unrepresentativeness of California experience is that manufacturers cannot devote the same level of effort toward optimizing emission control systems and engine calibrations to minimize the effect of more stringent emission standards when those standards are applicable only to a small minority (perhaps 10 percent) of their fleet as it does when they are applicable to 90 percent of their fleet. Therefore, lower fuel economy would be expected if a particular set of (California) emissions standards applied to a minority of the fleet, and compliance was achieved by modifying a portion of the fleet which was originally designed to meet less stringent (Federal) standards. Therefore, the agency is unpersuaded by Chrysler's argument.

Ford attempted to demonstrate the existence of an emmission standard-related fuel economy penalty by two methods. First, it used an analytical method, called "engine mapping", which is designed to show the theoretical relationship between fuel economy and NOx emissions at various emission standard levels. This approach showed that a penalty of approximately 1 percent is theoretically achievable through optimal use of proposed technology. DN-067, App. VI, p. 2. Second, Ford submitted test data from 16 development vehicles which were calibrated to meet 1979 standards, and compared those results to 1978 emission certification data for identical vehicles (in terms of engine, transmission, inertia weight, and axle ratio). Under that procedure, a fuel economy penalty of 4 percent was measured. Id., p. 5. NHTSA has a number of difficulties in accepting the results of either of these procedures and applying them to this rulemaking.

First, Ford's tests were conducted on development vehicles at initial calibration settings. Substantial improvements are feasible after the first testing of development vehicles, on a continuing basis through 1980 and 1981. Ford's analysis ignores this effect by comparing 1979 development data against data for 1978 vehicles, which have been subject to the same emission standards for several years, with ample opportunity to more closely approach full optimization. Ford denies the existence of such an improvement effect between initial development testing and final emission certification, but bases its argument on its experience in the 1978 model year, a year in which the emission standards did not change, and for which calibrations would be expected to more closely approach full optimization.

Second, Ford's engine mapping procedure does not measure the relevant fuel economy differential for the purposes of NHTSA's projections. Ford's procedure attempts to measure fuel economy when meeting 1979 emission standards using 1979 emission control technology, and compares that value to fuel economy achievable using 1979 technology to meet 1977 model year standards. DN-149, App. VI. This procedure is patterned after that specified in section 502(d) of the Act. NHTSA, on the other hand, under section 502(e)(3) of the Act, must not only assess the effect of the change in emission standards between 1977 and 1979 (and on to 1980 and 1981, where standards will remain the same) but also consider the offsetting effect of differences between the technology and calibrations actually used in 1977 and the technology and calibrations which will be available for use in 1980-81. Thus, Ford's engine mapping analysis failed to consider advances in emission control technology between 1977 and 1979, and further advances achievable through 1980 and 1981. Instead, technology and calibration optimization were assumed by Ford to be fixed at a particular level. However, improvements in emission control technology have in fact occurred in this 1977-1979 period. DN-067, App. IV, Ex. A, Att. 1. The small magnitude of the theoretical penalty claimed by Ford (1 percent) and the fact that advances in technology were not considered in developing that penalty indicates that the actual 1977-79 combined effect of emission standards changes and technology advances may well be an improvement in fuel economy, not a loss.

Third, it has been demonstrated that when passenger automobile NOx

emission standards were made more stringent in 1977 (from 3.1 to 2.0 gram per mile), engine efficiency improvements more than offset any adverse impacts of the new emission standard, when various extraneous factors affecting fuel economy were disaggregated. SAE paper 760795. EPA expects that this historical effect should also be applicable in the case of comparable reductions in the light truck NOx emission standard. DN-255, pp. 1-2.

Therefore, NHTSA reaffirms its position that the 1979 change in Federal emission standards has not been demonstrated to cause an adverse impact on average fuel economy for light trucks.

Ford also argued that the agency has not adequately accounted for the effect of California emission standards, which are more stringent than Federal standards. DN-067, App. VI, p. 9. Ford claims that the effect of these standards is 0.1 mpg, or less than 1 percent. As EPA points out, Ford's analysis is based upon a comparison of 1978 California and 49-State vehicles, and does not accurately reflect the types of technology which will be used in 1980-81 to comply with California standards. Ford indicates that it will be using electronic engine controls in conjunction with three-way catalysts to meet these more stringent California standards in 1981. DN-149, App. IV Supp., Ex. A, p. 5. (Ford). In fact, Ford has already begun using this type of technology on its 1978 California passenger cars. Vehicles using this technology are projected by Ford to achieve the same fuel economy as a 49-State vehicle in the same model year. NHTSA projects that, given current efforts to develop these advanced emission control systems for passenger car use, a sufficient number of these systems could be applied to 1980-81 model year California light trucks to eliminate the almost negligibly small effect of the California standards.

Several manufacturers have also claimed that EPA's recently issued advisory circular on changes to the transmission shift schedule for fuel economy and emission testing of manual transmission vehicles will result in a fuel economy penalty. DN-097, p. 4 (IH); DN-096, App. B, p. 25 (GM); DN-067, App. VI, p. 15 (Ford). Previously, the manufacturers have been permitted to shift manual transmission vehicles in fuel economy and emission testing according to the shift schedule specified in the owner's manual. According to EPA, some manufacturers have taken advantage of this provision by specifying shift schedules in the owner's manuals for certain vehicles which are not representative of typical driving. These new shift schedules have recommended shifting at extremely low engine speeds, or in some cases skipping gears in the shift pattern, resulting in artificially high fuel economy and low emissions. DN-255, Advisory Circular Number 72, January 19, 1978. Under the new requirements, three alternative shift patterns are permitted, either shifting at 66, 65, and 57 percent of rated engine speed into second, third, and fourth gears, respectively, or shifting at 15, 25, and 40 miles per hour into second, third, and fourth gears respectively, or some other shift pattern which the manufacturer demonstrates to be representative of actual driving experience. Id. In the first two alternatives, skipping gears while shifting up (e.g., first directly to third or fourth) is not permitted.

The manufacturers have not yet had the opportunity to fully evaluate the effect of the change in the EPA test procedure on fuel economy. DN-149, App. VI, p. 16 (Ford); DN-146-A, pp. 127-8 (GM). Early submissions by the manufacturers evaluated the impact of a requirement of shifting at 66 percent of rated engine speed for all gears, not the final EPA requirement. DN-096, App. B, Table B-7 (GM); DN-067, App. VI, p. 16 (Ford). Therefore, there is insufficient data to justify NHTSA's making an adjustment to the standards now. Although the test procedure change was intended to have the effect of reducing the measured fuel economy of some vehicles, and make the measured fuel economy more representative of on-the-road fuel economy, the manufacturers have as yet not quantified the magnitude of this effect. To justify any reduction, the agency would be required to determine the number of test vehicles which were shifted in an unrepresentative manner in 1977, the specific shift schedule permitted under the new requirements which would provide the most favorable results for individual manufacturers, and the fuel economy impact for individual vehicles of the change from 1977 shift patterns to this most favorable new pattern. This adjustment factor would be expected to vary from manufacturer-to-manufacturer, depending on the extent to which unrepresentative shift schedules were specified in 1977. Therefore, the agency will make no adjustment to the standards to account for this effect in the current rulemaking, but will accept petitions from individual manufacturers which attempt to justify a reduction in the standards because of the test procedure change.

Ford also argued that changes in test procedures for measuring evaporative emissions from vehicle fuel tanks would cause a fuel economy penalty. This new procedure, called the SHED test, attempts to more accurately quantify the total amount of hydrocarbons which escape from the vehicle, other than as exhaust emissions. Ford's argument for a penalty of 0.08 mile per gallon is that the new test procedure will measure more escaped vapors than the old one, thus requiring the manufacturers to use more efficient evaporative emission control systems. These more efficient systems would, according to Ford, result in more hydrocarbon vapors being retained in the evaporative cannister and fed through the carburetor. However, Ford assumes that none of these vapors would be combusted and do work, but instead would be sent straight out the exhaust system. This additional hydrocarbon exhaust would be measured on the fuel economy test as fuel consumed, however, according to Ford. DN-149, App. VI, Ex. B. NHTSA cannot accept this analysis for two reasons. First, there is no reason to believe that all the extra gasoline vapors retained in the gas tank and sent through the carburetor would escape combustion. If some portion of this extra gasoline vapor is combusted and does work in moving the vehicle, then a benefit in measured fuel economy should result. Second, EPA indicates that improved evaporative emission control systems are available which make efficient use of the extra fuel which is retained in the cannister rather than vented to the atmosphere. Id. Therefore, NHTSA concludes that Ford has not demonstrated that a fuel economy penalty exists due to its current evaporative emission control system, and that no penalty need exist if a more efficient design were adopted.

f. THE NEED OF THE NATION TO CONSERVE ENERGY

No detailed comments were received on this consideration in establishing the "maximum feasible average fuel economy level," other than that made by GM and addressed in section III.d of this notice. The agency believes that the need of the nation to conserve energy continues to be very substantial. See also DN-160, p. 20 (Public Interest Campaign).

g. BASIS FOR DETERMINING THE "MAXIMUM FEASIBLE AVERAGE FUEL ECONOMY" LEVEL

Many participants in the proceeding argued that the agency had established fuel economy standards at levels above those achievable by one or more of the manufacturers, and that such a procedure exceeds the agency's statutory authoriity. DN-097, p. 8 (IH); DN-096, p. 12 (GM); DN-149, App. VIII, Att. A (Ford); DN-120, p. 9 (Chrysler); DN-056-05 (Congressman John Dingell). On the other hand, the Center for Auto Safety argued that standards cannot be based on the "least capable manufacturer," citing supportive language in the Conference Report on the Act and the various pro-

visions in the Act for compromise or elimination of civil penalties in case of a failure to meet fuel economy standards. DN-155. See also DN-160, p. 8 (Public Interest Campaign).

It should be noted at the outset that the agency did not propose standards at levels which it concluded could not be met by one or more of the manufacturers. Rather, the agency postulated certain technological improvements, calculated the resulting fuel economy for the various manufacturers, and then discussed certain additional measures which could be undertaken by certain manufacturers to achieve the higher level of fuel economy at which the standards were set. 42 FR 63193. While it is true that the agency discussed the ability of some of the manufacturers to pay civil penalties in case of noncompliance, the payment of such penalties was viesed as an alternative (albeit an undesirable one) which some manufacturers might adopt rather than making all feasible fuel economy improvements. The manufacturers uniformly stated at the January 16-17 public hearing and in their written submissions that they would not opt for payment of civil penalties rather than making feasible fuel economy improvements, and the agency applauds this policy.

As will be discussed in section V of this notice, the final 1980-81 fuel economy standards are established at levels which NHTSA projects to be technologically feasible and economically practicable for all the manufacturers. Therefore, NHTSA need not address the comments relating to this issue.

IV. Other Miscellaneous Comments on the NPRM

AMC and Chrysler argued that fuel economy labeling of light trucks in the 6001-8500 pound GVWR range should not be required in the 1979 model year, as was proposed in the NPRM. AM argues first that requiring the fuel economy testing necessary to develop data for labeling would impose an unacceptable burden on them and on EPA. DN-098, p. 7. Both AM (id) and Chrysler (DN-120, Att. B, p. 31) argue further that requiring labeling in 1979 will further impair the credibility of the fuel economy data as a valid representation of on-the-road driving experience. Chrysler bases its argument on the fact that EPA's current labeling procedures for light trucks do not distinguish between vehicles which might be expected to fall into different "car lines" (e.g., Ford F-100 and F-200 series pickup trucks) since they are marketed as different models. Instead, EPA has in the past included all of a manufacturer's pickup trucks in a single car line, potentially creating a situation where a wide variety of vehicles with greatly different fuel economy ratings would have the same fuel economy rating on the labels.

NHTSA is of the view that defining "car line" in a manner more consistent with the way that term is used for passenger automobiles (i.e., defining vehicles marketed as different models to be different car lines, such as the F-100 and F-200) would solve much of this difficulty. However, to require fuel economy labeling for the 1979 model year, this problem would have to be resolved almost immediately. EPA has informed this agency earlier this month that it may not be able to resolve this problem in time to make the amendments effective for the 1979 model year. Therefore, the fuel economy labeling requirement will not be made applicable until the 1980 model year.

NHTSA concluded that the fuel economy labeling provision for the 1979 was especially important in part because such a requirement would result in the generation of fuel economy data for vehicles with GVWR's between 6001 and 8500 pounds, in addition to the benefit to consumers of having this information. The Agency's effort to compensate for the current absence of that data was one of the manufacturers' primary objections to NHTSA's standard-setting methodology in this rulemaking. NHTSA deems it important to have this information as soon as possible to develop a fuel economy baseline based on test data for the light truck standards for model years after 1981. Therefore, NHTSA is requesting by this notice that each of the manufacturers provide by April 15 information on the extent to which they will provide NHTSA with fuel economy data (city and highway driving cycle) for their 1979 6001-8500 pound GVWR light trucks, and the time by which this testing could be accomplished. In view of the importance which the manufacturers understandably attach to baselines based on test data, the agency assumes that such data will be readily forthcoming from the manufacturers. To facilitate issuance of the notice of proposed rulemaking for 1982 and thereafter, these tests should be available by sometime this fall. Voluntary provision of this data by the manufacturers would obviate the need for NHTSA to exercise its authority under section 505(c)(1) of the Act to establish a rule which requires this testing on an expedited basis. Such a rule, if necessary, would likely require the testing by the end of this fall of the light truck configurations identified in 40 CFR 600.506(c).

NHTSA invited comment on the extent to and manner in which monetary credits could be transferred between the 1979 and 1980 model years, given the change in NHTSA's light truck classification scheme between 1979 and 1980. For 1979, light trucks are classified as either a single group or two groups, one consisting of "4-wheel drive general utility vehicles," and the other of "all other light trucks." For 1980, this classification will be changed, with 2-wheel drive and 4-wheel drive classes being established. However, section 508(a)(3)(B) of the Act prohibits applying credits generated by light trucks in one class to civil penalties incurred by light trucks in a different class. The Center for Auto Safety concludes that this requirement means that when the classification system is changed between model years, no carryover monetary credits can be applied unless the revised classes included identical vehicles for a particular manufacturer. DN-155. Ford, on the other hand, argues that manufacturers should not be penalized by the change in the classification scheme, so that credits earned by one class could be applied to penalties incurred by any other class which overlaps the first, at the manufacturer's option, between the 1979 and 1980 model years. DN-149, App. VIII, Att. C. No other participant in the proceeding addressed the issue in detail. Although NHTSA believes that all manufacturers can meet the 1980 standards, this issue may be of importance to some manufacturers in the 1980 model year. NHTSA wishes to give this issue further consideration and invites interested individuals and organizations to submit further comments on the question to NHTSA.

IH objected to the limited time available for comment on the proposed standards. DN-097, p. 2. The originally specified comment period of 45 days (42 FR 63184) was extended on a limited basis for 10 days (DN-38-A, 43 FR 3600, January 26, 1978), at the request of IH among others (DN-038) and IH took advantage of that extension. DN-97-A. Further, the agency let it be known that it would consider late submissions to the extent practicable, given the need to issue the final standards as soon as possible. All comments received before issuance of the final rule were considered. DN-038-A. In fact, the agency has affirmatively sought out additional information relating to IH's capabilities to make fuel economy improvements to its light trucks after the close of the extended comment period. In addition, it appears that the comment period for the light truck manufacturers effectively began some five weeks prior to the publication of the NPRM, when the Department of Commerce (without authorization by this agency) provided copies of a draft NPRM to the manufacturers, which provided the substance of the agency's proposal. DN-191, question 10. Therefore, IH effectively had much more than the 90-day comment period it requested.

AM claimed that the agency violated section 502(b) of the Act by failing to

promulgate the 1980 model year standard at least 18 months prior to the start of that model year. Section 501(12) defines "model year" to be "a manufacturer's annual production period (as defined by the EPA Administrator) which includes January 1" of the specified calendar year. If no annual production period exists, then the model year coincides with the calendar year. Id. AM states that its 1980 annual production period begins in July, 1979, and that the "18-month rule" therefore requires the issuance of the 1980 standard in January, 1978.

EPA has yet to determine a single model year for purposes of section 502(b) of the Act. Indeed, annual production periods appear to run from as early as that specified by AM to the beginning of a calendar year for many of the foreign companies. NHTSA has endeavored to provide approximately 18 months notice to the domestic manufacturers by the expeditious completion of this rulemaking. It is the agency's view that issuance of these by mid March satisfies all statutory requirements.

Several of the manufacturers and other participants in the rulemaking proceeding argued that the percentage increase for the proposed standards over 1979 levels was not consistent with the one mile per gallon increments Congress established for passenger automobile standards in 1978–80. It should first be noted that the final standards have been set at levels which require a lesser relative improvement over 1979 levels than did the proposal. However, the fact that Congress in 1975, with less and much older information than NHTSA currently has available, set standards for a different type of vehicle at particular levels has little bearing on the question of what is the maximum feasible average fuel economy level for light trucks. If major improvements in fuel economy are economically and technologically feasible in a short time, then NHTSA is statutorily required to set standards at levels commensurate with those capabilities.

Several of the commenters made the related suggestion that to require a large percentage improvement in average fuel economy was presumptively inappropriate. The percentage change in fuel economy standards is, by itself, an unreliable indicator of the time and effort necessary to meet the standards. This should be obvious from the fact that some substantial fuel economy improvements can be made quickly with little or no additional capital investment while some fairly minor improvements may take much longer and require significant additional investment. Only by examining the technological changes underlying the differences in fuel economy standards for different model years can any meaningful judgment be made about the reasonableness and stringency of the standards.

V. Calculation of the 1980 and 1981 Standards

As discussed in section III.b of this notice, the basic methodology on which the final standards are based is unchanged from the proposal. Revisions have been made as noted above to the projected benefit achievable with the various items of technology. When these revisions are taken into account, the manufacturers are projected to be capable of achieving the following levels of average fuel economy for their light trucks:

	1980		1981	
	2-WD	4-WD	2-WD	4-WD
AM	23.6	15.1	24.1	16.2
Chrysler	16.4	14.4	18.0	15.8
Ford	16.6	14.6	18.7	16.3
GM	16.8	14.1	18.7	15.7
IH	14.1	14.0	15.2	15.3
Nissan	24.4	.....	25.2	.....
Toyo Kogyo	32.0	.....	33.0	.....
Toyota	25.8	17.5	26.6	18.4
Volkswagen	18.9	.....	19.5	.....

(1981 projections would be reduced by 0.5 mpg if improved lubricants cannot be used in fuel economy testing.)

As can be seen from the above information, Chrysler has the lowest projected fuel economy for 2-wheel-drive light trucks, and GM the lowest for 4-wheel drive. IH would be subject to a separate standard, as previously discussed.

Because the agency's fuel economy projections for the major manufacturers fall within a relatively narrow range, and because insufficient leadtime exists for the manufacturers to make major improvements beyond those described in this notice, the agency finds it appropriate to establish the 1980 and 1981 standards at levels no higher than those projected for the manufacturer with the lowest fuel economy level. In view of this limited leadtime, the agency is making a slight downward adjustment to some of the levels projected for the "least capable" manufacturers, to provide a safety margin for compliance and to create some additional flexibility for the manufacturers in meeting the standards. The maximum feasible average fuel economy levels, and therefore the fuel economy standards, are established as follows:

	2-wheel-drive	4-wheel-drive	Limited product line light truck
1980	16.0	14.0	14.0
1981	*18.0	*15.5	*15.0

*The 1981 model year standards are 0.5 mpg lower than the values specified above if approval of improved lubricants for fuel economy testing is not granted by the EPA by January 1, 1980.

VI. Standards for 1982 and later model years

As discussed in section III of this notice, the limited leadtime available before the 1980 model year and slightly limited leadtime before 1981 model year have significantly restricted the extent to which the agency can project fuel economy improvements for the manufacturers. For example, no completely new vehicles or engines were projected by NHTSA unless those items were already planned by manufacturers. Therefore, the agency will issue in early 1979 a notice of proposed rulemaking to establish fuel economy standards for the 1982–1984 and possible 1985 model years. The much greater leadtime for these model years will, in turn, enable the agency to project major improvements in fuel economy beyond those set forth in this notice.

In virtually every technology category discussed in section III of this notice, significant potential exists for additional fuel economy improvements. For example, the agency projected weight reductions of approximately 200 pounds for the 1980–81 model years. Information available from material suppliers indicates that weight reductions of up to 900 pounds are currently feasible through substitution of lighter weight materials. If such material substitutions were undertaken in conjunction with a complete vehicle redesign (including some downsizing), it is possible that the average weight of light trucks could be reduced by a further 1,000 pounds, compared to current levels. Weight reduction of this magnitude could improve fuel economy by approximately 20 percent. Domestic production of small pickup trucks could be begun.

Additional lubricant improvements of as high as 5 percent were described above. Advanced tires could provide an additional 3 percent fuel economy improvement beyond 1981 levels. Turbocharged versions of smaller displacement engines could maintain vehicle performance while improving fuel economy by 10 percent. It is possible that further development work on variable displacement engine technology will solve current problems experienced by the truck manufacturers, resulting in a fuel economy improvement of 10 percent. Widespread use of advanced automatatic transmissions similar to the FIOD should result in a fuel economy improvement of 6.5 percent, beyond 1981 levels. Aerodynamic improvements should result in fuel economy improvements of at least 4 percent when current light trucks are redesigned in the 1982-5 period. A major area for potential fuel economy improvement is the use of diesel engines. Diesel engines have traditional-

ly been used in medium and heavy duty trucks, and it is reasonable to expect that light truck purchasers would accept diesels in view of the fuel economy improvement of at least 25 percent associated with their use. Turbocharged diesel engines, which have appeared on larger trucks in the past, offer even greater improvements, while reducing particulate emissions and improving acceleration capabilities. However, questions relating to the effects on health and potential for control of diesel emissions must be resolved before NHTSA will base fuel economy standards on the use of diesel engines. Use of other engine types, such as the Ford PROCO (programmed combustion) engine, may also be feasible in the 1982-85 time frame.

VII. Impact of Standards on Petroleum Consumption

The standards presented in section V of this notice are projected to result in the savings of about 8 billion gallons of gasoline over the life of the light trucks produced in the 1980 and 1981 model years. Even gasoline savings of this magnitude will not eliminate the nation's dependence on foreign petroleum and the associated trade deficit. However, these standards constitute a significant part of the overall energy conservation program which can gradually reduce this dependence. See Final Impact Assessment.

The impact of our national dependence on imported petroleum has become a matter of increasing concern over the past several months. The national trade deficit was over $26 billion for 1977, while the cost of imported petroleum was almost $45 billion in that same year. The national cost of oil imports has been increasing at a rate of over 30 percent per year since 1975. Petroleum now constitutes about one-third of all imports. The impact of this large trade deficit on domestic inflation is substantial. Although the light truck standards will not solve this problem by themselves, they could reduce total petroleum imports by $1 billion in 1985 and $2 billion in 1990. NHTSA deems this a significant benefit for the nation, and an important step in attempting to reduce the overall import problem.

VIII. Economic Impact of Standards

The economic impact of these standards was evaluated. This evaluation concludes that retail price increases in the range of sixty dollars total are expected from the actions necessary to achieve compliance with fuel economy standards for 1980 and 1981. This relatively small increase compares to a lifetime operating cost reduction of about 600 dollars per vehicle, due to the reduction in gasoline consumption for these light trucks. It is projected by NHTSA that light truck sales and related employment in the light truck industry will be at higher levels in 1980-81 than currently exist in the absence of some unrelated and currently unforseen downward turn in the national economy. The largest factor in this trend toward higher sales and employment is the underlying increasing consumer demand for these vehicles. It is projected that improving the fuel economy of light trucks will have a small effect in improving sales levels, since good fuel economy is a desirable vehicle attribute. Slightly higher retail prices resulting from the fuel economy standards might tend to slightly offset this trend toward higher sales. However, the effects of improved fuel economy and slightly higher retail prices are small in comparision to the underlying sales trend. Therefore, NHTSA concludes that the manufacturers' efforts to comply with fuel economy standards will at worst cause no loss in sales or employment, and may result in slight gains.

IX. Environmental Impact of the Standards

The Environmental Impact of the standards was also evaluated, in accordance with section 102 of the National Environmental Policy Act, 42 U.S.C. 4332. Copies of the agency's final environmental impact statement are available from the Office of Automotive Fuel Economy, at the address set forth at the beginning of this notice. That document sets forth the basis for the agency's conclusion that the standards will result in no significant adverse impacts on the environment. In fact, the major environmental impact of the standards, reduction in petroleum consumption, should reduce current adverse impacts resulting from high levels of petroleum exploration, drilling, transportation and refining. One type of technology which improves fuel economy but which may have adverse environmental effects is the use of diesel engines. Because of possible adverse environmental effects associated with the use of diesel engines, the agency set standards at levels which could be met without the use of those engines.

Authority: Sec. 9, Pub. L. 89-670, 80 Stat. 981 (49 U.S.C. 1657); sec. 301, Pub. L. 94-163, 89 Stat. 901 (15 U.S.C. 2002); delegation of authority at 41 FR 25015, June 22, 1976.

The program official and lawyer principally responsible for the development of this proposed regulation are George L. Parker and Roger C. Fairchild, respectively.

Issued on March 15, 1978.

Joan Claybrook,
Administrator.

In consideration of the foregoing, 49 CFR Chapter V is amended as follows:

1. By adding in alphabetical order the following new definition to § 523.2:

§ 523.2 Definitions.

* * * * *

"Basic vehicle frontal area" is used as defined in 40 CFR § 86.079-2.

* * * * *

2. By revising § 523.3(b) to read as follows:

§ 523.3 Automobile.

* * * * *

(b) The following vehicles rated at more than 6,000 pounds and less than 10,000 pounds gross vehicle weight are determined to be automobiles:

(1) Vehicles which would satisfy the criteria in § 523.4 (relating to passenger automobiles) but for their gross vehicle weight rating.

(2) Vehicles which would satisfy the criteria in § 523.5 (relating to light trucks) but for their gross vehicle weight rating, and which

(i) Have a basic vehicle frontal area of 46 square feet or less,

(ii) Have a curb weight of 6,000 pounds or less,

(iii) Have a gross vehicle weight rating of 8,500 pounds or less, and

(iv) Are manufactured during the 1980 model year or thereafter.

3. By revising the heading and introductory paragraph (a) of § 523.5 to read as follows:

§ 523.5 Light truck.

(a) A light truck is an automobile other than a passenger automobile which is either designed for off-highway operation, as described in paragraph (b) of this section, or designed to perform at least one of the following functions:

* * * * *

4. By replacing the term "nonpassenger automobiles" with the term "light truck" wherever the former term appears in §§ 533.1-533.4 and 533.6.

5. By amending § 533.4 as follows:

Paragraph (a)(1) is revised, a new paragraph (a)(3) is added, the definition of "jeep type vehicle" is deleted from paragraph (b), and the definitions of "captive import," "4-wheel drive, general utility vehicle," "basic engine," and "limited product line light truck" are added at the end of paragraph (b).

§ 533.4 Definitions.

(a) *Statutory terms.* (1) The terms "average fuel economy," "average fuel economy standard," "fuel economy," "import," "manufacture," "manufac-

turer," and "model year" are used as defined in section 501 of the Act.

(2) * * *

(3) The term "domestically manufactured" is used as defined in section 503(b)(2)(E) of the Act.

(b) * * *

"Captive import" means with respect to a light truck, one which is not domestically manufactured but which is imported in the 1980 model year or thereafter by a manufacturer whose principal place of business is in the United States.

"4-wheel drive, general utility vehicle" means a 4-wheel drive, general purpose automobile capable of off-highway operation that has a wheelbase of not more than 110 inches, and that has a body shape similar to 1977 Jeep CJ-5 or CJ-7, or the 1977 Toyota Land Cruiser.

"Basic engine" is used as defined in 40 CFR 600.002-80(21).

"Limited product line light truck" means a light truck manufactured by a manufacturer whose light truck fleet is powered exclusively by basic engines which are not also used in passenger automobiles.

6. By revising § 533.5 to read as follows:

§ 533.5 Requirements.

(a) Each manufacturer of light trucks shall comply with the following average fuel economy standards, expressed in miles per gallon, in the model year specified as applicable:

Model year	2 wheel drive light trucks		4 wheel drive light trucks		
	Captive imports	Other	Captive imports	Other	Limited product line light trucks
1979	.....	17.2 [7115.8			.....
1980	16.0	16.0	14.0	14.0	14.0
1981	*18.0	*18.0	*15.5	*15.5	*15.0

*These standards are 0.5 mile per gallon less if, by Jan. 1, 1980, the Environmental Protection Agency has not fully approved improved lubricants for use in fuel economy testing.

(b)(1) For model year 1979, each manufacturer may:

(i) Combine its 2- and 4-wheel drive light trucks and comply with the average fuel economy standard in paragraph (a) for 2-wheel drive light trucks; or

(ii) Comply separately with the two standards specified in paragraph (a).

(2) For model year 1979, the standard specified in paragraph (a) for 4-wheel drive light trucks applies only to 4-wheel drive general utility vehicles. All other 4-wheel drive light trucks in that model year shall be included in the 2-wheel drive category for compliance purposes.

(c) For model years 1980 and 1981, manufacturers of limited product line light trucks may—

(1) Comply with the separate standard for limited product line light trucks, or

(2) Comply with the other standards specified in § 533.5(a), as applicable.

[FR Doc. 78-7300 Filed 3-15-78; 3:21 pm]

[1505-01]

[Docket No. 75-28; Notice 5]

PART 567—CERTIFICATION

Certification of Multistage Vehicles

Correction

In FR Doc. 78-5914, appearing on page 9604 in the issue of Thursday, March 9, 1978, on page 9605, in § 567.5 *Requirements for manufacturers of vehicles manufactured in two or more stages*, the following corrections should be made:

1. In § 567.5(b)(1)(ii), the last line should read, "(a)(1), (b)(1)(i), or this paragraph.".

2. In § 567.5(b)(3), the next to the last line should read, "(a)(1), (a)(2), (b)(1)(i), (b)(1)(ii), or * * *.".

[4910-59]

[Docket No. 75-16; Notice 18]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

School Bus Air Brake Systems

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Final rule.

SUMMARY: This amendment suspends the school bus service brake stopping distance requirements of Standard No. 121, Air Brake Systems, which were scheduled for reimplementation April 1, 1978. This action is taken to preserve the status quo of the standard's applicability while more far-reaching issues of the air brake standard are resolved by the Department.

DATES: The amendment is effective March 23, 1978. Petitions for reconsideration must be received no later than April 24, 1978.

ADDRESS: Petitions for reconsideration and comments should refer to the docket number and be submitted to: Docket Section, Room 5108, 400 Seventh Street SW., Washington, D.C. 20590.

FOR FURTHER INFORMATION CONTACT:

Mr. Duane Perrin, Crash Avoidance Division, Office of Vehicle Safety Standards, 400 Seventh Street SW., Washington, D.C. 20590, 202-426-2153.

SUPPLEMENTARY INFORMATION: Standard No. 121 (49 CFR 571.121) regulates the braking system performance of air-braked trucks, buses, and trailers. The standard has been in effect for trailers since January 1, 1975, and for trucks and buses since March 1, 1975. Following implementation of the requirements for buses, a pattern of erratic behavior developed in the performance of the antilock system used by manufacturers of transit and intercity buses to satisfy the "no lockup" requirements of the standard (S5.3.1). The NHTSA suspended the service brake stopping distance requirement (including the "no lockup" requirement) for all buses to provide a period in which modified antilock hardware and newly-introduced systems could be field-evaluated (41 FR 1598; January 9, 1976). Several vehicle manufacturers and user groups argued that the suspension should be for a longer period and the suspension was extended from January 1, 1977, to September 1, 1977 (41 FR 52055; November 26, 1976), and subsequently to January 1, 1978 (42 FR 30188; June 13, 1977), with an additional 3-month delay for school buses.

The suspension of requirements for school buses is therefore scheduled to end April 1, 1978. While no school bus chassis or final-stage manufacturer has petitioned for further delay of the "no lockup" requirement, two petitions for the exclusion of school buses from this requirement have been submitted by the users of school buses. The National Association for Pupil Transportation petitioned for permanent exclusion of school buses on several grounds, including assertions

about the unreliability, high costs, and difficulty of maintaining antilock systems.

A second petition was recently filed jointly by the Transportation Director's Association of the State of Georgia, the County Superintendents of the State of Georgia, and the State Specification Committee of the State of Georgia. This petition requests exclusion of school buses from the entire standard, although the arguments for exclusion relate mainly to antilock system difficulties.

Much of the information in both petitions appears to be based on experience with systems manufactured during the first months of the standard's implementation, and does not take into account improvements and other changes in circumstances since the bus service brake stopping distances were suspended in January 1976. Most notably, the extension of stopping distance requirements in March 1976 (41 FR 8783; March 1, 1976) permits most school buses to be certified to S5.3.1 of the standard without the installation of antilock systems. Current manufacturer plans are for antilock to be standard equipment on about 18 percent of all school buses after the scheduled reimplementation of service brake stopping distance requirements. Approximately 85 percent of these buses would have antilock only on the rear axle.

The Department has initiated a series of actions that are intended to resolve major concerns that have been raised with regard to the reliability, effectiveness, and costs of the antilock systems generally used to meet the standard (42 FR 9626; March 9, 1978). Given this initiative, it appears inappropriate to change the status quo as it affects the manufacturer of vehicles not presently required to meet the stopping distance and "no lockup" requirements of S5.3.1. While there appears to be no independent basis in data or individual experience to indicate that the requirements should not be reimplemented for school buses at this point, manufacturers that otherwise support the standard have counseled maintenance of the status quo for school buses while the other more major issues are resolved. This point was made in December 1977 by Ford as a major supplier of school bus chassis and by Bendix, a manufacturer of antilock systems.

The NHTSA has therefore decided to temporarily postpone reimplementation of the service brake stopping distance requirements of Standard No. 121 as they apply to air-braked school buses. The NHTSA solicits comment on the restablishment of these requirements at a date certain and on what that date should be. The Motor Vehicle and Schoolbus Safety Amendments of 1974 (Pub. L. 93-492, October 27, 1974) and mail regularly received by the agency make clear that the public and their legislators advocate strong regulation of the safety systems on school buses.

In accordance with Departmental procedures, the economic and other consequences of this rulemaking have been evaluated. As the rule maintains the status quo, it is not expected to have any new effects other than the investory losses for the several school bus chassis manufacturers which do not also build trucks. These inventories could be utilized in response to purchase of antilock systems on an optional basis.

In an unrelated matter, the agency takes this opportunity to delete S.3.1.2 and the reference to it in S.3.1, because it was a temporary provision of the standard that is no longer effective.

Effective date finding: It is found that notice and public comment on this amendment are impracticable because of the extremely short time remaining before the requirement in question would otherwise become effective (April 1, 1978). Furthermore, it is found that the amendment may take effect sooner than 30 days following the date of its publication in the FEDERAL REGISTER because it relieves a restriction.

In consideration of the foregoing, Standard No. 121 (49 CFR 571.121) is amended as follows:

1. The phrase "Except for a school bus manufactured before April 1, 1978, or any other type of bus manufactured before January 1, 1978, and except as provided in S5.3.1.2 and S5.3.1.3," contained in S5.3.1 of Standard No. 121 (49 CFR 571.121) is replaced by the phrase "Except for a school bus,".

2. Paragraph S5.3.1.2 of section S5.3.1 is deleted.

The program official and lawyer principally responsible for this document are Duane Perrin and Tad Herlihy, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 stat. 718 (15 U.S.C. 1392, 1407); delegations of authority at 49 CFR 1.50 and 501.8.)

Issued on March 20, 1978.

HOWARD DUGOFF,
Acting Administrator.

[FR Doc. 78-7781 Filed 3-21-78; 9:08 am]

[4910-59]

[Docket No. 74-25; Notice 6]

PART 571—FEDERAL MOTOR VEHICLE SAFETY STANDARDS

New Pneumatic Tires for Passenger Cars

AGENCY: National Highway Traffic Safety Administration, Department of Transportation.

ACTION: Final rule.

SUMMARY: This final rule clarifies a previous amendment (42 FR 12871, March 7, 1977) on the testing of tire inflation pressure. This amendment is made pursuant to a request from the Rubber Manufacturers Association (RMA) and will correct ambiguous language and inaccuracies in the regulations.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

John A. Diehl, Crash Avoidance Division, Office of Vehicle Safety Standards, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, D.C. 20590. 202-426-1715.

SUPPLEMENTARY INFORMATION: The Rubber Manufacturers Association (RMA) has petitioned the National Highway Traffic Safety Administration (NHTSA) to amend the language of S5.2.1.3 of Federal Motor Vehicle Safety Standards (FMVSS) 109 to clarify that only a Figure 2A bead unseating block is to be used in testing tires having an inflation pressure of 60 psi. The current language has created uncertainty as to whether only the Figure 2A block must be used, or whether both the Figure 2 and Figure 2A blocks must be used, depending on the type of tire being tested. In addition, the RMA requested the correction of several typographical errors in Figure 2A.

The NHTSA agrees that the current language is ambiguous and that Figure 2A contains inaccuracies. The NHTSA therefore finds both RMA requests to be reasonable, and they are granted.

As this amendment is interpretative in nature, and reflects current understanding and practice, it is found for good cause that notice and public procedure thereon are unnecessary, and that an immediate effective date is in the public interest.

The principal authors of this document are John A. Diehl, Crash Avoidance Division, and Robert M. Churella, Office of Chief Counsel.

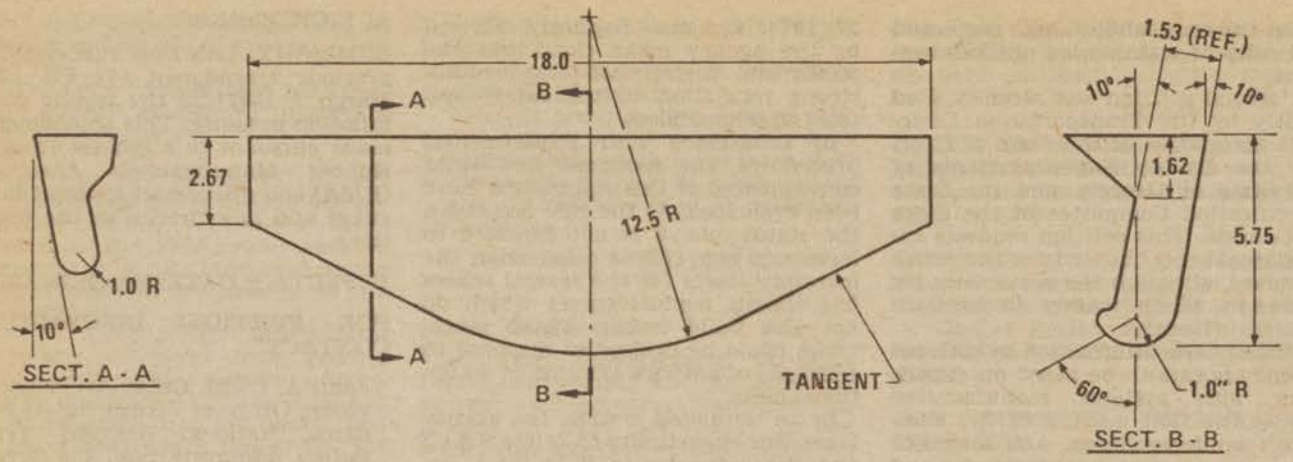
Accordingly, paragraph S5.2.1.3 of 49 CFR 571.109 is amended, effective this date, as indicated below:

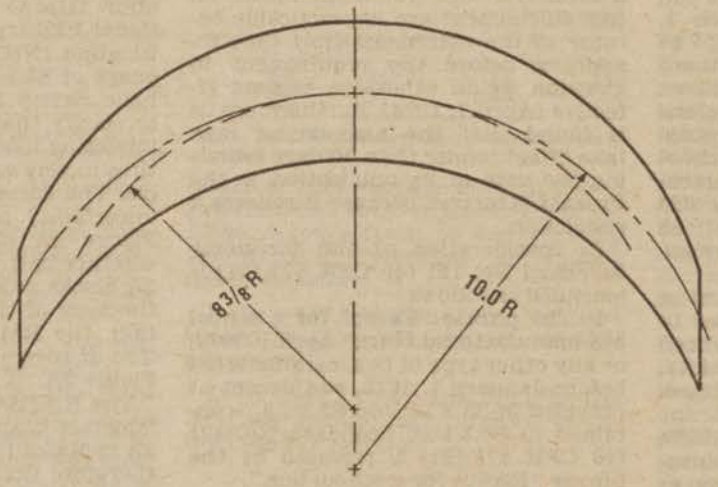
§ 571.109

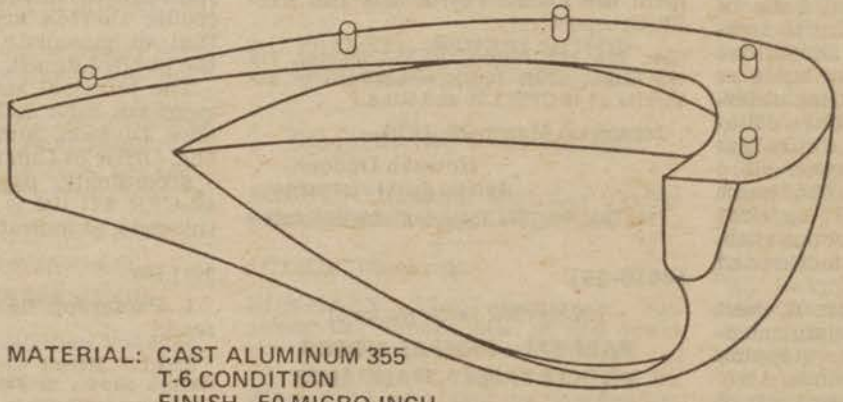
1. Paragraph S5.2.1.3 is amended to read:

S5.2.1.3 Mount the wheel and tire in a fixture shown in Figure 1, and force the bead unseating block shown in Figure 2 or Figure 2A against the tire sidewall as required by the geometry of the fixture. However, in testing a tire that has an inflation pressure of 60 psi, only use the bead unseating block described in Figure 2A.

2. Figure 2A is amended as follows:







MATERIAL: CAST ALUMINUM 355
T-6 CONDITION
FINISH - 50 MICRO INCH

FIGURE 2A — DIAGRAM OF BEAD UNSEATING BLOCK
DIMENSIONS IN INCHES

(Secs. 103, 119, 201, 202, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407, 1421, and 1422); delegation of authority at 49 CFR 1.50.)

Issued on March 17, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-7732 Filed 3-22-78; 8:45 am]

[4310-55]

Title 50—Wildlife and Fisheries

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

PART 26—PUBLIC ENTRY AND USE

Opening of De Soto National Wildlife Refuge, Iowa and Nebraska, to Public Entry and Use

AGENCY: United States Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulation.

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

DATES: April 15 through September 30, 1978, inclusive.

FOR FURTHER INFORMATION CONTACT:

George E. Gage, Refuge Manager, De Soto National Wildlife Refuge, Route 1, Box 114, Missouri Valley, Iowa 51555, 712-642-4121.

SUPPLEMENTARY INFORMATION: Public use is permitted on the De Soto National Wildlife Refuge in accordance with 50 CFR Part 26 and the following special regulations. Portions of the refuge which are open to the public are designated by signs and/or delienated on maps. Public use shall be subject to the following conditions:

§ 26.34 Special regulations concerning public access, use and recreation for individual national wildlife refuges.

Public recreational activities on De Soto National Wildlife Refuge, Missouri Valley, Iowa, are permitted from April 15 through September 30, 1978, inclusive. In addition, the refuge may be open for self-guided auto tours from March 18 through March 26, 1978, inclusive, and from October 21 through November 11, 1978, inclusive. Groups may be permitted on the refuge for wildlife observation throughout the year upon written permission from the Refuge Manager. Use of the refuge shall be in accordance with all applicable State regulations and are subject to the following special conditions:

(1) *Authorized activities.* Public recreational activities are limited to fishing, picnicking, swimming, boating, water skiing, nature observation, photography, mushroom, blackberry, and grape picking.

(2) *Open season and hours.* The open season for general public recreational use is from April 15, 1978 through September 30, 1978. During this period, the area is open daily from 6 a.m. through 10 p.m. Admittance onto the refuge is prohibited after 9 p.m. The hours for the special spring and fall auto tours will be published in area newspapers. Between the dates of September 16 and September 30, 1978, all water oriented recreational activities, except boat and bank fishing, are prohibited. Boat motors are limited to 25 horsepower or less during this period. Swimming will be permitted from May 27 through September 4, 1978, during the hours posted, and only in the designated beach area. Two separate mushroom picking areas are open daily to the public from April 15 through May 31, 1978, hours of use are the same as for the general use area.

(3) *Open area.* The area open for general public use including blackberry and grape picking comprises approximately 2,400 acres, and the special mushroom picking areas comprise approximately 1,100 acres. These areas are delineated on a map available at the refuge headquarters and from the office of the Area Manager, U.S. Fish and Wildlife Service, Suite 106, Rockcreek Office Building, 2701 Rockcreek Parkway, North Kansas City, Mo. 64116. Maps of the open areas are also posted or available for handout at entrance points.

(4) *Access.* Entry onto the open area is permitted only at gates or points of entry specifically posted for this purpose.

(5) *Other provisions.* (a) The use of air mattresses, innertubes, beach balls and all other flotation devices, other than life preservers, is prohibited on refuge waters.

(b) The possession of bottles or cans is prohibited on the designated swimming beach.

(c) The use of fire is permitted, but only in grills.

(d) Access to refuge waters with air boats or house boats is prohibited.

(e) Boats with toilets that flush directly into the water are not allowed on refuge waters unless such toilets are sealed from use.

(f) The maximum number of power boats greater than 25 horsepower that will be permitted on refuge waters at any one time is 125.

(g) Open alcoholic beverages are prohibited on any mechanically powered boat while the boat is in operation.

(h) Since De Soto Lake is long and narrow, all boaters must keep to the right and maintain a highway type traffic pattern. Turns shall always be made to the operator's left except when beaching or docking a boat.

(i) A portion of the refuge lake is posted as a "No Ski Zone". No water skiing is allowed in this area.

(j) All boats are prohibited from loading or unloading passengers from the swimming area.

(k) Operation of boats, excluding sailboats, with persons on deck or gunwales is prohibited.

(l) All boat and bank fishermen will be permitted to use the entire lake.

(m) Domestic animals, including dogs, cats, horses, and cattle are not permitted on the refuge.

(n) Removal of all plant life, including down timber, is prohibited. This restriction does not apply to mushrooms, blackberrries, and grapes.

(o) During the special self-guided auto tours, visitors are required to remain in their cars.

(p) Violators of refuge regulations may be required to remove themselves from the area.

The provisions of this special regulation supplement the regulations which govern public access, use, and recreation on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 26. The public is invited to offer suggestions and comments at my time.

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

Dated: February 14, 1978.

GEORGE E. GAGE,
Refuge Manager.

[FR Doc. 78-7688 Filed 3-22-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Certain National Wildlife Refuges to Sport Fishing: Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, and Vermont

AGENCY: U.S. Fish and Wildlife Service, Department of the Interior.

ACTION: Special regulations.

SUMMARY: The Director has determined that the opening to sport fish-

ing of certain national wildlife refuges in Connecticut, Rhode Island, Massachusetts, Maine, New Hampshire, and Vermont is compatible with the objectives for which the areas were established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: January 1, 1978, through December 31, 1978.

ADDRESS: Contact the Refuge Manager at the address and/or telephone number listed below in the body of special regulations.

FOR FURTHER INFORMATION CONTACT:

Howard N. Larsen, Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158, 617-965-5100, Ext. 200.

SUPPLEMENTARY INFORMATION: Sport fishing is permitted on the national wildlife refuges indicated below in accordance with 50 CFR 33 and the following special regulations. Portions of refuges which are open to sport fishing are designated by signs and/or shown on maps available from the addresses indicated below and from the Regional Director, U.S. Fish and Wildlife Service, One Gateway Center, Suite 700, Newton Corner, Mass. 02158. Sport fishing shall be in accordance with all applicable State and Federal regulations subject to the following special conditions:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the following areas: Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Mass. 01742. Contact David Beall, Refuge Manager, at 617-369-5518. Special conditions: Sport fishing and foot entry for this purpose is permitted in designated areas during daylight hours.

Monomoy National Wildlife Refuge, Chatham, Mass., under administration of Great Meadows National Wildlife Refuge, 191 Sudbury Road, Concord, Mass. 01742. Contact David Beall, Refuge Manager, at 617-369-5518. Special conditions: Sport fishing in tidal and fresh waters is permitted 24 hours per day from refuge lands. Boats may be beached on the refuge and wilderness areas. No boats will be permitted on the fresh water ponds.

Parker River National Wildlife Refuge, Northern Boulevard, Newburyport, Mass. 01950. Contact George Gavutis, Refuge Manager, at 617-465-5753. Special conditions: Saltwater sport fishing is permitted only on the ocean beach as follows:

Walk-in Fishermen:

Entire year: Day only, no permit required.
May 1 through October 16: Day and night. Night permit required.

Over-the-sand surf fishing vehicles:

May 1 through October 31 only, permit required.
May 1 through May 25, day and night.
May 26 through September 4, night (6 p.m. to 8 a.m.) only. No vehicle shall be operated on the beach between the hours of 8 a.m. to 6 p.m. During these hours all permit vehicles shall remain in the designated over-the-sand fishing vehicle parking area in the unvegetated area between the dunes at the east end of Beach Access Trail No. 2 or exit from the beach area. This same designated daytime parking area must, however, be vacated by 8 p.m. each evening not to be reoccupied before 6 a.m. the next morning.
September 5 through October 31, day and night. No fishing is permitted on the northern one-quarter mile of beach east of Lot 1 from 8 a.m. to 6 p.m.

Permit requirements are as follows: Night permittees may enter the refuge only until dusk except they may enter until 10 p.m. from May 26 through September 4. Night permittees may remain on the refuge, or may exit through a one-way gate at any time. Vehicles with the special permit may be on the ocean beach only when the occupants over 12 years old are actively engaged in surf fishing and each have at least one fishing rod. Permission to inspect vehicle, sanitary facilities, and all fishing equipment must be granted to refuge agents upon request. All vehicle permits must be affixed to the vehicles as instructed at the time of issuance. Motorcycles, or any vehicle deemed improper by refuge agents, may not receive the permit. Over-the-sand surf fishing vehicles must be equipped with spare tire, shovel, jack, tow rope, or chain, board or similar support for jack, and low-pressure tire gauge. Vehicles, under the terms of an over-the-sand surf fishing permit, may drive only on designated beach access routes and on the unvegetated beach east of the line formed by the eastern base of the dunes. The maximum speed limit in these areas is 15 miles per hour. No vehicle is permitted on the northern one-quarter mile of beach east of Lot 1 at any time. Ruts or holes resulting from freeing a stuck vehicle shall be promptly filled in by the operator. Riding on fenders, tailgates, roof, or any other position outside of the vehicle is prohibited. Failure to comply with any regulation shall be grounds for immediate cancellation of all permits.

Moosehorn National Wildlife Refuge, Box X, Calais, Maine 04619. Contact Douglas Mullen, Refuge Manager, at 207-454-3521. Special conditions: Sport fishing is permitted during daylight hours on areas designated by signs as open. The use of boats without motors is permitted on Bearce, Conic, and Cranberry Lakes.

Missisquoi National Wildlife Refuge, Swanton, Vt. 05488. Contact Juanita Blaskowski, Refuge Clerk, at 802-868-4781. Special conditions: Sport fishing is permitted in Lake Champlain, and the Missisquoi River from refuge lands. The use of firearms to take fish is prohibited.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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

Dated: March 15, 1978.

HOWARD N. LARSEN,
Regional Director,
U.S. Fish and Wildlife Service.

[FR Doc. 78-7674 Filed 3-22-78; 8:45 am]

[4310-55]

PART 33—SPORT FISHING

Opening of Rice Lake National Wildlife Refuge Including Sandstone Unit, Minn., to Sport Fishing

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Special regulation.

SUMMARY: The Director has determined that the opening to sport fishing of Rice Lake National Wildlife Refuge including the Sandstone Unit is compatible with the objectives for which the area was established, will utilize a renewable natural resource, and will provide additional recreational opportunity to the public.

DATES: May 1, 1978 through November 30, 1978.

FOR FURTHER INFORMATION CONTACT:

Refuge Manager, Rice Lake National Wildlife Refuge, Route 2, McGregor, Minn. 55760, telephone 218-768-2402.

SUPPLEMENTARY INFORMATION:

§ 33.5 Special regulations; sport fishing; for individual wildlife refuge areas.

Sport fishing is permitted on the Rice Lake National Wildlife Refuge, Aitkin County, Minn., and the Sandstone Unit, Pine County, Minn., only on those areas designated by signs as being open to fishing. These areas, comprising approximately 80 acres, are delineated on maps available at refuge headquarters and from the office of the Regional Director, U.S. Fish and Wildlife Service, Federal Building, Fort Snelling, Twin Cities, Minn. 55111.

All fishing shall be in accordance with applicable State regulations and the following special conditions:

1. The open season for sport fishing in the designated refuge areas shall be from May 1, 1978 through November 30, 1978, both dates inclusive.

2. Fishing shall be allowed during daylight hours only.

3. The use of canoes and boats (without motors) shall be allowed for sport fishing on that portion of the Rice River posted as open to fishing, and on the Twin Lakes fishing area. Boats and other watercraft will not be allowed on the Mandy Lake fishing area.

The provisions of this special regulation supplement the regulations which govern fishing on wildlife refuge areas generally which are set forth in Title 50, Code of Federal Regulations, Part 33. The public is invited to offer suggestions and comments at any time.

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

Dated: March 14, 1978.

DAVID E. HEFFERNAN,
Refuge Manager.

[FR Doc. 78-7670 Filed 3-22-78; 8:45 am]

proposed rules

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

[3410-02]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 929]

[Docket No. A0-341-A4]

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

Recommended Decision and Opportunity To File Written Exceptions on Proposed Further Amendment of Marketing Agreement and Order

AGENCY: Agricultural Marketing Service.

ACTION: Proposed rule.

SUMMARY: This decision recommends certain changes in the marketing order regulating the handling of cranberries grown in certain states based on industry proposals considered at a public hearing on November 1, 3, 8, 11, 14, 1977. The principal change would provide for updating the allotment bases of existing producers and entry of new producers by allocation of base quantity from a reserve. Other changes would provide for a public member and alternate member on the committee, and allow funds representing unclaimed shares of deposits to secure release of withheld cranberries to accrue to the committee's account.

DATE: Comments are due on or before April 24, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, telephone 202-447-6393.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the filing with the Hearing Clerk of this recommended decision with respect to proposed further amendment of the marketing agreement, as amended, and Order No. 929, as amended (7 CFR Part 929), regulating the handling of cranberries grown in the States of Massachusetts, Rhode Island, Connecticut, New Jersey, Wisconsin, Michigan, Minnesota, Oregon, Washington, and Long Island in the State of New York (hereinafter, in the text of the Findings and conclusions, collectively referred to as the "order".)

Interested persons may file written exceptions to this decision with the Hearing Clerk, United States Department of Agriculture, Washington, D.C. 20250, on or before April 24, 1978. The exceptions should be filed in quadruplicate. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

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

Preliminary statement. This proposed amendment of the marketing agreement, as amended, and order, as amended, was formulated on the record of a public hearing held at New Bedford, Mass., on November 1; Cherry Hill, N.J., on November 3; Wisconsin Rapids, Wis., on November 8; Bandon, Oreg., on November 11; and Long Beach, Wash., on November 14, 1977. Notice of the hearing was published in the October 13, 1977, issue of the FEDERAL REGISTER (42 FR 55094). The proposals contained in the notice of hearing were submitted by the Cranberry Marketing Committee and Mr. John C. Decas, Wareham, Mass.

Material issues. The material issues of record are as follows:

1. Add authority for a public member to the committee.

2. Amend provisions relating to the committee with respect to procedure and alternate members.

3. Establish an annual reserve of base quantities to adjust base quantities of existing growers and issue base quantities to new growers and establish reporting procedures.

4. Provide authority for the designation of noncompetitive outlets for disposition of cranberries in excess of a grower's annual allotment.

5. Change provisions relating to disposition of funds accumulated in excess of the amount needed by the committee to purchase free percentage cranberries to replace withheld cranberries released to handlers.

6. Change the date by which annual allotments are issued to growers.

7. Make conforming changes.

Findings and conclusions. The following findings and conclusions on the material issues are based on the record of the hearing:

(1) The order should be amended to provide for a public member and alternate member on the committee. While meetings of the committee are open to the public, attendance by non-industry persons has been infrequent. As a participant and voting member at committee meetings, a public member would be in a position to express the consumer's viewpoint in the contemplation of actions by the committee. Also, the involvement of a public member in committee activities should improve communications between the committee and the public.

In order to assure the character of the position, the public member should not be commercially associated with the growing, marketing, or processing of cranberries. In order to secure qualified candidates such member should not necessarily reside in the production area. Persons who should be eligible to serve as public member on the committee could include among others, home economists, food technologists, consumer specialists, and those involved in consumer groups. Such persons should express a willingness to regularly attend committee meetings in order to be of maximum service to the public and the industry. They should also be willing to familarize themselves with the production and marketing practices of the cranberry industry. The committee should specify in administrative rules issued with the approval of the Secretary appropriate qualification requirements which a person should possess to be eligible for the public member and alternate member positions. The public member and alternate shall have the same rights and privileges as other members of the committee.

Nominations for public member and alternate member on the committee should be submitted to the Secretary by the committee consistent with a

nomination procedure established by the committee and approved by the Secretary. If this amendment is made effective, the committee membership then serving should submit nominees for the public member and alternate member positions for an initial term ending July 31 coincident with the industry members' term of office. Thereafter, the industry committee members should consider nominations for successor public member and alternate as soon as possible after each installation for a new term. Generally, this should be accomplished at the committee's biennial organizational meeting in August. Subsequent terms of office of the public member and alternate should expire on July 31 coincident with the term of other committee members. After nominations are submitted and selection is made by the Secretary, the public member and alternate should be required to indicate acceptance as provided in the order for other members and alternates. Names of persons to fill interim vacancies in the public member positions should be submitted to the Secretary by the committee. The provisions of the order relative to expenses should apply to the public member and alternate the same as to other members and alternates.

(2) The order procedure for committee meetings currently prescribes a quorum of five members and specifies that at least five members shall concur for an action to be valid. It was advanced that with the proposed provision to increase the membership from seven to eight members by inclusion of a public member, a change should be made to increase the quorum and concurring vote requirement by one member. The requirement of one additional affirmative vote for the committee to take action would give recognition to the vote of the public member while preserving the right of any three dissenting members to defeat any proposal. Consistent with the order, committee membership is composed of four members affiliated with the large cooperative and three members not so affiliated. If a public member is added, and is present and voting, a quorum and vote requirement of six would still require favorable participation by at least one nonaffiliated grower member for any decision or action of the committee.

Some witnesses favored retention of five members for a quorum and a five vote minimum requirement for action by the committee. However, if such provisions were retained and a public member is added to the committee, it would be possible to pass an action without concurrence of any nonaffiliated grower member. The record indicates that the order should not permit either grower segment of the committee to validate an action to the exclusion of the other.

It is desirable that any public member be accorded the same rights and privileges as other members. Consequently, it is concluded that should such a member be added to the committee, the quorum and vote requirement should be 6 members or alternates acting for members when the public member or alternate is present and votes. However, if no public member is serving on the committee or if neither the public member nor alternate is present at a particular committee meeting, then the quorum and vote requirement should be five. In the event the public member or alternate is present at a committee meeting, but should abstain from voting on a matter before the committee, then the vote requirement should be five as to such matter. This would allow the committee to continue to function in a reasonable manner.

The order contains provisions which permit an alternate to serve for an absent grower member, and if the alternate is unable to attend, any alternate present who is not acting for another member may be designated by the committee to serve in the place and stead of the absent member, provided that no more than four cooperative members and alternate members shall serve as members at the same meeting.

In recognition of the function of a public member this provision should be amended to preclude the seating of an alternate grower member in place of an absent public member.

(3) Under current provisions of the order, a base quantity was computed for each cranberry grower on the basis of the average of his two best years (seasons) of sales during a specified representative period (1968-69 through 1973-74). The aggregate total base quantities of all growers is 2,616,893 barrels of 100 pounds each. The base quantity of a grower is the basis used to allocate to him his proportionate share of the marketable quantity (allotment) that may be annually set by regulation under the order. When a marketable quantity regulation is in effect for a season, handlers may not market for a grower a quantity of cranberries in excess of his allotment.

The order provides that the committee may issue additional base quantity to existing and new growers in the event that market demand for cranberries exceeds the aggregate base quantities of all growers. While the demand for cranberries is increasing, market requirements are less than total base quantities of growers at the present time and are expected to remain so for the immediate future. However, it is desirable that the order provide greater flexibility for issuing base quantity to new producers and in adjusting base quantities of existing producers to recognize changed sales relationships among growers subsequent to the representative period and to provide for entry by new growers.

Currently, there are about 926 cranberry growers in the production area. Since the authority was established only one marketable quantity regulation has been issued, and it was rescinded; therefore, growers have not been limited in their sales of cranberries. During the crop years 1974-76 approximately 10 percent of the growers have sold a quantity of cranberries in excess of their base quantities. When the markets demonstrate a need for increased quantities of cranberries, it would be appropriate to increase the base quantities of growers. An appropriate means of accomplishing this would be to provide for the establishment of a base quantity reserve from which base quantity could be allocated to new and existing growers and the order should be amended to so provide. Appraisal of the likely increase in market requirements indicates that establishment of an annual reserve equal to 2 percent of the total base quantities would be appropriate and would permit recognition of market growth at current rates. To permit the order to deal with the situation should it prove that the 2 percent reserve is inadequate, the order should contain authority whereby the committee, with approval of the Secretary, may increase such percentage. It was advanced at the hearing that the order should also provide that the committee be given similar authority to reduce the reserve percentage if there is a significant decrease in the demand for cranberries. Provision for reduction should be included but such reduction should not lower the reserve perecntage below 2 percent.

Stable or reduced demand should be recognized primarily in the establishment of the marketable quantity. If conditions are such as to discourage producers from requesting additional base quantity or new producers from entering the industry and no base quantity is requested from the reserve, then the reserve would in effect not be operational for that year. Any base quantity not distributed should not be carried forward to the following year.

Allocation of base quantity from the reserve should be on the basis of 75 percent to existing producers and 25 percent to new producers. Such a division would be fair and reasonable in relation to the number of known and prospective growers in each category and their needs for base quantity. As indicated, approximately 10 percent of the existing growers have produced and sold cranberries in excess of their base quantity during the crop years 1974-76. The record indicates that production increases have been obtained mainly by imporving yields on estab-

lished acreage, although some have resulted from new acreage. It was advanced that in the initial year of allocation, priority consideration should be given to producers who registered production gains from established cranberry acreage. Under present terms of the order, no distinction is to be made between sales from acreage which was producing during the representative period and sales from later planted acreage. Some growers may have planted new acreage more favorably situated so as to become more efficient producers. Hence, it would be appropriate to include all sales of record, including sales from acreage planted subsequent to the end of the representative period, in any formula recommended by the committee for distributing reserve base quantity to existing producers.

To facilitate administration of the reserve provision, persons who wish allocation of reserve base quantity should be required to file an application for such with the committee on a form provided by the committee. Such application should identify the applicant as an existing grower or a new grower as the case may be, and furnish such information as acreage planted, past and prospective production, and other information which would substantiate eligibility and show a need for base quantity. Detail as to the information to be required should be specified in an administrative rule established by the committee with the approval of the Secretary.

Inasmuch as the amount of base quantity to be made available is to be allocated between persons classfied as existing and new growers, these classifications should be identified. "Existing growers" should include any person who is engaged in producing cranberries who has qualified for and now holds a base quantity certificate, or has a base quantity certificate acquired by transfer from another producer. "New producers" should include any person who does not own a base quantity certificate. Persons who now are producing cranberries, but do not own a base quantitiy certificate should be included in the new grower category.

It would be impractical to include provision in the order prescribing the precise manner which shall be used to allocate base quantity from the reserve, as experience may indicate a need for revision. For this reason the order should provide for the establishment by the committee of a uniform rule and procedure govern such allocation. Issuance of such rule and procedure should be accomplished through rulemaking procedure which would allow for input by interested persons and involve approval of the Secretary. It would provide the necessary flexibility to expedite changes which experience may reveal are needed to provide equitable distribution. The rule should include such factors as a grower's sales in a specified previous period, acreage, anticipated production in relation to presently available base quantity, and amount of base quantity requested. In the event experience should prove that the larger growers have a greater advantage with respect to increasing total sales of cranberries during a given period in comparison to smaller growers, it may be desirable to prescribe that rules governing the allocation of base quantity from reserve may fix a maximum portion of the base quantity which can be allocated to any one grower.

Each applicant filing a request for a new grower base quantity should state when he intends to plant acreage for the production of cranberries and the location of any planted acreage. The record indicates that each qualified applicant should receive assurance from the committee that he will receive a proportionate share of base quantity from the reserve for new growers on the basis of factors specified in rules and procedures governing the allocation of base quantity to new producers. Such rules and procedures would be recommended by the committee and approved by the Secretary. Inasmuch as it is not known what quantity of cranberries a new grower will produce in a given year, it would be fair and reasonable to assign each new producer a potential base quantity equal to the average base quantity per acre for the State in which the cranberry acreage is located. Thus, a new producer's base quantity share would be a predetermined amount equal to his cranberry acreage multiplied by the State average base quantity per acre. In most cases, it takes approximately four years to produce a crop of cranberries from the time the acreage is planted. Thereafter, gradual increases in production can be expected until the productive capacity of the acreage is attained. The record shows that a base quantity should be awarded each year to the new producer from his predetermined base quantity share in an increment equal to the estimated production for that crop year. Successive increment allocations would be made based upon an annual application by the new producer until the balance of the base quantity for that producer is exhausted. Thereafter, if additional base quantity is desired, the producer would apply to the committee for additional base quantity from the proportion of the reserve allocated to existing producers. Since it is possible that the new producer's maximum production from his acreage will be an amount less than the State average base quantity per acre, the committee should establish, with the approval of the Secretary, procedures for determining the length of time that a producer should retain the "new producer" status if he does not reach the State average base quantity per acre. Currently, there are less than 10 "new producers." This indicates that some difficulty may be experienced in distributing new grower base quantity. Consequently, the order should provide that if all or any part of the base quantity reserved for new growers is not needed to fill new grower requests, the committee should be authorized to allocate any unused new grower base quantity to eligible existing growers.

The committee should recommend and the Secretary approve dates by which a grower's application must be received and acted upon by the committee. Establishment of February 1 for filing applications by existing and new growers would appear to be appropriate as it coincides with the date fixed in the order by which each producer is required to report to the committee where he intends to produce his annual allotment, the acreage he intends to harvest and other information. So as to conform with order requirements that an annual allotment be issued to each grower on or before May 1 of each year, it is necessary that a committee determination with respect to the grower's application be made in advance of May 1 so the grower's annual allotment will reflect any base quantity issued to him from the reserve. Each person filing an application for new base quantity or adjustment of base quantity should be notified by the committee of its determination.

Continued validity of each producer's base quantity should be contingent on his production of cranberries in a proprietary capacity. If a producer makes no bona fide effort to produce and sell cranberries for five consecutive seasons, beginning with the 1978–1979 season, authority should be provided enabling the committee to invalidate or reduce any such producer's base quantity at the end of the fifth season of nonproduction. Additionally, a producer should not be permitted to use records of cranberries obtained by transfer from another grower for the purpose of continuing his base quantity. The committee's action in this should be governed by criteria established by the committee and approved by the Secretary, whereby a determination may be made as to whether or not such bona fide effort was made. It was advanced that one criterion for determining bona fide effort should be that a producer must have sold at least 50 percent of his base quantity each year, unless prevented from doing so by acts of God or other circumstances beyond his control. This criterion was opposed as being unreasonable as individual grower crops fluctuate widely and for various rea-

sons production of cranberries in an amount less than 50 percent of a producer's base quantity is not uncommon. Therefore, it is concluded that this criterion should not be incorporated in rules for implementing these provisions. However, the order should provide that the committee may set a minimum production level that would trigger a review by the committee to determine if a grower is making a bona fide effort to produce and sell cranberries.

The record indicates that a five year period is appropriate as it would allow sufficient time for disposition of base quantity. Testimony indicated that growers who discontinue cranberry operations for a period of time or abandon cranberry acreage should be permitted an opportunity to dispose of unneeded base quantity by transfer to another grower. Some witnesses contended that a five year period should not be provided since a producer, even though he discontinues growing cranberries, would continue to receive annual allotment during that period. However, such is not the case. To qualify for allotment order provisions require growers to file annual reports as to the location where the cranberries to fill their allotment will be produced and other necessary information. In the absence of information from the producer substantiating that cranberries to fill allotment would be produced, none would be issued by the committee.

The record indicates that rules and regulations recommended by the committee and approved by the Secretary should establish the procedure by which a base quantity may be reduced or declared invalid for lack of use. Testimony indicates that as a grower may experience a production problem for a extended period, the committee should initiate investigations as appropriate and necessary to obtain full and complete information bearing on the subject prior to taking any action to reduce or cancel a base quantity. Any base quantity that becomes available due to any reduction or invalidation because of nonuse should be included in the reserve of base quantities established for the next applicable crop year.

An alternative to the reserve provision was discussed at the hearing. This alternative would provide for periodic recomputation of base quantities of growers producing cranberries who have base quantity issued on established cranberry acreage. Under it each grower's base quantity would be recomputed every three years. The computation would be made on the basis of the average of the best two years of sales during the immediately preceding six years. However, only sales from the acreage from which the initial sales involved in the initial computation originated would be counted.

The alternative also would provide for establishing an annual reserve of one-half percent of total base quantities for establishing base quantities for new producers. With respect to recomputation of base quantities of existing growers, it was indicated that all established cranberry acreage was identified and recorded by the committee, and sales from any other cranberry acreage could be ascertained and excluded from the recomputation of base quantity.

During the representative period (1968-69 through 1973-74 seasons), as a prerequisite for base quantity, growers were required to report sales in a manner which would enable the committee to identify cranberries produced and sold from established acreage as that was essential to the initial computation. However, no such reporting requirement has been in effect subsequent to the representative period, and there is no evidence of record to indicate whether or not producers could make information available to the committee differentiating between sales from the different types of acreage for the crop years which have transpired since the representative period.

A number of other objections were recited concerning this alternative. Among such was that growers have planted and likely will continue to plant new acreage. Transfers of base quantity are permitted without regard to acreage, and some such transfers have occurred. Hence, limiting recomputation as proposed would result in inequities and hardship among growers. Also, it was pointed out that due to unfavorable weather or other adversities, a grower may consecutively produce smaller crops of cranberries in comparison to his base quantity, and this would be reflected in a reduction of that grower's base quantity, but when production subsequently trended upward no corresponding adjustment of base quantity would be made to reflect increasing sales until 3 years later. Also, establishment of marketable quantity regulations would preclude upward adjustments as each grower's sales are limited to an amount equal to his annual allotment. Some testimony was offered in support of a proposition to credit production of cranberries in excess of allotment for purposes of making an upward adjustment of base quantity. However, as sales are the only basis authorized in section 8c(6)(B) of the act for grower allotments, this proposition is inappropriate. Objections also were voiced that this would tend to stimulate production by growers who want to take advantage of increased sales in recomputation and this would tend to compound the marketing problem. In view of the foregoing, it is concluded that the alternative to provide recomputation of base quantities every 3 years should not be adopted.

(4) Currently, the grower allotment provisions of the order provide that when a marketable quantity is established it is to include a quantity of cranberries sufficient to satisfy the needs of all markets. That quantity is allocated among growers by the application of a uniform percentage to each grower's base quantity. The order requires that growers should be advised of their marketable quantity by May 1. Thus, the order contemplates that growers after being advised of their marketable quantities early in the season, can take actions to avoid unnecessary production expenses and the production of cranberries in excess of their marketable quantity allotment. However, it is recognized that for reasons beyond growers' control, some excess cranberries may be produced.

One proposal considered at the hearing was that the order should be amended to provide that the committee may, with approval of the Secretary, designate "non-competitive" markets for cranberries in excess of growers' allotments, and allow the marketing of such berries in these markets. Supporters of this proposal maintained that it is practicable to designate non-competitive outlets and that allowing the marketing of cranberries in them would be beneficial to the industry.

The opposition pointed out that a marketable quantity regulation is established to discourage production of surplus cranberries, and that when the committee develops a recommendation for a marketable quantity, it assesses the total demand for cranberries in all markets and includes therein an amount designed to enable handlers to fill this demand, and provide for an adequate carryover of cranberries into the following year. Moreover, it was observed that while the marketable quantity is set early in the season, it is reviewed near harvest time and if it then appears that market demand is larger than previously assessed, the marketable quantity regulation may be amended to increase the quantity so the demand may be met.

It was acknowledged that new uses for cranberries and cranberry products are being developed, and, also, that it is advantageous to the industry to develop new markets and expand existing markets, including export markets. However, it was observed that sales opportunity in these outlets for cranberries is reflected in the marketable quantity, and there are few, if any, outlets that could be considered as non-competitive markets. Further, it was maintained that no provision should be made that would permit a handler to purchase or handle on behalf of any grower cranberries not within the grower's annual allotment

except to the extent permitted by transfers of cranberries or allotment to fill deficiencies as authorized in § 929.49(c). It is, therefore, concluded that permitting the marketing of cranberries in excess of growers' allotments would be inconsistent with the objectives of the act and the order and provision therefor should not be included in the order.

(5) Under the provisions of the order relating to withheld cranberries, whenever a handler determines that he will be able to handle more cranberries than his free percentage provides, he may make application to the committee for the release of all or any portion of his withheld cranberries. Funds deposited with the committee by handlers requesting the release of their withheld cranberries are used by the committee for acquiring free percentage cranberries. Moreover, funds may accrue to the committee because of its inability, for reasons beyond its control, to purchase free percentage cranberries to replace withheld cranberries released to handlers. The order provides that any unexpended funds, after deducting expenses incurred by the committee in connection with the administration of these provisions, are paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler. The record indicates that at the present time a small amount of money, less than $20, has not been refunded because the handler cannot be located. Since there is no provision in the order which applies under such circumstances, this unrefundable balance has been held in an interest-bearing account apart from the committee's general account. The proposal advanced at the hearing to deal with this situation provides that in the event an offer of payment is not accepted or directions given by the handler to credit the funds within 90 days, the funds would accrue to the committee's general account. It was indicated that the offer of payment should be made to the handler by certified mail to provide sufficient notice to the handler and record the date when the offer of payment was placed in the mail. According to the record non-acceptance of an offer of payment or the handler's failure to give instructions to credit such funds to his account within the 90 days should discharge the committee of its obligations in this matter and any funds not so distributed or credited should be available to the committee to cover any authorized program expenses. There was no opposition at the hearing regarding this proposal. Based on the record, it is concluded that this method of handling such funds is appropriate and the order should be amended as hereafter set forth.

(6) A proposal to change the date by which annual allotments are to be issued to growers was considered at the hearing. Current provisions of the order require such issuance "on or before May 1". Supporters stated that a change to "on or before September 1" would be beneficial in that it would allow the committee to make its decision with respect to the need for a marketable quantity regulation closer to the time of harvest when a more accurate prediction of the size and quality of the crop may be made.

Opposition to the proposal pointed out that a date later than May 1 does not allow growers appropriate flexibility in tailoring their crops to a specific allotment. By September 1 a cranberry crop is nearly ready for harvest. If allotment were issued to the grower on that date it is too late for the grower to take steps to avoid the expenses involved in the production of cranberries in excess of his allotment, and if such berries are produced and no allotment can be obtained from other growers, this extra quantity produced must be harvested and disposed of or left unharvested. It is obvious that the order should be operated in a manner that will enable growers to plan their activities as as to be as efficient as possible. Avoiding costs, particularly those associated with producing and disposing of a quantity of cranberries for which no outlet is available is of considerable concern under the order. To produce a quantity of cranberries equal to his allotment the grower needs to know what his allotment is at a time when he can still take action to influence the size of his crop. Growers can produce their annual allotment of cranberries if such allotment is known to them by the May 1 date as provided in the order. In view of the foregoing, it is concluded that the May 1 date should be retained and it is neither practical nor desirable to change to a later date as proposed.

(7) The amendment heretofore recommended will make it necessary to make certain conforming changes in section not specifically discussed in connection therewith. All such changes should be incorporated in the order as hereinafter set forth.

Rulings on briefs of interested persons. At the conclusion of the hearing, the Administrative Law Judge fixed December 20, 1977, as the final date for interested persons to file proposed findings and conclusions, and written arguments or briefs, based upon the evidence received at the hearing.

Briefs and proposed findings and conclusions were filed on behalf of certain interested persons. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested persons are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or to reach such conclusions are denied.

General findings. Upon the basis of the record, it is found that:

(1) The findings hereinafter set forth are supplementary, and in addition, to the previous findings and determinations which were made in connection with the issuance of the marketing agreement and order and each previously issued amendment thereto. Except insofar as such findings and determinations may be in conflict with the findings and determinations set forth herein, all of said prior findings and determinations are hereby ratified and affirmed.

(2) The marketing agreement and order, as amended, and as hereby proposed to be further amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(3) The marketing agreement and order, as amended, and as hereby proposed to be further amended, regulate the handling of cranberries grown in the production area in the same manner as, and are applicable only to persons in the respective classes of commercial and industrial activity specified in, the marketing agreement and order upon which hearings have been held;

(4) The marketing agreement and order, as amended, are limited in their application to the smallest regional production area which is practicable, consistently with carrying out the declared policy of the act, and the issuance of several orders applicable to subdivisions of the production area would not effectively carry out the declared policy of the act;

(5) There are no differences in the production and marketing of cranberries grown in the production area which make necessary different terms applicable to different parts of such area; and

(6) All handling of cranberries grown in the production area as defined in the marketing agreement and order, as amended, and as thereby proposed to be further amended, is in the current of interstate or foreign commerce or directly burdens, obstructs, or affects such commerce.

Recommended amendment of the marketing agreement and order. The following amendment of the marketing agreement and order, as amended, is recommended as the detailed means by which the foregoing conclusions may be carried out:

1. Section 929.20 *Establishment and membership* is revised by deleting the first two sentences and submitting in lieu thereof the following. As amended § 929.20 reads as follows:

§ 929.20 Establishment and membership.

There is hereby established a Cranberry Marketing Committee consisting

of seven members, each of whom shall have an alternate. Except as hereafter provided, members and their alternates shall be growers or employees, agents, or duly authorized representatives of growers. Persons filling grower positions may be referred to as industry members. The committee may be increased by one public member and alternate nominated by the committee and selected by the Secretary. The public member and alternate shall be neither a grower nor a handler. Persons filling these positions may be referred to as non-industry members. The committee, with the approval of the Secretary, shall prescribe qualifications and the procedure for nominating the public member. * * *

2. Section 929.27 *Alternate members* is revised by amending the last sentence thereof to read as follows:

§ 929.27 Alternate members.

* * * In the event both a grower of the committee and his alternate are unable to attend a committee meeting, the committee may designate any other grower alternate member to serve in such member's place and stead at that meeting: *Provided*, That not more than four members and alternate members selected from those nominated pursuant to § 929.22(b)(1) shall serve as members at the same meeting. *And provided, further*, That grower alternate shall not serve in place of an absent non-industry member.

3. Section 929.32 *Procedure* is revised by amending paragraph (a) to read as follows:

§ 929.32 Procedure.

(a) Five members of the committee, or alternates acting for members, shall constitute a quorum and any action of the committee shall require at least five concurring votes: *Provided*, That if the committee is increased by the addition of a public member and such public member or alternate is present at a meeting, 6 members shall constitute a quorum and any action of the committee on which the public member votes shall require 6 concurring votes. If the public member abstains from voting on any particular matter 5 concurring votes shall be required for an action of the committee.

* * * * *

4. Section 929.48 *Base quantities* is revised by deleting paragraph (b) and adding a new paragraph (b) to read as follows:

§ 929.48 Base quantities.

(a) * * *

(b) (1) A base quantity reserve equal to 2 percent of the total base quantities shall be established annually: *Provided*, That upon recommendation of the committee the Secretary may increase or decrease such percentage except in no event shall the reserve be less than 2 percent. Such reserve shall include any base quantity that becomes available due to any reduction or invalidation because of non-use of base quantity under subparagraph (4) of this paragraph. Such reserve shall be used for the issuance of base quantities to new producers and adjustments in base quantities for existing producers with 25 percent being made available for new producers and 75 percent available for adjustments for existing producers. Any unallocated portion of the 25 percent available to new producers may at the discretion of the committee be prorated among eligible existing producers on an equitable basis.

(2) The committee shall, subject to approval of the Secretary, establish rules and procedures governing the issuance of base quantities under paragraph (b)(1) of this section. Such rules shall define the terms "new producer" and "existing producer" and specify standards for equitable and thorough consideration of pertinent factors relating to each case, including but not limited to, on-site inspection of applicant's acreage, past production of cranberries by applicant, acreage planted, average yields, and other economic and marketing factors.

(3) Each person filing an application hereunder for new base quantity or adjustment in an established base quantity shall be notified by the committee of its determination thereon.

(4) A condition for the continuing validity of a producer's base quantity is production of cranberries thereunder in a proprietary capacity. If no bona fide effort is made to produce and sell cranberries thereunder for five consecutive seasons, commencing with the 1978-79 season, the base quantity may be reduced or declared invalid due to lack of use and cancelled at the end of the fifth season of nonproduction. The committee shall establish criteria, subject to approval by the Secretary, whereby the committee may determine whether a bona fide effort has been made to produce and sell cranberries produced on the producer's own acreage.

(5) Each producer shall file with the committee such reports as may be necessary for the committee to perform its duties under this section.

* * * * *

5. Section 929.56 *Special provisions relating to withheld (restricted) cranberries* is revised by amending paragraph (d) to read as follows:

§ 929.56 Special provisions relating to withheld (restricted) cranberries.

* * * * *

(d) In the event any portion of the funds deposited with the committee pursuant to paragraph (a) of this section cannot, for reasons beyond the committee's control, be expended to purchase unrestricted (free percentage) cranberries to replace those released, such unexpended funds shall, after deducting expenses incurred by the committee in connection with the purchase and disposition of cranberries pursuant to paragraph (c) of this section, be offered and paid or credited proportionately to handlers on the basis of the volume of cranberries withheld by each handler. In the event that the offer is not accepted or directions given by a handler to cradit the funds within 90 days, the funds will accrue to the committee's general account.

* * * * *

Subpart—Rules and Regulations

6. Section 929.105 *Reporting* is revised by amending paragraph (a) to read as follows:

§929.105 Reporting.

(a) Each report required to be filed with the committee pursuant to § 929.60 and § 929.48 shall be mailed to the committee office at Middleboro, Massachusetts, or delivered to that office. If the report is mailed, it shall be deemed filed when postmarked.

(b) * * *

Signed at Washington, D.C. on March 17, 1978.

WILLIAM T. MANLEY,
Deputy Administrator,
Marketing Program Operations.

[FR DOC. 78-7729 Filed 3-22-79; 8:45 am]

[4910-13]

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[14 CFR Part 39]

[Docket No. 78-SW-5]

AIRWORTHINESS DIRECTIVES

Mooney M20F and M20J Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rule making.

SUMMARY: This notice proposes to adopt an airworthiness directive (AD) that would require replacement of main landing gear side brace bolts on Mooney M20F and M20J airplanes. The proposed AD is needed to prevent failure of the side brace bolts which could result in loss of control of the airplane during takeoff and landing. This AD is prompted by reports of two

main landing gear bolt failures in Models M20F/M20J airplanes and additional failures in a static test specimen.

DATES: Comments must be received on or before April 15, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Regional Counsel, Attn. Docket 78-SW-5, Southwest Region, FAA, P.O. Box 1689, Forth Worth, Tex. 76101. The applicable service bulletin may be obtained from: Service Manager, Mooney Aircraft Corporation, P.O. Box 72, Kerrville, Tex. 78028. A copy of the service bulletin is contained in the Rules Docket of the Regional Counsel, Southwest Region, FAA, 4400 Blue Mound Road, Fort Worth, Tex. 76101.

FOR FURTHER INFORMATION CONTACT:

Michele M. Owsley, Airframe Section, Engineering and Manufacturing Branch, ASW-212, Federal Aviation Administration, P.O. Box 1689, Fort Worth, Tex., telephone number 817-624-4911, extension 516.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in the making of the proposed rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in duplicate to the address specified above. All communications received on or before the closing date for comments will be considered by the Administrator before taking action on the proposed rule. 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. A report summarizing each FAA-public contact, concerned with the substance of the proposed AD, will be filed in the Rules Docket.

The FAA has determined that the bolts of the main landing gear side brace assembly are understrength for certain inboard load conditions and could cause collapse of the main landing gear. There have been reports of such failures. Since this condition is likely to exist or develop on other airplanes of the same type design, the proposed AD would require replacement of the MLG side brace fasteners with higher strength fasteners on Mooney M20F and M20J airplanes.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, the Federal Aviation Administration proposes to amend section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) by adding the following new airworthiness directive:

MOONEY AIRCRAFT CORPORATION. Applies to Models M20F airplanes, all serial numbers, and M20J airplanes, serial numbers 24-0001 through 24-0500, certificated in all categories.

Compliance is required as indicated unless already accomplished.

To prevent possible failure of the main landing gear side brace bolts, accomplish the following:

Within the next 90 days after the effective date of this AD, replace the main landing gear side brace bolts in accordance with Mooney Service Bulletin No. M20-212 dated March 1, 1978, or equivalent methods approved by the Chief, Engineering and Manufacturing Branch, FAA, Southwest Region.

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

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

Issued in Fort Worth, Tex., on March 3, 1978.

HENRY L. NEWMAN,
Director Southwest Region.

[FR Doc. 78-7487 Filed 3-22-78; 8:45 am]

[4910-13]

[14 CFR Part 39]

[Docket No. 77-CE-18-AD]

BEECH 55, 56, 58 AND 95 SERIES AIRPLANES

Withdrawal of Notice of Proposed Rulemaking

Correction

In FR Doc. 78-5999, appearing on page 9617 in the issue of Thursday, March 9, 1978, the third word in the fourth line of the third paragraph in column three should read "to".

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 77-WE-26]

CONTROL ZONE

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to establish a control zone at San Nicolas Island, Calif. This action is necessary to provide controlled airspace for the protection of aircraft executing instrument approach procedures (IAP) to Runway 30 at the San Nicolas Island Outlying Field (OLF).[1]

DATE: Comments must be received on or before April 19, 1978.

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Western Region, Attention: Chief, Air Traffic Division, Docket No. 77-WE-26, Federal Aviation Administration, 15000 Aviation Boulevard, P.O. Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009.

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. 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:

COMMENTS INVITED

Interested persons may particpate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communication should identify the airspace docket number and be submitted in triplicate to the Director, Western Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, 15000 Aviation Boulevard, P.O.

[1] Map filed as part of the original document.

Box 92007, Worldway Postal Center, Los Angeles, Calif. 90009. All communications received on or before April 19, 1978, 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 examinaton by interested persons.

AVAILABILITY OF NPRM

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

THE PROPOSAL

The FAA is considering an amendment to Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a Control Zone (CZ) at San Nicolas Island, Calif. The proposed CZ will provide protected airspace for the TACAN Runway 30 and the NDB Runway 30 approaches to the San Nicolas Island OLF. Terminal and area operations at this location have increased considerably and it appears that designation of a CZ is justified. It should be described as an area within five miles of the OLF and with short extensions northwest and southeast.

ICAO CONSIDERATIONS

As part of this proposal relates to the navigable airspace outside the United States, this notice is submitted in consonance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

Applicability of International Standards and Recommended Practices by the Air Traffic Service, FAA, in areas outside domestic airspace of the United States is governed by Article 12 of and Annex 11 to the Convention on International Civil Aviation, which pertains to the establishment of air navigation facilities and services necessary to promoting the safe, orderly, and expeditious flow of civil air traffic. Their purpose is to insure that civil flying on international air routes is carried out under uniform conditions designed to improve the safety and efficiency of air operations.

The International Standards and Recommended Practices in Annex 11 apply in those parts of the airspace under the jurisdiction of a contracting state, derived from ICAO, wherein air traffic services are provided and also whenever a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty. A contracting state accepting such responsibility may apply the International Standards and Recommended Practices to civil aircraft in a manner consistent with that adopted for airspace under its domestic jurisdiction.

In accordance with Article 3 of the Convention on International Civil Aviation, Chicago, 1944, state aircraft are exempt from the provisions of Annex 11 and its Standards and Recommended Practices. As a contracting state, the United States agreed by Article 3(d) that its state aircraft will be operated in international airspace with due regard for the safety of civil aircraft.

Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

DRAFTING INFORMATION

The principal authors of this document are Mr. Everett L. McKisson, Air Traffic Service, and Mr. Richard W. Danforth, Office of the Chief Counsel.

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as republished (43 FR 355) as follows:

In § 71.171 (43 FR 355) "San Nicolas Island, Calif. (San Nicolas Island OLF):

Within a 5-mile radius of the San Nicolas Island Outlying Field (Lat. 33°13'30" N., Long. 119°27'50" W.) and within one mile each side of the 135°T/120°M and 315°T/300°M bearings from the Navy San Nicolas Island NDB (Lat. 33°14'10" N., Long. 119°26'56" W.) extending from seven miles southeast to seven miles northwest of the NDB. 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."

(Secs. 307(a), 313(a), and 1110, Federal Aviation Act of 1958 (49 U.S.C. 1348(a), 1354(a) and 1510); Executive Order 10854 (24 FR 9565); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); and 14 CFR 11.65.)

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 March 17, 1978.

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

[FR Doc. 78-7602 Filed 3-22-78; 8:45 am]

[4910-13]

[14 CFR Part 71]

[Airspace Docket No. 78-GL-3]

TRANSITION AREA

Proposed Designation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The nature of this Federal action is to designate additional controlled airspace near Faribault, Minn., to accommodate a new instrument approach procedure into the Faribault Municipal Airport established on the basis of a request from the Faribault Airport officials to provide that facility with instrument approach capability. The intended effect of this action is to insure segregation of the aircraft using this approach procedure in instrument weather conditions, and other aircraft operating under visual conditions.

DATE: Comments must be received on or before May 18, 1978.

ADDRESSES: Send comments on the proposal to FAA Office of Regional Counsel, AGL-7, Attention: Rules Docket Clerk, Docket No. 78-GL-3, 2300 East Devon Avenue, Des Plaines, Ill. 60018. A public docket will be available for examination by interested persons in the Office of the Regional Counsel, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018.

FOR FURTHER INFORMATION CONTACT:

Doyle Hegland, Airspace and Procedures Branch, Air Traffic Division, AGL-530, FAA, Great Lakes Region, 2300 East Devon Avenue, Des Plaines, Ill. 60018, telephone 312-694-4500, extension 456.

SUPPLEMENTARY INFORMATION: The floor of the controlled airspace in this area will be lowered from 1,200' above ground to 700' above ground. The development of the proposed instrument procedures necessitates the FAA to lower the floor of the controlled airspace to insure that the procedure will be contained within controlled airspace. The minimum descent altitude for this procedure may be established below the floor of the 700-foot controlled airspace. In addition, aeronautical maps and charts will re-

flect the area of the instrument procedure which will enable other aircraft to circumnavigate the area in order to comply with applicable visual flight rule requirements.

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should be submitted in triplicate to Regional Counsel, AGL-7, Great Lakes Region, Rules Docket No. 78-GL-3, Federal Aviation Administration, 2300 East Devon Avenue, Des Plaines, Ill. 60018. All communications received on or before May 18, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

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

THE PROPOSAL

The FAA is considering an amendment to Subpart G of Part 71 of the Federal Aviation Regulations (14 CFR Part 71) to establish a 700-foot controlled airspace transition area near Faribault, Minn. Subpart G of Part 71 was republished in the FEDERAL REGISTER on January 3, 1978 (43 FR 307).

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

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

In Section 71.181 (43 FR 440), the following transition area is added:

FARIBAULT, MINN.

That airspace extending upward from 700 feet above the surface within a 5-mile radius of Faribault Municipal Airport (latitude 44°19'30" N, longitude 93°18'30" W), within 1.25 miles each side of 199° bearing from Faribault Municipal Airport, extending from the Faribault 5-mile radius area to 9 miles southwest of the airport, excluding the portion within the Owatonna, Minn., transition area.

This amendment is proposed under the authority of Section 307(a), Federal Aviation Act of 1958 (49 U.S.C. 1348(a)); Sec. 6(c), Department of Transportation Act (49 U.S.C. 1655(c)); Sec. 11.61 of the Federal Aviation Regulations (14 CFR 11.61).

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

Issued in Des Plaines, Ill., on March 10, 1978.

JOHN M. CYROCKI,
Director,
Great Lakes Region.

[FR Doc. 78-7604 Filed 3-22-78; 8:45 am]

[4910-13]

[14CFR Part 73]

[Airspace Docket No. 77-PC-4]

Proposed Alteration Restricted Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The FAA proposes to raise the upper limits of Restricted Areas identified as R-3109A and R-3109B, Schofield-Makua, Hawaii, from 19,000 feet MSL to 29,000 feet MSL. The Department of the Army stated that the requested higher limits are necessary so that 155mm Artillery high-angle firing training can be accomplished on the island of Oahu. Presently, this type of training must be accomplished on the island of Hawaii.

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

ADDRESSES: Send comments on the proposal in triplicate to: Director, FAA Pacific Region, Attention: Chief, Air Traffic Division, Docket No. 77-PC-4, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813. 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. Lewis W. Still, 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 202-426-8525.

SUPPLEMENTARY INFORMATION:

COMMENTS INVITED

Interested persons may participate in the proposed rulemaking by submitting such written data, views or arguments as they may desire. Communications should identify the airspace docket number and be submitted in triplicate to the Director, Pacific Region, Attention: Chief, Air Traffic Division, Federal Aviation Administration, P.O. Box 4009, Honolulu, Hawaii 96813. All communications received on or before May 4, 1978, will be considered before action is taken on the proposed amendment. The proposal contained in this notice may be changed in the light of comments received. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket for examination by interested persons.

AVAILABILITY OF NPRM

Any person may obtain a copy of this notice of proposed rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Office of Public Affairs, Attention: Public Information Center, APA-430, 800 Independence Avenue, SW., Washington, D.C. 20591, or by calling 202-426-8058. Communications must identify the 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 FAA is considering an amendment to Part 73 of the Federal Aviation Regulations (14 CFR Part 73) that would extend the upper limits of R-3109A and R-3109B, to 29,000 feet MSL so that 155mm Artillery high-angle fire can be accomplished on the island of Oahu. The increase in the upper limits will improve the artillery training on Oahu and allow the using agency more flexibility in planning live-fire exercises and tests. At the present time, 155mm Artillery units must be deployed to the island of Hawaii to accomplish this type of training mission. This alteration would not change the present boundary of R-3109A and B laterally. However, the FAA proposes to redescribe R-3109 to provide three vertical layers to be designated as R-3109A, R-3109B and R-3109C which would include altitudes from the surface to 29,000 feet MSL. In addition, current R-3109B would be redesigned as R-3110A, R-3110B and R-3110C with vertical layers extending from the surface to 29,000 feet MSL.

DRAFTING INFORMATION

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

THE PROPOSED AMENDMENT

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend § 73.31 of Part 73 of the Federal Aviation Regulations (14 CFR Part 73) as republished (43 FR 680) as follows:

1. By amending R-3109A and R-3109B as follows:

a. By redesignating R-3109A as "R-3109A, R3109B and R-3109C" with the same lateral description as the existing R-3109A and divided vertically as follows:

R-3109A Surface to but not including 9,000 feet MSL.
R-3109B From 9,000 feet MSL to, but not including 19,000 feet MSL.
R-3109C From 19,000 feet MSL to 29,000 feet MSL.

b. By redesignating R-3109B as "R-3110A, R-3110B and R-3110C" with the same lateral description as the existing R-3109B and divided vertically as follows:

R-3110A Surface to but not including 9,000 feet MSL.
R-3110B From 9,000 feet MSL to, but not including 19,000 feet MSL.
R-3110C From 19,000 feet MSL to 29,000 feet MSL.

(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 March 17, 1978.

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

[FR Doc 78-7603 Filed 3-22-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[14 CFR Part 221]

[EDR-349; Docket 32263; Dated: March 16, 1978]

CONSTRUCTION, PUBLICATION, FILING AND POSTING OF TARIFFS OF AIR CARRIERS AND FOREIGN AIR CARRIERS

Proposed Rulemaking

AGENCY: Civil Aeronautics Board.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Board is proposing to reduce the amount of economic data now required to accompany proposed changes in tariff rates for the interstate air transportation of property. This proposed change has been initiated by the Board.

DATE: Comments by: April 21, 1978. Comments and other relevant information received after this date will be considered by the Board only to the extent practicable.

ADDRESS: Twenty copies of comments should be sent to Docket 32263, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428. Individuals may submit their views as consumers without filing multiple copies. Comments may be examined in Room 711, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C., as soon as they are received.

FOR FURTHER INFORMATION CONTACT:

Lawrence R. Myers, Rates and Agreements Division, Civil Aeronautics Board, 1825 Connecticut Avenue NW., Washington, D.C. 20428, 202-673-5791.

SUPPLEMENTARY INFORMATION: Pub. L. 95-163, enacted November 9, 1977, significantly limits the Board's authority over domestic air freight rules and rates, leaving largely to competitive market forces the "extent, variety, quality, and price" of such services. More specifically, tariff provisions governing the interstate air transportation of property, as that term is defined in § 1002(k)(1) of the Act, are not longer subject to challenge on the ground of economic reasonableness.[1] Under such circumstances, the estimates of cost of service and revenue impact required by paragraph (b) of § 221.165 would appear to be of limited value as a matter of preliminary tariff justification. Similarly, while the Board has a clear and continuing interest in monitoring the effect of cargo deregulation on competition and on the level of rates, it tentatively concludes that the representative rate tables required by paragraph (c) are not sufficiently comprehensive to warrant their retention solely for this purpose. The proposed exceptions from the requirements of paragraphs (b) and (c) parallel those recently extended to all air freight forwarders[2] and in effect limit the required supporting information to an accurate and functional description of the proposed changes, and the reasons for them.

[1]Sec. 1002(d)(3) (49 U.S.C. 1482(d)(3)).
[2]Regulation ER-1002, adopted June 21, 1977.

The Board proposes to amend part 221 of its Economic Regulations (14 CFR Part 221) as follows:

Amend § 221.165 paragraph (d)(1)(iii) as follows:

§ 221.165 Explanation and data supporting tariff changes and new matter in tariff publications.

* * * * *

(d) Exceptions: (1) The requirement for data and/or information in paragraphs (b) and (c) of this section will not apply to tariff publications containing new or changed matter which are filed.

* * * * *

(iii) For the interstate air transportation of property, as defined in § 1002(k)(1) of the Act, or by air freight forwarders or international air freight forwarders, as defined in Part 296 of this subchapter, or

* * * * *

(Secs. 102, 204, and 403 of the Federal Aviation Act of 1958, as amended, 72 Stat. 740, 743, and 758, as amended; 49 U.S.C. 1302, 1324, and 1373).

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-7767 Filed 3-22-78; 8:45 am]

[6355-01]

CONSUMER PRODUCT SAFETY COMMISSION

[16 CFR Part 1701]

PRESCRIPTION DRUGS DISTRIBUTED TO PRESCRIBING PRACTITIONERS

Proposed Statement of Policy and Interpretation

AGENCY: Consumer Product Safety Commission.

ACTION: Proposed rule.

SUMMARY: The Consumer Product Safety Commission proposes to require that all prescription drugs subject to a child-resistant packaging standard that are distributed to physicians and other prescribing practitioners shall be in child-resistant packaging if the immediate packages in which the drugs are distributed by the manufacturer are intended to be the packages in which the drugs are dispensed to the consumer. The requirement is necessary in order to help insure that the prescribing practitioner will actually dispense the drug in the proper package.

DATES: Written comments should be received on or before May 8, 1978. The

policy is proposed to become effective 180 days after the final policy is issued in the FEDERAL REGISTER. All affected products that are packaged by the manufacturer after the effecting date must be placed in special packaging.

ADDRESSES: Written comments, preferably in five copies, should be submitted to the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

FOR FURTHER INFORMATION CONTACT:

Stan Morrow, Office of Program Management, Consumer Product Safety Commission, Washington, D.C. 20207, 301-492-6557.

SUPPLEMENTARY INFORMATION: Section 3 of the Poison Prevention Packaging Act of 1970 ("the act"), 15 U.S.C. 1472, authorizes the establishment of standards requiring "special packaging" for certain household substances in order to protect children from serious personal injury or serious illness resulting from handling, using, or ingesting such substances. "Special packaging" is packaging that is designed or constructed to be (1) significantly difficult for children under five years of age to open or obtain a toxic or harmful amount of the substance contained therein within a reasonable time and (2) not difficult for normal adults to use properly (15 U.S.C. 1471(4)). A household substance is one which is customarily produced or distributed for sale for consumption or use, or customarily stored, by individuals in or about the household. The legislative history of the act shows that it was the intent of the act for special packaging to be the rule and not the exception.

In the FEDERAL REGISTER April 16, 1973 (38 FR 9431, 9432), a regulation (now 16 CFR 1700.14(a)(10)) was issued that requires that all oral prescription human drugs be supplied in special packaging. In the preamble to that notice, the criterion for determining when a manufacturer has the obligation for providing special packaging for an item that will be dispensed pursuant to the order of a licensed medical practitioner was stated as follows:

"* * * the person who *places* a household substance subject to these standards *into* a container must determine if that container is in fact a package in which the substance may be delivered to the consumer for use or storage in the household. If it is, these standards apply" (emphasis supplied).

Under this test, if manufacturers intend the immediate container in which they place a prescription drug to also be the package dispensed directly to the consumer, the package must be child-resistant.

Manufacturers of prescription drugs generally package them in different types of packages and with different instructions, depending on whether the manufacturer intends that the original package will be the one in which the drug is ultimately given to the consumer or whether it is intended that the drug will be repackaged before it is dispensed to the consumer. If the drug is intended by the manufacturer to be repackaged (bulk package), the manufacturer need not utilize special packaging.

In the past, the Commission's policies concerning the manufacturer's distribution of prescription drugs in noncomplying packaging intended for consumer use have been different, depending on whether the manufacturer distributed the drug to a pharmacy or to a prescribing practitioner. Elsewhere in this issue of the FEDERAL REGISTER, the Commission has codified a statement (16 CFR 1701.1) of its long-standing policy that when prescription drugs are distributed by manufacturers to pharmacies in packages that are intended to be dispensed directly to consumers, all immediate containers of such drugs must meet the standards for special packaging.

However, the previous policy of the Commission, and of the Food and Drug Administration which preceded the Commission in administering the Poison Prevention Packaging Act of 1970, was that such drugs could ber distributed to prescribing practitioners in either complying or noncomplying packaging. The reason that this policy was followed in the past was that since, under section 4(b) of the act, the prescribing practitioner has the discretion to prescribe drugs for consumers in noncomplying packaging, there was no apparent need to require that the drug be distributed to the practitioner in complying packaging. Upon reconsideration of this question, however, the Commission now believes that allowing manufacturers to furnish prescription drugs to prescribing practitioners in noncomplying packaging intended by the manufacturer to be dispensed directly to the consumer is both in violation of the Poison Prevention Packaging Act of 1970 and undesirable as a matter of policy.

Whether a manufacturer intends that a package will be the one in which the drugs are dispensed to the consumer can be determined from the type of package, whether the ancillary instructions provided on the package (such as for storage or handling) are intended for consumers, and other factors.

The Commission believes that its new interpretation is necessary in order to help insure that the prescribing practitioner will actually dispense the drug in the proper package. When manufacturers place prescription drugs in packages that are intended for consumers but that do not comply with the standard, it is likely that these drugs will be dispensed to consumers in such noncomplying packaging. The Commission believes that this likelihood exists because, unlike bulk-packaged drugs that must be repackaged, drugs placed in consumer packages by manufacturers in many instances cannot be repackaged without some inconvenience and, at most, need only be labeled by the practitioner before they are dispensed to a consumer.

Manufacturers should also note that section 4(a) of the act (which allows a single size of a regulated product to be marketed in noncomplying packaging under certain circumstances) does not apply to substances subject to section 4(b) of the act. Thus, sunce the section 4(a) single-size exemption for over-the-conter drugs and other household substances does not apply to prescription drugs, every unit of a prescription drug subject to a special packaging standard which is distributed in a package intended by the manufacturer to be dispensed to a consumer shall be in special packaging. This new interpretation applies to samples of such drugs that may be distributed to the practitioner at no charge as well as to such drugs that are purchased by the practitioner. A prescribing practitioner may, however, convert the packaging to conventional (noncomplying) packaging or repackage it in such packaging if he or she deems it advisable or if so requested by the patient.

In order to assist manufacturers of prescription drugs in discharging their responsibilities under the act concerning such drugs that are distributed to prescribing practitioners, the Commission has decided to codify a statement of its policy concerning which packages of such drugs must consist of "special" (child-resistant) packaging that complies with the standards in 16 CFR 1700.15. Since the Commission's current interpretation of the requirements of the act in this regard is different from the policy that it has previously followed, the Commission is proposing its statement of policy and interpretation for public comment and will continue to follow the previous policy as far as enforcement actions are concerned until a final statement of policy is announced or issued in the FEDERAL REGISTER and becomes effective.

Therefore, under provisions of the Poison Prevention Packaging Act of 1970 (secs. 2-4, Pub. L. 91-601, 84 Stat. 1670, 1671; 15 U.S.C. 1471-1473) and the Federal Food, Drug, and Cosmetic Act (sec. 701(a), 52 Stat. 1055, 21 U.S.C. 371(a)) and by the authority granted by the Consumer Product Safety Act (sec. 30(a), Pub. L. 92-573, 86 Stat. 1231; 15 U.S.C. 2079(a)), the Commission proposes to amend Title 16, Chapter II, of the Code of Federal Regulations by adding to Subchapter

E, Part 1701, a new § 1701.2, to read as follows:

§ 1701.2 Special packaging for substances subject to a standard that may only be dispensed pursuant to an order of a licensed medical practitioner and which are distributed to the prescribing practitioner.

(a) In order to assist manufacturers of prescription drugs in discharging their responsibilities under the act concerning such drugs that are distributed to prescribing practitioners, the Consumer Product Safety Commission has codified this statement of its policy concerning which prescription drug packages supplied by manufacturers to the prescribing practitioners must comply with the "special" (child-resistant) packaging requirements contained in 16 CFR 1700.15.

(b) Manufacturers of prescription drugs may package such drugs in different types of packages, depending on whether the manufacturer intendes that the pckage will be the one in which the drug is ultimately given to the consumer or whether it is intended that the drug will be repackaged before it is dispensed to the consumer. Examples of packages intended for consumers include memonic dispensing devices; dropper bottles; packages with "tear off" labels; packages which incorporate anciliary instructions for consumer handling, storage, or use on permanently affixed portions of their labels; packaging for products intended to be reconstituted in their original containers; and packages which, because of the limited number of doses contained therein, are clearly intended to be dispensed to the consumer. If the drug is intended by the manufacturer to be repackaged (bulk package) the manufacturer need not utilize special packaging. However, the Commission interprets the provisions of the act as requiring that all prescription drugs subject to a special packaging standard that are distributed to prescribing practitioners shall be in special packaging if the immediate package in which the drugs are distributed is intended by the manufacturer to be the package in which the drugs are dispensed to the consumer. The Commission believes that this interpretation is necessary in order to insure that the drug will actually be dispensed in the proper package. However, the prescribing practitioner may convert the package to conventional packaging or repackage the drug in conventional packaging if he or she deems it advisable or if so requested by the patient.

(c) Manufacturers should also note that section 4(a) of the act (which allows a single size of a product to be marketed in noncomplying packaging under certain circumstances) does not apply to prescription drugs subject to section 4(b) of the act. Thus, since the section 4(a) single-size exemption for over the counter drugs and other household substances does not apply to prescription drugs, every unit of a prescription drug subject to a special packaging standard which is distributed in a package intended by the manufacturer to be dispensed to a consumer shall be in special packaging. This requirement applies to samples of such drugs that may be distributed to the practitioner at no charge as well as to such drugs that are purchased by the practitioner.

(d) This section shall be effective 180 days after the final rule is issued in the FEDERAL REGISTER, as to all affected products that are packaged by the manufacturer after that date.

(Secs. 2-4, Pub. L. 91-601, 84 Stat. 1670, 1671 (15 U.S.C. 1471-1473); sec. 701(a), 52 Stat. 1055; (21 U.S.C. 371(a)).)

Interested persons are invited to submit written data, views, or arguments regarding any aspect of the proposal on or before May 8, 1978. Comments submitted after this date will be considered to the extent practicable. Comments should be accompanied, to the extent possible, by supporting data or documentation. Requests for confidentiality of any information submitted will be handled in accordance with the Freedom of Information Act as amended (5 U.S.C. 552), the Commission's regulations under that act (16 CFR part 1015, issued February 22, 1977, at 42 FR 10490), and the provisions of section 6(a)(2) of the Consumer Product Safety Act (15 U.S.C. 2055(a)(2)). Comments may be supported by a memorandum or brief.

Written comments and any accompanying data or materials should be submitted, preferably in five copies, to the Office of the Secretary, Consumer Product Safety Commission, Washington, D.C. 20207.

Any comments that are received, and all other material which the Commission has that is relevant to this proceeding, may be seen in, or copies obtained from, the Office of the Secretary, Consumer Product Safety Commission, 3d Floor, 1111 18th Street NW., Washington, D.C. 20207.

Dated: March 16, 1978.

SADYE E. DUNN,
Acting Secretary, Consumer Product Safety Commission.

[FR Doc. 78-7691 Filed 3-22-78; 8:45 am]

[4110-07]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration

[20 CFR Part 404]

DISABILITY INSURANCE PROGRAM

Substantial Gainful Activity Guidelines for Persons Disabled by Blindness

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: To reflect a recent statutory change, the Social Security Administration is planning to publish interim regulations which will increase the amount persons disabled by blindness may earn and not lose disability benefits paid under title II of the Social Security Act. Under the Act, a person able to engage in substantial gainful activity (SGA) is not eligible to receive disability benefits. The ability to engage in SGA is determined by considering the services performed and the earnings derived from such services. Earnings of $230 per month are ordinarily considered indicative of ability to engage in SGA, regardless of the nature of the disability.[1] The new regulations will provide that the monthly SGA amount for persons disabled by blindness shall be the same as the earnings test amount for retired individuals.[2]

FOR FURTHER INFORMATION CONTACT:

Mike Seledee, Social Security Administration, Room 7430, Dickinson Tower, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-4065.

Dated: January 17, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7758 Filed 3-22-78; 8:45 am]

[1] A regulations change published in the FEDERAL REGISTER on Jan. 13, 1978, raised this monthly amount from $200 to $230 effective January 1976.

[2] For taxable year 1978, this amount has been established at $333.33 per month. It will be higher for taxable years thereafter.

[4110-07]

[20 CFR Part 404]

OLD-AGE AND SURVIVORS PROGRAM

Nonprofit Organizations—Deemed Filing of Waiver Certificates

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish regulations to implement provisions that involve the coverage of nonprofit organizations under the Federal old-age, survivors, and disability insurance program. The regulations will affect income-tax exempt religious, charitable, educational; and other nonprofit organizations and employees of such organizations. Prior to October 19, 1976, services of employees of a nonprofit organization could not be covered under social security unless the organization actually filed a waiver certificate with the Internal Revenue Service to waive its exemption to taxes levied on wages under the Federal Insurance Contributions Act (FICA) along with a list of employees, if any, who concurred in having their services covered. Effective October 19, 1976, if a nonprofit organization failed to file the required waiver certificate and list of concurring employees, it will be deemed to have filed them if it reported wages paid its employees for social security purposes and paid FICA taxes on such wages. The effective filing and coverage dates of the deemed filed certificates will be set forth in the regulations. The regulations will also explain how and the conditions under which an employee may request coverage of certain services performed for a nonprofit organization which would otherwise not be covered under social security. The purpose of the statutory amendments and the interim regulations is to validate, for social security coverage and tax purposes, wages reported for social security purposes by a nonprofit organization which failed to file a waiver certificate.

FOR FURTHER INFORMATION CONTACT:

Tony McGurrin, Room 409, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-5589.

Dated: January 26, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7757 Filed 3-22-78; 8:45 am]

[4110-07]

[20 CFR Part 404]

OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

Pension Offset to Dependents' Benefits

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish regulations regarding a reduction in the amount of spouses, surviving spouses and mothers' monthly social security benefits by the amount of any periodic Federal, State, or local government pension payable to such individuals. Persons who were receiving these other government pensions or would be eligible for such pensions within a 60-month period from the time of enactment of this provision in December 1977 and who could have qualified for spouses or surviving spouses monthly social security benefits under the law in effect on January 1, 1977, are not subject to this pension offset.

FOR FURTHER INFORMATION CONTACT:

Henry Morin, Room 403, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-6979.

Dated: January 20, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7753 Filed 3-22-78; 8:45 am]

[4110-07]

[20 CFR Part 404]

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE

Annual Wage Reporting

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to publish regulations necessary to make changes in those provisions which refer to, or are based on, the use of quarterly wage data. Annual; wage data will be substituted for quarterly wage data for: (1) automatically adjusting the contribution and benefit base and the retirement test exempt amount; (2) computing the benefit reduction when a worker is entitled to workmen's compensation; (3) applying coverage tests to certain jobs; and (4) granting military service noncontributory wage credits. The most significant program change will be setting out how annual wages and self-employment income will be credited in terms of quarters of coverage.

FOR FURTHER INFORMATION CONTACT:

Ron Eber, Room 409, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-5582.

Dated: January 30, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7756 Filed 3-22-78; 8:45 am]

[4110-07]

[20 CFR Part 404]

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE

Annual Reporting of Wages Paid by State and Political Subdivisions

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration plans to publish a Notice of Proposed Rulemaking to change from quarterly to annual the basis on which State and political subdivisions report wages. The change will apply to employees covered under agreements between the States and the Secretary of Health, Education, and Welfare. Under annual reporting, State and local employers will no longer be required to file quarterly wage reports but will be required to report their covered employees' wages annually. Any accompanying amendments will facilitate that change and provide for review as needed to assure accuracy of annual reporting of wages.

FOR FURTHER INFORMATION CONTACT:

Barbara C. Motley, Room 405, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-5588.

Dated: February 22, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7755 Filed 3-22-78; 8:45 am]

[4110-07]

[20 CFR Part 404]

RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE

Determining the Amount Payable to an Individual Qualifying for Social Security Benefits

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish regulations to implement in an orderly and simple manner, the complex provisions of the Social Security Amendments of 1977 which change the way social security benefits are computed for workers who reach age 62, become disabled, or die after 1978. Under the new method, instead of basing the amount of a worker's benefit on his or her average monthly earnings as reported to the Social Security Administration by the employer, the worker's earnings will be adjusted, or "indexed," to reflect overall increases in earnings levels that have occurred during the worker's years of employment to the time the worker reached age 62. Basing a worker's benefit on his or her average indexed monthly earnings will provide a benefit rate more closely related to the worker's earnings immediately preceding retirement, disability, or death. The new benefit formula will also mean an adjustment in the maximum benefits payable to families based on the earnings of the worker; the maximum will continue to approximate 1.5 times the worker's benefit. Because some worker's retiring over the next 5 years would be disadvantaged under the new benefit formula, a provision has been included which protects against such a loss by allowing the use of the old benefit formula during the next 5 years. A number of related changes affecting the benefit rate include the freezing of the minimum benefit at the December 1978 level (about $121), subject to cost-of-living increases beginning in the year the beneficiary starts to receive benefits or attains age 65, whichever is earlier; increasing the delayed retirement credit from 1 to 3 percent per year for each year a worker does not receive a benefit between ages 65 and 72 (this increase applies to persons attaining age 62 after 1978); and, applying (for the first time), effective June 1978, the delayed retirement credit to widow(ers) insurance benefits. An additional computational related change, effective for months after December 1977, provides that benefit increases given to those receiving actuarially reduced benefits will be based on the reduction factor applied to the individual's initial benefit computation.

FOR FURTHER INFORMATION CONTACT:

Morris Sackel, Room 403, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-6973.

Dated: January 20, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7754 Filed 3-22-78; 8:45 am]

[4110-07]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME

Protecting Filing Dates for SSI Inquirers

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Administration is planning to publish proposed regulations with respect to protecting the rights of individuals who orally inquire about supplemental security income (SSI) benefits. The proposal will afford a measure of protection to persons who orally inquire about their eligibility for SSI, but do not file applications at the time they inquire. In addition, some applicants for benefits under the regular social security benefits program (title II) may be unaware that they may also be eligible for SSI payments and fail to file. Failure to file promptly may result in a loss of payments. The proposed regulation will establish a procedure for dealing with such inquires and establish a period during which the inquirer will have the same rights as if the SSI application had been filed at the time of the original inquiry, or when the title II application was filed.

FOR FURTHER INFORMATION CONTACT:

Morris Sackel, Room 403, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-6973.

Dated: December 9, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7751 Filed 3-22-78; 8:45 am]

[4110-07]

[20 CFR Part 416]

SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

The Treatment in the Supplemental Security Income Program of Assistance Furnished Under the Disaster Relief Act of 1974 or Other Federal Statutes

AGENCY: Social Security Administration, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Social Security Adminstration is planning to publish interim regulations to implement new statutory provisions involving the treatment in the supplemental security income (SSI) program of assistance furnished under the Disaster Relief Act of 1974, or other Federal statutes on account of a catastrophe. These interim regulations will pertain to presidentially declared disasters which occurred on or after December 31, 1976, and will be effective January 1, 1978. The interim regulations will provide that assistance received under the Disaster Relief Act of 1974 or other Federal statutes will be excluded from income and resources; all interest earned on such assistance will be excluded from income or resources. The resource and interest exclusions apply for a period of 9 months beginning on the date the funds are received. The 9-month period may be extended in cases where good cause is shown.

FOR FURTHER INFORMATION CONTACT:

Mrs. Charleen Harris, Social Security Administration, Room 3312, West High Rise Building, 6401 Security Boulevard, Baltimore, Md. 21235, telephone: 301-594-6638.

Dated: January 18, 1978.
Approved:

DON WORTMAN,
Acting Commissioner of Social Security.

[FR Doc. 78-7752 Filed 3-22-78; 8:45 am]

[4310-02]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 277]

SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

Update of Regulations to Reflect 1976 Consultation

MARCH 13, 1978.

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule revises regulations under which public schools on or near Indian trust land can obtain school construction contracts. The regulations are being revised to reflect a Memorandum of Agreement between the U.S. Office of Education and the Bureau of Indian Affairs on procedures for joint implementation and funding. The regulations are also being revised to change the order in which some actions are taken and to solve some problems found in operating under the existing regulations.

DATES: Comments must be received on or before: April 24, 1978.

ADDRESSES: Submit written comments to the Indian Self-Determination Staff (Code 106), Room 4627, 18th and C Streets NW., Washington, D.C. 20245.

FOR FURTHER INFORMATION CONTACT:

Dr. Helen Miner Miller, Acting Chief, Indian Self-Determination Staff, Bureau of Indian Affairs, Room 4627, 18th and C streets, NW., Washington, D.C. 20245, telephone 202-343-4796.

SUPPLEMENTARY INFORMATION: The proposed changes in this document are the result of the second phase of the 1976 consultation on needed revisions to the regulations implementing the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.). The regulations in 25 CFR 271.3(e), 272.4(e), 273.3(d), 274.5(d), and 277.4(d) require that the Bureau annually consult with Indian tribes and national and regional Indian organizations about the need to revise the regulations and consider their comments in preparing the revision. In an August 6, 1976, letter, Indian tribes and national and regional Indian organizations were asked to submit their comments on needed revisions to the regulations by September 20, 1976. In a July 11, 1977, letter, Indian tribes and national and regional Indian organizations were asked to submit their comments on needed revisions to the regulations by September 20, 1977. The proposed changes are based on the comments received.

The proposed regulations in this document are the result of the consultation with Indian tribes and organizations which began in August 1976. Indian tribes and organizations have only had experience with the Indian Self-Determination and Education Assistance Act regulations since the December 1975 effective date. Since this was their first opportunity to recommend changes to the regulations, the consultation process has taken longer than expected in order to allow for consideration of late comments. The 30-day period allowed for comment on the proposed regulations in this document provides a further opportunity for input from Inidan tribes and organizations. Therefore, the Bureau considers the consultation on these regulations to include both the 1976 and 1977 annual consultation with Indian tribes and organizations. There will not be a separate 1977 Indian consultation.

Changes to 25 CFR Parts 271, 274, 275, and 276 are being made in a separate document. No changes were suggested to 25 CFR 272, "Grants Under Indian Self-Determination Act." However, if changes to 25 CFR Part 272 are recommended, they will be included with the changes to 25 CFR Parts 271, 274, 275, and 276. Changes to 25 CFR Part 277 are being handled separately in this document to facilitate coordination with the Advisory Commission on Intergovernmental Relations. Part 277 is the only Part of the Indian Self-Determination and Education Asistance Act regulations which is subject to such coordination.

The Bureau is also considering making changes to 25 CFR Part 273, "Education Contracts Under Johnson-O'Mally Act," in a separate document at a later date. Some of the proposed changes to 25 CFR Part 273 involve budget matters which must be coordinated with the Office of Management and Budget and Congress before the proposed changes can be sent out for comments.

The authority for the Assistant Secretary for Indian Affairs to revise these regulations is the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.) and 230 DM 1 and 2.

The Bureau of Indian Affairs proposes to amend Part 277, Subchapter Y, Chapter I, Title 25 of the Code of Federal Regulations by amending §§ 277.1, 277.12, 277.13, 277.17, 277.22, 277.24, 277.25, 277.29, and 277.36; revising §§ 277.2, 277.14, 277.15, 277.16, and 277.21; deleting § 277.28 and adding new §§ 277.15a and 277.18.

The following is a list of the proposed changes and the reasons for each change:

§ 277.1—To delete the phrase "State or local education agency" and change to "school district." This change is being made to reflect § 277.11 which indicates that only school districts are eligible to apply for a contract under Part 277.

§ 277.2—To revise this section to conform to the Memorandum of Agreement on procedures for joint implementation by the U.S. Office of Education and the Bureau of Indian Affairs of Title II, Part B, of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.). The Memorandum of Agreement was signed by the Commissioner of Indian Affairs on June 21, 1976, and by the Acting U.S. Commissioner of Education on August 30, 1976. The responsibilities and authorities of the Commissioner of Indian Affairs are now vested in the Assistant Secretary for Indian Affairs. In particular, a statement is being added following the second sentence in paragraph (a) to show that the U.S. Commissioner of Education has agreed to notify the Assistant Secretary for Indian Affairs upon receipt of an application. This information is needed so the Bureau of Indian Affairs can insure compliance with the Indian involvement requirements of Pub. L. 93-638 for any project funded under the Act. The third sentence of paragraph (a) concerning the Assistant Secretary for Indian Affairs' participation in the preparation of data for the application and national priority index is being deleted since the Assistant Secretary for Indian Affairs does not get involved at that stage. The last sentence in paragraph (a) is being revised to indicate that the Commissioner of Education prepares the national priority index and has agreed to furnish it to the Bureau annually or as the Bureau requests. The first sentence of paragraph (b) is being revised to add planning as a function for which the Bureau requests and receives funding. A statement is being added following the second sentence in paragraph (b) to indicate that the Assistant Secretary for Indian Affairs and the Commissioner of Education have agreed to jointly develop an individual project management plan and provide guidance to the applicant in developing educational and facilities specifications. The third sentence in paragraph (b) is being revised for clarity and to indicate that more than one contract may be negotiated with the applicant and that planning may also be contracted. The third sentence is also being revised by deleting the phrase "meeting standards of construction given in Pub. L. 81-815" to indicate that the facilities must meet the requirements of the facilities specifications only. Another sentence is being added to the end of paragraph (b) to indicate that the construction

standards and space requirements will be based on need as described in the educational and facilities specifications.

§ 277.12—To revise paragraph (a) to change the actual time the Bureau performs the consultation required by Pub. L. 93-638. The current regulations state that the consultation shall be conducted before the application is submitted to the Commissioner of Education. Since the Indian involvement requirements of Pub. L. 93-638 must be met before the Bureau is committed to fund the project, it is considered better to conduct the consultation at that time to assure that the Indian involvement requirements have been met. In addition, tribal members on an elected public school board or the local Indian Education Committee are encouraged to advise the tribal governing body(s) of the local Indian tribe(s) affected of their intent to apply and to provide progress reports of the contract application process. Paragraph (b) is being revised as the Bureau wishes to encourage the applicant to consult with the local Indian Education Committee and the tribal governing body(s) of the local Indian tribe(s) affected before the application is submitted to the Commissioner of Education, and a statement is being added to that effect. In addition, the consultation requirement is being revised to include approved applications in the notification procedures. In addition, two typographical errors are being corrected in paragraph (c). In the first sentence of paragraph (c), the word "objectives" is being corrected to read "objections." In the second sentence of paragraph (c), the word "representatives" is being corrected to read "representative." A notice of this last correction was published on page 5098 of the February 4, 1976, FEDERAL REGISTER (41 FR 5098). However, the correction was inadvertently omitted when the 1976 edition of 25 CFR was compiled.

§ 277.13—To revise this section to reflect the Memorandum of Agreement between the Bureau of Indian Affairs and Office of Education (see the remarks for § 277.2). In particular, a sentence is being added to the end of paragraph (a) to indicate that the Commissioner of Education has agreed to notify the Assistant Secretary for Indian Affairs upon receipt of an application. This information is needed so the Bureau of Indian Affairs can insure compliance with the Indian involvement requirements of Pub. L. 93-638 for any project funded under that Act. The Assistant Secretary for Indian Affairs in turn shall notify the tribal governing body(s) of the local Indian Tribe(s) affected of the application for public school construction assistance under this Part. Paragraph (b) is being revised by omitting references to the Assistant Secretary for Indian Affairs since the Bureau does not get formally involved in the process until after receiving the priority list. The Commissioner of Education performs the field and site review alone to determine the tentative cost estimate so reference to the Assistant Secretary for Indian Affairs is being removed from paragraphs (b)(1) and (b)(1)(i) and those paragraphs are being combined with paragraph (b). The review for equal quality and standard of education in paragraph (b)(1)(ii) made by the Assistant Secretary for Indian Affairs is being deleted and placed in § 277.15(a) instead to place it in proper sequence. Paragraphs (b)(2) and (b)(3) are being deleted since the actions required by those paragraphs are part of the development of the facilities and educational specifications which is described in a new § 277.15a. Paragraph (c) is being revoked and reserved because the Assistant Secretary for Indian Affairs does not participate in this phase of the process.

§ 277.14—To revise this section to reflect the Memorandum of Agreement between the Bureau of Indian Affairs and the Office of Education (see remarks for § 277.2). In particular, a phrase is being added to the end of the sentence to indicate that the Commissioner of Education has agreed to furnish the priority list annually or as requested by the Bureau. A new sentence is being added whereby the Assistant Secretary for Indian Affairs is to notify the tribal governing body(s) of the local Indian Tribe(s) affected of the application for public school construction assistance under this Part. In addition, a new sentence is being added to the end of the paragraph to include in the regulation another action now being taken. That action is that the Commissioner of Education notifies the Bureau of the amount of Pub. L. 81-815 funds available for public school construction under 25 CFR Part 277 at the same time the priority list is submitted.

§ 277.15—To revise paragraph (a) by adding the consultation requirement and the required review of the quality and standard of education as paragraphs (a)(1) and (a)(2) to be done before the commitment-to-fund list is prepared. These requirements are already contained elsewhere in the regulations but are being placed in this section to properly indicate when the actions will be taken. The requirements for preparing the commitment-to-fund list are being designated as paragraph (a)(3). The only change being made to these requirements is to reflect the funding provisions in the Memorandum of Agreement referred to in the comments regarding § 277.2. That change is that Pub. L. 81-815 funds will be used first to fund as many projects on the priority list as possible. Then Pub. L. 93-638 funds will be used to fund projects on the priority list for which no Pub. L. 81-815 funds have been reserved. Paragraph (b) is being revised by adding that the Assistant Secretary for Indian Affairs is to notify each applicant in writing within fifteen days from the date the project is added to the commitment-to-fund list.

§ 277.15a—To add this new section to reflect the Memorandum of Agreement referred to in the comments regarding § 277.2. In the Memorandum of Agreement, the Commissioner of Indian Affairs and the Commissioner of Education agreed to jointly develop an individual project management plan and provide guidance to the applicant in developing educational and facilities specifications. In addition, the section reflects the current practice of negotiating a contract for preparation of the planning documents (educational and facilities specifications) as the first phase before negotiating one or more contracts for the other phases of the project. The planning documents (educational and facilities specifications) must be approved by the Bureau before the other contracts can be negotiated. A paragraph is also included concerning the circumstances under which the Bureau may make an exception to the requirement to contract for preparation of the planning documents. The requirement that contracts under Part 277 be developed in accordance with the regulations in 41 CFR Part 1 as supplemented by 41 CFR Part 14 and 41 CFR Part 14H is being taken out of § 277.16 and placed in this section as paragraph (e) since this is the first section dealing with the contract negotiations. In addition, the applicant's option of performing the work itself or through subcontracting is included in the regulations as paragraph (f).

§ 277.16—To revise this section to reflect the Bureau's current practice of negotiating one or more contracts for the remaining phases of the project separately from a contract for preparation of the planning documents. The requirement that contracts under Part 277 be developed in accordance with the regulations in 41 CFR Part 1 as supplemented by 41 CFR Part 14 and 41 CFR Part 14H is being taken out of § 277.16 and placed in paragraph (e) of new § 277.15a since that is the first section dealing with the contract negotiations. However, a reference to paragraphs (e) and (f) of new § 277.15a is being added to this section so that those paragraphs will also apply to contracts under this section.

§ 277.17—To revise paragraphs (a) and (b) to reflect the funding provisions in the Memorandum of Agreement referred to in the comments regarding § 277.2. Paragraph (a) is being

changed to specify that Pub. L. 81-815 funds will be used first to fund as many projects on the priority list as possible. Then Pub. L. 93-638 funds will be used to fund projects on the priority list for which no Pub. L. 81-815 funds have been reserved. Paragraph (b) is being revised to indicate that the paragraph applies only to projects partially funded under Pub. L. 93-638. Paragraph (c) is being revised by deleting the phrase "and State education agencies" from the second sentence for the same reason given for the change to § 277.1. To reflect that the responsibilities and authorities of the Commissioner of Indian Affairs are now vested in the Assistant Secretary for Indian Affairs, the title "Commissioner of" is being deleted and substituting "Assistant Secretary for" at the end of paragraph (e).

§ 277.18—To add this new section to clarify ownership of the completed project.

§ 277.21—To revise the section to indicate that, in a contract or contracts under 25 CFR Part 277, the contractor may include costs for planning and administrative costs the contractor anticipates incurring subject to the review and approval by the Bureau of Indian Affairs. The provision relating to the inclusion of administrative costs is modified to limit administrative costs to the increases associated with seeking and performing Part 277 contracts.

§ 277.22—To delete the word "Federal" in paragraph (a). This change is being made to conform to section 204(d)(2) of Pub. L. 93-638 which requires that facilities meet the requirements of the State and local building codes and other building standards, not those of the Federal government. Paragraph (c) is revised to require the contract to comply with State Architect/Engineer selection requirements in addition to complying with the Indian preference requirements of 41 CFR Chapter 14. The rest of paragraph (c) is being reworded for clarity. Paragraphs (d) and (e) are being revised to reflect the Memorandum of Agreement referred to in the comments for § 277.2. In particular, paragraph (d) is being revised to require that the architectural drawings and specifications conform to the educational and facilities specifications, instead of the project description as shown in the completed application. Paragraph (e) is being revised by deleting the first sentence concerning the Commissioner of Education's review of the architectural drawings and specifications. Such a review is unnecessary since the Commissioner of Education is involved at the earlier stage of developing the project management plan and the educational and facilities specifications. The second sentence of paragraph (e) is being revised to indicate that the Bureau of Indian Affairs is responsible for reviewing and approving the architectural drawings and specifications with the local education agency, the local Indian Education Committee and tribal governing body(s) to be served by the facility. The phrase "for structural and safety adequacy" is being deleted from the third sentence of paragraph (e) so that the Bureau's review and approval of the final drawings and specifications are not limited to only that aspect.

§ 277.24—To change the word "Commissioner" to "Assistant Secretary for Indian Affairs" throughout the section for clarity.

§ 277.25—To delete the phrase "State education agencies or" for the same reason given in the comments for § 277.1.

§ 277.28—To delete the entire section. Indian preference requirements are being removed because of redundancy. Indian preference requirements are required through the Interior Procurement Regulations which are applicable to all contracts entered into under this Part. § 277.36 makes the requirements of the Federal and Interior Procurement Regulations applicable to Part 277 contracts. Since Indian preference requirements are being added to the Interior Procurement Regulations in 41 CFR 14-1.354 (see 42 FR 43647), special coverage in Part 277 was determined to be unnecessary.

Three school districts currently negotiating contracts under Part 277 have taken strong exceptions to Indian preference requirements relating to subcontracting. They have stated that such requirements conflict with their particular state laws covering architect-engineer selection procedures for public agencies. Additionally, several Congressmen have notified the Bureau that they object to the application of the Indian preference requirements of Section 7(b) of Pub. L. 93-638 to public school construction contracts under Part 277.

Since Section 7(b) applies to all contracts for the benefit of Indians, Part 277 contracts are covered by the statute. The Bureau does not plan to request any legislative change which would exclude Part 277 contracts from the coverage of Section 7(b) of Pub. L. 93-638.

§ 277.29—To delete the phrase "States and" and capitalize "School" in paragraph (a) and to delete the words "State or" in paragraph (b) and to delete the words "State or public school authority" and substitute the words "school district" in paragraph (c) for the same reason given in the comments for § 277.1.

§ 277.36—To delete the phrase "States or" and capitalize the word "School" for the same reason given in the comments for § 277.1.

The primary authors of this document are:

For policy decisions—Lafollette Butler, Assistant to the Area Director, Phoenix Area Office, Phoenix, Ariz. 85011, telephone 602-261-4101.

For content and program input—Eugene Shields, Supervisory Architect, Divisions of Facilities Egineering, Bureau of Indian Affairs, telephone 505-766-2825, and John Carmody, Chief of the Division of School Facilities, Bureau of Indian Affairs, telephone 505-766-2985.

For drafting, editorial changes, and coordination—Dr. Helen Miner Miller, Indian Self-Determination Staff, Bureau of Indian Affairs, telephone 202-343-4796.

It is proposed to amend part 277, Subchapter Y, Chapter I of Title 25 of the Code of Federal Regulations as follows:

PART 277—SCHOOL CONSTRUCTION CONTRACTS FOR PUBLIC SCHOOLS

277.1 [Amended]

1. By deleting the phrase "State or local education agency" from § 277.1 and changing to "school district."

2. By revising § 277.2 to read as follows:

277.2 Scope.

(a) The application process for public school construction contracts under Section 204 of Pub. L. 93-638 is given in 20 U.S.C. 631-645 and 45 CFR Part 114. The application process is administered by and is the responsibility of the Commissioner of Education. Upon receipt of an application, the Commissioner of Education notifies the Assistant Secretary for Indian Affairs. The Commissioner of Education prepares and furnishes the national priority index to the Bureau at the start of each fiscal year or when the Bureau so requests.

(b) The Bureau requests and receives funding for acquisition of sites and for planning, architectural-engineering design, facilities construction and equipment for the program. Funds are allocated to projects by the Bureau on the basis of funding priorities as established by the Commissioner of Education. For each project for which funds are allocated, the Bureau and the Office of Education shall jointly develop an individual project management plan and shall provide guidance to the applicant in developing educational and facilities specifications. A Bureau contracting officer, designated by the Assistant Secretary for Indian Affairs, shall negotiate one or more contracts with the applicant, in accordance with the approved management program, for the acquisition of sites and for the planning, design, construction, and purchase of equipment to provide educa-

tional facilities. Construction standards and space requirements shall be based on need as described in prepared educational and facilities specification documents.

3. Section 277.12 is amended by revising paragraphs (a) and (b). Paragraph (c) is amended by changing the word "objectives" to read "objections" in the first sentence and by changing the word "representatives" to read "representative" in the second sentence.

277.12 Consultation with Indians.

(a) Except where there is a majority of Indians on an elected public school board, the Assistant Secretary for Indian Affairs shall consult with the local Indian Education Committee and the tribal governing body(s) of the local Indian tribe(s) affected on each project which the Bureau is committed to fund under Pub. L. 93-638 for that fiscal year and at the time the commitment is made. Tribal members on an elected public school board or the local Indian Education Committee may advise the tribal governing body(s) of the local Indian tribe(s) affected by providing a written declaration of intent to apply and to provide progress reports of the contract application process.

(b) The school district applying for a contract under this Part is encouraged to consult with the local Indian Education Committee and the tribal governing body(s) of the local Indian tribe(s) affected before the application is submitted to the Commissioner of Education. This consultation will be met when the official tribal governing body(s) of the Indian tribe(s) to be benefited by the application notify the Commissioner of Education. The notification that the tribe(s) approve or disapprove the application will be made in writing, within 60 days after the date of the consultation. The notice of disapproval must give specific stated objections to the application. A copy of the notice shall be delivered or mailed to the Assistant Secretary for Indian Affairs at the same time as the notice is delivered or mailed to the Commissioner of Education.

4. By adding a sentence to the end of paragraph (a), revising paragraph (b), and revoking and reserving paragraph (c) of § 277.13 to read as follows:

§ 277.13 Application procedure for placement on priority list.

(a) * * * Upon receipt of an application, the Commissioner of Education shall so notify the Assistant Secretary for Indian Affairs. The Assistant Secretary for Indian Affairs shall in turn notify the tribal governing body(s) of the local Indian tribe(s) affected of the application for public school construction assistance under this Part.

(b) Section 204(b) of Pub. L. 93-638 assigns responsibility for the application processing, determination of eligibility and establishment of project priority to the Commissioner of Education. Such application, review and determination processes will include field and site review by the Commissioner of Education to determine a tentative cost estimate for budget purposes. The Commissioner of Education will conduct the on-site inspection to determine which buildings need to be retained, demolished or remodeled. For budget purposes, initial information will be gathered to provide a tentative cost estimate for planning, design, construction, and equipment, as well as to insure that the quality and standard of education will be equal to that of all other students in the school(s).

(c) [Reserved.]

* * * * *

5. By revising § 277.14 to read as follows:

§ 277.14 Submitting priority list to Bureau.

Pursuant to Section 204(b) of Pub. L. 93-638, a list of public school projects eligible for funding under this Part shall be submitted to the Assistant Secretary for Indian Affairs by the Commissioner of Education at the beginning of each fiscal year or when so requested by the Bureau. The Assistant Secretary for Indian Affairs shall notify the tribal governing body(s) of the local Indian tribe(s) affected of the application for public school construction assistance under this Part. The Commissioner of Education shall also inform the Assistant Secretary for Indian Affairs of the amount of funds available under subsections 14(a) or 14(b) of Pub. L. 81-815 for public school construction under this Part.

6. By revising paragraphs (a) and (b) of § 277.15 to read as follows:

§ 277.15 Preparing a commitment-to-fund list.

(a) When the Assistant Secretary for Indian Affairs receives the priority list from the Commissioner of Education, the Assistant Secretary for Indian Affairs shall:

(1) Conduct the Indian consultation when required by § 277.12.

(2) Determine whether the quality and standard of education (including facilities and auxiliary services) for Indian students enrolled in the school are at least equal to that provided all other students from resources, other than resources provided under this Part, which are available to the local school district. A project shall not be placed on the commitment-to-fund list if the Assistant Secretary for Indian Affairs or his representative has determined that the quality and standard of education for Indian students enrolled in the schools will not be equal to that of all other students in the school(s).

(3) Place the project highest on the priority list received from the Commissioner of Education at the top of a commitment-to-fund list. Projects will be added to the commitment-to-fund list in the same order as they are on the priority list. Each project will be added to the commitment-to-fund list as long as the total of the tentative cost estimates is less than the total of the amount of funds available under subsections 14(a) or 14(b) of Pub. L. 81-815 for public school construction plus the amount of funds appropriated for public school construction under Pub. L. 93-638 for the new fiscal year.

(b) Each applicant will be notified in writing by the Assistant Secretary for Indian Affairs within fifteen days from the date the project is added to the commitment-to-fund list.

7. By adding a new § 277.15a to read as follows:

§ 277.15a Contracts for planning documents.

(a) For each project added to the commitment-to-fund list, the Assistant Secretary for Indian Affairs and the Commissioner of Education shall jointly develop an individual project management plan. This plan may include funding data, tentative schedule, assignment of responsibility, personnel to contact and other requirements for operations.

(b) A Bureau contracting officer will then negotiate a contract with the applicant for preparation of the planning documents (educational and facilities specifications). The Assistant Secretary for Indian Affairs and the Commissioner of Education shall jointly:

(1) Provide program guidance to the applicant in developing educational specifications. The educational specifications should provide such information as educational goals, philosophy, demographic information, curriculum, teaching methods, class sizes, spatial relationships, operational logistics, staffing and adjunct requirements.

(2) Provide technical guidance to the applicant in developing facility specifications. The facility specifications should provide such information as environmental considerations, architectural/engineering features, facility space and relationships, occupancy, special equipment, engineering data, regulatory requirements and cost estimate.

(c) The planning documents (educational and facilities specifications) prepared by the applicant must be reviewed and approved by the Bureau before one or more contracts can be negotiated under § 277.16 for the other phases of the project.

(d) In its discretion, the Bureau may make an exception to the requirement to contract with the applicant for the preparation of the planning documents and the Bureau may prepare the planning documents itself only when the applicant so requests and can clearly demonstrate that special circumstances exist which warrant the Bureau making such an exception.

(e) The contracts under this Part shall be developed in accordance with the regulations in 41 CFR Part 1 as supplemented by 41 CFR Parts 14 and 41, CFR Part 14H, except 41 CFR Part 14H-70.

(f) The applicant has the option of performing the work itself or through subcontracts with outside consultants.

8. By revising § 277.16 to read as follows:

§ 277.16 Contracts for other project phases.

(a) After the planning documents (educational and facilities specifications) are approved by the Bureau, a Bureau contracting officer shall negotiate one or more contracts with the applicant for the other phases of the project:

(1) Acquisition of sites.

(2) Preparation of the architectural design drawings and specifications.

(3) Actual construction of the facility.

(4) Acquisition of equipment.

(b) Paragraphs (e) and (f) of § 271.15a also apply to contracts under this section.

9. By amending § 277.17 as follows:

a. By revising paragraphs (a) and (b) to read as follows:

§ 277.17 Funding provisions.

(a) When funds are available under subsections 14(a) or 14(b) of Pub. L. 81-815, those funds will be used first to fund as many projects as possible on the priority list prepared by the Commissioner of Education, beginning with the project highest on the priority list. When substantially all Pub. L. 81-815 funds available under subsection 14(a) or 14(b) are reserved for projects on the priority list, then Pub. L. 93-638 funds shall be used to fund the remaining projects on the priority list, beginning with the highest ranked project for which no Pub. L. 81-815 funds have been reserved.

(b) Projects which are partially funded under Pub. L. 93-638 in one fiscal year shall be given first consideration for additional Pub. L. 93-638 funds in the succeeding fiscal year in order to complete such projects.

* * * * *

b. By deleting the phrase "and State education agencies" from the second sentence of paragraph (c).

c. By deleting the title "Commissioner of" and substituting "Assistant Secretary for" in the last sentence of paragraph (e).

10. By adding a new § 277.18 to read as follows:

§ 277.18 Ownership of completed project.

After completion of a project funded under Pub. L. 93-638, the school district which was the contractor under this Part or the State or both shall become the owner(s) of the project. The Bureau will not be responsible for ongoing maintenance of the project.

11. By revising § 277.21 to read as follows:

§ 277.21 Costs included in contracts.

A contractor may include costs for the following in a contract or contracts under this Part: Planning, architectural design, site acquisition, facilities construction (including site development and supervision), and equipment in accordance with the approved educational and facilities specifications and equipment lists. Increases in administrative costs incurred by the contractor as the result of seeking and performing contracts awarded under this part may also be included and paid upon review and approval by the Bureau of Indian Affairs of the contractor's administrative cost proposals.

12. By amending § 277.22 as follows:

a. By deleting the word "Federal" and the commas following the words "Federal" and "State" in paragraph (a).

b. By revising paragraphs (c), (d) and (e) to read as follows:

§ 277.22 Architectural design.

* * * * *

(c) The Assistant Secretary for Indian Affairs shall counsel with the contractor with respect to the respect to the professional qualifications and performance history of Architect/Engineer firms in order that the best qualified firm be selected. With the advice and assistance of the Assistant Secretary for Indian Affairs, the contractor shall select an Architect/Engineer to prepare the plans and specifications. The contractor shall comply with State selection requirements in making the selection in addition to complying with the Indian preference requirements of 41 CFR Chapter 14. The contractor shall not enter into an Architect/Engineer agreement involving the expenditures of Federal funds until the Assistant Secretary for Indian Affairs has reviewed the agreement.

(d) The drawings and specifications will conform to the educational and facilities specifications prepared in accordance with § 277.15a.

(e) The Bureau will review the drawings and specifications with the local education agency, the local Indian Education Committee and tribal governing body(s) of the tribe(s) to be served by the facility. After approval by the State and other regulatory agencies, the final drawings and specifications will be reviewed and approved by the Bureau.

§ 277.24 [Amended]

13. By changing the word "Commissioner" to read "Assistant Secretary for Indian Affairs" wherever it appears in § 277.24.

§ 277.25 [Amended]

14. By deleting the phrase "State education agencies or" in § 277.25.

§ 277.28 [Deleted]

15. By deleting § 277.28.

§ 277.29 [Amended]

16. By amending § 277.29 as follows:

a. By deleting the phrase "States and" and capitalizing the word "School" in the first sentence of paragraph (a).

b. By deleting the words "State or" in paragraph (b).

c. By deleting the words "State or public school authority" and substituting the words "school district" in paragraph (c).

§ 277.36 [Amended]

17. By deleting the phrase "States or" and capitalizing the word "School" in § 277.36.

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

FORREST J. GERARD,
Assistant Secretary,
Indian Affairs.

[FR Doc. 78-7667 Filed 3-22-78 8:45 am]

[4830-01]

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR PARTS 1 AND 301]

[LR-214-74; LR-265-74]

EMPLOYEE RETIREMENT BENEFIT PLANS

Annual Returns and Registration; Public Hearings

AGENCY: Internal Revenue Service, Treasury.

ACTION: Public Hearings on proposed regulations.

SUMMARY: This document provides notice of public hearings on proposed regulations relating to the filing of annual returns for employee retire-

ment benefit plans; and regulations relating to the requirement for annual registration for employee retirement benefit plans.

DATES: The public hearings will be held on April 13, 1978, beginning at 10 a.m. Outlines of oral comments must be delivered or mailed by April 4, 1978.

ADDRESS: The public hearings will be held in the I.R.S. Auditorium, Seventh Floor, 7400 Corridor, Internal Revenue Building, 1111 Constitution Avenue NW. Washington, D.C. The outline for oral comments on the proposed regulations relating to the filing of annual returns for employee retirement benefit plans should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-214-74), Washington, D.C. 20224. The outline for oral comments on the proposed regulations relating to the requirement for annual registration for employee retirement benefit plans, should be submitted to the Commissioner of Internal Revenue, Attn: CC:LR:T (LR-265-74), Washington, DC. 20224.

FOR FURTHER INFORMATION CONTACT:

George Bradley or Charles Hayden of the Legislation and Regulations Division, Office of Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue NW., Washington, D.C. 20224, telephone 202-566-3935, not a toll-free call.

SUPPLEMENTARY INFORMATION: The subject of the public hearings are proposed regulations in respect to:

(1) Proposed regulations relating to the filing of annual returns for employee retirement benefit plans. The proposed regulations appeared in the FEDERAL REGISTER for Friday, February 10, 1978 (43 FR 5854).

(2) Proposed regulations relating to the requirement for annual registration for employee retirement benefit plans. The proposed regulations appeared in the FEDERAL REGISTER for Friday, January 20, 1978 (43 FR 2892). (See also the correction appearing in the FEDERAL REGISTER for Thursday, February 16, 1978 (43 FR 6812).)

Outlines of oral comments will be acknowledged by telephone upon receipt. Those who submit outlines but receive no acknowledgement within a reasonable amount of time after mailing should contact Mr. Bradley or Mr. Hayden.

The rules of § 601.601(a)(3) of the "Statement of Procedural Rules" (26 CFR Part 601) shall apply with respect to the public hearings. Persons who have submitted written comments within the time prescribed in the respective notices of proposed rulemaking and who desire to present oral comments at the respective hearing on such proposed regulations should submit an outline of the comments to be presented at the hearing and the time they wish to devote to each subject by April 4, 1978. Each speaker will be limited to 10 minutes for an oral presentation on each of the above-listed proposed regulations for which timely comments have been submitted, exclusive of time consumed by questions from the panel for the Government and answers to these questions.

Because of controlled access restrictions, attendees cannot be admitted beyond the lobby of the Internal Revenue Building until 9:45 a.m.

An agenda showing the scheduling of the speakers will be made after outlines are received from the speakers. Copies of the agenda will be available free of charge at the hearing.

Dated: March 20, 1978.

ROBERT A. BLEY,
Director, Legislation and Regulations Division.

[FR Doc. 78-7785 Filed 3-22-78; 8:45 am]

[7910-01]

RENEGOTIATION BOARD

[32 CFR Chapter XIV]

PRINCIPLES AND CONCEPTS OF RENEGOTIATION

Solicitation of Comments

AGENCY: Renegotiation Board.

ACTION: Proposed rule; request of comments from interested persons.

SUMMARY: The Renegotiation Board is publishing for public comment a statement of principles and concepts used in applying the factors which the Board is required to consider in determining excessive profits under the Renegotiation Act of 1951, as amended. Officials of the Board have announced the Board's intention to develop guidelines for use in renegotiation, and at this time the Board is requesting comments on a statement of principles from which specific guidelines will be drawn.

DATE: Comments should be received on or before May 5, 1978.

ADDRESS: Comments should be sent to the General Counsel, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446.

FOR FURTHER INFORMATION CONTACT:

Dr. George Lenches, Director, Office of Planning and Development, 2000 M Street NW., Washington, D.C. 20446, telephone 254-8222.

SUPPLEMENTARY INFORMATION: During the course of hearings before the Senate Committee on Banking, Housing, and Urban Affairs in June 1977, officials of the Renegotiation Board discussed the Board's ongoing program for developing more definitive guidelines for renegotiation. See Extension of the Renegotiation Act, Hearings Before the Committee on Banking, Housing, and Urban Affairs, United States Senate, 95th Cong., 1st Sess., 279-80 (1977). These guidelines, as ultimately formulated, are intended to be for the benefit of both the Board's staff and contractors subject to the Renegotiation Act of 1951, as amended (the "Act"). The Board is publishing here a statement of the principles and concepts for application of the factors which the Board is required to consider in determining excessive profits under the Act. As finally approved by the Board, this statement will be the basis for more specific guidelines.

The Board invites interested persons to comment in writing on the proposed statement. Comments should be addressed to the General Counsel, Renegotiation Board, 2000 M Street NW., Washington, D.C. 20446. To be considered by the Board, comments must be received on or before May 5, 1978. All comments will be made available for public inspection during regular business hours in the Public Information Office of the Board, 4th Floor, 2000 M Street NW., Washington, D.C. 20446.

The text of the proposed statement of Principles and Concepts for the Application of the Statutory Factors follows.

Dated: March 20, 1978.

GOODWIN CHASE,
Chairman.

PRINCIPLES AND CONCEPTS FOR THE APPLICATION OF THE STATUTORY FACTORS

A. BASIC PRINCIPLES

1. Renegotiation is a process designed to assure that the profits accruing to contractors and subcontractors as a result of their participation in certain Federal Government procurement programs are not excessive and do not exceed the profits that would have accrued to them for comparable effort under comparable circumstances in the private sector of the economy.

2. If in the private sector there is no comparable activity, or if the renegotiable business is performed in a market environment where a single enterprise is in a sole source or dominant position, the principle of "comparable effort under comparable circumstances" will not apply. Under such circumstances, renegotiation will be related to a finding of a profit level that would be consistent with the continuing viability and availability in the private sector of contractors and subcontractors able and willing to put forth a comparable effort under comparable circumstances.

3. Government demand for goods and services, is to a large extent, derivative of policy decisions unrelated to market considerations. Consequently, such demand is subject to unforeseeable fluctuations of at times significant proportions. The effects of such fluctuations on conditions in the markets and, consequently, on the profit outcome of the contractor's performance, is a fundamental consideration in evaluations under the statutory factors.

4. Since scale of operation is a significant factor in determining the characteristics of an industrial activity, in defining an industry for purposes of comparisons, appropriate subclassifications will be made within the industry on the basis of size.

5. [Reserved.]

6. [Reserved.]

7. Determination of the excessiveness or nonexcessiveness of profits involves comparisons to the extent applicable to renegotiable business for the review year and other years. Comparisons will be made with the contractor's industry or industries and with individual firms in such industry or industries, if such comparisons are meaningful and with the contractor's historical experience, if appropriate. Comparisons will be made within an explicitly stated framework of the time and the type of industrial activities involved, with particular regard to the differences, if any, between the type of contractual arrangements underlying the renegotiable activity, on the one hand, and those customary in comparable commercial (non-Governmental) industrial activities on the other.

8. Whenever comparisons are made with individual firms, such comparisons will be made in conjunction with appropriate industry data serving as the "common base" for such comparisons, since direct comparisons of the contractor with other firms, showing differences and similarities, are not meaningful in the absence of such a base, unless all members of the industry or industries involved are in fact being compared.

9. The starting point for comparison, i.e., the "common base," will ordinarily be derived from publicly available industry data. In the absence of such data, the source of the information used will be specifically identified and the source material will be made available to the contractor and the public, to the extent permitted by law and the Board's regulations.

10. The "common base" will ordinarily be a set or "composite" of published statistics broken out at the 4-digit Standard Industrial Classifications (minor industry) level or lower, or such other set of statistics developed from other sources which the Board determines to be proper for use in a particular case. In selecting the statistics from published or other sources, the character of business and nature of products or services of companies include in the "common base," as well as the similarities and dissimilarities between such companies and the contractor under review, will be established to the fullest extent possible.

The "common base profit" will ordinarily be the profit that the contractor would have realized, assuming that he had been identical in every respect with the "common base composite." Such "common base profit" will be calculated by dividing the contractor's renegotiable sales by the total sales figure of the "common base composite" and by multiplying the total profit fiure of the "common base composite" by the resulting factor. In some cases, particularly in those where appropriate published figures are not available, the "common base profit" will be derived by such method as the Board determines to be proper for use in the particular case.

11. The contractor will be distinguished under the statutory factors from the "common base composite," to the extent possible. The results of these analyses, further refined by insights gained from similarly distinguishing the contractor's known competitors from the same "common base composite," will be quantified through the exercise of judgment, in terms of monetary values under each statutory factor, to the extent possible. Such quantified values will be added to or subtracted from the "common base profit" of the contractor to arrive at the initial amount of fair and reasonable profits for the contractor.

12. If it is found that the characteristics of the "common base composite" were significantly influenced by an unusual degree of Government procurement activity during the period, the "common base" profit figure will, if appropriate, be modified downward to compensate for the likely presence of abnormally high profits in the common base.

13. [Reserved.]

14. In applying the statutory factors, analytical tools and techniques commonly understood and used in comparable commercial activities, such as the sales margin return rates on capital and net worth, turnover rates, operating and other ratios, break-even analysis, etc., will be used to the extent possible and meaningful. In the absence of such aids, the analytical method(s) applied will be described in sufficent detail to enable the contrctor and the public to validate the conclusions arrived at through their use.

15. The inter-relationship among the various factor considerations will be explicitly stated in order to avoid a pyramiding of the results of such considerations.

16. The performance of renegotiable contracts according to their terms and conditions within pre-established pricing objectives, standing alone, will not be a basis for favorable considerations. However, any unusual characteristics in the Government procurement environment within which the performance has taken place will be considered under the individual factors as applicable.

17. If the contractor's nonrenegotiable business consists of industrial activities which are comparable to the renegotiable business, the nonrenegotiable business will be broken out as necessary to allow comparisons between the renegotiable and the nonrenegotiable parts of the contractor's business, if such comparisons are meaningful.

B. APPLICATION OF THE FACTORS

SEC. 103. *Definitions.*

* * * * * * *

(e) * * * In determining excessive profits favorable recognition must be given to the efficiency of the contractor or subcontractor, with particular regard to attainment of quantity and quality production, reduction of costs, and economy in the use of materials, facilities, and manpower;

1. Efficiency will be evaluated objectively, through methods available for measuring productivity, including any and all information developed through plant visits, procurement reports and other investigations.

2. Efficiency will be measured comparatively, to the extent possible, against the contractor's own industry or industries and individual firms in the contractor's industry or industries as well as against the contractor's own prior fiscal year or years.

3. The mere attainment of a given quantity or quality of production will not in itself be sufficient to warrant "favorable recognition;" the attainment will have to be arrived at through an increase in efficiency. Similarly, reduction of costs and economy in the use of materials, facilities and manpower will have to be attained through an increase in efficiency in order to warrant recognition.

SEC. 103. *Definitions.*

* * * * * * *

(e) * * * in addition, there shall be taken into consideration the following factors:

* * * * * * *

(5) Character of business, including source and nature of materials, complexity of manufacturing technique, character and extent of subcontracting, and rate of turn-over;

1. Understanding the character of the contractor's business being fundamental to meaningful analysis, both the renegotiable and the nonrenegotiable business of the contractor will be reviewed and classified according to

the Standard Industrial Classification Manual. If either the renegotiable or the nonrenegotiable business includes receipts or accruals in more than one minor industry—4-digit SIC—group, each minor industry segment significant for renegotation purposes will be separately identified and appropriately coded.

2. The basic characteristics of each significant minor industry segment present in the case will be the starting point for analyzing the character of the contractor's business.

3. In distinguishing the characteristics of the various segments of the contractor's renegotiable business from those of their respective industry groups (if any), specific references, where possible, will be made to the following:

(a) The degree of integration of the contractor's business;

(b) The source and nature of materials—as defined in section 103(k) of the act—used by the contractor;

(c) The character and extent of subcontracting undertaken, including the degree of effort put forth to develop and maintain a subcontractor base;

(d) The complexity of manufacturing techniques, with particular regard to the managerial (operating), engineering (production and technical) and craft skills required, in case of manufacturing activity, and the managerial (operations), professional (scientific) and craft skills required in case of nonmanufacturing activity;

(e) The degree of patent protection covering the end products and subassemblies, parts, or components thereof.

4. If there is no industry or industries comparable to the renegotiable business of the contractor, the fundamental characteristics of the industrial activity represented by that business will be developed on the basis of knowledge of related or similar industrial activities, and the characteristics of the contractor's renegotiable business will be matched against such developed base.

5. Turnover rates will be used, whenever appropriate, to facilitate comparisons.

SEC. 103. *Definitions.*

* * * * *

(e) * * * in addition, there shall be taken into consideration the following factors:

* * * * *

(1) Reasonableness of costs and profits, with particular regard to volume of production, normal earnings, and comparison of war and peacetime products;

1. The reasonableness of the costs will be determined by comparative evaluation of the elements of the contractor's costs. For this purpose, the contractor's cost structure will be broken out and examined in such detail as necessary to allow comparison of cost elements between the contractor and individual members of his industry or industries and with the contractor itself in other years.

2. If the renegotiable business is reported under more than one type of contract, the cost elements will also be analyzed by contract type.

3. [Reserved.]

4. Cost comparisons will be made with the corresponding cost elements of the appropriate industry or industries (and members thereof) within the same time frame as well as with the contractor's own corresponding cost elements in other years. If the contractor's renegotiable and/or nonrenegotiable products or services fall within more than one minor industry, or if the contractor's renegotiable business has been segmented, the differences, if any, between the respective cost elements of such groups or segments will be evaluated in the light of the cost structures of the industries involved, as well as in the light of the respective cost experiences of the individual members of such industries.

5. Since fluctuation in the volume of production can have a significant impact on costs and profits, the volume of production will be evaluated not only for the purpose of determining the appropriate comparative framework but also whether the production in the fiscal year under review took place with a stationary, decreasing or increasing production trend.

6. In order to properly measure the relative proportions of cost elements, components of the cost structure will be matched against the aggregate of all costs (costs and expenses) or some subaggregate thereof, and not only against sales.

7. In evaluating the results of cost comparisons, particular attention will be paid to the distinction between controllable and uncontrollable costs as well as to the impact of volume changes on various cost elements.

8. In evaluating the reasonableness of the profits, the contractor's historical earning pattern, i.e., demonstrated earning capacity, will be considered. In that connection, appropriate attention will be given to earnings fluctuations (seasonal, cyclical, or secular) peculiar to the contractor's industry or industries.

SEC. 103. *Definitions.*

* * * * *

(e) * * * in addition, there shall be taken into consideration the following factors:

* * * * *

(3) Extent of risk assumed, including the risk incident to reasonable pricing policies;

1. Since risk, in all its various aspects, is a prevasive characteristic of business enterprise, in order to evaluate the degree of risk assumed by the contractor, the risks normal to the contractor's industry or industries will be considered.

2. Government procurement environment techniques can enhance as well as diminish the risks normal to a business. In addition, participation in Government procurement can create risks unknown in the commercial environment. Each separate aspect of the contractor's risk, both industry-normal and procurement-related, will be evaluated separately, with particular regard to contractual arrangements which may have had the effect of transferring some, if not all, of the contractor's risk to the Government.

3. Since risk, in a fundamental sense, means the probability of attaining an expected level of earnings—the higher the probability, the less the risk—the risk exposure of the contractor will be measured by its potential impact on the earnings of the contractor.

4. Since certain types of risks may have lasting effects on earnings capacity in evaluating procurement-related risks, the long-term effects of such risks will also be taken into consideration.

5. "Reasonable pricing policies" are pricing policies that take into account only foreseeable and measureable risks and do not seek to compensate for remote or unidentified contingencies.

SEC. 103. *Definitions.*

* * * * *

(e) * * * in addition, there shall be taken into consideration the following factors:

(2) The net worth, with particular regard to the amount and source of public and private capital employed;

1. In applying this factor, the presence of all forms of public capital will be specifically identified. The term "public capital" will mean not only Government-furnished plant and equipment but also the value of progress payments and quick reimbursements under cost-type contracts, advance payments, Government loans or loan guaranties, Government-furnished material, free-issue material, Government-furnished licenses and background and technical information.

2. The asset value of fixed public capital, such as Government plant and equipment, tools, dies, etc., which are carried on the records at transfer or acquisition costs or for which no cost figures are available, will be estimated.

3. If the contractor, in his role as a subcontractor, is benefiting from capital input by a higher tier subcontractor or a prime contractor, a finding will be made whether, and to what extent, such capital input is common in the contractor's industry or industries. If the finding is negative, such customer capital input will be evaluat-

ed in the same fashion as the input of the public (Government) capital.

4. The assets and liabilities structure of the contractor wilkl be analyzed in a comparative manner and consideration will be given to the role that the presence of public and/or unusual customer-furnished capital may have played in creating differences between the capital structure of the contractor, on the one hand, and of his industry or industries, or of comparable firms, on the other.

5. The net worth and total assets (capital) of the contractor will to the greatest extent possible, be allocated between renegotiable and nonrenegotiable business through direct identification of the assets employed. If that is not possible, a method of allocation will be used that properly allocates assets employed and gives proper weight to the presence, if any, of public and/or unusual customer-furnished capital.

SEC. 103. *Definitions.*

* * * * *

(e) * * * in addition, there shall be taken into consideration the following factors:

(4) Nature and extent of contribution to the defense effort, including inventive and developmental contribution and cooperation with the Government and other contractors in supplying technical assistance;

1. The mere performance of a renegotiable contract or subcontract will not entitle a contractor or subcontractor to credit under this factor.

2. While this factor clearly permits favorable consideration, unfavorable consideration may also be appropriate under certain circumstances, such as, refusal to extend normal or customary cooperation to the Government and other contractors, or performance in a manner that has adversely affected the defense effort.

3. In evaluating inventive or developmental contribution, the distribution of both the costs and the probable benefits of such contribution between renegotiable and nonrenegotiable business will be investigated. Consideration, if any, under value engineering or similar contractual arrangements will be separately extended in order to avoid allowing the contractor multiple benefits for a single contribution.

4. In evaluating contribution in the form of cooperation with the Government or other contractors, the contractor's performance will be distinguished from the normal or customary practices of the contractor's industry or industries.

SEC. 103. *Definitions.*

* * * * *

(e) * * * in addition, there shall be taken into consideration the following factors:

(6) Such other factors the consideration of which the public interest and fair and equitable dealing may require, which factors shall be published in the regulations of the Board from time to time as adopted.

1. This provision is not by itself a factor but, rather, the statutory authority for the Board to establish additional factors. Thus, the words "the public interest and fair and equitable dealing may require" will not be construed as the substance of yet another factor.

2. The Board has not published any "factor" under this provision. Consequently, until such a time as the Board will have established another factor or factors, paragraph (6) will not be used for purposes of evaluation under the factors.

[FR Doc. 78-7731 Filed 3-22-78; 8:45 am]

[4310-70]

DEPARTMENT OF THE INTERIOR

National Park Service

[36 CFR Part 7]

CAPE COD NATIONAL SEASHORE, MASSACHUSETTS

Oversand Vehicle Operations

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: This proposed amendment would redesignate the existing permit system for private oversand vehicles at Cape Cod as a system of special recreation permits and would authorize the charging of fees for these permits, in accordance with section 4 of the Land and Water Conservation Fund Act of 1965, as amended. The amendment would also include, in the regulation, descriptive standards for the items with which vehicles must be equipped in order to qualify for permits and operate on oversand routes. In addition, a decrease in permitted speed on these routes is also proposed.

DATES: Written comments, suggestions, or objections regarding this proposal will be accepted until April 24, 1978.

ADDRESSES: Comments should be directed to: Superintendent, Cape Cod National Seashore, South Wellfleet, Mass. 02663.

FOR FURTHER INFORMATION CONTACT:

Lawrence C. Hadley, Superintendent, Cape Cod National Seashore, telephone 617-349-3785.

SUPPLEMENTARY INFORMATION: The National Park Service has designated certain off-road, oversand routes for the use of motor vehicles to transport visitors to some of the less accessible portions of Cape Cod National Seashore. These designations have been made pursuant to the criteria contained in section 3 of E.O. 11644 (37 FR 2877).

Oversand routes are primarily located in an area of the Seashore known as the Province Lands. The routes consist of a combination of 18 miles of inner routes located along the crest of or behind the primary dune and 15 miles of trail along the outer or ocean beach, for a total of approximately 33 miles stretching from Head of the Meadow Beach around Race point to the tip of Long Point. There are 6 accesses to the oversand route system off public ways, and 14 points of beach access.

Regulations published on May 29, 1970 (35 FR 8446) established restrictions on the use of these routes, including requirements for permits for motor vehicles using these routes and a list of equipment which must be carried in these vehicles. Other provisions of these regulations deal with operational restrictions and requirements necessary to protect Seashore resources and promote public safety.

SPECIAL RECREATION PERMITS AND FEES

A 1972 amendment to the Land and Water Conservation Fund Act (Pub. L. 92-347, 86 Stat. 459) specifically authrized the issuance of special recreation permits for certain activities and also authorized the charging of recreation fees for these permits. The use of motorized recreation vehicles is among the activities for which such permits and fees are authorized. Department of the Interior regulations which implemented the recreation fee program (43 CFR Part 18) contain a number of conditions which are to be considered in determining when special recreation permits may be required, as well as criteria for setting fees to be charged for these permits.

Upon evaluation of the existing system of private oversand vehicle permits at Cape Cod, the National Park Service has determined that this activity fullfills the conditions specified in the Departmental regulations and that this should, therefore, be designated a special recreation permit system. The proposed amendment would revise the existing regulations to reflect this designation and would provide for the charging of fees, determined by the Superintendent, for these permits. This change in the nomenclatural of the permit system would have no effect on the administration of oversand vehicle use at Cape Cod, other than to make it possible for fees to be charged for the permits, which have previously been free.

In determining the amounts of the fees to be charged, it was felt that fees charged for similar activities by other public agencies would provide a good

guide to an equitable fee for Cape Cod. Fee comparability is one of the criteria specified for the setting of special recreation permit fees by Departmental regulations. A survey of recreational vehicle use areas along the Northeastern seaboard showed a range of fees from a high of $100 at Island Beach Park, New Jersey, to low of 0 in an area like Plum Island, Mass.

A sampling of fees are as listed:

	Annual	Other
Island Beach State Park	$100.00	
State of Delaware—Resident	15.00	
State of Delaware—Nonresident	25.00	
State of Maine	15.00	
State of Rhode Island	10.00	
Municipal managed areas in New Jersey	15.00	
Orleans	25.00	[1] $2
Barnstable	None	[2] 4
Truro	None	None
Eastham	None	None
Town of Duxbury—Resident	12.50	
Town of Duxbury—Nonresident	25.00	

[1] Daily.
[2] For 24 h.

In addition to these fees for comparable permits, consideration was also given to Government costs in administering the program, the benefits gained by permittees, the public policy served, the feasibility of fee collection, and other pertinent factors.

After consideration of these points, it is proposed that an annual fee of $15 for a regular vehicle and $25 for a self-contained vehicle be adopted. In view of rates charged for similar use in other areas, the above fees appear to be just and proper, and consistent with the benefits received. The rate schedule will be annually reviewed by the Superintendent to insure that it is commensurate with the cost to the Government and the recreational benefits available to the user, as well as other factors. Fee rates will be made known to the public through posting, informational publications, and other suitable means, as required by Department of the Interior regulations.

Equipment Standards

Current oversand vehicle regulations contain a list of equipment which must be carried in a vehicle for a permit to be issued and for the vehicle to be operated on the designated routes. This list does not, however, adequately describe the required equipment, thereby making it possible for a vehicle to be operated when carrying, for example, only a weak piece of clothesline as a "tow rope." The proposed regulations would require the same equipment as the current regulations, but they would also supply the standards which will be used to judge the adequacy of the equipment to perform necessary functions.

A new subparagraph of the proposal would also add to the equipment list required standards for tires. Sand conditions at Cape Cod are such that tire size and configuration for various vehicles are critical in determining whether or not a vehicle can perform satisfactorily. Heretofore, permits have not been issued for vehicles whose tires did not meet standards established by the Superintendent, but adequate tires were not specifically required by the regulations. The proposal would add this requirement to the equipment list in the regulations.

Speed Limit

The present limit is 20 miles per hour from May 15 through October 15, with a "reasonable and proper" requirement for the remainder of the year. It is proposed to reduce these limits to a year-round limit of 15 MPH. This has been found necessary to ensure the safety of pedestrians in the beach areas, to reduce conflicts with other uses of the Seashore, and to minimize disturbance of resources.

Authority

Section 3 of the Act of August 25, 1916, 39 Stat. 535, as amended (16 U.S.C. 3); section 7 of the Act of August 7, 1961, 75 Stat. 291 (16 U.S.C. 459b-6); section 4 of the Land and Water Conservation Fund Act of 1965, 82 Stat. 354, as amended (16 U.S.C. 460*l*-6a); 245 DM-1 (42 FR 12931); National Park Service Order No. 77 (38 FR 7478); and Regional Director, North Atlantic Region, Order No. 2 (42 FR 27387).

Impact Analysis

The National Park Service has determined that the actions proposed in this notice do not constitute a major Federal action significantly affecting the quality of the human environment, and, therefore, do not require preparation of an environmental impact statement pursuant to the National Environmental Policy Act of 1969, 42 U.S.C. 4332.

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

LAWRENCE C. HADLEY,
Superintendent,
Cape Cod National Seashore.

MARCH 15, 1978.

In consideration of the foregoing, it is proposed to amend paragraphs (c)(1) and (c)(7) of 36 CFR 7.67 as follows:

§ 7.67 Cape Cod National Seashore.

* * * * *

(c) *Private oversand vehicle operations.* (1) The Superintendent is authorized to establish a system of special recreation permits for private oversand vehicles and to establish special recreation permit fees for these permits, consistent with the conditions and criteria of 43 CFR 18.10. Operation of privately owned motor vehicles not-for-hire (including various forms of vehicles used for travel oversand, such as but not limited to "beach buggies") on designated routes in the park area without a special recreation permit is prohibited.

(i) Before a permit is issued, each vehicle will be inspected to assure that it is equipped as follows:

(A) Shovel of a heavy duty type equal to or better then the military folding entrenching tool.

(B) Tow rope, chain, cable or other similar towing devices not less than 14 feet in length with a minimum working load strength of 1,400 lbs. (Chain size 5/16"; cable 1/4"; hemp 1"; nylon 3/4"; or polypropylene 3/4".) The towing device will be equipped with grab hooks or other suitable attaching devices on both ends.

(C) Jack support, board or similar, to have a surface of not less than 144 square inches and be not more than 18 inches in length. Thickness to be not less than 3/8" if plywood and not less than 1 1/2" if of solid wood. Other materials must equal the strengh and durability of the standard wood supports.

(D) Jack of the standard size and type as that which comes with the vehicle.

(E) Tire gauge, low pressure, able to register to a minimum of 5 psi.

(F) Tires, meeting the following standards:

(*1*) Tires for four-wheel drive vehicles will comply with standards established and made available through the Office of the Superintendent. The list is subject to continual revision due to technological and nomenclature changes by manufacturers, rendering its inclusion in this section impractical.

(*2*) Two-wheel drive vehicles are to be equipped with tires of sufficient size and configuration to propel the vehicle over designated routes without excessive wheel spin or becoming inoperable when the vehicle is operated at speeds not to exceed 15 MPH, except than no drive tires will be less than an "H" series.

(ii) Prior to the issauance of a permit, operators must show compliance with Federal and State regulations applicable to licensing, registering, inspecting, and insuring of such vehicle.

(iii) An oversand vehicle permit must be affixed to the vehicle as specified at time of issuance.

(iv) Any vehicle being operated on designated routes must be equipped as required in paragraph (C)(1)(i) of this section.

* * * * *

(7) Maximum speed shall not exceed 15 miles per hour.

* * * * *

[FR Doc. 78-7601 Filed 3-22-78; 8:45 am]

[7710-12]

POSTAL SERVICE

[39 CFR Part 111]

CITY DELIVERY

Delivery Service Policy

AGENCY: U.S. Postal Service.

ACTION: Proposed rule.

SUMMARY: These proposed regulations would prescribe Postal Service policy for offering "city delivery" service to customers residing in family housing other than apartment houses to which city delivery service is not provided. They prescribe the rules under which postmasters and other local postal officials decide whether to offer such service and which kind of city delivery service to offer, and the general rules that customers must comply with in order to be eligible for receiving city delivery service. This proposal would offer more convenient service to customers than was offered by a proposal published in the FEDERAL REGISTER in 1975 which was not adopted, without substantially impairing the cost-saving objectives of the earlier proposal. This proposal would substantially continue existing delivery practices, except that the discretion to offer door service, which is not often exercised, would be reduced.

DATE: Comments must be received on or before April 24, 1978.

ADDRESS: Written comments should be directed to Assistant General Counsel, Special Projects, U.S. Postal Service, 475 L'Enfant Plaza West SW., Washington, D.C. 20260. Copies of all written comments will be available to public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in Room 9000.

FOR FURTHER INFORMATION CONTACT:

Charles R. Braun, 202-245-4620.

SUPPLEMENTARY INFORMATION: Under the provisions of 39 CFR 111.3, the Postal Service proposes to revise its "City Delivery" regulations in Part 155 of the Postal Service Manual, Chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1. The proposal would include in this part a number of rules and regulations as to the availability of particular forms of postal city delivery. Heretofore, such regulations have been published only as regional instructions of the Postal Service. Because regional instructions are generally concerned only with internal operating procedures and guidelines in the postal regions, they are not usually published in Chapter I of the Postal Service Manual, or otherwise published in the FEDERAL REGISTER. In this instance, however, incorporation of these regional instructions in Part 155 of the Postal Service Manual appears desirable to promote a better understanding of the city delivery regulations of the Postal Service by all concerned.

The Postal Service's present city delivery regulations were adopted in 1972. 35 FR 19,459 (1970), as amended, 37 FR 24,182-24,183; 24,346 (1972); Regional Instruction No. 331-1, Amendment No. 5, September 29, 1972. The principal rules for offering new city delivery service are in Part 155, and the principal rules governing which kind of delivery service to offer when areas become eligible for city delivery service are contained in the Regional Instructions. The 1972 Regional Instructions generally provide three different kinds of service for new single family homes—door service, curb service, and clusterbox service. However, the Instructions restrict the availability of the comparatively inefficient and costly door delivery service, by providing: "Delivery service normally should be by motorized carrier to neighborhood cluster boxes or to curbline boxes * * *." The authorizations in the Instructions to provide door service, moreover, are limited to "the principal business district * * * densely populated residential areas where average lot frontage does not exceed 50 feet and average set-back distance from the carrier's line of travel does not exceed 30 feet * * *," areas surrounded by or contiguous to areas where door service is already provided, and "unusual conditions." The Instructions make the offering of new door delivery service subject to the approval of the Regional Postmasters General or their designees. In practice, the discretionary authority to offer new door delivery service has been excised infrequently since 1972, in view of its comparative inefficiency.

Lawsuits which sought to invalidate the present city delivery regulations and to compel the Postal Service to provide door service have resulted in two judicial decisions generally upholding the Postal Service's authority to limit, in a nondiscriminatory manner, the availability of door service in the interest of effecting economies of postal operations. "Parsons v. United States Postal Service," 380 F. Supp. 815 (D. N.J. 1974); "Grover City v. United States Postal Service," 391 F. Supp. 982 (C.D. Calif. 1975). A third legal challenge to the Postal Service's policies regarding door service in new city delivery areas was also unsuccessful. "Bradley v. United States Postal Service," 554 F. 2d 186 (5th Cir. 1977).

On May 27, 1975, the Postal Service proposed to revise its city delivery regulations. 40 FR 22,848-22,849. One principal proposed change was to transfer the important rules on availability of particular kinds of delivery service from the Regional Instructions to the Postal Service Manual in order "to facilitate a better understanding of the City Delivery regulations * * * by concerned members of the public as well as by postal employees * * *", 40 FR at 22,848. Another principal proposed change was to limit the authorization for door service in the regulations to cases of extreme hardship and "fill-in" service in neighborhoods already receiving door delivery service. "Recently, this discretionary authority (to initiate door service) has rarely been exercised, because of budgetary restraints. Accordingly, the change conforms to what has become operating priactice." Id. The public comments which the Postal Service received on this proposal were divided between those which opposed it because they felt it reflected a reduction of service, and those which favored governmental efforts to hold down expenditures. The arguments advanced against the proposed regulations (and against the practices and policies carried into effect under the authority of existing postal regulations) were to the general effect that door service should continue to be offered on a general basis to all new city delivery customers because curbline mail boxes and clusterings of boxes were: (1) Vulnerable to theft and vandalism; (2) aesthetically displeasing; (3) potential safety hazards; (4) in violation of city ordinances; and, (5) unreasonably discriminatory against customers who did not receive door service.

In the judgment of the Postal Service, these criticisms of its city delivery policies were not convincing. For example, no specific evidence was offered to show that curbside boxes or cluster boxes are any more vulnerable to theft or vandalism than door mail boxes. In fact, the receptacles in the units manufactured especially for "clusterbox" service are typically heavier, sturdier, and more secure than other kinds of home mail boxes. There is similarly no evidence that curb boxes installed in accordance with postal regulations are unsafe or need to be unattractive. The courts, moreover, have upheld the legality of the city delivery regulations and policies against the arguments that they were illegally discriminatory or in violation of city ordinances. Nonetheless, the public comments in opposition to the 1975 proposal, together with a smattering of legally ineffective municipal ordinances and unsuccessful

lawsuits intended to change the city delivery policies and practices, indicated that the city delivery policies for new areas had become controversial, at east insofar as the policy had been carried into effect in some parts of the country.

The Postal Service deferred the adoption of new city delivery regulations pending Congressional consideration of legislation which might have permanently affected the city delivery policy, as well as postal finances and other matters. That review culminated in Pub. L. 94-421, which established a temparary postal study commission, temporarily prohibited significant service changes, and authorized special appropriations in the interim six-month period during which the study was to be conducted and general changes in service were to be temporarily prohibited. As to city delivery service, the 1976 law prescribed that during the interim period: "* * * the Postal Service shall provide door delivery or curbline delivery to all permanent residential addresses (other than apartment building addresses) * * *." 39 U.S.C. 2401(f), Pub. L. 94-421, sec. 2(b), 90 Stat. 1303. During that period, the Postal Service in compliance with the temparary law just quoted did not provide clusterbox service to new family housing other than apartment houses, except when the postal customers concerned generally waived their rights under Pub. L. 94-421, such as by subscribing to property deed restrictions which precluded their acceptance of any offer of door or curb service.

The present proposal would continue the interim period policy of allowing postal customers the option of selecting clusterbox or "central" delivery in place of curbside or sidewalk delivery. Central delivery is now the most cost-effective method of providing home delivery service, and will probably continue to offer substantial cost savings in the future. It also offers, when the proper equipment is used in a housing development that is suitable for central delivery, unique customer advantages which no other method of home delivery service can provide (such as sturdy steel lockers which are large enough to receive parcels and more secure from unauthorized tampering than other home mail receptacles). Therefore, the Postal Service will encourage customers to accept this form of service when its use in the judgment of the Postal Service is feasible.

Prior to the interim period, the Postal Service had developed a modification in curbline service involving delivery to points behind the sidewalk, which was used on an exceptional basis, when other methods of home delivery were impractical. The use of such "sidewalk" delivery substantially increased during the interim period when "clusterbox" service was restricted. This proposal would specifically authorize the general use of such sidewalk service, because it makes delivery service other than door service more convenient and attractive in a great number of situations, without significantly impairing the cost savings which non-door delivery service is intended to achieve.

The cost-saving objectives of the Postal Service city delivery policies seem basically sound, particularly insofar as they strictly limit new authorizations of the expensive door service to "fill-in" and hardship cases (proposed 155.221 and 155.222). Since the number of city delivery points that the Postal Service must serve is increasing by approximately 2.1 million addresses each year, the development of more efficient methods of providing delivery service is one of the cost-saving programs which the Postal Service must continue to pursue in order to keep postal rates from rising excessively. But the existing alternatives to door service must be modified so that the public will find them more convenient and acceptable.

The present proposal improves upon the 1975 proposal by incorporating two changes in city delivery service which were developed during the interim period.

1. Sidewalk service is authorized by provisions specifically permitting mail boxes to be installed behind the sidewalk in certain circumstances in which it is difficult or impractical to erect or serve mail boxes at the curb. See proposed 155.212b, 155.214a(2).

2. Mailbox grouping requirements are reduced from a minimum of three boxes in a single place to two. Compare, proposed 155. 212b(1), 155.212c(2), 155.214a(2)(a), 155.214a(3)(c)(ii), with, former proposed 155.212a(2)(b), 40 FR at 22,848, and former proposed 155.212c(1)(c)(ii), 40 FR at 22,849. Groupings of two may be more convenient for customers in single family housing because they permit each customer to locate his mailbox on his own property.

A further improvement in this proposal is that the authority to offer door service in extreme hardship cases is delegated to local postal officials. See proposed 155.222. The 1975 proposal would have required such door service offerings to be approved by the Regional Postmaster General. Former proposed 155.222, 40 FR at 22,849.

The three-hundred-foot limit in the 1975 proposed clusterbox regulations is eliminated so that the regulatory requirement would only be that customers of clusterbox service will not be required "to travel an unreasonable distance * * *." Compare, proposed 155.212c(3), 155.214a(3)(c)(iii), 155.231c, with, former proposed 155.212a(2)(c), 155.212c(1)(c)(iii), 155.231c, 40 Fr at 22,849. In view of the availability of the sidewalk options in this proposal which the 1975 proposal would not have offered, the numerical limit seems unnecessary. Under the 1975 proposal, customers whose homes were ineligible for door service and impractical to serve by curbside service would have been offered only clusterbox service. Under this proposal, such customers generally will have some kind of sidewalk option in addition to clusterbox. Under these circumstances the local customers and local postal managers can decide for themselves what is an "unreasonable" distance without further guidance from postal headquarters in Washington, D.C.

The present proposal includes a provision, which was in the 1975 proposal, which would add to 155.41 a new sentence declaring that the purchase, installation, maintenance, and replacement of delivery boxes are not the responsibility of the U.S. Postal Service. This would reflect the termination of an experiment under which such boxes had been supplied by the Postal Service to encourage the selection of the most cost-effective form of city delivery.

This proposal, like the 1975 proposal, would delete the existing 155.2, authorizing the Regional Postmaster General or his designee to approve extensions of door delivery. As previously indicated, this discretionary authority has infrequently been exercised since 1972 because of rising costs.

In place of the existing 155.2, the proposed regulations would add a new 155.2 containing detailed rules on availability of particular methods of postal delivery in business areas and residential housing (including mobile or trailer homes), which presently are found only in regional instructions. In addition, the new 155.2 would contain a new 155.23, which would set forth the availability of delivery service when municipal ordinances purport to prohibit customers from erecting curbside mailboxes. Such ordinances have been held unlawful to the extent of their inconsistency with valid postal city delivery regulations. "Grover City v. Postal Service," 391 F. Supp. at 986-987. The Postal Service proposes, as to establishments or extensions of service governed by these regulations, to codify its existing administrative practice of offering any other form of delivery for which a customer is eligible if the customer chooses to comply voluntarily with such an ordinance and not to erect a curbside box authorized by postal regulations. (The Postal Service will of course deliver to such a box if the customer chooses to erect one, notwithstanding any provisions of such a municipal ordinance to the contrary.) The proposed regulation is in-

tended to fulfill the policy of 39 U.S.C. 403(c), which prohibits the Postal Service from granting undue or unreasonable preferences. In the opinion of the Postal Service, no customer should receive unduly preferential treatment as a result of the adoption of such an ordinance by his local government. Substantially the same proposal was made in 1975, but the regulation has been redrafted to express its intent more clearly. Compare, proposed 155.23, with former proposed 155.23, 40 FR 22,849, and the explanation of its intent, 40 FR 22,848, 2d column, 3d full paragraph.

A technical change in 155.6 which was proposed in 1975, 40 FR at 22,849, is not included in the present proposal, because a recent comprehensive clarifying revision of 155.6 has made it unnecessary. 42 FR 46,819-46,820 (1977).

A new clarifying porovision (proposed 155.13) has been added which would state explicitly that prior establishments and extensions of city delivery service would not be affected by these regulations.

Minor changes are made in style and form. Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking, 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revision of the Postal Service Manual:

PART 155—CITY DELIVERY

1. Sections 155.1 and 155.2 of the Postal Service Manual are revised to read as follows:

155.1 REQUIREMENT FOR DELIVERY SERVICE

.11 *Establishment.* In this part the word "establishment" refers to the initiation of city delivery service in a community which currently does not receive city delivery service. In establishing city delivery service, a combination of delivery methods should be considered to provide adequate service to all residential and business sections of a community. All establishments of delivery service must have final approval of the Regional Postmaster General or his designee.

Establishment of delivery service will be offered when the following essential requirements are met:

a. A population of 2,500 or more is within the area to be served, or 750 possible deliveries. (The postal population may vary greatly from the general census population because of different boundary interpretations and designations.)

b. Fifty percent of the building lots in the area to be served are improved with houses or business places. Where a house or building and its yard or ground cover more than one lot, all lots so covered are considered to be improved.

c. The streets are paved or otherwise improved to permit the travel of post office vehicles at all times without damage or delay.

d. Streets are named and house numbers are assigned by the appropriate municipal authorities in a manner that precludes duplicative mailing addresses.

e. The street signs are in place and the house numbers are displayed.

f. The right-of-ways, turnouts, and areas adjacent to the roads and streets are sufficiently improved so that the installation and servicing of boxes will not be hazardous to the public or postal employees.

g. Satisfactory walks exist for the carrier where required.

h. Approved mail receptacles or door slots are installed at designated locations.

.12 *Extension.* In this report the word "extension" refers to the initiation of city delivery service in any areas which are not included in the boundries of present delivery service, but which are part of a community for which city delivery service has already been established. The delivery service requirements for extensions are the same as those listed in 155.11 for establishments, except that paragraph a does not apply to extensions.

.13 *Existing Establishments and Extensions not Affected.* Nothing in this Part 155 shall be interpreted to require any changes in any city delivery service which was initiated under prior city delivery regulations.

155.2 DELIVERY POLICY—ESTABLISHMENTS AND EXTENSIONS.

.21 Establishment of extension of city delivery service shall be offered to those areas that meet the criteria in Sections 155.11 and 155.12, Postal Service Manual, and normally will be by motorized carrier to curbline boxes or to central delivery points or receptacles, supplemented as follows:

.211 *Business Areas.* The type and design of buildings will govern the method of delivery service to be implemented. The delivery options are:

a. Central delivery service for business office buildings, which may include:

(1) Call windows;

(2) Lockboxes; or,

(3) Mechanical conveyors.

NOTE.—This is available only for high-rise, multiple-tenant buildings, and only if certain conditions are met. For details, consult your postmaster.

b. Single points, receptacles, or door slots provided by business management.

.212 Residential Housing other than Apartment Houses or Mobile or Trailer Homes.

General. For all residential areas, except apartment houses and mobile or trailer homes, the delivery options are either curbside, central, or sidewalk delivery, under the rules and regulations given below.

a. *Curbside Delivery.* Delivery may be provided to boxes located at the curb so they can be safely and conveniently served by the carrier from his vehicle.

b. *Sidewalk Delivery.* (1) If the sidewalk abuts the curb or if other unusual conditions exist (e.g., excessive street parking) which make it difficult or impractical to install or serve boxes at the curbline, the customers where such conditions are determined to exist may be permitted to install all of their boxes at the edge of the sidewalk nearest the residence, where they can all be served by the carrier from the sidewalk. If the average lot frontage is 75 feet or less, the boxes are not required to be grouped together; but if the average lot frontage is more than 75 feet, the boxes must be installed in groups of at least two.

(2) If the average lot frontage is 50 feet or less, the customer's may locate their mailboxes at the edge of the sidewalk nearest the residence rather than at the curb, regardless of whether the sidewalk abuts the curb or other unusual conditions exist. All the boxes must be located so that the carrier can serve them from the sidewalk.

c. *Central Delivery.* Central delivery may be provided at one or more central points within a residential housing development, community, or area. The requirements for such delivery are:

(1) The local postal managers must approve the mailbox sites and equipment;

(2) There must be a minimum of two mailboxes erected at one site (there is no maximum limit); and,

(3) The customers will not be required to travel an unreasonable distance to obtain their mail.

.213 *Apartment houses.* See 155.6 for delivery options.

.214 *Mobile or Trailer Homes.* The delivery options for mobile or trailerhome developments depend upon whether the development is permanent or transient.

a. *Permanent developments* consist of managed mobile home parks or residential mobile home subdivisions where: the lots are permanently assigned, the streets are maintained for public use, and the conditions are similar to those of a normal residential subdivision. For permanent developments, the delivery options are either curbside, central, or sidewalk delivery, under the rules and regulations given below.

(1) *Curbside Delivery.* Delivery service may be provided to boxes which are located at the curb so that they can be safely and conveniently served by the carrier from his vehicle.

(2) *Sidewalk delivery.* (a) If the sidewalk abuts the curb or other unusual conditions exist (e.g., excessive street parking) which make it difficult or impractical to install or serve boxes at the curbline, the customers where such conditions are determined to exist may install all of their boxes at the edge of the sidewalk nearest the residence where they can all be served by the carrier from the sidewalk. In such conditions, if the average lot frontage is 75 feet or less, the sidewalk boxes are not required to be grouped together; but if the average lot frontage is more than 75 feet, the sidewalk boxes must be installed in groups of at least two.

(b) If the average lot frontage is 50 feet or less, the customers may be permitted to locate all of their mailboxes at the edge of sidewalk nearest the residence walk rather than at the curb, regardless of whether the sidewalk abuts the curb or other unusual conditions exist. All of the boxes must be located so the carrier can serve them from the sidewalk.

(3) *Central Delivery.* (a) Delivery service may be provided to a single point or receptacle designated by the management of the development for the receipt of mail for distribution by its employees.

(b) Delivery service may be provided to one or more central points for the direct receipt of mail by postal customers within the area.

(b) Delivery service may be provided to one or more central points for the direct receipt of mail by postal customers within the area.

(c) The requirements for such central delivery are:

(i) The local postal managers must approve the mailbox sites and equipment;

(ii) There must be a minimum of two mailboxes erected at one site (there is no maximum limit); and,

(iii) The customers are not required to travel an unreasonable distance to obtain their mail.

b. *Transient developments* comprise recreational vehicle parks and trailer courts where the lots are temporarily rented and the occupants are generally transient. Such developments are considered transient, even though some families may live in them for an extended period of time. for transient developments, the only delivery option is delivery to a single point or receptacle designated by the trailer park management and approved by local postal managers for the receipt of mail for distribution by the trailer park's employees.

NOTE.—This method is one of the service options for permanent developments.

.22 EXCEPTIONS

.221 *Fill-In.* New homes built within an existing block of homes receiving delivery service will receive the same type of service afforded to other homes on either side of the street of the same block. However, where older homes on more than one block in a city delivery area are replaced by entirely new housing such as an urban renewal project, the method of delivery provided to the new housing shall be in accord with the provisions of this part dealing with extensions.

.222 *Hardship Cases.* Door delivery will be considered for an individual customer where service to that customer through central, curbline, sidewalk, lockbox, or general delivery would place an extreme hardship on the customer.

.23 *Local Ordinances.* Where a customer chooses not to erect a curbside box due to the enactment of a local, city, county, or state ordinance purporting to prohibit the installation of mailboxes at the curb, the delivery options in establishments and extensions are:

.231 Central delivery service may be provided at one or more central points in a residential housing development, community, or area, if:

a. The local postal managers approve the mailbox sites and equipment;

b. There is a minimum of two mailboxes erected at each mailbox site (there is no maximum limit); and,

c. The customers are not required to travel an unreasonable distance to obtain their mail; or,

.232 Lockbox or general delivery service may be provided at the nearest postal facility where carrier delivery emanates.

155.41 [AMENDED]

2. In 155.41 the following sentence is added at the end thereof:

"Purchase, installation, maintenance, and replacement of delivery box equipment are not the responsibility of the U.S. Postal Service."

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposal is adopted.

(39 U.S.C. 101, 401(2), 403, 404(a)(1), 410(a).)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-7763 Filed 3-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 52]

[FRL 869-6]

APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS

Revisions to the Shasta County Air Pollution Control District's Rules and Regulations in the State of California

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposed rulemaking.

SUMMARY: Revisions to the Shasta County Air Pollution Control District's (APCD) rules and regulations have been submitted to the Environmental Protection Agency (EPA) by the California Air Resources Board for the purpose of revising the California State Implementation Plan (SIP). The intended effect of these revisions is to update the rules and regulations and to correct deficiencies in the SIP. The EPA invites public comments on these rules, especially as to their consistency with the Clean Air Act.

DATE: Comments should be submitted on or before April 24, 1978.

ADDRESSES: Comments may be sent to: Regional Administrator, Attention: Air and Hazardous Materials Division, Air Programs Branch, California SIP Section (A-4), Environmental Protection Agency, Region IX, 215 Fremont Street, San Francisco, Calif. 94105.

Copies of the proposed revisions are available for public inspection during normal business hours at the EPA Region IX office at the above address and at the following locations: Shasta County Air Pollution Control District, 1855 Placer Street, Redding, Calif. 96001; California Air Resources Board, 1102 Q Street, P.O. Box 2815, Sacramento, Calif. 95814; Public Information Reference Unit, Room 2922 (EPA Library), 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT:

David R. Souten, Chief, California SIP Section, EPA, Region IX, 415-556-7288.

SUPPLEMENTARY INFORMATION: The California Air Resources Board submitted the following rules and regulations on October 13, 1977:

Rule
1:2 Definitions.
2:6 Agricultural Burning.
2:7 Open Burning in Urban Areas.
2:8 Exceptions to Open Burning.
2:11 Fees.
3:2 Specific Air Contaminants.
3:4 Industrial Use of Organic Solvents.
4:1 Applicable Sections of the Health and Safety Code.
4:4 Hearing Board Fees.
4:5 Contents of Petitions.
4:6 Petition for Variance.
4:14 Notice of Hearing.
4:19 Hearing and Decision.

In addition, regulations were submitted concerning new source review. These regulations will be considered in a separate FEDERAL REGISTER action.

Pursuant to Section 110 of the Clean Air Act as amended, and 40 CFR Part 51, the Administrator is required to approve or disapprove the regulations submitted as revisions to the SIP. The Regional Administrator hereby issues this notice setting forth these revisions as proposed rulemaking and advises the public that interested persons may participate by submitting written comments to the Region IX Office. Comments received on or before April 24, 1978, will be considered. Comments received will be available for public inspection at the EPA Region IX Office and the EPA Public Information Reference Unit.

AUTHORITY: Sections 110 and 301(a) of the Clean Air Act as amended (42 U.S.C. §§ 7410 and 7601(a)).

Dated: March 13, 1978.

SHEILA M. PRINDIVILLE,
Acting Regional Administrator.

[FR Doc. 78-7596 Filed 3-22-78; 8:45 am]

[1505-01]

[40 CFR Part 205]

[FRL 811-3]

NOISE EMISSION STANDARDS FOR TRANSPORTATION EQUIPMENT

Motorcycles; Motorcycle Replacement Exhaust Systems

Correction

In FR Doc. 78-5973, appearing at page 10822, in the issue for Wednesday, March 15, 1978, the caption "Motorcycles" should be added to the heading as set forth above. Similarly, on the Part II cover page which appears on page 10821, the caption "Motorcycles" should be added immediately above the caption "Motorcycle Replacement Exhaust Systems." These corrections reflect the fact that this document pertains to new motorcycles as well as motorcycle replacement exhaust systems.

[4110-02]

DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Office of Education

[45 CFR Part 126]

Health Education Assistance Loan Program

AGENCY: Office of Education, HEW.

ACTION: Notice of decision to develop regulations.

SUMMARY: The Commissioner of Education proposes a regulation to implement the insured loan provisions of The Health Professions Educational Assistance Act of 1976. The regulation governs a Federal program of insured loans to graduate students in health professions schools. The purpose of the program is to increase access to loan funds by eligible health professions students who otherwise might be unable to pursue their education because of limited financial resources.

FOR FURTHER INFORMATION CONTACT:

David C. Bayer, ROB-3, Room 4642, 400 Maryland Avenue SW., Washington, D.C. 20202, telephone 202-472-2765.

Dated: February 16, 1978.

(Catalog of Federal Domestic Assistance No. 13.574.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-7760 Filed 3-22-78; 8:45 am]

[4110-02]

[45 CFR Part 190]

BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

AGENCY: Office of Education, HEW.

ACTION: Notice of Decision to Develop Regulations.

SUMMARY: The Commissioner of Education proposes to amend Part 190 of the regulations for the Basic Educational Opportunity Grant Program established under The Higher Education Act of 1965. The proposed regulations are administrative and technical in nature, and provide for the operation of the program, ensuring a standardized process by which a student's Basic Grant award is calculated and disbursed.

FOR FURTHER INFORMATION CONTACT:

Bill Moran, ROB-3, Room 4923, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone 202-245-1744.

Dated: January 27, 1978.

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-7759 Filed 3-22-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Parts 91, 93]

[Docket No. 21395; RM-2702; FCC 78-191]

TAXICAB RADIO SERVICE CHANNELS

Permitting Interservice Geographic Sharing of Certain 450 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Further notice of proposed rulemaking.

SUMMARY: This action considers reallocation of four Taxicab Radio Service 450 MHz band frequency pairs for geographic shared operations in the Forest Products Radio Service in the States of Idaho, Montana, Oregon, and Washington. Eight 450-MHz band frequency pairs have already been reallocated for these purposes in a First Report and Order in this proceeding. Comments are requested.

DATES: Comments must be received on or before April 26, 1978 and reply comments must be received on or before May 8, 1978.

ADDRESS: Send Comments to: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT:

Richard Taube, Industrial and Public Safety Rules Division, Safety and Special Radio Services Bureau, telephone 202-632-6497.

In the matter of amendment of Parts 91 and 93 of the Commission's rules to permit interservice geographic sharing of certain 450 MHz band Taxicab Radio Service Channels; Docket No. 21395; RM-2702. Further notice of proposed rulemaking (See 42 FR 48899).

Adopted: March 8, 1978.

Released: March 21, 1978.

By the Commission: 1. In a First Report and Order in this proceeding adopted on March 8, 1978, the Commission has finalized certain rule changes which authorize the geographic shared use of eight pairs of Taxicab Radio Service frequencies in the 450-470 MHz band by Forest Products Radio Service licensees in the States of Idaho, Montana, Oregon, and Washington.

2. The Commission had orginally proposed that 12 pairs of Taxicab Radio Service frequencies in the 450 MHz band be made available for geographic sharing. However, with the modifications of the proposed changes adopted in our First Report and Order and for the reasons discussed there, it appears to be appropriate to retain four of these frequency pairs exclusively in the Taxicab Radio Service. However, before making a final decision on this matter, the Commission would like to have additional comments directly specifically to this point.

3. Accordingly, comments are requested on whether the frequency pairs 452.050/457.050, 452.150/457.150, 452.300/457.300, and 452.500/457.500 MHz, should be made available in the Forest Products Radio Service at locations more than 40 miles from the centers of Urbanized Areas of 200,000 or more population (1970 Decennial Census) in the States of Washington, Oregon, Idaho, and Montana, or whether they should be retained exclusively in the Taxicab Radio Service.

4. Authority for any proposed amendments is contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended. Pursuant to applicable procedures set forth in Section 1.415 of the Commission's Rules, interested parties may file comments on or before April 26, 1978, and reply comments on or before May 8, 1978. Relevant and timely comments and reply comments will be considered by the Commission before final action is taken in this proceeding. In reaching its decisions, the Commission may also take into account other relevant information before it, in addition to the specific comments invited by this Notice.

5. In accordance with the provisions of Section 1.419 of the Commission's Rules, an original and five copies of all statements, briefs, or comments filed shall be furnished the Commission. Responses will be available for public inspection during regular business hours in the Commission's Public Reference Room at its headquarters in Washington, D.C.

FEDERAL COMMUNICATIONS COMMISSION.
WILLIAM J. TRICARICO,
Secretary.

[FR Doc. 78-7766 Filed 3-22-78; 8:45 am]

[4910-59]

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[49 CFR Part 581]

[Docket No. 73-19; Notice 22]

BUMPER STANDARD

Damageability Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA).

ACTION: Termination of rulemaking action.

SUMMARY: The notice terminates a rulemaking proposal to permit damage to filler panels and stone shields on passenger cars that must conform to the Part 581 bumper standard on and after September 1, 1979. The proposal was advanced in response to vehicle manufacturer petitions that the production of filler panels and stone shields that incur no damage during testing would be very expensive and not provide consumers with commensurate benefits. Analysis of comments received and the agency's own test data demonstrate that the cost to provide "no damage" protection is likely to be less than the cost that would be incurred to repair or replace filler panels or stone shields damaged in low-speed collisions.

FOR FURTHER INFORMATION CONTACT:

Mr. Nelson Gordy, Office of Automotive ratings (NHTSA), 400 Seventh Street SW., Washington, D.C. 20590, 202-426-1740.

SUPPLEMENTARY INFORMATION: Part 581, Bumper Standard (49 CFR Part 581), establishes requirements for the impact resistance of vehicles in low-speed front and rear collisions. It is effctive September 1, 1978, for all components of the vehicle other than certain aspects of the bumper face bar and associated fasteners that directly attach the bumper face bar to the chassis frame. (Phase I). On and after September 1, 1979, it is effective for all components of the vehicle (Phase II). In response to manufacturer petitions to permit damage to filler panels and stone shields (shielding components) the agency allowed unlimited damage to them in the case of vehicles manufactured in the 1-year period beginning September 1, 1978 (41 FR 24056; May 12, 1977). It was reasoned that, in view of the unlimited damage allowed to the bumper face bar itself during the 1-year period, damage to the closely associated shielding components would not significantly degrade the overall damageability performance of the vehicle. The further decision on damageability levels for shielding components after that 1-year period was reserved.

The NHTSA subsequently proposed allowing limited or, in the alternative, unlimited damage to shielding components after August 1979 (42 FR 51631; September 29, 1977). the agency noted its assumptions that: (1) Bumper face bar damage was quite likely to cause damage to the shielding components because of their location in close proximity to the face bar, and that (2) they would require "expensive redesign to prevent damage in low-speed impacts." Commenters were asked to provide specific data on the incremental cost of providing no damage components, the replacement cost of "no damage" components, the amount of damage that would be expected during tests of components built to the proposed alternatives, and the cost consequences of "no damage" requirements on compliance with fuel efficiency standards.

The view of insurance companies, their trade associations, and the Insurance Institute for Highway Safety was essentially that these shielding components serve no function in protecting the vehicle as does the bumper, but rather are cosmetic features that reduce fuel economy, and increase initial purchase and repair costs unnecessarily. These commenters argued that the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1901, et seq.) accord no special treatment to shielding components.

In contrast, the vehicle manufacturers supported the allowance of unlimited damage, with the exception of Ford that recommended the first alternative of allowing three-quarters of an inch deviation as long as manual repositioning of filler panels was permitted after impact testing. These companies generally argued that the type of damage sustained in bumper testing would be perceived as inconsequential by car owners in the real world or would be easily repairable by repositioning of soft filler panel components, and that the cost of retooling and added purchase price could therefore not be justified.

Chrysler implied that the solution in every case would be the addition of more expensive and heavier components. American Motors stated it was unaware of any shielding component material that would meet the "no damage" level, which conflicts with the agency's compliance testing in which 15 of 20 1977 models demonstrated no shielding component damage in Part 581-level impacts. AMC stated its belief that superior pedestrian protection is encouraged by requirements that allow the undercutting of body metal to allow bumper stroke without excessive face bar offset, but no substantiating data were presented. Without explicitly stating its recommendation, Volkswagen pointed out that unlimited damageability for filler panels would be desirable to allow transition to new 1981 models without extensive redesign of bumpers that are going to be phased out. They said that "Manufacturers unable to comply would be forced to omit filler panels and stone shields." They claim such omission would be detrimental to the consumer because the shielding components protect the vehicle from dirt and thrown-up stones.

Analysis of the comments and data derived from NHTSA compliance testing of 20 vehicles does not make a convincing case for a permanent change in the upcoming "no damage" requirement. The technical problem of controlling damage to the component and the expense of doing so are substantially less than had been projected by the agency. In contrast, the direct consumer outlays for repair or replacement, and the unquantifiable costs in consumer aggravation and accelerated depreciation when shielding components are damaged and remain unrepaired, weigh significantly in favor of a decision to not allow any damage.

The cost of upgrading filler panels to provide "no damage" performance is affected by several significant manufacturer decisions that cannot be readily predicted by the NHTSA. The ideal cost saving solution adopted by some manufacturers is the deletion of these components from their designs. This course of action has the added benefit of reducing vehicle weight for fuel efficiency purposes. Assuming, however, that some bumper designs chosen by manufacturers will lead them to continue the use of shielding components, the agency also analyzed cost data submitted by the manufacturers that estimated the incremental price increase to provide "no damage" shielding components.

In NHTSA experience with 1977-model bumper compliance tests, 15 of the 20 passenger cars tested showed no shielding component damage whatsoever in the standard's low-speed impacts. In the case of Insurance Institute for Highway Safety testing of 32 1977-model passenger cars in car-to-car front-to-rear impacts at 10 mph, 27 of the vehicles sustained no shielding component damage. This demonstrates that much of the engineering to provide "no damage" performance has been completed and is already in place. In the small percentage of vehicles incurring damage to shielding components, repair cost exceeded the price increase that would be necessary to provide "no damage" performance, even using conservative assumptions about the amount of this damage that would actually be restored.

Based on these findings, the agency has decided not to permit unlimited damage. The alternative of permitting

a limited amount of damage (¾-inch deviation) was equated by most commenters with "no damage" because of the expense of containing damage to predictable limits, and this alternative is, accordingly, also not adopted. Ford suggested a hybrid standard in which a ¾-inch deviation would be the permissible extent of damage, except for deviation that could be removed through manual repositioning of shielding components after the impact without benefit of tools. The agency considered this approach, but concludes that the criterion for repositioning is unacceptably subjective, and that the provision of superior "no damage" performance is achievable by reasonable means.

Ford suggested that § 581.5(c)(9) be amended to allow release of filler panel joints that are manually restorable. The agency believes this suggestion was associated with Ford's suggestion to permit manual restoration of the filler panel itself, and declines to adopt the fastener exception for the same reasons.

Volkswagen asked that the NHTSA confirm that "end cuffs" attached to the extreme ends of the bumper face bar qualify as components of the bumper face bar. These components are part of the bumper face bar if they conform to its definition, i.e., if "they contact the impact ridge of the pendulum test device."

In response to Volkswagen's suggestion that Phase I should be amended to allow whatever damage levels are permitted shielding components in Phase II, it is noted that the rationale for unlimited damage to these components in Phase I is already contained in the language of § 581.5(c)(8). The shielding components are subsumed under the Phase I damage exception for "components and associated fasteners that directly attach the bumper face bar to the chassis frame." Volkswagen's suggested correction of "August 1" to "August 31" in § 581.5(c)(8) has been made.

In the interests of simplification, Docket No. 74-11 is hereby closed and incorporated by reference into Docket No. 73-19.

The program official and lawyer principally responsible for this document are Nelson Gordy and Tad Herlihy, respectively.

(Sec. 103, 119, Pub. L. 89-563, 80 Stat. 718 (15 U.S.C. 1392, 1407); sec. 102, Pub. L. 92-513, 86 Stat. 947 (15 U.S.C. 1912); delegation of authority at 49 CFR 1.50.)

Issued on March 17, 1978.

JOAN CLAYBROOK,
Administrator.

[FR Doc. 78-7535 Filed 3-17-78; 2:30 pm]

[4310-55]

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[50 CFR Part 17]

ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Proposed Determination of Critical Habitat for the Leatherback Sea Turtle

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Critical Habitat proposal.

SUMMARY: The Service hereby proposes Critical Habitat for the leatherback sea turtle (*Dermochelys coriacea*) in the U.S. Virgin Islands. This proposal would make this area subject to full protection under Section 7 of the Endangered Species Act of 1973 and is being taken to insure the integrity of Sandy Point Beach, an area which contains the largest nesting aggregation of leatherbacks in lands under United States jurisdiction.

DATES: Comments from the public must be received by May 22, 1978. Comments from the Governors of States involved with this action must be received by June 21, 1978.

ADDRESSES: Submit comments to Director (OES), U.S. Fish and Wildlife Service, Department of the Interior, Washington, DC. 20240. Comments and materials received will be available for public inspection during normal business hours at the Service's Office of Endangered Species, Suite 1100, 1612 K Street NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The leatherback sea turtle is a rare and critically Endangered reptile throughout the world, and has been officially listed as Endangered since 1970. Much of the hope for the survival and recovery of this species depends upon the maintenance of suitable and undisturbed nesting beaches. The Service recognizes that areas containing such beaches may qualify for recognition as Critical Habitat as referred to in Section 7 of the Act.

During the early summer of 1977, the Service became aware of a newly discovered nesting aggregation of leatherback sea turtles occurring at the western end of the island of St. Croix, U.S. Virgin Islands. Personnel of the Fish and Wildlife Service, National Marine Fisheries Service, U.S. Coast Guard, and Government of the Virgin Islands conducted observations on St. Croix during the month of June. 76 to 79 leatherback nests were discovered, and evidence of poaching and potential development were noted. Nesting activity was seen to occur on the 0.8 mile long by 0.1 mile wide strip of Sandy Point Beach. This small area consitutes the only known beach under U.S. jurisdiction used extensively for nesting by the Endangered leatherback.

EFFECT OF THE RULEMAKING

The effects of this determination are involved primarily with Section 7 of the Act, which states:

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

An interpretation of the term Critical Habitat was published by the Fish and Wildlife Service and the National Marine Fisheries Service in the FEDERAL REGISTER of April 22, 1975 (40 FR 17764-17765). Some of the major points of that interpretation are: (1) Critical Habitat could be the entire habitat of a species, or any portion thereof, if any constituent element is necessary to the normal needs or survival of that species; (2) actions by a Federal agency affecting Critical Habitat of a species would not conform with section 7 if such actions might be expected to result in a reduction in the numbers or distribution of that species of sufficient magnitude to place the species in further jeopardy, or restrict the potential and reasonable recovery of that species; and (3) there may be many kinds of actions which can be carried out with in the Critical Habitat of a species which would not be expected to adversely affect that species.

This last point has not been well understood by some persons. There has been widespread and erroneous belief that a Critical Habitat designation is something akin to establishment of a wilderness area or wildlife refuge, and

automatically closes an area to most human uses. Actually, a Critical Habitat designation applies only to Federal agencies, and essentially is an official notification to these agencies that their responsibilities pursuant to section 7 of the act are applicable in a certain area.

A Critical Habitat designation must be based solely on biological factors. There may be questions of whether and how much habitat is critical, in accordance with the above interpretation, or how to best legally delineate this habitat, but any resultant designation must correspond with the best available biological data. It would not be in accordance with the law to involve other motives; for example, to enlarge a Critical Habitat delineation so as to cover additional habitat under section 7 provisions, or to reduce a delineation so that actions in the omitted area would not be subject to evaluation.

There may indeed be legitimate questions of whether, and to what extent, certain kinds of actions would adversely affect listed species. These questions, however, are not relevant to the biological basis of Critical Habitat delineations. Such questions should, and can more conveniently, be dealt with after Critical Habitat has been designated. In this respect, the Service in cooperation with other Federal agencies has drawn up a set of guidelines which, in part, establish a consultation and assistance process for helping to evaluate the possible effects of actions on Critical Habitat. Provisions for Interagency Cooperation were published on January 4, 1978, in the FEDERAL REGISTER (43 FR 870-876) to assist Federal agencies in complying with their responsibilities under section 7 of the Endangered Species act of 1973.

PUBLIC COMMENTS SOLICITED

The Director intends that the rules finally adopted will be as accurate as possible in delineating the Critical Habitat of the leatherback sea turtle. The Director, therefore, desires to obtain the comments and suggestions of the public, other concerned governmental agencies, the scientific community, or any other interested party on these proposed rules.

Final promulgation of Critical Habitat regulations will take into consideration the comments received by the Director. Such comments and any additional information received may lead the Director to adopt final regulations that differ from this proposal.

An environmental assessment has been prepared in conjunction with this proposal. It is on file in the Service's Office of Endangered Species, 1612 K Street NW., Washington, D.C., and may be examined during regular business hours or can be obtained by mail. A determination will be made at the time of final rulemaking as to whether this is a major Federal action which would significantly affect the quality of the human environment within the meaning of section 102(2)(C) of the National Environmental Policy Act of 1969.

The primary author of this proposed rule is Dr. C. Kenneth Dodd, Jr., Office of Endangered Species, 202-343-7814.

REGULATIONS PROMULGATION

Accordingly, it is hereby proposed to amend Part 17, Subchapter B of Chapter I, Title 50 of the Code of Federal Regulations, as set forth below.

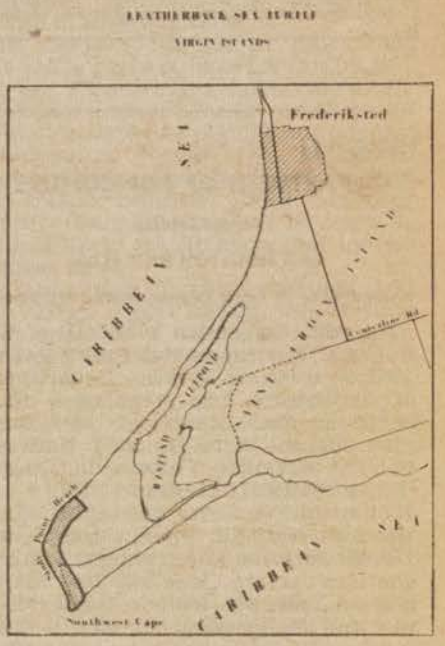
§ 17.95 [Amended]

The Service proposes to amend § 17.95(c) by adding Critical Habitat of the leatherback sea turtle after that of the giant anole as follows:

(c) *Reptiles.* * * *

LEATHERBACK SEA TURTLE (*Dermochelys coriacea*)

U.S. Virgin Islands. A strip of land 0.1 mile wide (from mean high tide inland) at Sandy Point Beach on the western end of the island of St. Croix beginning at the Southwest Cape to the south and running 0.8 mile northwest and then northeast along the shoreline.



Proposed critical habitat for the leatherback sea turtle.

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

Dated: March 8, 1978.

LYNN A. GREENWALT
Director,
Fish and Wildlife Service.

[FR Doc. 78-7495 Filed 3-22-78; 8:45 am]

notices

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

[3410-11]

DEPARTMENT OF AGRICULTURE

Forest Service

SAM HOUSTON UNIT PLAN

Availablility 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 and unit plan for the Sam Houston National Forest, National Forests in Texas, USDA-FS-R8-DES (Adm.) 78-01.

This unit includes the entire Sam Houston National Forest, comprising 158,654.88 acres Montgomery, Walker, and San Jacinto Counties, Tex. Major actions proposed include timber harvest and site preparation; increased diversity of wildlife habitat with emphasis on tree squirrels; road construction and reconstruction; mineral leasing; and, establishment of special management areas.

This draft environmental statement was transmitted to EPA February 27, 1978. Copies are available for inspection during regular working hours at the following locations:

USA, Forst Service, South Agriculture Building, Room 3230, 12th and Independence Avenue SW., Washington, D.C. 20250.

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

USDA, Forest Service, Federal Building, Lufkin, Tex. 75901.

A limited number of single copies are available upon request to Forest Supervisor, National Forests in Texas, Federal Building, Box 969, Lufkin, Tex. 75901.

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, National Forests in Texas 75901. Comments must be received by April 28, 1978, in order to be considered in the preparation of the final environmental statement.

Dated: February 27, 1978.

ROBERT F. WILLIAMS,
Regional Environmental Coordinator.

[FR Doc. 78-7724 Filed 3-22-78; 8:45 am]

[6320-01]

CIVIL AERONAUTICS BOARD

[Docket 32264]

NASHVILLE-CLEVELAND SUBPART M PROCEEDING

Hearing

Notice is hereby given, pursuant to the provisions of the Federal Aviation Act of 1958, as amended, that a public hearing in the above-entitled proceeding is assigned to be held on April 11, 1978, at 9:30 a.m. (local time) in Room 1003, Hearing Room C, Universal North Building, 1875 Connecticut Avenue NW., Washington, D.C., before the undersigned Administrative Law Judge.

For information concerning the issues involved and other details of this proceeding, interested persons are referred to the various documents which are in the docket of this case on file in the Docket Section of the Civil Aeronautics Board.

Dated at Washington, D.C., March 17, 1978.

ARTHUR S. PRESENT,
Administrative Law Judge.

[FR Doc. 78-7770 Filed 3-22-78; 8:45 am]

[6320-01]

[Order 78-3-78; Docket 29591]

DONALD L. PEVSNER

Refund Provisions for Unused Tickets

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of March 1978.

By Order 78-1-14, January 5, 1978, the Board directed all interested persons to show cause (1) why all U.S. air carriers should not be required to file, by March 1, 1978, tariff revisions stipulating that refunds for unused tickets in interstate, overseas, and international air transportation will be provided for a period of at least two years after the date of expiry of the validity of the ticket, and (2) why the Board should not rescind its approval of IATA Recommended Practice 1013, General Conditions of Carriage (Passenger),[1] and disapprove the Recommended Practice as adverse to the public interest insofar as it applies in air transportation within the meaning of the Act and provides that carriers may refuse refund applications less than two years after expiry of the ticket.

The time designated for the filing of objections has elapsed, and no objections have been filed by any person.[2] All persons have therefore waived all further procedural steps short of final Board action.

In the absence of objections, the findings and conclusions set forth in Order 78-1-14 are affirmed and adopted.

Accordingly, *it is ordered*, That:

1. All U.S. air carriers shall file by April 1, 1978, new tariff rules or revisions to existing tariff rules to stipulate that refunds for unused tickets in interstate, overseas, and international air transportation will be provided for a period of at least two years after the date of expiry of the ticket;

2. Approval of IATA Recommended Practice 1013, General Conditions of Carriage (Passenger), Agreement CAB 22068, R-37, is rescinded and IATA Recommended Practice 1013 is disapproved as adverse to the public interest insofar as it provides that carriers may refuse refund applications less than two years after expiry of the ticket in air transportation; and

3. This order shall be served upon all U.S. air carriers, foreign air carriers, the International Air Transport Association, the Office of the Consumer Advocate of the Civil Aeronautics Board, and Donald L. Pevsner, Esq.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-7773 Filed 3-22-78; 8:45 am]

[1] Agreement CAB 22068, R-37, approved by Order 71-2-2, February 1, 1971.

[2] The Civil Aeronautics Board's Office of the Consumer Advocate filed comments endorsing the Board's decision.

[3] All members concurred.

[6320-01]

[Order 78-3-72; Docket 30777, Agreement C.A.B. 27083 R-1 through R-17]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

South Pacific Passenger Fares

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of March 1978.

By Order 78-1-33, January 11, 1978, the Board established procedural dates for the receipt of carrier justification, comments and/or objections from interested persons, and comments in reply pertaining to an agreement, adopted by the member carriers of the International Air Transport Association (IATA), which would establish a new fare structure to apply over the South Pacific, effective April 1, 1978 through March 31, 1979. Economic justification has been received from Pan American World Airways, Inc. (Pan American), the only U.S. carrier affected by the agreement. No comments or objections have been received.

The agreement increases first-class fares by amounts ranging from 7.9 to 13.4 percent [1] and 14/35-day individual inclusive-tour (IIT) fares by about three percent. Normal economy fares and all other promotional fares would remain at existing levels. The agreement also reduces the advance-purchase requirement of the advance-purchase excursion (APEX) fare from 60 to 45 days, increases the stopover charge on the 14/35-day IIT and group inclusive-tour (GIT) fares from $25 to $30, and revises the GIT minimum tour price to Papeete from $15 per day to $110 for the first six days plus $15 for each additional day. In addition, the agreement introduces Budget fares, similar to the one in effect between New York and London, in various South Pacific markets at levels representing discounts from normal economy fares of slightly more than 50 percent. Conditions of the fare include passenger selection of the week of departure, ticket purchase at least 21 days before the beginning of that week, carrier assignment and written notification of a specific date and flight 7 to 14 days before the week of departure, a penalty of 50 percent of the fare for voluntary cancellation, and a weekly capacity limitation of 15 percent of economy-class seats. The Budget fare is available for one-way as well as round-trip travel and stopovers are not permitted.

Pan American contends that the modest fare increases will only slightly offset escalations in cost and has provided an historical financial statement for its South Pacific scheduled passenger service for the year ended September 1977, as well as forecasts for the year ending March 1979 under both present and proposed fares. Using revenue offset costing methodology, the carrier states it experienced an $11.5 million operating profit and return on investment (ROI) of 13.36 percent during the historical period and that it expects a $5.9 million operating profit and 7.81 percent ROI under existing fares during the forecast period. The proposed increase is expected to provide additional revenue of $2.9 million, increasing operating profit to $8.3 million and ROI to 10.04 percent for the forecast period. These results assume a 48.5 percent load factor during the historical period and improvement in load factor to 53.7 and 55.1 during the forecast period under present and proposed fares, respectively. These favorable load factors flow from expected traffic growth of 18.1 and 21 percent under present and proposed fares, respectively, and only a 6.7 percent increase in available capacity.

In addition, the carrier notes that the IATA package incorporates its previously filed Budget fares essentially unchanged except for increases in the Honolulu fares to eliminate undercut problems in certain U.S. mainland-South Pacific markets and states that its traffic forecast under proposed fares reflects a 2.5 percent increase attributable to traffic generated by the Budget fares. [2]

After review of the agreement and the carrier's justification, we conclude that approval is warranted. The data indicate the carrier will earn 7.8 and 10 percent on investment with present and proposed fares, respectively, during the forecast period. (See Appendix.) The expected results are below the Board's 12-percent guideline and additional revenue is justified. Approval of the agreement will also have the desirable effect of extending the low Budget fares to additional South Pacific destinations.

The Board, acting pursuant to sections 102, 204(a), and 412 of the Act, finds:

1. It is not found that the following resolutions, incorporated in Agreement CAB 27083, are adverse to the public interest or in violation of the Act, provided that approval is subject, where applicable, to conditions previously imposed by the Board:

[1] The first-class increases are designed to establish a first-class/normal economy fare ratio of 1.6:1. However, the increase in the first-class fare to Papeete would be limited to about 10 percent, leaving that ratio slightly lower.

[2] See Order 78-1-15, January 5, 1978, dismissing complaints against Pan American's Pacific Budget fares. The Honolulu fares are increased appproximately $70 round trip.

Agreement CAB	IATA No.	Title	Application
27083:			
R-1	LA16	JT31 limited agreement—South Pacific	3/1.
R-2	001b	South Pacific special effectiveness resolution (tie-in).	3/1.
R-3	001f	Special emergency escape for JT31 (South Pacific) agreement (readopting and amending).	3/1.
R-4	002	Standard readoption resolution	3/1 (South Pacific).
R-5	015a	South Pacific proportional fares North America (readopting and amending).	3/1.
R-6	056a	South Pacific first-class fares	3/1.
R-7	066a	South Pacific economy-class fares	3/1.
R-8	070b	South Pacific 28-day excursion fares (readopting and amending).	3/1.
R-10	070p	South Pacific 23- and 30-day excursion fares (readopting and amending).	3/1.
R-11	071d	Special JT31 (South Pacific) budget fares (new).	3/1.
R-12	071j	JT31 advance purchase excursion fares South Pacific (readopting and amending).	3/1.
R-13	076u	JT31 South Pacific affinity/own use group fares (readopting and amending).	3/1.
R-14	080d	South Pacific 23-day individual inclusive tour fares (readopting and amending).	3/1.
R-15	080m	South Pacific 35-day individual inclusive tour fares (readopting and amending).	3/1.
R-16	084d	JT31 South Pacific group inclusive tour fares (readopting and amending).	3/1.
R-17	084dd	JT31 South Pacific group inclusive tour fares (readopting and amending).	3/1.

2. It is not found that the following resolution, incorporated in Agreement CAB 27083 and having indirect application in air transportation as defined by the Act, is adverse to the public interest or in violation of the Act:

Agreement CAB	IATA No.	Title	Application
27083: R-9	070dd	South Pacific 60-day excursion fares (via 3/1. Papeete) (readopting and amending).	

Accordingly, *it is ordered*, That:

1. Agreement CAB 27083 as described in finding paragraphs one and two above be approved subject, where applicable, to conditions previously imposed by the Board; and

2. Tariffs implementing the agreement be marked to expire on March 31, 1979.

This order will be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.[3]

PHYLLIS T. KAYLOR,
Secretary.

[3]All members concurred.

APPENDIX.—*Pan American South Pacific passenger service*[1] (dollars in thousands)

	Historicial	forecast year ending March 31, 1979	
	Year ended September 30, 1977	Present fares	Proposed fares
Operating revenues	$88,253	$103,610	$106,539
Operating expenses	76,760	97,684	98,225
Operating profit (loss)	11,493	5,926	8,314
Interest	2,524	2,604	2,604
Net income before tax	8,969	3,322	5,710
Income tax at 48 pct	4,305	1,595	2,741
Income after tax	4,664	1,727	2,969
Add: interest expense	2,524	2,604	2,604
Return element	7,188	4,331	5,573
Investment	53,793	55,482	55,482
ROI (in percent)	13.4	7.8	10.0
Available seat-miles	2,396,518	2,556,200	2,556,200
Revenue passenger miles	1,163,020	1,373,000	1,407,325
Seat factor (in percent)	48.5	53.7	55.1

[1]Revenue offset methodology.

[FR Doc. 78-7772 Filed 3-22-78; 8:45 am]

[6320-01]

[Order 78-3-77; Docket 30236]

UNITED AIR LINES, INC.

Order To Show Cause

Adopted by the Civil Aeronautics Board at its office in Washington, D.C. on the 16th day of March, 1978.

On December 20, 1976, United Air Lines filed an application, under Subpart N of Part 302 of the Board's Procedural Regulations, for amendment of its certificate of public convenience and necessity for Route 1 so as to permit it to provide nonstop service between Cleveland, Ohio, and San Diego, California.[1] By Order 77-8-68, August 16, 1977, United's application was set for further proceedings pursuant to Rules 1406-1410 of the Board's Procedural Regulations. American Airlines filed an answer to United's application, and United filed a reply.

In its application, United states that it is a major participant in the Cleveland-San Diego market, having carried between 22 and 33 percent of the local and connecting traffic over the last five years. It proposes two daily one-way flights, and expects to carry a 60 percent share of the 1978 nonstop traffic in the market. Its most recent exhibits indicate it will achieve an operating profit of $17,000 from the provision of Cleveland-San Diego nonstop service. Finally, United estimates that diversion from American, the incumbent in the market, will be $3.5 million.[2]

American, the only carrier answering United's application, alleges that United will not achieve an operating profit in the market, but rather will suffer a loss of $350,000. It agrees that diversion from it will be $3.5 million, but contends that the fact of such diversion, and the fact that United would suffer an operating loss, present compelling evidence that the Cleveland-San Diego market does not require the services of a nonstop carrier. Further, it contends that certification of United to provide nonstop service in the market would force American to match that uneconomic service with additional uneconomic service of its own. In addition, it contends that an award of Cleveland-San Diego nonstop authority to United would increase its dominance of Cleveland markets—in particular, Cleveland-California markets. American urges that United's application be summarily denied, or, in the alternative, be set for hearing.

United's reply highlights the public benefits that will result from removal of its one-stop restriction in the Cleveland-San Diego market. It forecasts that it will carry 25,000 local passengers in calendar year 1978, and that, including beyond passengers, it will benefit over 60,000 1978 passengers.

No competing applications have been filed for Cleveland-San Diego authority, and only one carrier, which holds but does not exercise its nonstop

[1]United currently has one-stop authority in the market.

[2]American has nonstop Cleveland-San Diego authority but does not provide such service.

authority, has raised objection to the removal of United's stop restriction. In these circumstances, we have determined that show cause procedures should be used to process United's application. The issues raised by United's application are relatively simple, and the written submissions to date, along with any submissions made in response to this show cause order, should provide a more than adequate record upon which to base our final decision.[3]

We tentatively find and conclude that the public convenience and necessity require the removal of United's one-stop restriction in the Cleveland-San Diego market. Our conclusion is supported by the tentative findings below.[4]

It has long been our belief that operating restrictions are inherently wasteful, inconvenience the traveling public, and should be removed unless there are affirmative reasons for retaining them. Albuquerque-Phoenix Subpart M Proceeding. Order 77-11-114, November 22, 1977; Shreveport-Dallas Nonstop Proceeding, Order 76-11-1, November 1, 1976. In this case, we see no reason to retain United's stop restriction. The restriction artifically burdens the public by denying it nonstop service and unnecessarily limits the discretion of United's management.

The Cleveland-San Diego market generated 27,920 O&D plus connecting passengers during the year ended June 30, 1976.[5] Service in the market consists of American's 1½ daily one-stop round trips, and United's daily one-stop flight eastbound. Although American is authorized to provide nonstop service in the market, it does not provide it. United proposes to operate two daily one way nonstop flights and believes it can benefit over 60,000 passengers in calendar year 1978. Under these circumstances, we believe that the public convenience and necessity require that United be given the opportunity to develop an economically viable nonstop service. Accordingly, we believe that United's stop restriction should be removed, so as to grant it permissive nonstop authority.

American's primary objection to the removal of United's restriction is that approximately $3.5 million in operating revenues will be diverted from it. However, we will consider diversion a significant factor only where it is so extensive as to impair the incumbent's ability to meet its certificate obligations. *Greenville/Spartanburg-Washington/New York Subpart M Case*, Order 77-10-1, October 3, 1977. These conditions do not exist here. Rather, to the extent that introduction of United into the market causes American to withdraw, we would be inclined to infer that a more efficient carrier or a carrier with better traffic support had been authorized, to the ultimate benefit of the public.[6]

American would also have us deny the application because of United's failure to demonstrate that it can achieve an operating profit in the market. While we are unable to forecast with certainty the financial results of United's proposed operations, a finding that United would not make a profit at the outset would not warrant denial of its application.[7] As we have stated before, the responsibility of providing service that is profitable to a carrier rests with its management. Buffalo-St. Louis Subpart M Proceeding, Order 77-4-25, April 6, 1977. United's authority will be permissive, and should it find nonstop service unprofitable, it will be free to discontinue it. Cincinnati-Washington Subpart M Proceeding, Order 77-10-4, October 4, 1977; See also *Flying Tiger Transpacific Renewal Case*, Order 77-7-71, served July 18, 1977, p. 7, n. 26. The mere fact that American projects an operating loss for United will not persuade us that a grant of authority in a market in which there is the potential for economically viable operations that will benefit the traveling public is not in the public interest.

Further, we are not convinced that the authorization of more than one nonstop carrier will induce uneconomic behavior by either. The potential return in a market of this size is far to small when balanced against the cost of such behavior. We cannot assume that carrier managements will behave in a manner contrary to their economic interests. See Phoenix-Des Moines/Milwaukee Route Proceeding, Order 78-1-116, January 27, 1978. Moreover, we believe that authorization of a second carrier could encourage the offering of lower fares in the market. Finally, to the extent that either American or United decides not to offer service, there is still a benefit to the public in there being a carrier waiting in the wings to provide service if the other fails to accommodate the demand.[8]

Interested persons will be given 30 days following the date of this order to show cause why the tentative findings and conclusions set forth here should not be made final. We expect such persons to support their objections, if any, with detailed answers, specifically setting forth the tentative findings and conclusions to which objection is taken. Such objections should be accompanied by arguments of fact or law and should be supported by legal precedent or detailed economic analysis. If a full evidentiary hearing is requested, the objector should state in detail what he would expect to establish through such a hearing that cannot be established in written pleadings. General, vague, or unsupported objections will not be entertained.

Accordingly, *it is ordered*, That:

1. All interested persons are directed to show cause why the Board should not make final the tentative findings and conclusions stated here and amend the certificate of public convenience and necessity of United Airlines for Route 1 so as to remove its one-stop restriction in the Cleveland-San Diego market;

2. Any interested persons having objections to the issuance of an order making final any of the proposed findings, conclusions, or certificate amendments set forth here shall, within 30 days after the date of this order, file with the Board and serve upon all parties in Docket 30236, a statement of objections together with a summary of testimony, statistical data, and other evidence expected to be relied upon to support the stated objections; answers to such objections may be filed 10 days thereafter;[9]

3. If timely and properly supported objections are filed, full consideration will be accorded the matters and issues raised by the objections before further action is taken by the Board; and

4. In the event no objections are filed, all further procedural steps will be deemed to have been waived and the Board may proceed to enter an order in accordance with the tentative findings and conclusions set forth here.

This order shall be published in the FEDERAL REGISTER.

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[3] Section 302.1411 of the Board's Procedural Regulations provides that after the time for filing answers and replies to a Subpart N application has expired, the Board may take suitable action.

[4] We further find that United is a citizen of the United States within the meaning of the Act, and is fit, willing and able to perform properly the transportation proposed here and to conform to the provisions of the Act and the Board's rules, regulations, and requirements.

[5] Tables 8 and 10, CAB O&D Survey.

[6] See also *Ohio/Indiana Points Nonstop Investigation*, Order 78-2-71, February 14, 1978.

[7] United has, in fact, forecast that it will achieve a small operating profit.

[8] United has submitted an environmental evaluation of its proposed service. The evaluation indicates that the impact will be slight and the preliminary findings do not show a need for further evaluation. Consequently, we also tentatively find and conclude that our action will not result in a major federal action significantly affecting the environment within the meaning of the National Environmental Policy Act of 1969.

[9] Since provision is made for the filing of objections to this order, petitions for reconsideration will not be entertained.

By the Civil Aeronautics Board.[10]

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-7771 Filed 3-22-78; 8:45 am]

[3510-25]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

Organization and Function Order

BUREAU OF INTERNATIONAL ECONOMIC POLICY AND RESEARCH

Effective: December 4, 1978.

SECTION 1. PURPOSE

This order delegates authority to the Deputy Assistant Secretary for International Economic Policy and Research and prescribes the organization and assignment of functions within the Bureau of International Economic Policy and Research.

SECTION 2. DELEGATIONS OF AUTHORITY

.01 Pursuant to section 4.03 of Department Organization Order 10-3 of December 4, 1977, the following authorities delegated to the Assistant Secretary for Industry and Trade by the Secretary of Commerce are hereby redelegated to the Deputy Assistant Secretary for International Economic Policy and Research.

(a) Such provisions of the Act of February 14, 1903 (15 U.S.C. 1512 et seq.; 15 U.S.C. 171 et seq.) as amended, to foster, promote, and develop the foreign and domestic commerce of the United States, and related provisions, as are necessary to the performance of the Bureau's functions;

(b) Section 4221 of the Internal Revenue Code of 1954 (26 U.S.C. 4221) and section 309 of the Tariff Act of 1930, as amended (19 U.S.C. 1309), insofar as they relate to findings with respect to exemptions from taxes and import duties on supplies and equipment for aircraft;

(c) Sections 135 and 104 of the Trade Act of 1974 (88 Stat. 1978, 19 U.S.C. 2155 and 2114) and section 4(d) of Executive Order 11846 of March 27, 1975, relating to the industry consultations program, including advisory committees established thereunder;

(d) Section 6 of the Federal Water Pollution Control Act amendments of 1972 (Pub. L. 92-500; 86 Stat. 816; 33 U.S.C. 1251 nt.) relating to the preparation of a report from the Secretary of Commerce to the President and to the Congress on the effects of pollution abatement on international trade;

(e) Executive Order 11961 of January 19, 1977, which delegates to the Secretary of Commerce the authority of the President under sections 4(a) (1), (2), and (4), and 4(b) of the International Investment Survey Act of 1976 (Pub. L. 94-472, 90 Stat. 2059, 22 U.S.C. 3101-3108). The functions thereunder shall be carried out in coordination with the Bureau of Economic Analysis, Office of the Chief Economist (Department Organization Order 35-1A), including, to the extent feasible, the division or assignment of responsibilities. All regulations established to carry out functions under the Act, and reports to be submitted to the Congress, shall be issued by the Secretary; and

(f) Executive Order 11858, of May 7, 1975, relating to foreign investment in the United States.

.02 The Deputy Assistant Secretary for International Economic Policy and Research may redelegate authorities listed in section 2.01 to any employee of the Bureau of International Economic Policy and Research or to any other appropriate officer or agency of the Government subject to such conditions in the exercise of such authority as he may prescribe.

SECTION 3. ORGANIZATION AND STRUCTURE AND LINE OF AUTHORITY

.01 The organization structure and line of authority of the Bureau of International Economic Policy and Research (the "Bureau") shall be as depicted in the attached organization chart.[1]

.02 The Bureau of International Economic Policy and Research shall be headed by the Deputy Assistant Secretary for International Economic Policy and Research who shall report and be responsible to the Assistant Secretary for Industry and Trade. The Deputy Assistant Secretary shall be assisted by a Deputy Director.

SECTION 4. OFFICE OF THE DEPUTY ASSISTANT SECRETARY

.01 The Deputy Assistant Secretary for International Economic Policy and Research shall direct the Bureau, and shall assist and advise the Assistant Secretary for Industry and Trade in the research, analysis, and formulation of international economic and commercial programs and policies including those of a functional nature, such as trade, finance and investment, as well as those of a bilateral, multilateral or regional nature. He shall initiate and review research studies on developments affecting U.S. domestic and foreign trade and commercial interests and provide statistical information and analysis on the foreign trade of the U.S. and of foreign countries; assist in the development, coordination and implementation of the Department's international economic policy; represent the Department in international trade and other negotiations; and participate in carrying out the Department's interagency role in such organizations as the National Security Council, the Economic Policy Group, the Office of Special Trade Representative, and the National Advisory Council on International Monetary and Financial Policies. The functions of the DAS shall be carried out through the principal organizational elements prescribed below:

.02 The Deputy Director shall assist in the direction of the Bureau and perform the functions of the Deputy Assistant Secretary in the latter's absence.

.03 The Deputy Assistant Secretary shall supervise and direct the following organizational components:

(a) Office of the Deputy Assistant Secretary.
(b) Office of International Economic Research.
(c) Office of International Finance and Investment.
(d) Office of Country Affairs.
(e) Office of Foreign Investment in the United States.
(f) Office of International Trade Policy.

SECTION 5. OFFICE OF INTERNATIONAL ECONOMIC RESEARCH

.01 The Office of the Director includes the director who shall conduct the Department's program of quantitative research and analysis of international economic policy issues; conduct research on the U.S. international economic and competitive positions and on their domestic economic impact; produce trade and international economic forecasts and simulations; provide Secretarial officials with economic background and policy recommendations based on analyses and simulations; publish interpretive data and analyses on foreign trade and the international economy; and service business and government requests for trade and international economic data. The Office shall consist of the following organizational components:

.02 The Applied Research Division shall conduct research and analysis on the domestic economic effects of international economic developments and policies; conduct special economic and econometric studies to evaluate policy alternatives; analyze the effect that expected domestic economic conditions will have on U.S. international economic relations; research microeconomic issues affecting U.S. trade and investment; evaluate the competitive position of U.S. industry and of individual industries; develop and use econometric and input/output models as necessary to carry out the above; provide information systems support for the Bureau; and serve as liaison with Government research and intelligence agencies as well as with private research groups.

[10] All Members concurred.

[1] Filed as part of the original document.

.03 The Foreign Trade Statistics Division shall collect data on the international trade of all foreign countries for use in analyzing world trade developments and the U.S. position globally and vis-a-vis partner counties; prepare various statistical reports based on foreign country export and import data; publish statistical series of World Market Reports on world trade in manufactured products; and maintain a reference facility of foreign publications for Government and public use.

.04 The International Economics Division shall conduct research on economic factors affecting U.S. trade and commerical interests abroad; develop and use econometric models concerned with longer-term U.S. trade and investment projections; conduct basic research in macro-economic factors affecting the U.S. position in the international economy; develop and employ econometric models and other quantitative techniques to forecast and stimulate U.S. exports, the international economy, and particular economic sectors; and conduct research into international linkages.

.05 The Statistical Analysis Division shall develop analytical statistics on current trends in U.S. foreign trade by commodities and countries; design and publish a series of Overseas Business Reports showing trends in U.S. foreign trade for recent years; develop comparative statistical measures of economic performance in major industrial countries and publish these quarterly in International Economic Indicators; maintain trade data reference facilities; provide statistical information on U.S. trade to answer specific requests from businesses and from Government agencies; develop technical interpretative studies for users of U.S. trade data; and prepare tabulations for specific Commerce and non-Commerce reports.

.06 The U.S. Trade Division shall analyze current and historical trends in U.S. commodity and country trade and prepare summary and more comprehensive reports, including the monthly Trends in U.S. Foreign Trade; develop short-term trade projections; issue regular reports on the average value of the U.S. dollar based on exchange rate changes; and prepare special analyses of U.S. trade.

.07 The World Trade Division shall develop regular analyses of the U.S. position in world markets for Government use and for publication in various Commerce publications; prepare analytic papers for specific governmental organizations; and conduct and publish special economic studies dealing with aspects of U.S. trade.

SECTION 6. OFFICE OF INTERNATIONAL FINANCE AND INVESTMENT

.01 The Office of the Director includes the Director who shall develop and implement policies relating to international investment, finance and monetary affairs; U.S. and foreign taxation of international business operations; the economic impact of international technology transfer; international business practices; international trade aspects of antitrust; standardization, patent and copyright protection, and related matters arising from the international commercial and investment operations of U.S. firms; analyze and act on problems affecting the international competitive position of the U.S. service industries, and carry out other appropriate activities. The Office of the Director shall be responsible for activities concerned with the development and formulation of U.S. policies in the transportation area, including international conventions and agreements, intermodal transportation, rules applicable to limits of cargo liability, and documentation; and shall prepare position papers for, and represent the Department at, meetings of the International Maritime Consultative Organization, UNCTAD, UNCITRAL and other international organizations. The Office shall consist of the following organizational components:

02. The International Finance Division shall represent the Department in matters relating to international finance and monetary affairs, including those developed within the National Advisory Council on International Monetary and Financial Policies (NAC), and particularly those relating to export financing, export guarantees and credit insurance, foreign lending and assistance activities of U.S. and international agencies, and balance of payments measures; provide the analyses and staff support necessary to execute the Secretary's responsibility as Chairman of the Export Expansion Advisory Committee in the financing of export transactions and formulation of export finance policy for the Export Expansion Facility which is administered by the Export-Import Bank; act as the Department's principal liaison with banks and other private institutions engaged in international financing activities as well as with U.S. Government and multilateral agencies lending abroad; formulate policy and program recommendations relating to the administration of government-financed procurement programs including foreign aid; formulate policy and program recommendations and appraise trends and developments in the U.S. balance of payments, including analytical and staff support necessary to execute the Secretary's responsibilities as a member of the Cabinet Committee on Balance of Payments; and provide advice to firms on financing mechanisms available in private institutions, the U.S. Government, and international agencies.

.03 The Investment Policy Division shall represent the Department in matters relating to the development of international direct investment, including the operations and impact of U.S. based multinational corporations, codes of conduct and investment disputes; formulate recommendations with respect to the Department's position on programs, policies and legislation affecting investment abroad by U.S. citizens; and analyze U.S. investment overseas, including the nature, trends and economic impact of such investments, particularly relative to the U.S. balance of payments and trade and the role of the U.S. Government.

.04 The Foreign Business Practices Division shall formulate policy and program recommendations relating to international business operations of American firms, specifically with reference to restrictive business practices, patents, trademarks, copyrights, product standardization, transfer of technology, commercial law, arbitration, State-trading, and U.S. and foreign tax measures; develop Departmental policy and program recommendations for the protection of American property rights abroad, and with respect to drafting and negotiation of treaties, conventions, and agreements bearing on the international operations of American business; and provide information and advice to U.S. firms on such matters.

.05 The International Services Division shall provide policy guidance and program recommendations to foster the international business operations of the U.S. service industries (such as insurance, accounting, engineering and construction, advertising, computer services, leasing, franchising, air and shipping); identify and evaluate the obstacles to a free flow of such services internationally and the actions which could be taken to reduce or eliminate these obstacles on a case-by-case or multilateral basis; maintain liaison with trade and industry groups and individual firms to ascertain the nature of foreign government restrictions affecting the service sector abroad; develop approaches to counteract foreign policies or actions which discriminate against U.S. firms or which unnecessarily hinder their operation, and facilitate the sale abroad of U.S. services; analyze U.S. policies, rules and regulations affecting the service industries to determine the impact on their international competitive position; organize and administer a program of Government/industry consultation on service industry problems in international trade; provide staff support and leadership within the Government to coordinate the various agencies which could contribute to the solution of the problems U.S. service industries face in foreign markets; study and report periodically on the U.S. market share of the service

industries throughout the world; represent the Department at interagency and international meetings on matters related to the service industries, and prepare legislative analyses, positions and testimony for secretarial officers and other Department officials.

SECTION 7. OFFICE OF COUNTRY AFFAIRS

.01 The Office of the Director includes the Director who shall be responsible for developing and implementing the Department's position on economic and commercial relations with individual countries and regional economic groupings (except those countries that are the responsibility of the Bureau of East-West Trade); advise and provide support for Secretarial officials; represent the Department at international meetings concerned with country or regional matters and on interagency bodies in the U.S. Government established to deal with these matters; prepare analyses of country and regional economic trends and developments, including foreign national industrial policies which impact on U.S. trade and investment; analyze and comment on relevant legislative proposals; make and maintain appropriate contacts as required to further U.S. country and regional economic interests and carry out other appropriate activities. The Office shall consist of the following organizational components:

.02 The Industrialized Nations Division shall develop and coordinate the Department's position on bilateral and regional economic and commercial issues regarding the following countries and regions: Canada, Japan, Australia, New Zealand, South Africa, the European Economic Community and other countries of Western Europe; advise Secretarial officials regarding their meetings and other contacts with policy-level representatives of these countries and regional groups, and provide needed support for such meetings; develop recommendations on the Department's position on bilateral and regional economic and commercial issues arising in international organizations concerned with such issues and represent the Department, as appropriate, in interdepartmental discussions relating to meetings of these organizations; initiate and pursue, through the Foreign Service of the United States and other appropriate channels, representations on behalf of U.S. business interests for the furtherance of these interests; undertake special studies and analyses related to the formulation of U.S. economic and commercial policies with Japan, Canada, Australia, New Zealand, South Africa, the European Economic Community and other countries of Western Europe; represent the Department at interagency meetings dealing with such country or regional matters; and carry out similar functions with respect to other projects as may be assigned.

.03 The Developing Nations Division shall develop and coordinate the Department's position on bilateral and regional economic and commercial issues regarding all individual countries and regions other than those specifically handled within the Industrialized Nations Division; advise Secretarial officials regarding their meetings and other contacts with policy-level representatives of these countries and regional groups, and provide needed support for such meetings; develop recommendations on the Department's position on bilateral and regional economic and commercial issues arising in international organizations concerned with such issues; and represent the Department, as appropriate, in interdepartmental discussions relating to meetings of these organizations; initiate and pursue through appropriate channels, representations on behalf of U.S. business interests for the furtherance of these interests; undertake special studies and analyses related to the formulation of U.S. positions regarding economic and commercial policies with these countries; represent the Department at interagency meetings dealing with such country or regional matters; and carry out similar functions with respect to other projects as may be assigned.

SECTION 8. OFFICE OF FOREIGN INVESTMENT IN THE UNITED STATES

.01 The Office of the Director includes the Director who shall be responsible for developing and analyzing information on foreign investment in the United States; conducting research and preparing reports on the characteristics and economic significance of foreign investment; and formulating recommendations and procedures to develop and improve data sources. The Office shall consist of the following organizational components:

.02 The Data Research Division will prepare and publish studies, reports, and analyses on the determinants, characteristics, and effects of foreign direct investment activity in the United States, to include the incidence, concentration, and distribution of foreign investment by foreign investing nations and U.S. industry sectors; evaluate and assess the impact of such investment on U.S. economic, security, and other interests in terms of both sectoral and aggregate measures; prepare regular reports for the Committee on Foreign Investment in the United States and the Congress on significant foreign investment trends at the sectoral level covering such areas as market position, employment, technology transfer, trade, and financial structure, as well as special analytical and policy reports required by the Committee and Commerce policy officials; develop and maintain information and data on foreign investment in the United States to support analyses and reports on investment activity; work with Federal agencies presently gathering information on foreign investment to develop current and future reporting requirements that provide useful data; develop and analyze such data and other information to provide the Executive Branch with information and analyses on foreign investment necessary for policy decisions; develop recommendations to the Committee on Foreign Investment in the United States and the Congress in regard to the maintenance and improvement of foreign investment data collection and reporting.

.03 The Investment Analysis Division will monitor, investigate, and develop information on foreign investment transactions and the operations of foreign-owned firms in the United States, including the collection, consolidation, and modification of information from existing sources such as Federal agencies, State government agencies, commercial and investment banks, and other public and private organizations; develop and maintain an information system regarding foreign investments to support the monitoring and research functions of the office; prepare analyses of significant individual transactions for review by the Committee on Foreign Investment in the United States; in coordination with the Office of Country Affairs, monitor and analyze economic and political developments in foreign nations, regional groups, and international organizations that affect foreign investment in the United States; identify and collect information on the foreign beneficial ownership of investments; prepare periodic reports on current foreign investment activity for the Committee and Commerce policy officials; prepare and publish quarterly and annual reports on foreign investment transactions and trends for the Congress, the Committee and the public; and monitor and assess developments in Federal, regional, state and local laws, policies, and practices regarding foreign investment.

SECTION 9. OFFICE OF INTERNATIONAL TRADE POLICY

.01 The Office of the Director includes the Director who shall be responsible for the development and implementation of the Department's position on international trade policy, including trade legislation and International Trade Commission findings, primary commodities, trade negotiations, trade agreement rights and obligations and consultations with industry. The Office of the Director shall handle the industry consultations program. The Office shall consist of the following organizational components:

.02 The Import Policy Division shall develop and coordinate the Department's position on proposed legislation affecting U.S. tariffs and trade measures; represent ITA and, as directed, the Department at interagency meetings and congressional committee hearings dealing with U.S. trade and tariff legislation; develop proposals on new trade measures for executive or legislative branch action and review such proposals of other agencies; and in consultation with the Bureau of Domestic Business Development as appropriate, prepare positions of the Department on all reports of the International Trade Commission to the President.

.03 The Trade negotiations and Agreements Division shall develop, coordinate, and supervise the Department's surveillance of, preparations for, and participation in negotiation of multilateral trade agreements. These agreements may be negotiated on either a functional or product sector basis and cover a wide variety of trade barriers including tariffs and such nontariff measures as government procurement, subsidies, customs matters and various quantitative restrictions; this responsibility extends to the institutional aspects of the agreements as well. The Division formulates basic negotiating positions and tactics and represents the Department at interagency meetings and at international conferences dealing with these aspects of Trade policy.

.04 The General Commercial Policy Division shall develop and coordinate the Department's position on trade and commercial policy issues particularly those arising from U.S. participation in the GATT, OECD, and UNCTAD; monitor the trade obligations of other countries to the U.S. and initiate action in appropriate multilateral fora to assure compliance with those obligations; identify and evaluate, in consultation with the Office of Country Affairs, foreign impediments to U.S. trade and commercial interests and take appropriate action to eliminate or alleviate their adverse impact; prepare and clear position papers for U.S. delegations to meetings of the above organizations and represent the Department at such meetings; undertake special studies related to the formulation of U.S. trade policy; develop and coordinate the Department's position on international aspects of the impact of environmental controls on international trade; and represent the Department at interagency meetings and task forces dealing with the various issues of U.S. trade policy.

.05 The Resources Policy Division shall develop and coordinate Departmental policy and positions in the field of international commodity trade problems and international resources issues, other than energy, and participate for the Department in interagency discussions, studies, and policy formulation relating to these subjects; participate with other executive agencies on all phases of international discussions and negotiations on basic commodities, including development of U.S. positions and their implementation as the Department's representative on U.S. delegations. Such international activities include intergovernmental consultations and negotiations on international commodity agreements; the periodic meetings of international commodity councils administering international commodity agreements; meetings of intergovernmental commodity study groups; meetings of the commodity committees of OECD and UNCTAD and ad hoc international conferences on commodity problems.

SECTION 10. ADMINISTRATIVE, PUBLIC AFFAIRS, AND FIELD SUPPORT

.01 Management, budget, personnel, travel and administrative services, and public affairs and information services for the Bureau will be provided by Offices reporting to the Deputy Assistant Secretary for Administrative and Legislative Policy.

.02 Field support necessary to Bureau activities will be provided by the Bureau of Field Operations.

FRANK A. WEIL,
Assistant Secretary for Industry and Trade.

S. STANLEY KATZ,
Deputy Assistant Secretary for International Economic Policy and Research.

[FR Doc. 78-7651 Filed 3-22-78; 8:45 am]

[3910-01]

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 8, 1978.

The USAF Scientific Advisory Board spring general meeting will be held on April 20-21, 1978, at Wright-Patterson Air Force Base, Ohio, from 9 a.m. to 5:30 p.m.

The theme of the meeting is the use of technology to control or reduce life cycle costs. The meeting will include classified briefings and discussions of system performance parameters.

The meeting concerns matters listed in section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and accordingly, will be closed to the public.

For further information contact the Scientific Advisory Board Secretariat at 202-697-8845.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-7652 Filed 3-22-78; 8:45 am]

[3910-01]

USAF SCIENTIFIC ADVISORY BOARD

Meeting

MARCH 8, 1978.

The USAF Scientific Advisory Board Electronics Panel on Software Acquisition Management in the Air Force will hold meetings in the Pentagon on April 12 and 13, 1978, from 9 a.m. to 5 p.m. each day.

The Panel will receive classified briefings and hold classified discussions on various Air Force software acquisition programs.

The meetings will be closed to the public in accordance with section 552b(c) of Title 5, United States Code, specifically subparagraph (1).

For further information contact the Scientific Advisory Board Secretariat at 202-697-8404.

FRANKIE S. ESTEP,
Air Force Federal Register Liaison Officer, Directorate of Administration.

[FR Doc. 78-7653 Filed 3-22-78; 8:45 am]

[3128-01]

DEPARTMENT OF ENERGY

INTERGOVERNMENTAL AND INSTITUTIONAL RELATIONS CONSUMER AFFAIRS ADVISORY COMMITTEE

Change in Meeting Date

This notice is given to advise of a change in date of the meeting of the Consumer Affairs Advisory Committee. The Committee will meet Thursday, April 27, 1978, from 1:30 p.m. to 5 p.m., and Friday, April 28, 1978, from 9 a.m. to 5 p.m., in Room 5041, 12th and Pennsylvania Avenue NW., Washington, D.C., rather than Thursday, March 30, and Friday, March 31, 1978, as previously announced. A notice of meeting was published in the issue of March 6, 1978 (43 FR 9210).

Issued at Washington, D.C., on March 20, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

[FR Doc. 78-7710 Filed 3-22-78; 8:45 am]

[3128-01]

VOLUNTARY AGREEMENT AND PLAN OF ACTION TO IMPLEMENT INTERNATIONAL ENERGY PROGRAM

Meeting and Approvals by Secretary of Energy and the Attorney General

AGENCY: Department of Energy.

ACTION: Notice of meeting of the Industry Supply Advisory Group (ISAG) and approvals by the Secretary of Energy and the Attorney General with respect to U.S. oil company participation in the 1978 International Energy Agency allocation systems test.

SUMMARY: In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (EPCA) (Pub. L. 94-163), notice is hereby provided of a meeting of the Industry Supply Advisory Group (ISAG) of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) to be held beginning on March 31, 1978, at the headquarters of the IEA, 2 Rue Pascal, Paris 16, France, beginning at 9 a.m. The purpose of this meeting is to permit representatives of ISAG to participate in the spring 1978 IEA allocation systems test, which will begin at 9 a.m. on March 31, 1978, and which will continue for a period of 7 to 10 weeks. The agenda for the meeting consists of the conduct of the allocation systems test.

The systems test and the exchange and provision of certain information necessary to implement the test has been approved in accordance with the requirements of section 252 of the EPCA. A proposed clearance letter providing for such approval was made available for public comment on February 13, 1978 (43 FR 6134). The final clearance letter and recordkeeping guidelines have been sent to the 20 U.S. oil companies participating in the test and are set out as appendices to this notice. The approval of the test and the provision of certain data and information have been the subject of consultation with the Secretary of State and have been concurred in by the Attorney General, after consultation with the Federal Trade Commission. Copies of the letters from the Departments of Justice and State, and the Federal Trade Commission are also set out in the appendices.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

FOR FURTHER INFORMATION CONTACT:

Martin S. Kaufman or Robert C. Goodwin, Jr., Office of General Counsel, Room 5116, Federal Building, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, 202-566-9380.

James P. Morris, Office of International Affairs, Room 2104, 2000 M Street NW. Washington, D.C. 20461, 202-254-5920.

SUPPLEMENTARY INFORMATION:

I. Background

Section 252 of the Energy Policy and Conservation Act (Pub. L. 94-163) (EPCA) provides for U.S. oil industry participation in the development and carrying out of voluntary agreements to implement the allocation and information provisions of the international energy program (IEP). Twenty U.S. oil companies are participants in the voluntary agreement and plan of acton to implement the international energy program ("Voluntary Agreement") which establishes a framework for industry participation in the IEP.

Under section 252 of EPCA, the Administrator of the Federal Energy Administration (and, under the Department of Energy Organization Act, Pub. L. 95-91, the Secretary of Energy, and pursuant to DOE Delegation Order No. 0204-17, the Deputy Secretary) is charged with the duty of prescribing rules for, and monitoring, U.S. oil company participation in the voluntary agreement.

The International Energy Agency (IEA) will conduct a second test of the international emergency oil allocation system (AST-2) beginning March 31, 1978. U.S. companies which are participants in the voluntary agreement will assist the IEA by staffing the Industry Supply Advisory Group (ISAG). U.S. companies will also participate as "Reporting Companies," which will provide information and data to ISAG and the IEA, including information with respect to oil availability during the hypothetical supply disruption. In accordance with the requirements of section 252 of EPCA, this notice is provided with respect to the test.

The Department of Energy (DOE) staff, in cooperation with staffs of the Department of Justice, the Department of State, and the Federal Trade Commission, developed the text of a clearance letter, setting forth the formal approval of U.S. oil company participation in the test and prescribing the manner of such participation. Recordkeeping guidelines which apply DOE recordkeeping regulations (10 CFR Part 209) to the test were also developed.

Drafts of the clearance letter and recordkeeping guidelines were made available for public comment on February 13, 1978 (43 FR 6134) and written comments were solicited. The Feguary 13 notice represented the first time that public comments have been solicited with respect to a clearance letter of this type.

II. Comments Received

Three persons commented on the draft clearance letter and recordkeeping guidelines.

One person did not comment on the substance of the proposed clearance letter, but remarked on the short time period allowed for comment, and the difficulty of addressing the issues when many of the underlying documents are not available because of a national security classification. The comment alleged that the Department of Energy Organization Act (DOE Act) requires that 30 days be allowed for public comment with respect to notices of this kind.

As noted above, documents of this nature are not ordinarily made available for public comment prior to being issued. In this case, however, it was determined that such public comment would be appropriate. While a lengthier period for comment might have been advantageous, the time schedule for the preparation of a final clearance letter did not permit additional time to be provided. The choice was between not making the clearance letter available for comment at all (as was the case with respect to the 1976 allocation systems test) or making it available for the time available. We decided that the latter course was preferable.

The statement in the comment that the DOE Act requires a period of 30 days for public comment is in error. The DOE Act does not require that the clearance letter and recordkeeping guidelines be published in proposed form at all, and does not prescribe a minimum comment period. The clearance letter is not a rule, regulation, or order having the applicability and effect of a rule within the meaning of the Administrative Procedure Act (APA) or the DOE Act. Section 252 of EPCA, which establishes the requirements with respect to voluntary agreements, makes clear distinctions between actions which are to be taken through rulemaking and actions which require only the concurrence or consultation of the Department of Justice, Department of State, and Federal Trade Commission. The clearance letter requires only participation by the above-mentioned government agencies. In addition, the clearance letter applies only to the class of persons who are signatories to the voluntary agreement and is not of "general applicability" as is a rule or regulation.

Finally, the same writer disputed the utilization of a single meeting notice for the test as a whole and expressed concern over the lack of regulations by the Attorney General regarding the "maintenance of necessary and appropriate records." With respect to the first point, the statute on its face clearly allows such an ap-

proach. In addition, the purpose of the Congress in enacting section 252 of the EPCA was to create a fabric of substantive and procedural rules which would allow development and implementation of an efficient emergency international allocation plan while minimizing the risks of anticompetitive effects. Requiring that each session of the test be separately noticed would not serve this Congressional purpose, would be redundant, and would not add to the amount of information available to the public.

As to the second point, the DOE has been informed by the Department of Justice staff responsible for voluntary agreement activities that Department of Justice recordkeeping regulations will be promulgated after AST-2. The test will help to identify areas for appropriate treatment in the Department of Justice regulations. Since DOE requires extensive recordkeeping with respect to the test any concern that adequate records will not be maintained is unfounded.

A second commentor expressed concern that companies participating in the test might exchange data involving "individual company considerations." This concern was evidently based on that section of the proposed clearance letter which allows disclosure of the fact that an individual company consideration might affect a company's information or data submitted during the test. However, the clearance does not extend to disclosure of the precise nature of the company considerations themselves, only to the existence of such a consideration. For example, a proposed redirection of a portion of a particular company's oil supply may not be possible because that company has a contractual arrangement which would preclude the proposed oil movement. In such a case, only the fact that a contractual provision prohibited the shipment would be disclosed, not the details concerning the provision, or other information about the contract. Thus, participating companies will not be discussing "commercial considerations" among themselves.

A third commentor made numerous suggestions of minor changes in the language of the clearance letter and the recordkeeping guidelines, most of which were designed to make the documents more precise. Many of these proposed changes have been incorporated in the final clearance letter, as discussed below.

III. Discussion

In response to the comments received and after further interagency consultation, the draft clearance letter and recordkeeping guidelines were modified in the interest of clarity and precision. The substance of the letter, however, was not changed.

The clearance letter was changed to state explicitly that Reporting Companies will discuss Questionnaire "A's" and other data with the IEA Secretariat, as well as with the ISAG. The clearance letter was further modified to express in greater detail the degree to which data submitted by Reporting Companies will be "disrupted" and to specify types of data which will not be disrupted; the ability of Reporting Companies to "mask" sensitive data was expressly stated. Both of these latter points had been implicitly included in the draft clearance letter which was published for comment.

In response to a comment on the issue, the circumstances under which provision of additional information, not specifically described in the clearance letter itself, might be approved during the test were clarified. However, the requirement that the ISAG Manager justify such submisssions was retained, because it is believed that the ISAG Manager will be in the best position to evaluate ISAG's need for more data and explain the basis for the request to the U.S. Government monitors at the test. Provisions for written notice to Reporting Companies of approval of additional data submissions was added. Although a comment had requested relaxation of the requirement, no change was made in the prohibition of removal of test-related documents from the test area by ISAG members. DOE, and the other concerned government agencies, believe that a categorical statement is necessary to eliminate any possibility that sensitive material might be removed by ISAG members. However, this prohibition would not extend to any person serving as legal counsel for ISAG representatives.

The recordkeeping guidelines were also modified for clarity. One change is the explicit statement that the U.S. Government representative will have discretion to permit use of alternative recordkeeping procedures, consistent with the applicable statute and regulations. The definition of "Test Site" has been amended to include facilities outside the IEA office space, if the IEA assigns such other space to the test.

Specific provision was made for responsibility of U.S. ISAG members to maintain a full and complete record of test sessions held in the absence of a U.S. Government monitor and for U.S. ISAG member responsibility for maintaining such records if the U.S. Government representative is present, but requests that the U.S. ISAG member maintain the record.

The reference, in section 7(a) of the guidelines, to documentation of actions "required" by ISAG was corrected to refer to documents concerning actions "requested" by ISAG, because ISAG does not have authority to require participating companies to act. The requirement in section 7(b)(i), that Reporting Companies record communications with ISAG was amplified to include communications between a Reporting Company and its own employees serving on ISAG. Reporting Company reports of actions taken in connection with the test will be required to be filed within seven days of the end of the week in which the action was taken, rather than two weeks after the end of the test cycle. A Reporting Company is required to report actions taken in phase 2 of the allocation system but is not required to report phase 1 reallocations, which are wholly internal within that company's supply system. Although U.S. Government monitors at the test will witness such actions from the perspective of ISAG, it is felt that a report of such actions from the perspective of the Reporting Companies may provide additional information which will be useful in the monitoring process.

After carefully evaluating the comments, and after making certain changes suggested by commenters and other changes generated by interagency discussion, clearance letters and recordkeeping guidelines, in the form reproduced below, were sent to the twenty participating U.S. companies on March 8, 1978.

Issued in Washington, D.C., March 20, 1978.

William S. Heffelfinger,
Director of Administration,
Department of Energy.

Appendix A

LETTER OF THE DEPUTY SECRETARY TO THE REPORTING COMPANIES DATED MARCH 8, 1978

The International Energy Agency (IEA) will conduct in the near future a test of the emergency allocation system. The Department of Energy considers the test a vital part of our preparedness activities. We hope your company will participate and provide full cooperation to the IEA in this undertaking.

This letter sets out certain guidelines for industry participation in the test and provides certain required approvals for the exchange of confidential and proprietary data.

The test will begin on March 30, 1978 and will continue for 7 to 10 weeks. The primary objective of the Second Allocation Systems Test (AST-2) is to further test the concepts, procedures, data collection and data processing systems which have been devised to implement the emergency allocation procedures of the International Energy Program (IEP). In addition, the test will serve as a vehicle for training personnel of the IEA Secretariat, the Industry Supply Advisory Group (ISAG), Reporting Companies and their affiliates and participating country National Emergency Sharing Organizations (NESO) in the functioning of the emergency allocation system. The scope of AST-2 is designed to be significantly broader than the Fall 1976 Allocation Systems Test and will involve NESOs of member countries, affiliates of Reporting Companies and some non-Reporting Companies.

Industry will participate in three ways. First, industry representatives will staff the ISAG, which with the IEA's Allocation Coordinator, Secretariat and an Emergency Group composed of representatives of IEA member countries will comprise the IEA Emergency Management Organization conducting the test. Second, Reporting Companies will submit IEA Questionnaire "A" and other data to the IEA Secretariat and the ISAG, and will discuss these materials with the IEA Secretariat and with the ISAG to the extent required for the test. Their affiliates will have similar submissions and discussions with the NESOs of the participating countries in which they operate. Finally, the Reporting Companies will propose and carry out certain hypothetical supply reallocation measures. Participation by U.S. companies is governed by the Energy Policy and Conservation Act (EPCA), Department of Energy (DOE) regulations and the Voluntary Agreement and Plan of Action to Implement the International Energy Program (Voluntary Agreement).

In Paris, the test will be conducted, for notice purposes under the Voluntary Agreement, as a single meeting of the ISAG carried out in accordance with Section 5 of the Voluntary Agreement. In addition to individual tasks by ISAG members and contacts with the Secretariat, working sessions will include meetings of all ISAG members and smaller groups as well as joint working sessions of a few ISAG members assigned to solve particular problems. A verbatim transcript of certain sessions will be maintained, while for some other ISAG sessions, a full and complete record will be prepared by U.S. Government representatives who are present. A full and complete record of other communications will be maintained by the U.S. test participants. More detailed guidelines, including suggested operating procedures, are set out in Appendix A. These guidelines have been prepared in cooperation with the staffs of the Department of State, the Department of Justice and the Federal Trade Commission.

In order to carry out the test, it will be necessary for IEA Reporting Companies to provide the IEA Secretariat and the ISAG with certain necessary information on an IEA questionnaire. Further, ISAG members will have to exchange this and other information among themselves, with members of the Secretariat, and with IEA Reporting Companies. However, U.S. ISAG members will not communicate directly with NESOs. Access to such data and to ISAG discussions will also have to be open to official observers authorized by the IEA while present at the test. Aside from the IEA questionnaire data, much of this information will be available from public sources, particularly that described below in types 2 through 7. Some, however, while actually public information, may not be definitely known to be such by those exchanging it or it may be considered confidential by some companies. Nevertheless, some of the information needed to be exchanged clearly will be confidential and proprietary.

Accordingly, approval under section 5(b) of the Voluntary Agreement is hereby given for the submission and exchange among the persons indicated above of the types of information or data listed below which involve or might involve disclosure of confidential and proprietary information. However, this approval is granted only to the extent that the submission or exchange of these type of confidential data is necessary to implement the oil allocation procedures of the IEA's Emergency Management Manual as elaborated in the AST-2 Test Guide, and to meet specific problems as they arise within the ISAG. Approval is further limited to data covering the historical period ending December 31, 1977. Under these limitations the submission and exchange of the following types of information is approved:

(1) Unaggregated August through December 1977 Questionnaire "A" or "B" data submitted during AST-2, i.e., data as defined in Questionnaire "A" and "B" reporting instructions, the data to be reported including:

Indigenous production of crude oil and natural gas liquids (NGL)
Crude imports and exports
Product imports and exports (in crude oil equivalent)
International marine bunkers
Inventory levels and changes.

This data base will be disrupted by Reporting Companies, coordinating as required with their affiliates, and by NESOs for non-Reporting Companies operating within their boundaries, based on the Secretariat's disruption telex at the beginning of each cycle. Reporting Companies will rearrange their international supply plans to reflect the reduced availability of certain types of crude oil as well as certain other restrictions as indicated in the disruption telex and will report the new supply plan on Questionnaire "A" submitted to the Secretariat. NESOs will do the same on a national basis for non-Reporting Companies. In addition, NESOs will compile Questionnaire "B" out of information received from Reporting Companies (or their affiliates) operating within their country and the non-Reporting Company disrupted data sets. Questionnaire "B" will be submitted to the Secretariat. In this way the company submissions to the Secretariat will only require as actual data:

Starting inventories as of August 1
Indigenous crude/NGL production through all five months
International marine bunkers

However, data not published by April 1978 and still considered sensitive information by any Reporting Company may be masked after prior unilateral consultation with the IEA Secretariat.

(2) Capability of a refinery, pipeline, or terminal to receive, store, process, or throughput specific crude oils, and physical capability of installations to receive and store petroleum products.

(3) Capability of a port, installation, or waterway to receive or move various sized vessels.

(4) Main characteristics of crude grades/product types, excluding individual company product specifications.

(5) Actual and estimated historic production data on crude oils and natural gas liquids for individual countries.

(6) Specific refinery considerations that prevent acceptance or release of certain crudes, e.g., the inability of the refinery to make certain specialty products for which the crude is particularly suited; the inability of a crude to meet certain general product specifications; hazards to refinery operations which use of a particular crude might cause; or the need for a refinery to operate at a minimum throughput level.

(7) Identification of supply logistics problems relating to certain countries, e.g., whether a company could realistically supply Southern Switzerland from Northwest Europe.

(8) Identification of the existence of certain individual company considerations, involving:

(a) Commercial policy,
(b) Supply or transportation factors, or
(c) Affiliate, third-party or concessional contractual arrangements

Which would preclude or make impracticable a proposed movement of oil. In each case, these considerations would only be described as such, without disclosure of calculations or examples of specific costs, prices or other finanical information, or any other underlying facts.

(9) Such additional information or data as may be needed to implement the oil allocation procedures of the Emergency Management Manual as elaborated in the AST-2 Test Guide and to meet specific problems as they arise within ISAG, the disclosure of which is requested and adequately justified as needed by the ISAG Manager, and is approved in writing by the representative of the Department of Energy attending the test, with the concurrence of the Department of Justice representative after consultation with the representative of the Federal Trade Commission. Such written approval shall be telexed to the Reporting Company involved, if appropriate. Any such request shall, to the extent practicable, be processed within twenty-four hours after receipt.

In order to carry out the test, these data and information must be provided and exchanged on a disaggregated basis and the finding required by section 5(b)(2) of the Voluntary Agreement in this regard is hereby made.

This approval described above does not extend to:

(1) Confidential or proprietary crude oil or petroleum product prices;

(2) Costs or market shares of crude oil or products (other than those which can be derived from the Questionnaire "A" or "B" data submitted during AST-2);

(3) Individual company information regarding overall long-term investment, divestment, refining, operating, transportation or marketing programs.

Participation in the test does not create an obligation on ISAG members or Reporting Companies to exchange any information or data which may be confidential. In no case shall an employee or representative of a U.S. ISAG participant supply to his company, or any other person, any confidential or proprietary information obtained as a consequence of his membership in the ISAG, except such data necessary to be supplied in the course of carrying out the test of the IEA's allocation procedures. Upon completion of the test, no ISAG member may remove any documents related to the test from the IEA premises.

Three (3) copies of all Questionnaire "A" data shall be provided on the Questionnaire "A" formats to:

Roseann E. Mazaka, International Energy Affairs, Department of Energy, 2000 M Street NW., Washington, D.C. 20461.

An additional copy should be provided to:

Donald L. Flexner, Energy Section, Antitrust Division, Department of Justice, Star Building, Room 9317, 414 Eleventh Street NW., Washington, D.C. 20530.

Any other confidential or proprietary data exchanged or furnished pursuant to the test shall be supplied upon request to the U.S.

Government representatives attending the test.

The approval of ISAG membership, as reflected in a letter dated May 2, 1977, from the Administrator of FEA to ISAG members, authorizes each company which is a member of ISAG to participate fully in all ISAG activities regardless of subgroup membership.

This approval of the test and the provision of certain data and information (including the need to provide it in disaggregated form) have been the subject of consultation with the Secretary of State and has been concurred in by the Attorney General, after consultation with the Federal Trade Commission, all as required by the Voluntary Agreement. Copies of the letters from the Justice Department, the Department of State, and the Federal Trade Commission are attached.

APPENDIX B

GUIDELINES FOR RECORDKEEPING BY U.S. COMPANIES DATED MARCH 2, 1978

1. *Introduction.* The following guidelines apply existing U.S. recordkeeping requirements (10 CFR, Part 209) to the Spring 1978 IEA allocation systems test. These guidelines apply to U.S. Reporting Companies and to U.S. Reporting Company members of the Industry Supply Advisory Group (ISAG) who will be participating in the test in Paris.

The Paris portion of the test will be considered for notice purposes only, as a single meeting of the ISAG and will consequently require only a single notice of meeting in advance, with the conduct of the test listed as the agenda. The test will consist of a series of group sessions of the ISAG or its subgroups, and ad hoc sessions of two or more ISAG members. It will also include telephone communications among ISAG members, individual work by ISAG members in their own offices, and telex and telephone communications with Reporting Companies. Also part of the test will be ISAG member communications with the IEA Secretariat which in turn will be in contact with National Emergency Sharing Organizations (NESOs) in the IEA member countries.

These guidelines set out detailed record keeping requirements for the test. The U.S. Government has decided to utilize the test to more fully evaluate alternative record keeping systems. Thus, for the first cycle of the test government monitors will maintain a full and complete record of test meetings, while in the second cycle, to the extent practicable a verbatim transcript will be kept of many of such meetings.

The U.S. Government representatives at the test will have discretion to allow alternative recordkeeping procedures consistent with Section 252 of the Energy Policy and Conservation Act and existing DOE regulations.

2. *Definitions.* For purposes of these guidelines the following definitions apply:

(a) The term "Communication" means any exchange of data or other information relating to the carrying out of the test except that such term does not include administrative, procedural, or ministerial information exchanged within the test site.

(b) The term "Test Site" means that portion of the building housing the headquarters of the International Energy Agency where IEA offices and conference rooms are located and such other office space or conference rooms as may be assigned by the IEA during the test.

(c) The term "Test Site Group Session" means any fact-to-face communication occurring within the test site which involves two or more ISAG members, at least one of whom is a U.S. ISAG member.

(d) The term "Test Meeting" means the following test site group sessions:

(i) Sessions of the entire ISAG;

(ii) Sessions of the ISAG Country Supply, Supply Coordination and Supply Analysis subgroups;

(iii) Sessions of the ISAG manager and ISAG subgroup heads.

3. (a) *Permissible Methods of Communications by U.S. ISAG Members.* Subject to the procedures and limitations in sections 4 and 5, the following types of oral communications are permitted:

(i) Test Site Group Sessions;

(ii) Test Site Telephone Conversations;

(iii) Off-Site Communications;

(iv) Communications by a U.S. ISAG member with representatives of the IEA Secretariat or with other IEA or national government representatives. The recordkeeping requirements set out in paragraph (5) below do not apply to such communications.

(b) *Restrictions on Use of Communication Methods.* All communications shall occur on the test site except when overriding circumstances make an off-site communication necessary.

4. *Government Monitors.* (a) The presence of a U.S. Government employee on the test site shall be deemed sufficient to satisfy the statutory requirement that a U.S. Government employee attend all meetings.

(b) U.S. Government employees may be present during any communication involving a U.S. ISAG member.

5. *Recordkeeping Requirements for U.S. ISAG Members.* (a) (i) Test meetings shall be monitored by a U.S. Government employee who shall be responsible for keeping a "full and complete" written record of each session, or for ensuring that a transcript is made. All test meetings shall take place in designated conference areas.

(ii) Recordkeeping with respect to all other test site group sessions will be conducted in accordance with subparagraphs (A), (B) and (C) below.

(A) Whenever a U.S. Government employee is present for the entire session, that employee will be responsible for keeping a "full and complete" written record or for ensuring that a transcript is made. U.S. ISAG members will be responsible for verifying at the beginning of the session that such session falls within the scope of this paragraph. If the U.S. Government employee must leave the session for any reason, it will be the responsibility of the U.S. ISAG members to maintain a full and complete record of that part of the session the U.S. Government employee does not attend. To assist the U.S. Government employee's personal recordkeeping, the employee may make use of a tape recording device.

(B) Whenever a test site group session is not recorded in accordance with subparagraph (A), a U.S. ISAG member shall maintain the full and complete record of the communication by means of entering in a standardized log the date, time, identity of the parties (by name and organization) and a description of the transaction or information discussed, including identification of the problem involved and any conclusions reached or recommendations made.

(C) Where U.S. ISAG members have been assigned to joint work sessions to solve specific identified problems, the overall subject matter of which is already contained in a full and complete record of a test meeting, and the results of which will be reported at a session where a full and complete record will be maintained, then, notwithstanding subparagraphs (A) and (B), the record of such session, to be kept by the U.S. ISAG members, need only include the date, time, identity of the parties and a brief identification of the substance of the discussion during the work session, with reference to the test meeting where it was more fully discussed.

(iii) With respect to test site telephone conversations, U.S. ISAG members shall enter in a standardized log the date, time, and identity of the parties (by name and organization) to the communication and a description of the transaction or information discussed, including identification of the problem involved and any conclusions reached or recommendations made.

(iv) U.S. ISAG members involved in offsite communications shall make a full and complete record of the communication by entering date, time, and parties to the communication in a log, a description of the transaction or information discussed, including identification of the problem involved and any conclusions reached or recommendations made, and a description of the overriding circumstances necessitating the offsite communication.

(b) Where one or more U.S. ISAG member is involved, the parties may designate who shall make and supply such records. By mutual agreement, non-U.S. ISAG members may make records of communications with U.S. Reporting Companies and with U.S. ISAG members if such records are kept in the required form and supplied to the U.S. Government representatives promptly, in accordance with these guidelines.

6. *Disposition of Records at the Test Site.* (a) Copies of records required to be maintained by U.S. ISAG members under paragraph 5 shall be submitted to a U.S. Government representative within three days following the communication involved.

(b) Records furnished by the IEA to U.S. Company ISAG members to be used in balancing allocation rights and obligations, including the information furnished in Step 1 of the Allocation Procedures, should be provided to the U.S. Government representatives. Questionnaire "B's" filed by NESOs, Questionnaire "A's" of non-U.S. Reporting Companies, and derivative formats containing such data in disaggregated form will not be collected by the U.S. Government as part of its "full and complete record" pursuant to this paragraph unless such material is communicated beyond the ISAG to U.S. Reporting Companies.

(c) All records furnished by or on behalf of U.S. Reporting Companies or the ISAG to the IEA in connection with balancing allocation rights and obligations, should be submitted to a U.S. Government representative.

(d) Telexes or other written communications from the ISAG to U.S. Reporting Companies and from U.S. Reporting Companies to the ISAG, should be provided to a U.S. Government representative.

7. *Records of U.S. Reporting Companies.* (a) A U.S. Reporting Company shall maintain for five years intra-corporate documents relating to the Voluntary Agreement. With respect to the test, this is expected to

include telexes received and sent, memoranda concerning intra-company discussions of hypothetical sales or exchanges, documentation concerning actions requested by the ISAG or proposed by a Reporting Company, and any other documents generated by the test.

(b) (i) A. U.S. Reporting Company is also required to make a full and complete record of any communication with ISAG members, including any of its own employees who are members of the ISAG, except when the Reporting Company has agreed with the ISAG or with an ISAG member that the communication will be recorded by the ISAG or the ISAG member.

(ii) Records of oral or telephonic communications should be made in the manner described in paragraph 5(a)(iii) of these guidelines.

(c) Each Reporting Company is required to maintain copies of all test records set forth in paragraph 7(a) and (b) separately in an appropriate company office. These records may be subject to later U.S. Government inspection for the purpose of developing more specific regulations with regard to recordkeeping.

(d) U.S. Reporting Companies must report to the U.S. Government actions taken pursuant to a plan of action. Therefore, for the purposes of the test, each U.S. Reporting Company shall report actions taken as part of the test, such as mock reallocations of supply in response to requests for voluntary offers. Reports should be made in the following fashion:

(i) A report should be submitted within seven days of the end of the week in which the action was taken.

(ii) One copy of the report should be telexed or delivered to Roseann Mazaka, International Energy Affairs, Department of Energy, 2000 M Street NW., Washington, D.C. 20461. One copy should be sent to Donald L. Flexner, Antitrust Division, Department of Justice, Washington, D.C. 20530.

(iii) The manner and particular content of a report is left to the discretion of the individual Reporting Company. It can be submitted in any fashion a company believes will best reflect what it has done.

Appendix C

Letter to the Deputy Secretary from the Assistant Attorney General dated March 3, 1978

As required by Section 252 of the Energy Policy and Conservation Act and by Section 5(b) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program, please be advised that the advice of the Federal Trade Commission reflecting the consultation between the Attorney General and the Federal Trade Commission concerning the forthcoming test by the International Energy Agency has been received and a copy is attached hereto.

Appendix D

Letter to the Deputy Secretary from the Assistant Attorney General dated March 1, 1978

This is in response to your letter to the Attorney General, dated February 9, 1978, which requested a required approval under Section 5(b) of the Voluntary Agreement and Plan of Action to Implement the International Energy Program. Please be advised that pursuant to an order of February 20, 1978, the Attorney General has delegated to this office specific authority to act on his behalf with respect to Sections 252 and 254 of the Energy Policy and Conservation Act and to voluntary agreements such as this one, which have been entered pursuant to Section 252.

Your letter enclosed a draft of a proposed letter to U.S. Reporting Companies granting approval under Section 5(b) of the Voluntary Agreement to the submission and exchange of certain confidential and proprietary information in the course of assisting to carry out the forthcoming test by the International Energy Agency (IEA) of its emergency oil-sharing system in April–May, 1978. An appendix to the proposed letter set forth guidelines applying to the particular circumstances of the test the existing Department of Energy regulations on recordkeeping by U.S. companies. In addition, notice of availability of these materials to the public for any comments was published in the Federal Register of Monday, February 13, 1978, 43 FR 6134.

After the close of the period for public comment, further interagency discussions took place among the staffs of the Department of Energy, State and Justice and the Federal Trade Commission on the proposed documents and an agreement on an amended version was reached. I understand that your formal issuance of approval to the companies is to be published in the Federal Register and will include a statement reviewing the public comments and the changes in the documents made in response to them.

The confidential data clearances and the guidelines are based on those successfully employed in the first IEA allocation systems test in 1976. However, the experience derived from that test has enabled us to make much more limited and specific the categories of subjects in which confidential data may be exchanged, and to adjust the guidelines for more effective monitoring of the test while eliminating nonessentials. In addition, it is contemplated that these guidelines and the necessary exchanges of data will be monitored continuously by a team of at least five U.S. Government representatives at the test site in IEA headquarters. Three staff members from the Antitrust Division will participate and at least one will be present at the test site throughout the test.

As required by the Voluntary Agreement, the Department of Justice has held staff consultations with the Federal Trade Commission on this matter. Following these consultations, I hereby approve, in the enclosed amended form, a proposed letter on submission and exchange of confidential and proprietary information by U.S. company participants in the IEA's second allocation systems test and its appendix covering recordkeeping guidelines for the test.

Appendix E

Letter to the Attorney General from the Chairman of the Federal Trade Commission dated March 2, 1978

This is in response to the February 9, 1978, letter and attachment from John F. O'Leary, Deputy Secretary of Energy, requesting your approval of the proposed test of the allocation system of the International Energy Agency and the provision and exchange of certain confidential and proprietary data necessary to carry out that test. The documents provided by Mr. O'Leary consist of a proposed letter to the U.S. Reporting Companies setting out guidelines for industry participation in the test and providing the required approval for the exchange of such information. Attached thereto is a set of guidelines containing operating procedures for recordkeeping by companies participating in the test.

Pursuant to the requirements of Section 5(b) of the Voluntary Agreement and the Plan of Action to Implement the International Energy Program, the Attorney General is required to consult with the Commission before granting the requisite approval.

The Commission has considered the proposals concerning the allocation system test and related exchanges of informatin contained in the aforementioned documents. Although the Commission is concerned about the anticompetitive potential of such exchanges, it will not object to the Attorney General's approval of these matters, but will use the test as an opportunity to gain more information which will facilitate the assessment of the actual impact of such exchanges.

By direction of the Commission.

Appendix F

Letter to the Deputy Secretary from the Assistant Secretary of State dated February 24, 1978

This is in response to your letter of February 9 requesting the views of the Department of State regarding the proposed test of the international oil allocation system by the International Energy Agency (IEA). The Department of State supports the testing of our international oil emergency preparedness system, which is all the more crucial in light of the increased dependence of the United States on imported oil evident in 1977. This second test of the emergency allocation system will complement work already accomplished in the test conducted in October-November 1976 in several aspects, but most importantly by demonstrating the ability of emergency planners to implement mutually reinforcing domestic and international systems.

The Department of State notes and appreciates the need, in conjunction with the test, to assure compliance with the requirements of the Energy Policy and Conservation Act with regard to the conditions under which a defense under the antitrust laws may be available to participating companies. The presence of United States Government officials as monitors helps to serve this need, enabling companies to contribute to the efforts of member countries of the IEA to devise a viable oil emergency response mechanism, while also helping to assure proper attention to antitrust concerns.

The reporting guidelines reflect a careful approach to the continuing need to establish a level and quality of monitoring which meets these concerns without unduly impeding the good functioning of the test. As you know, the test requires the cooperation and agreement of 19 countries and over 30 oil companies. Other IEA members are sensitive not only to any possible implications of the test for competition but also to the presence of United States Government officials as monitors during the conduct of an international exercise. The evolution of the reporting guidelines will continue to be an area where these sensitivities and the need for effective international cooperation must be carefully considered.

In sum, the Department of State supports the conduct of the second Allocation Sys-

tems Test and the provision and exchange of certain confidential and proprietary information necessary to carry out that test.

[FR Doc. 78-7711 Filed 3-22-78; 8:45 am]

[6740-02]

Federal Energy Regulatory Commission

[Docket No. AR70-1 (Phase I)]

AREA RATE PROCEEDING (PERMIAN BASIN II AREA)

Order Directing Disbursement and Flow-Through of Refunds

MARCH 14, 1978.

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 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 August 7, 1973, the Commission[1] issued its Opinion No. 662 and order determining just and reasonable rates for jurisdictional sales of natural gas produced in the Permian Basin Area. Pursuant to ordering paragraph (I)[2] of Opinion No. 662, each producer could elect to discharge its refund obligation through credits for dedication of new gas reserves to jurisdictional sales after August 7, 1973, and prior to January 1, 1978, in addition to those new gas reserves already dedicated to interstate commerce as of August 7, 1973. The producers electing this option are required to refund in cash, plus 7 percent interest effective from August 7, 1973, the outstanding refund obligation remaining as of January 1, 1978, which has not been discharged through credit for dedication of new gas reserves.

We now require those producers who elected to discharge their refund obligations through credits and who have an outstanding refund obligation remaining to disburse their refund monies on or before May 1, 1978.[3] The producer shall pay interest on the remaining outstanding refund obligations, inclusive of both principal and interest, at the rate of 7 percent per annum from and after the date of filing the initial refund report to the date of payment.

Those producers who did not elect to discharge their refund obligations (including interest) in accordance with ordering paragraph (I) of Opinion No. 662, were thereupon directed, in accordance with ordering paragraph (H)[4] of Opinion No. 662 to retain the amounts shown in the refund report required under ordering paragraph (G)[5] of Opinion No. 662, subject to a further Commission order directing disposition of those amounts. If the producers elected to commingle these retained funds, with their general assets and use them for corporate purposes, ordering paragraph (H) authorized them to do so after giving notice to the Commission. The producers were to pay interest on the commingled retained funds at the prime rate[6] from the date of filing of the initial refund report. Further if the producers elected to deposit the retained funds in a special escrow account, they were to make such deposits and to comply with the escrow agreement requirements of section 250.12 of the regulations under the Natural Gas Act.[7] Producers in this category were ordered to disburse their refunds by Commission order directing disbursement and flow-through of refunds in Docket No. AR70-1, issued April 12, 1977.

We now require those producers obligated to make cash refunds but who did not do so pursuant to the aforementioned order of April 12, 1977, to disburse those amounts, inclusive of both principal and interest, together with applicable interest from the date of filing the initial refund report, or if no initial refund report had been submitted, with interest from 120 days from August 7, 1973, the date of issuance of Opinion No. 662, to the date of payment on or before May 1, 1978.

In order to insure the orderly administration and review of the refunds to be made pursuant to this order, we shall require that all refunds made by working interest owners whose gas was sold under the rate schedule of another producer be coordinated with and reported by the producer under whose rate schedule the sale was made.

Once the refunds have been disbursed to the respective purchasers, the purchasers shall flow the refunds to their jurisdictional customers; provided, however, that purchasers shall not be required to flow-through those refunds, if any, as to which they may assert a claim of entitlement under the terms of prior rate settlement agreements approved by the Commission.

The Commission finds: It is necessary and proper in the public interest and in carrying out the provisions of the Natural Gas Act that the refunds subject to this order be disbursed and flowed-through as hereinafter ordered.

The Commission orders: (A) On or before May 1, 1978, each producer who elected to discharge its refund obligations through credits for reserve-dedication under Commission Opinion No. 662, as amended, and has an outstanding refund obligation remaining on January 1, 1978, or who is required to make cash refunds under Opinion No. 662, but has not already done so in accordance with the Commission's prior refund disbursement order of April 12, 1977, shall (1) file three copies of a final refund report showing for each rate schedule and each docket separately either the required cash refund or the outstanding refund obligation remaining on January 1, 1978, whichever is applicable, and the applicable interest thereon from the date of filing the initial refund report, or from 120 days from August 7, 1973, if no initial refund report was filed, to the date of payment; (2) disburse all refunds to the purchaser; and (3) file three copies of a release from the purchaser.

(B) All refunds and reports made pursuant to ordering paragraph (A) above shall be coordinated with and reported by the producer under whose rate schedule the sale was made.

(C) On or before June 15, 1978, each purchaser shall submit three copies of

[1] "The Commission" shall mean the Federal Power Commission when referring to actions taken prior to October 1, 1977. However, for actions taken on or after October 1, 1977, "The Commission" shall mean the Federal Energy Regulatory Commission.

[2] Mimeo at page 20.

[3] Pipeline companies were required to file reserve dedication reports (FERC Form 334) at the request of their producer-suppliers on or before January 1, 1978.

[4] Mimeo at page 19.

[5] Id.

[6] Pursuant to ordering paragraph (H) of Opinion No. 662, the prime rate was 9 percent per annum.

[7] Mimeo at page 20.

a plan for the flow-through of refunds ordered to be disbursed by Permian Basin producers and presently being retained by the purchaser, applicable to jurisdictional sales, indicating the amount payable to each jurisdictional customer, the basis used to compute the amount payable, the periods involved, and the applicable docket numbers. Copies of the flow-through plans shall be served on each of the purchaser's jurisdictional customers and upon interested state regulatory Commissions.

(D) Upon notification by the Secretary, and to the extent directed thereby, purchasers shall proceed with the distribution of refunds to their jurisdictional customers.

(E) The Secretary shall cause prompt publication of this order in the FEDERAL REGISTER.

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7657 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket Nos. AR64-2, et al.]

AREA RATE PROCEEDING, ET AL. (TEXAS GULF COAST AREA)

Intended Disposition of Refunds

MARCH 15, 1978.

Take notice that on August 15, 1977, South Texas Natural Gas Gathering Co. (South Texas) tendered for filing in the captioned proceedings a proposed plan for the flow-through of refunds. This plan is submitted in addition to a plan filed October 4, 1976. This filing is pursuant to the Commission's order in the captioned proceedings issued March 3, 1977.

South Texas states that the plan is based on refund reports of its producer-suppliers. South Texas proposed to flow-through the refunds by crediting $400,495.40 to its purchased gas adjustment account with Transcontinental Gas Pipeline Corp. (Transco), and by returning $816,016.02 to a number of its producers.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 30, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7658 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket Nos. E-8855, ER76-90, ER76-854 and ER77-84]

BOSTON EDISON CO.

Extension of Time

MARCH 16, 1978.

On March 10, 1978, the Towns of Concord, Norwood, and Wellesley, Mass., filed a motion to extend the time to file comments to the proposed Settlement Agreement filed January 16, 1978, by Boston Edison Co. in the above-indicated proceeding. The proposed Settlement Agreement was noticed on February 28, 1978.

Upon consideration, notice is hereby given that an extension of time is granted to and including March 21, 1978 for filing comments to the proposed Settlement Agreement.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7621 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket Nos. RP75-35; RP75-36]

CONSOLIDATED EDISON CO. OF NEW YORK, INC. ET AL.

Further Extension of Time

MARCH 14, 1978.

Consolidated Edison Co. of New York, Inc., complainant, v. Tennessee Gas Pipeline Co., a division of Tenneco, Inc., respondent, Docket No. RP75-35 and Orange and Rockland Utilities, Inc., complainant, v. Tennessee Gas Pipeline Co., a division of Tenneco, Inc., respondent, Docket No. RP75-36.

On March 7, 1978, Tennessee Gas Pipe Line Co. (Tennessee), a division of Tenneco, Inc., filed a motion to extend further the time for filing revised tariff sheets pursuant to Ordering Paragraph (C) of the Commission's Order issued January 26, 1978, in the above referenced proceeding. A previous extension of time was granted by Notice issued February 17, 1978.

The instant motion states that settlement conferences were held on February 16, 1978, and March 1, 1978, in Docket Nos. RP77-141, et. al., and, consequently, it is likely that Tennessee will propose modifications to the implementation of its curtailment plan in addition to those required by the Commission's January 26, 1978 order. The motion also states that Staff Counsel does not object to the requested extension.

Upon consideration, notice is hereby given that an extension of time is granted to and including April 26, 1978, within which to comply with Ordering Paragraph (C) of the Commission's January 26, 1978 Order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7635 Filed 3-22-78; 8:45 am]

[6740-02]

[Project No. 2232]

DUKE POWER CO.

Application for Change in Land Rights

MARCH 14, 1978.

Public Notice is hereby given that application for approval of Change in Land Rights was filed on September 9, 1977, by Duke Power Co. (Correspondence to: William L. Porter, Associate General Counsel, Duke Power Co., Box 2178, Charlotte, N.C. 28242).

Applicant proposes to grant an easement for use of land that is now within the boundaries of the Catawba Development of Catawba Wateree, Project No. 2232.

The project is located in Alexander, Burke, Caldwell, Catawba, Gaston, Iredell, Lincoln, McDowell and Mecklenburg Counties, N.C.; and Chester, Fairfield, Kershaw, Lancaster, and York Counties, S.C.

The project is located on the Catawba River, N.C. and the Catawba and Wateree Rivers, S.C. These are navigable waters of the United States.

Applicant (Duke Power Co.) requests Commission authorization to grant an easement and right-of-way to the American Cyanamid Co. for the purpose of constructing a sewage effluent line across lands and waters located in Mecklenburg County, N.C. on the Paw Creek arm of Lake Wylie. The line would extend from American Cyanamid's manufacturing plant to the City of Charlotte's waste disposal system. There would be no discharge into project waters and no dredging would be involved.

The right-of-way sought is in two segments, each 10 feet wide. One segment would be 30 feet long and the other would be 437 feet long.

An existing 4-inch diameter ductile iron pipe was damaged by flood waters. It is now proposed to replace the line for a distance of some 250 feet with new 4-inch diameter ductile iron pipe. Of the 150 feet of the line which would cross project waters, the iron pipe would be placed inside an 8-inch diameter steel pipe which would be placed along the stream bed and anchored at either bank in concrete.

Temporary repairs have been made by placing a 2-inch diameter pipe

above the high water elevation of 570 feet msl.

Any person desiring to be heard or to make protest with reference to the subject application should, on or before April 22, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426 protests or petitions to intervene in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.10 or 1.8 (1977)). 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 a proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's rules. The Application is on file with the Commission and available for public inspection.

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 F.R. 46267 (September 15, 1977), the Federal Power Commission (FPC) 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 proceeding would be continued before the FERC. The FERC takes action in this proceeding in accordance with the above mentioned authorities.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7634 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. RP78-45]

EL PASO NATURAL GAS CO.

Proposed Changes in FERC Gas Tariff

MARCH 15, 1978.

Take notice that El Paso Natural Gas Co. (El Paso), on March 1, 1978, tendered for filing proposed changes in rates under special rate schedules F-1, F-2, and F-3 to its FERC gas tariff, third revised volume No. 2. El Paso states that the gas purchase agreements comprising a part of said special rate schedules provide for the sale of natural gas at the wellhead to Michigan Wisconsin Pipe Line Co. in Dewey County, Okla. The changes are to become effective on April 1, 1978.

El Paso states that the proposed changes in rates under rate schedules F-1 and F-3 are being made pursuant to the contractual tax provisions of said rate schedules and will increase revenues thereunder by $14,136 and $2,057, respectively. El Paso further states that the proposed change under rate schedule F-2 is being made in accordance with the area rate provisions of said rate schedule, and pursuant to § 2.56a of the Commission's general policy and interpretations, as modified by the Commission's opinion No. 770-A. Said change in rate will increase revenues thereunder by $1,053.

In connection with the instant notice of change, El Paso also tendered for filing and acceptance eighth revised sheet No. 1-D.1 to its third revised volume No. 2 tariff. El Paso stated that said tariff sheet reflects the increased rates proposed to be collected by El Paso under rate schedules F-1, F-2, and F-3, commencing on April 1, 1978.

Any person desiring to be heard or to make any protest with reference to said tariff tender should, on or before March 30, 1978, 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 any 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. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7636 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket Nos. RP72-6, etc.]

EL PASO NATURAL GAS CO. ET AL

Order Granting Motion To Sever and Consolidate in Docket Nos. RP72-6 and RP76-38 (Storage) Common Issues Relating to El Paso Storage Service Rules

MARCH 15, 1978.

El Paso Natural Gas Co., Docket Nos. RP72-6 and RP76-38 (storage); El Paso Natural Gas Co., Docket No. CP76-87; Mountain Fuel Resources, Inc., et al., Docket Nos. CP76-258, et al.; El Paso Natural Gas Co., Docket No. CP78-172.

In the order of the Federal Power Commission ("FPC") issued July 29, 1977, hearings were established to explore the development of a method for treating California storage injection volumes meeting the requirements of *City of Willcox and Arizona Electric Power Cooperative, Inc.* v. *FPC*, Case No. 74-2123 et al. (D.C. Cir., decided June 30, 1977 clarified and rehearing denied August 18, 1977), cert. denied January 9, 1978. On January 13, 1978, this commission established separate hearings styled Docket Nos. RP72-6 and RP76-38 (storage) to consider the California storage issues and determine repayments which may be required as a result of unauthorized deliveries of California storage injection volumes under the previously effective opinion Nos. 634 and 634-A curtailment plan. Thus, the remanded storage hearings in Docket Nos. RP72-6 and RP76-38 (storage) at this point involve only California storage issues.

On July 20, 1977, the FPC issued opinion No. 800-A dealing with the use of El Paso's east-of-California ("EOC") Rhodes reservoir and the load equation proposals in Docket No. CP74-289. In the proceedings in Docket No. CP74-289, Pacific Gas & Electric Co. ("PG&E") had alleged that California customers were unduly discriminated against under the current plan. PG&E's allegation was based on El Paso's EOC storage withdrawals not being considered under the curtailment plan to be another EOC source of supply while its California customers' withdrawals are so treated, and, under the operation of the partial requirements formula, the withdrawals reduce the California customers' share of El Paso's available supply of gas on a given curtailment day. The FPC in opinion 800-A, however, declined to pass on PG&E's discrimination allegations. The opinion indicated that the remanded proceedings in RP72-6 was the proper forum for consideration of the allegations.

The order issued December 6, 1977, in Docket No. CP76-285, et al. set El Paso's Clay basin storage proposal for hearing. The order limited the hear-

ing's scope to the consideration of only two issues, neither of which would permit consideration of PG&E's discrimination allegations.

Opinion No. 800-B, issued December 30, 1977, rejected a portion of a settlement agreement which would have authorized prospective storage injection volumes of El Paso and its customers a priority 2 classification. The opinion noted that the proper classification of the customers' storage injection volumes is the subject of the remanded proceedings in Docket Nos. RP72-6 and RP76-38 (storage). In addition, the opinion required El Paso to support its request for priority 2 classification for all prospective El Paso storage injection volumes in hearings on the permanent authorizations for the various storage projects.

On February 13, 1978, PG&E filed a motion noting the foregoing orders and opinions and seeking clarification as to whether this Commission intended to bifurcate consideration of issues relating to El Paso's proposed storage volume classification and issues relating to proposed procedures for operating its EOC storage, including the alleged EOC preferential storage treatment, into the remanded proceedings in Docket Nos. RP72-6 and RP76-38 (storage) with regard to Rhodes storage and into the proceedings in Docket Nos. CP 76-285, et al., and CP 78-172 with regard to the remaining storage projects.[1] PG&E suggests that the EOC storage classification and procedures issues should be combined with the California storage issues in the remanded proceedings in Docket Nos. RP72-6 and RP76-38 (storage).

On February 23, 1978, El Paso filed an answer supporting PG&E's motion and, as opposed to merely seeking clarification, a motion for severance and consolidation of the issues relating to its proposed storage procedures into Docket Nos. RP72-6 and RP76-38 (storage).[2]

PG&E and El Paso argue that consideration of the EOC storage procedures issues in the remanded storage proceedings will avoid the burdens and possible delays resulting from duplicative hearings, will avoid the possibility for inconsistent results, and will permit a more complete appreciation of the impact of priority 2 storage classification on El Paso's systemwide curtailments. El Paso states that it is willing to accept certificates in the several El Paso storage proceedings conditioned on a decision on its proposed service rules in the proceedings in Docket Nos. RP72-6 and RP76-38 (storage).

Based on a review of the referenced orders and opinions, a consideration of the arguments of PG&E and El Paso outlined above, the necessity to compare California storage operations with proposed EOC storage operations, and the fact that no opposition to either party's motion has been filed, it appears appropriate to grant El Paso's motion and thereby essentially also grant PG&E's motion.

The Commission finds: Good cause has been shown for granting El Paso's motion.

The Commission orders: The issues of whether El Paso's proposed service rules for operating Rhodes, Clay basin, and Barker Creek Dome storage projects are just and reasonable and whether prospective priority 2 classification for storage injection volumes are just and reasonable shall be severed from the proceedings in Docket Nos. CP76-87, CP76-285, et al., and CP78-172 and shall be consolidated for hearing and decision with the issues in Docket Nos. RP72-6 and RP76-38 (storage).

By the Commission.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7622 Filed 3-22-78; 8:45 am]

[1] Motion for clarification and conditional application for rehearing of order denying in part and granting in part application for rehearing.

[2] Answer of El Paso Natural Gas Co. to Pacific Gas & Electric Co.'s motion for clarification * * * and motion of El Paso Natural Gas Co. to sever and consolidate in Docket Nos. RP72-6 and RP76-38 (storage) common issues relating to El Paso storage service rules.

[6740-02]

[Docket No. CI78-427]

FELMONT OIL CORP.

Limited-Term Certificate Application

MARCH 16, 1978.

Take notice that on February 9, 1978, Felmont Oil Corp. (Felmont), 6 East 43d Street, New York, N.Y. 10017, filed in Docket No. CI78-427 an application pursuant to section 7(c) of the Natural Gas Act for a limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing the sale and delivery of natural gas by Felmont to El Paso Natural Gas Co. (El Paso) for a 2-year term beginning February 15, 1978, from the Morrow formation, Strong Federal Com. No. 1 well located in a portion of the White City Penn field, Eddy County.

Applicant states that it agrees to accept the certificate being applied for herein if such certificate authorizes the initial sale of gas thereunder at the applicable adjusted national rate. Applicant further states that it contracted for a 2-year sale to El Paso so that applicant thereafter will have the option to utilize the gas from the well covered by this application in its ammonia plant located in Olean, N.Y., which uses natural gas for nonsubstitutable order No. 467-B priority 2 feedstocks and process purposes.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 7, 1978, should 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). 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. 78-7623 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-215]

FLORIDA GAS TRANSMISSION CO.

Pipeline Application

MARCH 16, 1978.

Take notice that on March 6, 1978, Florida Gas Transmission Co. (Florida Gas) filed, in Docket No. CP78-215, pursuant to section 7(c) of the Natural Gas Act, as amended, and § 157.7 of the Commission's regulations thereunder (18 CFR 157.7, et seq.) an application for a certificate of public convenience and necessity authorizing the construction and operation of certain offshore facilities in the High Island area, Federal domain, offshore Texas, all as more fully set forth in its appli-

cation which is on file with the Commission and available for public inspection.

Florida Gas states that this application is filed in conjuction with the "Proposed Stipulation and Settlement Agreement as to Certain Specified Issues" submitted in Docket No. CP74-192 for the purpose of resolving issues in that proceeding regarding Florida Gas' supply from Amoco Production Co. (Amoco). Specifically, Florida Gas proposes to construct approximately 3½ miles of 10-inch pipeline connecting High Island block A-341 to the existing High Island offshore system (HIOS) and approximately 3 miles of 10-inch pipeline from block A0469 to existing HIOS. While a portion of Amoco's reserves obligations under a 1964 warranty contract between the two parties, Amoco has agreed as a part of the proposed settlement to sell the remainder of these committed reserves to Florida Gas under new conventional sales contracts.

Florida Gas indicates that the gas produced from the subject blocks will be transported through HIOS to Michigan Wisconsin Pipe Line Co.'s (M-W) existing facilities in West Cameron block 164, offshore Louisiana, for ultimate redelivery to Florida Gas at Krots Springs, St. Landry Parish, La. Upon completion of negotiations with HIOS and M-W, Florida Gas indicates that the requisite certificate filings will be made with the Commission.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 7, 1978, should 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). 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. 78-7624 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-214]

FLORIDA GAS TRANSMISSION CO.

Pipeline Application

MARCH 16, 1978.

Take notice that on March 6, 1978, Florida Gas Transmission Co. (Florida Gas) filed, in Docket No. CP78-214, pursuant to section 7(c) of the Natural Gas Act and § 157.7 of the Commission's regulations thereunder (18 CFR 157.7, et seq.) an application for a certificate of public convenience and necessity authorizing the construction and operation of certain offshore and onshore facilities for the transportation and receipt of natural gas in interstate commerce from the Eugene Island area, Federal domain, offshore Louisiana, all as more fully described in its application which is on file with the Commission and available for public inspection.

Florida Gas states that the instant application is filed in conjunction with the "Proposed Stipulation and Settlement Agreement as to Certain Specified Issues," submitted in Docket No. CP74-192 for the purpose of resolving issues in that proceeding regarding Florida Gas' gas supply from Amoco Production Co. (Amoco). Specifically, Florida Gas notes that, subject to Commission approval of the above-referenced settlement agreement, Amoco has agreed to sell Florida Gas the reserves it holds in Eugene Island block 301 and 322 (block 301/322), in the Federal domain, offshore Louisiana. While a portion of these reserves will be sold to Florida Gas under a 1964 warranty contract between the two parties, the balance will be sold under a conventional gas purchase contract. Florida Gas indicates that in order for it to receive this natural gas into its onshore pipeline system it will be necessary for it to construct certain onshore and offshore facilities and enter into a transportation agreement with Tennessee Gas Pipe Line Co., a division of Tenneco, Inc. (TGP). Florida Gas states that it will be necessary to construct 4½ miles of 10-inch pipeline from block 301/322, to a point of interconnection with TGP's 30-inch line in Eugene Island block 302, and further, to install a 560-horsepower compressor at an existing authorized onshore point of interconnection between FGT's and TGP's facilities in Stone County, Miss., and a 1,000-horsepower compressor at a proposed point of redelivery between TGP's and Florida Gas' facilities at Kinder, La., in order to facilitate redelivery of the block 301/322 gas. Further, Florida Gas States that upon completion of negotiations with TGP and execution of the necessary documents, the required certificate applications will be filed with the Commission. Florida Gas estimates the total cost of these facilities at $6,194,000.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 7, 1978, should 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). 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 only 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. 78-7625 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. ER77-90]

HOLYOKE WATER POWER CO. AND HOLYOKE POWER & ELECTRIC CO.

Compliance Filing

MARCH 15, 1978.

Take notice that Holyoke Water Power Co. (HWPC) and Holyoke Power & Electric Co. (HPEC) of February 21, 1978, tendered for filing Amendment No. 5 to the Electric Service Agreement between HWPC and city of Chicopee, Mass. and Amendment No. 8 to the Electric Service Agreement between HPEC and the town of South Hadley, Mass. The companies indicate that these agreements are filed pursuant to Paragraph (B) of the Commission's Order issued January 18, 1978, approving the Settlement Agreement proposed by HWPC and HPEC and their respective wholesale customers in Docket No. ER77-90.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7637 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket Nos. E-7740, E-9239 and ER76-716]

INDIANA & MICHIGAN ELECTRIC CO.

Further Extension of Time

MARCH 14, 1978.

On March 10, 1978, Staff Counsel filed a motion to extend further the time for filing comments on the Agreement of Settlement and Compromise filed December 30, 1977, by Indiana & Michigan Electric Co. and Richmond Power & Light of the city of Richmond, Ind., and noticed on January 19, 1978, in the captioned proceeding. A previous extension of time was granted by notice issued February 13, 1978.

Upon consideration, notice is hereby given that a further extension of time is granted to and including March 20, 1978, for filing comments on the proposed settlement.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7638 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. E-8264]

MAINE PUBLIC SERVICE CO.

Extension of Time

MARCH 14, 1978.

On February 24, 1978, Maine Public Service Co. (MPSC), filed a renewed motion for stay of Federal Power Commission's June 27, 1977 Order in the captioned proceeding. The June 27 Order directed MPSC to refund with interest to its customers all amounts collected in excess of the rates and charges approved in this proceeding within thirty days after Commission approval of MPSC's substitute tariff sheets. By letter dated February 13, 1978, the Federal Energy Regulatory Commission approved MPSC's revised tariff sheets.

In accordance with the "savings provisions" of section 705(b) of the Department of Energy Organization Act (DOE Act), proceedings pending before the Federal Power Commission on the date the DOE Act took effect were not affected and orders were to be issued in such proceedings as if the DOE Act had not been enacted. All such proceedings were continued and further actions were to 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 Federal Energy Regulatory Commission (FERC) by section 402(a)(1) of the DOE Act. Additionally, the joint regulations adopted on October 1, 1977, by Secretary Schlesinger 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.

In order to give the Commission sufficient time to act upon MPSC's February 24, 1978 renewed motion for stay of the Order requiring refunds of amounts collected pursuant to the company's fuel adjustment clause surcharge, notice is hereby given that an extension of time is granted to and including April 17, 1978, within which MPSC shall comply with the refund provisions of the June 27, 1977 Order.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7639 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-216]

MICHIGAN WISCONSIN PIPE LINE CO.

Application

MARCH 16, 1978.

Take notice that on March 6, 1978, Michigan Wisconsin Pipe Line Co. (Applicant), One Woodward Avenue, Detroit, Mich. 48226, filed in Docket No. CP78-216 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of pipeline and measurement facilities necessary to interconnect the pipeline systems of Applicant and Kansas-Nebraska natural Gas Co., Inc. (Kansas-Nebraska), in Hemphill county, Tex.; the sale of natural gas supplies to Kansas-Nebraska, and authorizing Applicant to provide a transportation and exchange service for Monsanto Co. (Monsanto), all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that the Long Butte No. 1 Well located in Fremont County, Wyo., has been drilled and completed by Monsanto in the Mesaverde formation, and that the drilling results indicate that approximately 12,000,000 Mcf of proved and probable gas reserves underlie the 640 acre unit on which the well was drilled, and that in excess of 10,000 Mcf of natural gas per day would be produced from the well once production is commenced. Applicant states that it and Monsanto each own a 50 percent interest in the Long Butte No. 1 Well, and that pursuant to a gas purchase contract dated September 28, 1977, between Applicant and Monsanto, Applicant has acquired the right to purchase the gas supplies attributable to Monsanto's 50 percent working interest, limited as to depth from the interval between 15,102 feet subsurface on Schlumberger Compensated Neutron-Formation Density Log, and 16,646 feet subsurface total depth by driller measurement. It is indicated that the subject contract provides that the point of delivery for the gas purchased from Monsanto would be at the wellhead or well separator of the Long Butte Well, and that Monsanto may reserve for its own use up to 50 percent of the daily contract quantity attributable to its working interest in the well. It is further indicated that with respect to Monsanto's reserved quantities, Monsanto has requested Applicant and other pipeline companies to assist it in making these supplies available to its manufacturing facilities located in Decatur, Ala. It is stated that Applicant would pay Monsanto a base price of $1.47 cents per Mcf for all gas delivered hereunder which price would be escalated 1 cent per Mcf on the first

day of each calendar quarter following the date of initial delivery hereunder.

The application states that Applicant presently does not have transmission and gathering facilities within the State of Wyoming, and that Kansas-Nebraska owns and operates extensive gathering facilities located proximate the Long Butte Well. It is indicated that in order to effectuate receipt of the gas from the Long Butte Well, Applicant and Kansas-Nebraska have entered into a sale, exchange and transportation agreement dated October 27, 1977, which provided that Kansas-Nebraska would construct and operate the facilities necessary to connect the Long Butte Well to its gathering system, provide transportation for up to 10,000 Mcf per day for Applicant's gas supplies from the Long Butte Well delivery point and other wells made subject to the agreement, and made redeliveries by displacement to Applicant at a tap and side valve assembly which Kansas-Nebraska would construct on its 8-inch pipeline within the Buffalo Wallow Field, Hemphill County, Tex. It is stated that as partial consideration for providing the transportation service, Kansas-Nebraska would have the right to purchase up to 25 percent of the quantity attributable to the deliveries from any well (including the Long Butte Well) made subject to the Agreement. Accordingly, Applicant requests authorization herein to make a sale of natural gas supplies to Kansas-Nebraska pursuant to the October 27, 1977, contract.

Applicant indicates that in order to enable it to take receipt of gas supplies which Kansas-Nebraska would redeliver by displacement at the tap to be constructed on Kansas-Nebraska's pipeline within the Buffalo Wallow Field, it is necessary to install a measurement station having two 4-inch meter runs which would be located proximate the redelivery point, and to construct and operate approximately 7.5 miles of 6⅝-inch O.D. pipeline connecting the measurement station with Applicant's existing 20-nch O.D. Gageby Creek pipeline (Trunk 480) located in Hemphill County, Tex. Applicant estimates that the cost of the facilities proposed herein to be constructed would be $671,650, which cost would be financed from funds on hand, it is said.

Applicant states that Monsanto has requested Applicant to assist it, at least in part, by providing a transportation and exchange service resulting in redelivery by Applicant of the 50 percent of the daily contract quantity under the gas purchase contract with Applicant which Monsanto has reserved for its own use to Tennessee Gas Pipeline Co., a Division of tenneco, Inc. (Tennessee), at an existing point of inter-connection between the pipeline systems of Applicant and Tennessee located proximate the Superior Oil Co.'s Lowry Plant, Cameron, Parish, La. It is indicated that pursuant to the terms and conditions of a transportation and exchange service dated October 3, 1977, between Applicant and Monsanto, Applicant would use its entitlement under its agreement with Kansas-Nebraska to effectuate receipt of Monsanto's reserved gas into its own system, and at such point make the redeliveries to Tennessee by displacement. As consideration for using Applicant's entitlement under its arrangement with Kansas-Nebraska, Monsanto has agreed to reimburse Applicant for its pro rata share of the transmission and gathering changes which Applicant is obligated to pay Kansas-Nebraska thereunder.

The price to get paid by Kansas-Nebraska should it elect to purchase such gas is the applicable FERC Area Rate, including all adjustments, taxes and other applicable FERC AREA Rate, including all adjustments, taxes and other charges permitted or prescribed pursuant to such rate. It is stated that if Kansas-Nebraska elects to purchase gas which Applicant has purchased from a non-affiliated producer, such purchase would be on the same terms and conditions as Applicant purchases from such producer, and that if Kansas-Nebraska elects to purchase gas which is produced by Applicant or by a subsidiary, the price would be the applicable FERC area price and would include all adjustments, taxes and other charges permitted or prescribed for such price.

It is further stated that Applicant would pay Kansas-Nebraska a transportation fee equal to 12.74 cents for each Mcf of gas redelivered by Kansas-Nebraska to Applicant, and that Applicant would also pay Kansas-Nebraska a gathering fee which would be determined for each well on an individual basis. Such gathering fee would be determined each month by multiplying the total cost of service of the facilities installed by Kansas-Nebraska to connect each well by the proportion of the total gas delivered through said facilities attributed to the account of Applicant plus the average cost of service per Mcf of that portion of Kansas-Nebraska's gathering system which is used to deliver applicant's gas to Kansas-Nebraska's transmission systems multiplied by the volume of gas (before adjustment for Btu) atributable to the account of Applicant.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 7, 1978, 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 a 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. 78-7626 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket Nos. RP73-43, etc.]

MID LOUISIANA GAS CO., ET AL.

Extension of Time

MARCH 14, 1978.

Mid Louisiana Gas Co., Docket No. RP73-43 (PGA77-2), Gulf Oil Corp., Docket No. CI77-273, Grand Bay Co., Docket No. CP77-352.

On March 3, 1978, Commission Staff Counsel filed an appeal from the Presiding Administrative Law Judge's March 1, 1978 Order in this proceeding and a request for suspension of the procedural schedule pending disposition of the appeal. The procedural schedule established by the Presiding Administrative Law Judge in the March 1, 1978 Order directs Staff to file its case-in-chief by March 15, 1978, and establishes April 7, 1978, as the deadline for filing of rebuttal evidence, and April 18, 1978, as the date for commencement of the hearing.

Pursuant to §1.28(c) of the Commission's rules of practice and procedure,

unless the Commission acts upon appeals taken to the Commission from rulings of presiding officers within thirty days after filing of the appeal, the appeal shall be deemed denied.

In order to give the Commission the full thirty days allotted for consideration of Staff's appeal, notice is hereby given that the procedural dates are extended as follows:

Filing of Staff's case-in-chief—April 14, 1978.
Filing of rebuttal evidence—May 8, 1978.
Commencement of hearing—May 18, 1978.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7640 Filed 3-22-78; 8:45 a.m.]

[6740-02]

[Project No. 2207]

MOSINEE PAPER CORP.

Application for Approval of a Change in Land Rights

MARCH 16, 1978.

Public notice is hereby given that an application was filed on September 19, 1977, under the Federal Power Act, 16 U.S.C. 791a-825r, by Mosinee Paper Corp. (Applicant). (Correspondence to: Mr. R. W. Schmidtke, Secretary-Treasurer, Mosinee Paper Corp., Mosinee, Wis. 54455) for a change in land rights at Project No. 2207, known as the Mosinee Project. The project is located on the Wisconsin River in Marathon County, Wis.

The Applicant requests authorization to grant an easement to the city of Mosinee, Wis. for the purpose of constructing a storm sewer outfall line across project lands and waters. The proposed 60-foot wide right-of-way would occupy 0.075 acre of project land in a fractional part of the NW¼ of the N½, sec. 30, T. 27 N., R. 7 E., town of Mosinee, Marathon County, Wis.

The proposed storm sewer would consist of a 30-inch diameter reinforced concrete pipeline which would collect rain water and convey it through the underground pipeline to a discharge point which would be placed above the reservoir high water mark. The discharge point would be riprapped to prevent erosion.

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.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 28, 1978, file with the Federal Energy Regulatory Commission, 825 N. Capitol Street NE., Washington, D.C. 20426, a petition 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 (1977). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7627 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. RP76-64 (PGA78-1)]

MOUNTAIN FUEL SUPPLY CO.

Corrected Tariff Sheet Filing

MARCH 15, 1978.

Take notice that on March 10, 1978, Mountain Fuel Supply Co., pursuant to its Purchase Gas Adjustment procedure filed corrected tariff sheets and supporting data. The rate schedules effected by this filing are the X-4, X-5 Gas Exchange Agreements with Colorado Interstate Gas Corp.

Specifically, Mountain Fuel has filed a Substitute Fifth Revised Sheet No. 3-A of Mountain Fuel's FPC Gas Tariff Original Volume No. 1; a Schedule of Projected Volumes and Calculation of Purchased Gas Cost Adjustment; and an Average Rate Adjustment.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 N. Capitol St., NE., Washington, D.C. 20426, in accordance with §§ 1.8 and 1.10 of the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 28, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a petition to intervene. Copies of this filing are in file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7641 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-211]

NATURAL GAS PIPELINE CO. OF AMERICA

Application

MARCH 15, 1978.

Take notice that on March 2, 1978, Natural Gas Pipeline Co. of America (Applicant), 122 South Michigan Avenue, Chicago, Ill. 60603, filed in Docket No. CP78-211 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to replace a portion of three parallel pipelines with three parallel pipelines on its Gulf Coast Line in Panola County, Tex., all as more fully set forth in the application on file with the Commission and open to public inspection.

The application states that Texas Utilities Gathering Co. (Texas Utilities) has informed Applicant that it has obtained lignite coal mining rights on properties in Panola County, Tex., through which three of Applicant's large diameter main transmission pipelines pass and that Texas Utilities has requested that Applicant reroute its lines around the coal mining area. Applicant proposes to rereoute portions of its three parallel pipelines around the coal mining area to accommodate Texas Utilities request, and to design the rerouted lines so that Applicant's authorized capacity would not change as a result of the rerouting.

Applicant indicates that its Gulf Coast pipeline system presently consists of two parallel 30-inch pipelines and portions of a 36-inch loop line. Applicant requests authorization to replace a 1.83 mile section of its three parallel lines in the area of concern with a rerouted section of three parallel lines 2.63 miles in length. The proposed rerouted section would consist of two lines of 36-inch pipe, each 2.63 miles long and a third line consisting of 2.06 miles of 30-inch and 0.57 mile of 36-inch pipe, it is said. Applicant states that the proposed configuration would provide the same capacity as the shorter section it replaces, and that it does not propose to increase any sales or service as a result of the proposal herein.

Applicant estimates the cost of the proposed construction to be $3,243,000, which cost would be reimbursed to Applicant by Texas Utilities.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 6, 1978, 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. 78-7642 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-220]

NORTHWEST PIPELINE CORP.

Application

MARCH 15, 1978.

Take notice that on March 7, 1978, Northwest Pipeline Corp. (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP78-220 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the exchange of up to 5,000 Mcf of natural gas per day with Rocky Mountain Natural Gas Co. (Rocky Mountain) and RMNG Gathering Co. (RMNG), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that it has entered into a gas purchase contract dated December 5, 1977, with Northwest Exploration Co. (Exploration), an affiliated company, covering the Great Divide Area of Moffat County, Colo., which is remote from Applicant's existing transmission system. Applicant further states that in order to make the volumes of natural gas to be purchased from the Great Divide Area available to its transmission system at the least possible investment, Applicant has entered into a gas transportation and exchange agreement dated January 27, 1978, with Rocky Mountain and RMNG.

Applicant proposes to deliver to Rocky Mountain during the terms of the agreement, all volumes of natural gas purchased by Applicant in the Great Divide Area of Moffat County, Colo. Applicant states that the volume of gas to be delivered to Rocky Mountain, for exchange would be gathered by Applicant in the Divide Area, transported to the facilities of Rocky Mountain and delivered at a mutually agreeable point on Rocky Mountain's Big Hole gathering system located in Moffat County, Colo. It is stated that Rocky Mountain would transport the volumes of natural gas so delivered by Applicant through its Big Hole gathering system for subsequent delivery into Rocky Mountain's intrastate utility system, and that to complete the proposed exchange of natural gas, RMNG, wholly owned subsidiary of Rocky Mountain, would redeliver to Applicant thermally equivalent volumes of gas at an existing point of interconnection between the facilities of RMNG and Applicant (Bar X Exchange Meter Station) located in Colorado where Applicant and RMNG are currently authorized to exchange gas. The volumes of gas so delivered and received for exchange would be balanced on a Btu basis and such balancing would, to the extent possible, be achieved monthly, it is said. Applicant indicates that initially the total volumes of gas to be delivered to Rocky Mountain would be approximately 1,000 Mcf per day. It is indicated that Applicant would reimburse Rocky Mountain for Rocky Mountain's transportation costs, including a reasonable rate of return, for all costs attributable to the transportation of Applicant's gas through Rocky Mountain's Big Hole pipeline.

Applicant proposes to construct the gathering facilities required to gather the exchange volumes proposed herein pursuant to its budget-type authorization in Docket No. CP77-507. Applicant indicates that it would be required to construct approximately 5.78 miles of 4½ inch gathering line.

It is indicated that Applicant would pay Exploration a base price of $1.46, which price would be effective for a period ending on December 31, 1977. It is further indicated that at the end of the aforementioned period and at the end of each three month period thereafter, the base price would increase one cent per Mcf above the applicable price for the preceding period.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 6, 1978, 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. 78-7643 Filed 3-22-78; 8:45 a.m.]

[6740-02]

[Docket No. CP78-217]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO INC.

Application

MARCH 16, 1978.

Take notice that on March 6, 1978, Tennessee Gas Pipeline Co., a Division of Tenneco Inc. (Applicant), P.O. Box 2511 Houston, Tex. 77001, filed in Docket No. CP78-217 an application pursuant to Section 7(c) of the Natural Gas Act and § 157.7(g) of the regulations thereunder (18 CFR 157.7(g)) for a certificate of public convenience and necessity authorizing the construction and acquisition and for permission for an approval of the abandonment, during the twelve-month period commencing April 1, 1978, and operation of field gas compression and related metering and appurtenant facilities, all as more fully set forth in

the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in the construction, acquisition and abandonment of facilities which would not result in changing Applicant's system salable capacity or service from that authorized prior to the filing of the instant application.

Applicant states that the total cost of the proposed construction and abandonment would not exceed $3,000,000, and that the cost of any single project would not exceed $500,000. It is indicated that these costs would be financed by Applicant from gereral funds of the Company and/or borrowings under Applicant's revolving credit agreements.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 7, 1978, 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 157.70). 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. 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 and permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7628 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-212]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Pipeline Application

MARCH 16, 1978.

Take notice that on March 3, 1978, Transcontinental Gas Pipe Line Corp. (Applicant), Post Office Box 1396, Houston, Tex. 77001, filed in Docket No. CP78-212 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Applicant to transport natural gas for United Gas Pipe Line Corp. (United), all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant states that United will purchase natural gas produced in the High Island Block 111 Field, offshore Texas and deliver a daily contract demand quantity of up to 30,000 Mcf into Applicant's North High Island System in High Island Block 110 for transportation and delivery of a thermally equivalent quantity, less 0.6 percent for gas lost and accounted for and fuel and less reduction in Btu due to processing, if any, to United at any existing point of interconnection between Transco's and United's systems located in Victoria County, Tex. and at an existing point of interconnection between the systems of Transco and Tennessee Gas Pipeline Co., a Division of Tenneco, Inc., located near Starks in Calcasieu Parish, La. where United has constructed authorized measuring and compression facilities.

Applicant avers that no additional facilities will be required to render this transportation service, for which United will pay Transco initially a monthly charge of $146,700.

Any person desiring to be heard or to make any protest with reference to said application, on or before April 7, 1978, should 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). 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. 78-7629 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. CP78-219]

TRUNKLINE GAS CO.

Application

MARCH 16, 1978.

Take notice that on March 7, 1978, Trunkline Gas Co. (Applicant), P.O. Box 1642, Houston, Tex. 77001, filed in Docket No. CP78-219 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction and operation of approximately 26.7 miles of 36-inch pipeline loop in St. Mary and Terrebonne Parishes, La., and authorizing the installation and operation of compression facilities at South Timbalier Block 165, offshore Louisiana, all as more fully set forth in the application on file with the Commission and open to public inspection.

Applicant requests authorization to construct and operate approximately 26.7 miles of 36-inch pipeline loop on a portion of its existing Terrebonne system in St. Mary and Terrebonne Parishes, La., from an existing tap on Applicant's South Timbalier facilities in Atchafalaya Bay to its Centerville Station, and for authorization to install and operate a 3,000 horsepower (nominal) compressor on the Exxon Corporation (Exxon) platform in South Timbalier Block 165, offshore Louisiana, all at an estimated cost of $27,761,000. Applicant states that it would finance the cost of the proposed facilities from funds on hand and short-term bank borrowings.

It is stated that there have been significant supply additions to Applicant's system in the eastern part of offshore Louisiana, which is traversed by Applicant's Terrebonne system. It is further stated that while the overall beneficial effect on Applicant's attachment of new supplies is somewhat dampened by concurrent reductions in

availability from older fields, the net increase in volumes available necessitates Applicant's expanding its Terrebonne system as proposed herein.

Applicant states that recent increases in its deliverability from offshore Louisiana blocks, made available, in part, through the Tarpon Transmission Company system recently certificated in Docket No. CP77-315 and through facilities constructed pursuant to Applicant's budget certificate granted in Docket No. CP77-314, necessitates an increase in the capacity of Applicant's Terrebonne system. Applicant further states that a significant source of supply with high deliverability (the Grand Isle Block 95 Field) was recently added to the Terrebonne system, which increased deliveries to near system capacity. It is indicated that the proposed capacity increase would be accomplished by looping a portion of Applicant's pipeline upstream of its Centerville compressor station. This looping is designed to accommodate the additional volumes which would become available to Applicant during the last half of 1978 from this segment of its offshore supply area, it is said.

The application states that the deliverability of certain of Applicant's existing supply sources had also increased as a result of additional drilling by the producers, as has been the case in the offshore Louisiana South Timbalier Block 172 Field, and that it is now apparent that 3,000 horsepower compression is needed at Exxon's platform in South Timbalier Block 165 to provide sufficient capacity in Applicant's existing 18-inch line to accommodate volumes available from this field. Applicant anticipates an increase in deliverability from this field of approximately 50,000 Mcf per day becoming available during the summer of 1978, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 7, 1978, 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. 78-7630 Filed 3-22-78; 8:45 am]

[6740-02]

[Project No. 459]

UNION ELECTRIC CO.

Application for Change in Land Rights

MARCH 16, 1978.

Public notice is hereby given that an application was on January 3, 1978, and supplemented on January 11, 19, and 20, and on February 28, 1978, under the Federal Power Act, 16 U.S.C. 791a-825r, by Union Electric Co. (Applicant) (Correspondence to: Michael F. Barnes, Esq., Union Electric Co., P.O. Box 149, St. Louis, Mo. 63166), for a change in land rights at Project No. 459 known as the Osage Project. The project is located on the Missouri River in Camden County, Mo.

The Applicant seeks Commission approval: (1) to convey an easement to the Missouri Baptist Convention for the installation, operation, and maintenance of a sanitary sewage pipeline under the project reservoir, the Lake of the Ozarks, in section 18, T. 38 N., R. 17 W., Camden County, Mo., and (2) to discharge into project water affluent from a new sewage-treatment plant being constructed outside the project boundary for the purpose of upgrading effluent discharge from two sewage lagoons that serve the Windermere Baptist Assembly Camp.

The proposed sewage line would be 4 inches in diameter and is specified as schedule 40, solvent weld, PVC pipe. It would be placed in a 6-inch wide trench in the reservoir bottom and buried at a minimum depth of 24 inches. The line would span 100 feet of project property in a location covered with water 50 percent of the time.

The new treatment plant is being constructed under a permit from the Missouri Department of Natural Resources and is designed to a 110,000-gallon extended aeration plant with gravity and pressure collection lines, lift stations, and necessary appurtenances. It is designed to treat waste from a population equivalent of 1,100 with an estimated daily flow of 55,000 gallons.

Any person desiring to be heard or to make any protest with reference to said application should on or before April 10, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., 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 (1977). 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 in any hearing therein must file a petition to intervene in accordance with the Commission's rules.

The application is on file with the Commission and is available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7631 Filed 3-22-78; 8:45 am]

[6740-02]

[Project No. 2816]

VERMONT ELECTRIC COOPERATIVE, INC.

Application for Preliminary Permit

MARCH 16, 1978.

Public notice is hereby given that an application for a preliminary permit was filed on September 16, 1977, under the Federal Power Act (16 U.S.C. 791a-825r), by Vermont Electric Cooperative, Inc. (Applicant) (Correspondence to: Mr. Walter N. Cook, Executive Manager, Vermont Electric Cooperative, Inc., School Street, Johnson, Vt. 05656; and Acres American Inc., 900 Liberty Bank Building, Buffalo, N.Y. 14202, Attention: Mr. John D. Lawrence) for the proposed North Hartland Dam Project No. 2816. The proposed project would be located on the Ottauquechee River in Windsor County, Vt.

Applicant proposes to develop a hydroelectric facility in conjunction with the existing North Hartland Dam, a flood control dam owned by the U.S. Army Corps of Engineers. The proposed project would utilize the existing conservation pool at the North Hartland Dam. A new powerhouse containing turbine and generator alternatives capable of generating between 8,000 and 12,000 kW is planned.

According to the application, the power developed by the proposed pro-

ject would be distributed in Applicant's service area for public utility purposes.

A preliminary permit does not authorize the construction of a project. A permit, if issued, gives the permittee during the period of the permit the right of priority of application for license while the permittee undertakes the necessary studies and examinations to determine the engineering and economic feasibility of the proposed project, the market for the power, and all other necessary information for inclusion in an application for a license.

Any person desiring to be heard or to make protest with reference to said application should, on or before May 24, 1978, file with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20246, a petition to intervene or a protest in accordance with the requirements of the Commission's rules of practice and procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to a 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.

The application is on file with the Commission and is available for public inspection.

The public should take further notice that 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 Federal Power Commission 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 functions 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 of Energy 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.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7632 Filed 3-22-78; 8:45 am]

[6740-02]

[Docket No. ER78-242]

THE DAYTON POWER & LIGHT CO.

Filing

MARCH 15, 1978.

Take notice that on March 9, 1978, The Dayton Power & Light Co. (DP&L) tendered for filing a proposed change to its FERC Electric Tariff, Original Volume No. 1, that incorporates a curtailment procedure applicable to DP&L's municipal electric system customers. Under the proposal, DP&L states that whenever it is required to curtail deliveries of power to its retail customers under procedures approved by the Public Utilities Commission of Ohio, DP&L's municipal customers will be required to curtail use of power in the same manner and degree as will DP&L.

Due to the current electric power shortage in DP&L's service area resulting from the prolonged strike of the United Mine Workers, the Company states that its emergency curtailment procedures may be instituted imminently. Accordingly, DP&L requests waiver of the Commission's notice requirements so that the curtailment provision can be made effective on March 10, 1978.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, D.C. 20426, in accordance with the Commission's rules of practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before March 27, 1978. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

KENNETH F. PLUMB,
Secretary.

[FR Doc. 78-7633 Filed 3-22-78; 8:45 am]

[3128-01]

Western Area Power Administration

POWER RATES

Final Procedures for Public Participation in General Adjustments

AGENCY: Department of Energy.

ACTION: Final Procedures.

SUMMARY: The Department of Energy is promulgating Procedures for Public Participation in General Adjustments in Rates for Power Marketed by the Western Area Power Administration (WAPA). The procedures are applicable to the development of general rate adjustments by WAPA and the Assistant Secretary for Resource Applications, and to the review of such rate adjustments by the Administrator of the Economic Regulatory Administration. The Procedures, which amend procedures that were previously established by the U.S. Department of the Interior, permit the Department of Energy to approve rates on an interim basis and they incorporate technical changes necessitated by the transfer of the power marketing function from the Bureau of Reclamation, Department of the Interior to the Department of Energy.

EFFECTIVE DATE: March 23, 1978.

FOR FURTHER INFORMATION CONTACT:

Clark L. Rose, Western Area Power Administration, 18th & C Streets NW., Room 7612, Washington, D.C. 20240, 202-343-4640.

Douglas C. Bauer, Assistant Administrator for Utility Systems, Room 538, 1111 20th Street NW., Washington, D.C. 20461, 202-254-9782.

SUPPLEMENTARY INFORMATION: These procedures apply to public participation in general adjustments in power rates for power formerly marketed by the Bureau of Reclamation, Department of the Interior, except with respect to the Falcon and Amistad Dams on the Rio Grande.

Pursuant to the Department of Energy Organization Act (the Act), Pub. L. 95-91, on October 1, 1977, responsibility for establishing power rates for power previously marketed by the Bureau of Reclamation, Department of the Interior was vested in the Secretary of Energy. Pursuant to Section 705 of the Act, the procedures promulgated by the Department of the Interior and entitled "Procedures for Public Participation in General Adjustments in Power Rates," 40 FR 34431 (August 15, 1975), remain in effect until they are superseded. The Department of Energy is amending these procedures by adding a new section 10, and redesignating the remaining paragraph, to permit the approval of interim rates.

The new section 10 confers authority upon the Administrator of the Economic Regulatory Administration (ERA) to establish an interim rate when he deems it necessary and appropriate. When the Administrator so acts, he is required to set forth his principal reasons, giving due consideration to oral and written comments offered by interested persons. In those situations where the Administrator has adopted an interim rate, a supplemental public forum and comment period will be provided before a final rate is promulgated. The procedures also incorporate certain technical changes necessitated by the transfer of the power marketing function from the Department of the Interior to DOE. The procedures are republished in their entirety to incorporate these amendments.

These final procedures make effective proposed procedures published in the FEDERAL REGISTER on January 3, 1978 (43 FR 31). The January 3, Notice provided for a public comment period during which written comments were received and two public hearings were held. The hearings were held on February 3, 1978 in Washington, D.C., and on February 7, 1978, in Sacramento, Calif. Seven speakers made oral presentations at the hearings and written comments were received from 18 interested persons. The major comments are discussed below.

DOE received a large number of comments directed towards those portions of the proposed procedures that were promulgated by the Department of the Interior in 1975, in which the Department of Energy has proposed no substantive changes. Since these provisions are not being substantively changed by this action, DOE is taking such comments under advisement and is not responding to them at this time. DOE is in the process of drafting procedural regulations which will be applicable to the rate adjustments for each of the federal power marketing administrations. A draft of the proposed procedural regulations will be published in the FEDERAL REGISTER. A full opportunity for public comment will be afforded interested persons at that time.

DISCUSSION OF MAJOR COMMENTS RELEVANT TO THE NEW PARAGRAPH 10 AND OTHER TECHNICAL AMENDMENTS

The comments discussed below relate to the proposed amendment to the procedures that authorizes ERA to establish interim rates, and to ERA's role in the rate setting process.

1. DOE HAS THE AUTHORITY TO ESTABLISH INTERIM RATES

Several respondents suggest that DOE is without the statutory authority to set interim rates since the power marketing statutes which govern Federal power ratemaking neither expressly provide for an interim rate procedure nor can they be construed to impliedly authorize such a procedure. They argue that rates for Federal power projects may only be set in accordance with the statutory mandate of providing power at the lowest possible rates consistent with sound business principles. DOE believes that the establishment of interim rates is entirely consistent with and furthers the purposes of the power marketing statutes. The Reclamation laws give DOE broad discretion in setting rates. The objective of selling power at the lowest possible rates consistent with sound business principles is furthered by the setting of interim rates where it is determined that the project is operating at a deficit and that some rate increase is warranted; that there will be continued operating deficits unless a rate adjustment is effective in a timely manner; and that the proposed interim adjustment is anticipated to be no greater than the rate level necessary for the United States to recover its costs. DOE believes that the amended procedures provide a mechanism whereby a project can reduce its operating deficit in accordance with sound business principles prior to the setting of a final rate.

2. INTERIM RATES ARE NECESSARY TO IMPLEMENT THE PERTINENT STATUTORY MANDATES

Several respondents contend that the authority to establish interim rates is unnecessary since DOE should be able to complete a rate proceeding in time to satisfy its revenue needs if it proceeds in a reasonable manner and allows a sufficient lead time. The respondents suggest that if this provision allowing interim rates is being established merely to extricate the Government from a particular procedural difficulty in the Central Valley Project proceeding, then the interim rate provision should be deleted from the general procedures and placed in a special set of procedures applicable only to the Central Valley Project. One respondent adds that DOE would not be damaged if it foregoes the use of interim rates since customers of each project are obligated to pay the ultimate costs within the time allotted by the legislation for repayment.

Interim rates permit a project to obtain a part of the rate relief it deserves while final determinations are made. While these procedures will have immediate applicability to the Central Valley Project, they will also apply to any other WAPA rate adjustment, until superseded. The timing of procedural developments in regard to rate adjustments may require DOE to determine that compliance with the pertinent statutory mandates may result in the necessity to implement interim rate relief.

3. THE ESTABLISHMENT OF INTERIM RATES WOULD NOT VIOLATE EXISTING CONTRACTS

The Salt River Project and the Irrigation and Electrical Districts of Arizona maintain that the establishment of interim rates would abrogate existing contracts between the projects and their customers. The respondents question whether DOE is legally entitled to superimpose an interim rate procedure on top of existing contractual arrangements. Section F of the "General Power Contract Provisions" contained in each existing contract provides that the prescribed rate schedule "shall be subject to successive modifications by the United States through the promulgation of superseding rate schedules." DOE believes that there are no contractual restrictions on the Government's authority to modify the existing rate schedules, except that it must give each customer prompt notice thereof, nor are there any limitations on the manner in which rate schedules may be modified. Therefore, DOE concludes that these existing contracts do not prohibit it from establishing interim rates.

4. DOE HAS THE STATUTORY AUTHORITY TO REFUND OVERPAYMENTS WITH INTEREST AS PROVIDED IN SECTION 10 OF THE PROCEDURES

The Arizona Power Authority questions the statutory authority of DOE to pay interest on an overpayment. It further states that if this authority is found to be lacking, it also questions whether DOE can legally impose interim rates. The general rule is that the United States is not liable for interest on claims filed against it. However, one recognized exception to this rule is that when the United States engages in a business operation, it impliedly agrees to assume the normal obligations of the operation, including the payment of interest. The sale of electric power and energy from Federal hydroelectric projects is a proprietary function which requires compliance with the pertinent statutory requirements. The rates for power are set in accordance with sound business principles. Although the United States is not expected to make a profit on power operations, it is expected to recover the costs properly allocable to power operations. DOE believes that the character of DOE's power marketing function brings it within this exception giving it the authority to pay interest on overcharges.

5. THE PROVISION THAT PROVIDES FOR A REFUND OF ANY OVERPAYMENT WITH INTEREST SUFFICIENTLY PROTECTS WAPA CUSTOMERS

Several respondents contend that when the Administrator decides to set

an interim rate there will necessarily be a considerable delay before a final rate is approved. Many WAPA consumers will have moved or altered their patterns of consumption before a refund of overcharges could be provided. The respondents argue that refund credits may never reach the pockets of the ultimate consumers because of this delay and recommend that interim rates not be established. This potential problem of refunds is not unique to interim rates. For instance, it arises whenever a rate adjustment is set aside as was the case in Central Valley. To minimize this problem, however, it is DOE's intention to set interim rates at a sufficiently low and clearly justified level so as to avoid the necessity for refunds.

6. INTERIM RATES SHALL BECOME EFFECTIVE 60 DAYS AFTER THE ADMINISTRATOR'S DECISION IS ISSUED

Mr. C. C. Hoffner, Jr., representing the Department of Defense and various other Federal agencies, recommends that the proposed procedures be changed to provide that interim rates shall not become effective before the proposed effective date of the tentative rates. He states that this recommendation is designed to ensure that interim rates will not be used to circumvent the normal ratesetting procedures. The procedures provide that interim rates will not go into effect until 60 days after the Administrator's decision or order establishing the interim rates is issued. In most instances interim rates will not go into effect under this procedure until the date proposed by the Assistant Secretary. However, in exercising his authority, the Administrator must also be able to establish an interim rate on his own motion. This authority will be exercised only in circumstances under which the procedures necessary to both propose and establish a final rate cannot be completed in sufficient time to comply with all statutory and procedural requirements.

7. AN INTERIM RATE ADJUSTMENT WILL NOT EXCEED THE RATE PROPOSED BY THE ASSISTANT SECRETARY

Mr. C. C. Hoffner, Jr., suggests that the interim rates should provide a revenue increase no greater than two-thirds of the proposed revenue increase of the tentative rates. He argues that such a provision would eliminate the need for substantial refunds for overpayments. A number of other respondents express the concern that under the proposed procedures, ERA could impose an interim rate that is far greater than the rate proposed by the project. As stated in heading No. 5, above, it is DOE's intention to set interim rates at a lower level than is projected to be required, thereby making refunds unnecessary in most cases. However, DOE believes the procedures should not prohibit the Administrator from establishing an interim rate at any level equal to or less than the Assistant Secretary's proposed rate. The statutes governing public power marketing provide the legal standards by which rates must be set, making further limitations unnecessary.

8. THE ADMINISTRATOR WILL ONLY ESTABLISH INTERIM RATES DURING THE COURSE OF HIS REVIEW OF A RATE ADJUSTMENT SUBMITTED BY THE ASSISTANT SECRETARY

A large number of respondents contend that ERA should not be given the authority to propose and establish interim rates. They argue that the bifurcated procedure used in the setting of final rates should also be applicable to the setting of interim rates. They maintain that ERA's authority should be limited to review of rates designed by the marketing agencies and that permitting ERA to design its own interim rates for these agencies is inconsistent with this review function. The respondents assert that the procedure is deficient because the official who will make the ultimate decision on the basis of the completed record is injected into the proceeding at an early stage to establish an interim rate which could lead to his prejudging some of the issues. They suggest that WAPA or the Assistant Secretary should propose an interim rate so that ERA's function would be to review the proposal and establish that rate.

DOE contends that it is not inconsistent with ERA's review function to permit the Administrator to establish interim rates. The Administrator will only exercise this authority during the course of his review of a rate submitted by the Assistant Secretary when he (the Administrator) determines that an interim rate is necessary. In so doing, the Administrator will not be interjecting himself into the proceeding at an early stage, as respondents contend, but will be acting upon the Assistant Secretary's proposal as part of the review process. For example, if the Assistant Secretary proposes a final rate that the Administrator finds to be clearly too low, he may establish a rate for an interim period and remand the case to the Assistant Secretary for further proceedings. By so doing, the Administrator would thereby determine that the projects's rate schedule does not meet the mandate of the pertinent statutes, and is therefore inadequate. The formulation of a more precise rate and its subsequent resubmittal to ERA would therefore be the responsibility of the Assistant Secretary.

9. INTERIM RATES CAN BE ESTABLISHED ONLY AFTER INTERESTED PERSONS HAVE BEEN GIVEN AN OPPORTUNITY TO COMMENT ON THE PROPOSAL

A large number of respondents contend that it is a violation of due process and the Department of Energy Organization Act to give the Administrator of ERA the authority to set interim rates without permitting the customers to submit comments even though the rates collected are subject to possible refund with interest. They propose that the procedure be changed to allow all interested parties to submit written comments and present oral testimony before an interim rate is established. DOE has decided that in all cases it will allow interested persons to file written comments and request an opportunity for an oral presentation before ERA establishes an interim rate. Therefore, sections 9 and 10 of the procedures have been changed to provide for a public comment period on all imterim rate proposals, whether originating with the Assistant Secretary or the Administrator. In addition, section 9 provides interested persons with an opportunity to request an oral presentation before final rates are established pursuant to section 11. DOE has determined that these public hearings, if requested, need not be adjudicative in nature.

10. THE ADMINISTRATOR MAY ESTABLISH INTERIM RATES WHEN HE DEEMS IT TO BE NECESSARY AND APPROPRIATE

A number of respondents contend that the procedures give the Administrator the authority to establish interim rates on a totally discretionary basis without guidelines or criteria by which he is bound. They maintain that the "necessary and appropriate" standard stated in section 10 is not sufficiently specific. They further argue that once the Administrator establishes an interim rate, the procedures provide that he need only specify the "principal reasons" for his decision and do not require him to reveal the assumptions on which his decision is based. Therefore, they recommend that the procedures include provisions detailing the criteria on which interim rate decisions will be based and providing that the Administrator must issue a full explanation of the reasons for his decision.

DOE maintains that the Administrator of ERA must be given discretion to establish interim rates when he deems it to be necessary and appropriate. The Administrator will explain the reasons for establishing the interim rate in his decision or order. However, to prospectively attempt to detail criteria that would circumscribe all the circumstances that might necessitate interim rate relief would unnecessarily limit the flexibility sought in promulating these interim rate provisions.

11. INTERIM RATES WILL ONLY BE EFFECTIVE FOR A LIMITED PERIOD OF TIME

Several respondents expressed concern that the procedures fail to provide for a final date beyond which interim rates cease to be effective. The respondents fear that this procedure would allow DOE to delay establishing final rates thereby subjecting the customers to continuing liability for payment of the interim rate until such time as the Administrator chooses to act. After consideration of these comments, DOE has decided to revise section 10 of the procedures to provide that interim rates shall be only effective for a maximum period of one year. The amendment further provides that the Administrator may extend the interim rates beyond the one year period upon request of the Assistant Secretary after interested persons have been given an opportunity to file written comments and request a public hearing.

12. THE INVOLVEMENT OF ERA IN THE RATESETTING PROCESS IS IN ACCORDANCE WITH THE DEPARTMENT OF ENERGY ORGANIZATION ACT.

Mid-West Electric Consumers Association and other respondents state that any involvement by ERA in the ratemaking process is improper both as a matter of policy and under the Department of Energy Organization Act (the Act). They argue that the Act mandates that WAPA remain separate and distinct within DOE, and that the Secretary, in exercising his supervisory jurisdiction over WAPA, do so through an Assistant Secretary, and not ERA. The respondents conclude that the authority within DOE to set rates for projects under former Interior jurisdiction lies with the DOE Secretary or the properly delegated Assistant Secretary. Section 302(a)(1)(E) of the Act transferred to, and vested in, the Secretary of Energy all functions of the Secretary of the Interior with respect to the power marketing functions of the Bureau of Reclamation. Section 302(a)(3) provides that these functions shall be exercised by the Secretary, acting by and through a separate and distinct administration. The Secretary complied with this requirement by establishing the Western Area Power Administration, under the Assistant Secretary for Resource Applications, to administer the power marketing functions of each Bureau of Reclamation project. Section 206(b) of the Act provides that the Secretary may utilize the Economic Regulatory Administration to administer such functions of the Secretary as he may deem appropriate. Acting through Section 642 of the Act, the Secretary delegated to ERA his authority to establish rates for power marketed by WAPA, in paragraph 16 of Delegation Order No. 0204-4 effective October 1, 1977, 42 FR 60727 (November 29, 1977). DOE believes that his delegation to ERA is entirely consistent with the provisions of the Department of Energy Organization Act including its requirement that the Department maintain a separate and distinct power administration.

DISCUSSION OF MISCELLANEOUS COMMENTS

The Northern California Power Agency argues that ERA does not have the authority under section 10 of the procedures to establish interim rates in the pending Central Valley Project proceeding because the Assistant Secretary submitted the proposed interim rate schedule to ERA without offering interested persons the opportunity to file written comments and participate in public information and comment forums. The Department of Interior announced that it was proposing a rate increase for the Central Valley Project on September 12, 1977. Interested persons were invited to participate in three public information forums and one public comment forum, and to submit written comments relative to the proposed Central Valley rate increase. Certain customers requested additional time within which to file comments. In order to accommodate that request and to help defray the continuing large deficits of the Central Valley Project, the Assistant Secretary proposed that ERA establish an interim rate. This interim rate proposal was issued primarily as a result of this request and was based on the tentative rate schedule announced on September 12, 1977. An additional public hearing and comment period was provided following the Assistant Secretary's announcement of the interim rate proposal. Therefore, DOE concludes that it has provided sufficient opportunity for interested persons to participate in the development of the proposed interim rates, as contemplated by the procedures.

The Salt River Project and other respondents argue that the interim rate procedure must be tied to the pricing criteria provided in the power marketing statutes and must have a direct relationship to cost of service. DOE will establish interim and final rates in accordance with the requirements of the Department of Energy Organization Act and the pertinent power marketing statutes.

Several respondents argue that an interim rate should not be established in any given case until all interested parties are offered an opportunity to inspect all relevant studies supporting the proposed rate increase. The Administrator of ERA will not attempt to prepare its own rate studies but will establish interim rates guided by the studies prepared by WAPA and the Assistant Secretary. In announcing his proposed decision, the Assistant Secretary will issue an explanation of the principal factors that led to his decision, citing any studies relied upon. DOE will make these studies available upon request.

Several respondents expressed concern that, through the promulgation of the procedures, the Department of Energy is attempting to concentrate all ratemaking authority in the Administrator of ERA in Washington, D.C., thereby diminishing the importance of WAPA and its local and regional personnel who are acquainted with and understand the diverse interests of the customers being served. DOE intends to establish rate schedules based on the recommendations of WAPA and the Assistant Secretary after consideration of the comments offered by interested persons. ERA's authority to establish interim and final rates is not intended to reduce the importance of WAPA and its local and regional offices in the ratemaking process, but only to provide for a review of rate schedules to ensure compliance with the pertinent law.

One respondent asked whether the supplemental forum referred to in section 10 will be a public information or a public comment forum. DOE intends to hold at least one supplemental public comment forum, but a public information forum may also be held when appropriate. Section 10 had been revised to provide that at least one supplemental public comment forum will be held.

The State of Nevada requested that a minimum of 45 days be provided for customer review of proposed rates instead of 30 days. DOE will allow at least 30 days for customers to review rate proposals and to file written comments. An extension of time may be provided for good cause shown upon timely request.

A number of respondents stated that the provisions of sections 9 and 10 are unclear as to what rate the Assistant Secretary is proposing, what rate the Administrator is using as the interim rate, and what rate interested parties are to comment upon. DOE has revised sections 9 and 10 in order to clarify their purpose. Much of the confusion has arisen because of the fact that interim rates can be established in one of two circumstances. The Administrator of ERA may establish interim rates where the Assistant Secretary proposes an interim rate under section 8, or where he proposes a final rate that the Administraror believes to be either too low or too high. In either case, the Administrator will publish a notice in the FEDERAL REGISTER and will afford interested persons the opportunity to present oral and written comments. The interim rate established by ERA will be based on the rate proposal filed by the Assistant

Secretary, together with the information and comments submitted during the comment period, and will be equal to or less than the Assistant Secretary's proposal. The Administrator will explain the principal reasons for his decision. At least one supplemental public comment fourm will be held and supplemental written comments, both in chief and rebuttal, will be required before the Assistant Secretary may again propose a rate for review by the Administrator of ERA. Interested persons will be given an opportunity to submit written comments and request a public hearing before the Administrator issues a final decision in accordance with section 11.

The notice and opportunity to participate in this rulemaking proceeding through the submission of written and oral comments, in the manner described above, are consistent and in accordance with the procedural requirements of 5 U.S.C. 553 and section 501(b)(1) of the Department of Energy Organization Act (the Act).

The amendments prescribed in the procedures which were not included in the notice of this proceeding published in the FEDERAL REGISTER on January 3, 1978, are for the purpose of clarification in response to comments submitted by interested persons and are consistent with the purposes of the proposed rulemaking; further compliance with the notice provisions of 5 U.S.C. 553 and section 501(b)(1) of the Act, therefore is unnecessary.

In consideration of the foregoing, the Procedures for Public Participation in General Adjustments in Rates for Power marketed by the Western Area Power Administration are amended as set forth below.

Issued in Washington, D.C., March 20, 1978.

WILLIAM S. HEFFELFINGER,
Director of Administration.

PROCEDURES FOR PUBLIC PARTICIPATION IN GENERAL ADJUSTMENTS IN RATES FOR POWER MARKETED BY THE WESTERN AREA POWER ADMINISTRATION

1. *Purpose and scope.* The purpose of these procedures is to afford interested members of the public a reasonable opportunity for meaningful participation in the development of general adjustments in power rates for power marketed by the Western Area Power Administration, except power from the Falcon and Amistad dams. They apply to general adjustments in the power rates for a project that are necessary to assure financial feasibility, but they do not apply to other rate actions that have a minor impact on financial feasibility, such as technical adjustments in rates, the adoption of special rates for limited purposes, the adoption of rates for use in connection with power pool operations, and the like.

2. *Statutory authority.* The establishment of rates by the Department of Energy for power marketed by the Western Area Power Administration is pursuant to the Department of Energy Organization Act of 1977, Pub. L. 95-91; the Reclamation Act of 1902, as amended and supplemented by subsequent enactments, particularly section 9(c) of the Reclamation Project Act of 1939, 43 U.S.C. 485h(c); and the acts specifically applicable to the project in question. Consideration also is given to the statutes under which other power marketing agencies operate, particularly section 5 of the Flood Control Act of 1944, 16 U.S.C. 825s, and the Bonneville Project Act, as amended, 16 U.S.C. 832 et seq.

3. *Definitions.* As used herein—

a. "Departmental" refers to all personnel and components of the Department of Energy.

b. "Assistant Secretary" means the Assistant Secretary for Resource Applications of the Department of Energy or his designee.

c. "Administrator" means the Administrator of the Economic Regulatory Administration of the Department of Energy or his designee.

4. *Tentative rates.* The Assistant Secretary or his designee will announce by the issuance of a press release that tentative adjusted rates for the project have been prepared and are under consideration. Notice also shall be published in the FEDERAL REGISTER. The Department will mail to the power customers of the project and other interested persons information in writing concerning (1) the tentative rates, (2) the principal criteria used in developing the tentative rates, and (3) the schedule for public participation in the review of the tentative rates and in the development of the final rates.

5. *Consultation and comment period.* For a period ending ninety (90) days after the issuance of the press release, or fifteen (15) days after the close of the public comment forum described in section 7, below, whichever is later, all interested persons will have the opportunity to consult with, and obtain information from, Departmental representatives, to examine backup data, and to make suggestions for modification of the rates or criteria. At any time during this period, any person may file written comments with the Assistant Secretary for Resource Applications, U.S. Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, or as otherwise advised by public notice. Copies of all written comments will be available on request for a fee.

6. *Public information forums.* During the consultation and comment period, one or more public information forums will be held, during which Departmental representatives will explain the tentative rates and criteria, answer questions concerning them, and receive comments from interested persons. The forum(s) will be conducted by a chairman who will be responsible for orderly procedure. Questions which cannot be answered by Departmental representatives at the forum will either be answered at a subsequent information forum, if one is held, or answered in writing at least fifteen (15) days before the public comment forum described in section 7, below. The number and location of such forums will depend upon the size of the power marketing area of the project, the number and location of power customers, and the degree of interest shown. A transcript of each forum will be made, and copies of the transcript, of all documents introduced, and of the written answers to questions will be available on request for a fee.

7. *Public comment forum.* Not less than sixty (60) days after the issuance of the press release, one or more public comment forums will be held for the primary purpose of permitting interested persons to submit written comments or make oral presentations of their views and comments. The forum(s) will be conducted by a chairman who will be responsible for orderly procedure. Departmental representatives will be present, and they and the chairman may ask questions of the witnesses. Persons interested in speaking should submit a request to the Assistant Secretary for Resource Applications, Department of Energy, 12th and Pennsylvania Avenue NW., Washington, D.C. 20461, or as otherwise advised by public notice, at least three (3) days before the forum so a witness list can be developed. The chairman may allow others to speak if time allows. A transcript of the forum(s) will be made, and copies of the transcript and of all documents introduced will be available on request for a fee.

8. *Proposed decision on rate adjustment.* Following review of the information and comments gathered in the course of the proceedings described above, the Assistant Secretary will announce his proposed decision on the rate adjustment. The Assistant Secretary will issue an explanation of the principal factors leading to such decision.

9. *Review by the Administrator.* The Assistant Secretary will submit the proposed decision announced pursuant to section 8, whether it be for a final or an interim rate adjustment, to the Administrator for review. Interested persons will be given at least thirty (30) days from publication of notice in the FEDERAL REGISTER to submit comments in writing to the Administrator on the proposed decision. An opportunity for an oral presentation of views, data and arguments will be afforded interested persons upon request.

10. *Interim rates and supplemental proceedings.* (a) If the Assistant Secretary proposes an interim rate adjustment pursuant to section 8, the Administrator, if necessary and appropriate, will establish an interim rate following the notice and comment period provided for in section 9 prior to issuing a final rate decision pursuant to section 11, below. The Administrator will issue an explanation of the principal reasons for establishing an interim rate, taking into consideration written and oral comments offered by interested persons, and shall establish an effective date for the interim rate which shall not be less than sixty (60) days after his decision is issued.

(b) In the course of the review of a proposed final rate adjustment submitted by the Assistant Secretary pursuant to Section 8, above, the Administrator may determine that it is necessary and appropriate to adjust certain rates for an interim period prior to issuing a final decision under section 11, below. In such situations, notice will be published in the FEDERAL REGISTER, interested persons will be given at least thirty (30) days to submit written comments to the Administrator on the proposed interim rate adjustment and an opportunity for an oral presentation of views, data and arguments will be afforded interested persons upon request in accordance with section 9, above. Following the comment period, the Administrator will issue an explanation of the principal reasons for establishing an interim rate, taking into consideration written and oral comments offered by interested persons, and shall establish an effective date for the interim rate which shall not be less than sixty (60) days after his decision is issued.

(c) An interim rate adjustment shall be effective for not more than one year after its effective date, and in no case can an interim rate be established that exceeds the final or interim rate proposed by the Assistant Secretary pursuant to section 8. The Administrator may extend the interim rate adjustment beyond the one year period only upon request of the Assistant Secretary. In such situations notice of the Assistant Secretary's request to extend the interim rates will be published in the FEDERAL REGISTER, interested persons will be given at least thirty (30) days to submit written comments to the Administrator on the proposed extension, and an opportunity for an oral presentation of views, data and arguments will be afforded interested persons upon request.

(d) In any case wherein the Administrator establishes an interim rate, at least one supplemental public comment forum will be held and supplemental written comments, both in chief and in rebuttal, will be required before the Assistant Secretary again proposes a rate adjustment for the Administrator's review pursuant to section 8, above. Appropriate notice of the supplemental proceedings shall be made in the FEDERAL REGISTER. After the Assistant Secretary proposes a rate adjustment pursuant to section 8, interested persons will be given at least thirty (30) days to submit written comments to the Administrator on the proposed rate adjustment, and an opportunity for an oral presentation of views, data, and arguments will be afforded interested persons upon request, as contemplated by section 9, above. Thereafter, the Administrator shall issue a final decision in accordance with section 11, below.

(e) If the final rate as approved by the Administrator is lower than the interim rate, any over payment shall be refunded with simple interest at the rate of 7 percent per annum. A higher rate shall be prospective only.

11. *Final decision on rate adjustment.* Following the Administrator's review of any oral and written comments, the Administrator will announce the final decision on the rate adjustment and the effective date of the adjusted rates. The Administrator will issue an explanation of the principal reasons therefore. The effective date shall be not less than sixty (60) days after his decision is issued.

[FR Doc. 78-7709 Filed 3-22-78; 8:45 am]

[6560-01]

ENVIRONMENTAL PROTECTION AGENCY

[FRL 870-2-8; PW-15]

CHEVRON CHEMICAL

Withdrawal of Pesticide Petition

On April 8, 1976, the Environmental Protection Agency (EPA) gave notice (41 FR 14924) that Chevron Chemical Co., 940 Hensley St., Richmond, Calif. 94804, had filed a petition (PP 6F1763). This petition proposed the establishment of a regulation permitting the use of the herbicide S-[4-chlorophenyl)methyl] diethylcarbamothioate and its metabolites in various raw agricultural commodities.

Chevron Chemical Co. has withdrawn this petition without prejudice in accordance with the regulations (40 CFR 180.8) pertaining to Section 408 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 346a(d)).

Dated: March 15, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-7567 Filed 3-22-78; 8:45 am]

[6560-01]

[FRL 870-3; PF-95]

PESTICIDE PROGRAMS

Filing of Pesticide Petition

Mobay Chemical Co., P.O. Box 4913, Hawthorn Road, Kansas City, Mo. 64120, has submitted a petition (PP 6F2049) to the Environmental Protection Agency (EPA) which proposes that 40 CFR 180.332 be amended by establishing a tolerance for the combined residues of the herbicide metribuzin (4-amino-6-(1,1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5(4*H*)-one and its triazinone metabolites in or on the raw agricultural commodity soybean vines at 4.0 parts per million and the meat, fat and meat byproducts of cattle, goats, hogs, horses, poultry and sheep at 1.0 part per million. The proposed analytical method for determining residues is by gas chromatographic procedure using an electron capture detector. Notice of this submission is given pursuant to the provisions of Section 408(d)(1) of the Federal Food, Drug, and Cosmetic Act.

Interested persons are invited to submit written comments on this petition to the Federal Register Section, Technical Services Division (WH-569), Office of Pesticide Programs, EPA, Rm. 401, East Tower, 401 M Street SW., Washington, D.C. 20460. Inquiries concerning this petition may be directed to Product Manager (PM) 25, Registration Division (WH-567), Office of Pesticide Programs, at the above address, or by telephone at 202-426-2632. Written comments should bear a notation indicating the petition number. Comments may be made at any time while a petition is pending before the Agency. All written comments filed pursuant to this notice will be available for public inspection in the office of the Federal Register Section from 8:30 a.m. to 4 p.m. Monday through Friday.

Dated: March 15, 1978.

DOUGLAS D. CAMPT,
Acting Director,
Registration Division.

[FR Doc. 78-7593 Filed 3-22-78; 8:45 am]

[6560-01]

[FRL 869-5]

SCIENCE ADVISORY BOARD ECOLOGY COMMITTEE

Postponement of Open Meeting

The meeting of the Ecology Committee of the Science Advisory Board, previously scheduled at 9 a.m., April 3 and 4, 1978, in the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C. and announced in the March 15 issue of the FEDERAL

REGISTER, p. 10730, has been postponed. The meeting has been rescheduled for Monday and Tuesday, April 24 and 25, 1978, at 9 a.m. in the Administrator's Conference Room (Room 1101), Waterside Mall West Tower, 401 M Street SW., Washington, D.C.

The agenda includes a report on Science Advisory Board activities; a briefing on the feasibility study of the possible containment or removal of Kepone contaminants in the James River; updates on the Lakes Eutrophication Survey and the Shagawa Lake Projects; discussion on the organization of research in EPA, and the Office of Research and Development 5-Year Research Plan; report on projections of the Nation's water quality given best available control technology (BACT); considerations of Statements on Anticipatory Research; discussion on uniform National regulations versus regional regulations; and member items of interest.

The meeting is open to the public. Any member of the public wishing to attend, participate, or obtain information should contact Dr. J. Frances Allen, Executive Secretary, Ecology Committee, 703-557-7720.

Dated: March 16, 1978.

RICHARD M. DOWD,
Staff Director,
Science Advisory Board.

[FR Doc. 78-7595 Filed 3-22-78; 8:45 am]

[6560-01]

[OPP-42036A; FRL 869-8]

VERMONT

State Plan for Certification of Commercial and Private Applicators of Restricted Use Pesticides; Approval Status

Section 4(a)(2) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended (86 Stat. 973; 7 U.S.C. 136 et seq.), and the implementing regulations of 40 CFR Part 171, require each state desiring to certify applicators to submit a plan for its certification program for approval by the Environmental Protection Agency (EPA).

On December 3, 1976, notice was published in the FEDERAL REGISTER (41 FR 53133) of the intent of the Regional Administrator, EPA, Region I, to approve on a contingency basis, the Vermont State Plan for Certification of Commerical and Private Applicators of Restricted Use Pesticides (Vermont State Plan). Contingent approval was requested by the State of Vermont pending promulgation of additional implementing regulations necessary to permit Vermont to carry out FIFRA responsibilities.

Complete copies of the Vermont State Plan (except for sample examinations) were made available for public inspection at the following locations: Vermont Department of Agriculture, Montpelier, Vt.; EPA, Region I, Boston, Mass.; and EPA, Federal Register Section, Technical Services Division, Office of Pesticide Programs, Washington, D.C.

No comments were received on the State Plan during the 30-day comment period.

Subsequent to publication of the Notice of Intent to Approve the Vermont State Plan, the Vermont Department of Agriculture promulgated amendments effective on February 12, 1978, to the regulations for Control of Pesticides, correcting previously determined deficiencies. Having reviewed these regulations, EPA has determined that the Vermont State Plan satisfies the requirements of Section 4(a)(2) of the amended FIFRA and 40 CFR 171.

In view of the revision of regulations, EPA believes it would not serve any useful purpose to proceed with approval of the Vermont State Plan on a contingency basis, but rather believes it should proceed directly with action toward final approval and hereby provides public notice of such action. Accordingly, the Vermont State Plan is approved.

The Vermont State Plan will remain available for public inspection in the Department of Agriculture, Division of Plant Pest Control, State Office Building, 116 State Street, Montpelier, Vt. 05602.

Effective date: Pursuant to Section 4(d) of the Administrative Procedure Act, 5 U.S.C. 553(d), the Agency finds that there is good cause for providing that the approval granted herein to the Vermont State Plan shall be effective upon signature of this notice. Neither the Vermont State Plan itself nor this Agency's approval of the Plan creates any direct or immediate obligation on pesticide applicators or other persons in the State of Vermont. Delays in starting the work necessary to implement the Plan, such as may be occasioned by providing some later effective date for this approval, are inconsistent with the public interest. Accordingly, this approval shall become effective immediately.

Dated: March 6, 1978.

WILLIAM R. ADAMS, Jr.,
Regional Administrator,
Region I.

[FR Doc. 78-7568 Filed 3-22-78; 8:45 am]

[6560—01]

[FRL 870-1; OPP-250008]

PESTICIDE PROGRAMS

Federal Certification of Pesticide Applicators in States or on Indian Reservations Without an EPA Approved State or Tribal Certification Plan

AGENCY: Environmental Protection Agency (EPA), Office of Pesticide Programs.

ACTION: Notification to Secretary of Agriculture of Final Regulation.

SUMMARY: Notice is given as required by section 25(a)(2)(D) of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, that the Administrator, EPA, has forwarded to the Secretary of the U.S. Department of Agriculture a copy of EPA's final regulation specifying the requirements which will apply to applicators of restricted use pesticides under a Federal certification program.

FOR FURTHER INFORMATION CONTACT:

Lois French, Acting Chief, Regional Support Branch, Operations Division (WH-570), Office of Pesticide Programs, EPA, 401 M Street SW., Washington, D.C. 20460, telephone 202-755-0356.

SUPPLEMENTARY INFORMATION: Section 25(a)(2)(B) of FIFRA states that the Administrator shall provide the Secretary of Agriculture a copy of any final regulation at least 30 days prior to signing it for publication in the FEDERAL REGISTER. If the Secretary comments in writing regarding the final regulation within 15 dyas after receiving it, the Administrator shall publish in the FEDERAL REGISTER (with the final regulation) the comments of the Secretary, if requested, and the response thereto of the Administrator. If the Secretary does not comment in writing within 15 days ater receiving the final regulation, the Administrator may sign such regulation for publication in the FEDERAL REGISTER any time after such 15-day period.

Pursuant to FIFRA section 25(a)(3), a copy of this final regulation has been forwarded to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture and Forestry of the Senate. The final regulation has also been submitted to the FIFRA Scientific Advisory Panel, as required by Section 25(d).

STATUTORY AUTHORITY: Section 25 of the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (Pub. L. 92-516, 86 Stat. 973; Pub. L. 94-140, 89 Stat. 751; 7 U.S.C. 136 et seq.).

Dated: March 16, 1978.

EDWIN L. JOHNSON,
Deputy Assistant Administrator
for Pesticide Programs.

[FR Doc. 78-7597 Filed 3-22-78; 8:45 am]

[6712-01]

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 902]

COMMON CARRIER SERVICES INFORMATION

Applications Accepted for Filing

MARCH 20, 1978.

The applications listed herein have been found, upon initial review, to be acceptable for filing. The Commission reserves the right to return any of these applications, if upon further examination, it is determined they are defective and not in conformance with the Commission's Rules and Regulations or its policies.

Final action will not be taken on any of these applications earlier than 31 days following the date of this notice, except for radio applications not requiring a 30 day notice period (see § 309(c) of the Communications Act), applications filed under part 68, applications filed under Part 63 relative to small projects, or as otherwise noted. Unless specified to the contrary, comments or petitions may be filed concerning radio and Section 214 applications within 30 days of the date of this notice and within 20 days for Part 68 applications.

In order for an application filed under Part 21 of the Commission's Rules (Domestic Public Radio Services) to be considered mutually exclusive with any other such application appearing herein, it must be substantially complete and tendered for filing by whichever date is earlier: (a) the close of business one business day preceding the day on which the Commission takes action on the previously filed application; or (b) within 60 days after the date of the public notice listing the first prior filed application (with which the subsequent application is in conflict) as having been accepted for filing. In common carrier radio services other than those listed under Part 21, the cut-off date for filing a mutually exclusive application is the close of business one business day preceding the day on which the previously filed application is designated for hearing. With limited exceptions, an application which is subsequently amended by a major change will be considered as a newly filed application for purposes of the cut-off rule. (See § 1.227(b)(3) and 21.30(b) of the Commission's Rules.)

FEDERAL COMMUNICATIONS COMMISSION,
WILLIAM J. TRICARICO,
Secretary.

APPLICATIONS ACCEPTED FOR FILING

DOMESTIC PUBLIC LAND MOBILE RADIO SERVICE

20999-CD-P-78 Radio Dispatch Co. (new) C.P. for a new 1-way station to operate on 35.58 MHz to be located at 360 Clayton road, Lakewood, N.J.

21003-CD-P-(3)-78 Northwestern Bell Telephone Co. (KFL883) C.P. to change antenna system and relocate facilities operating on 152.54 and 152.60 MHz, base and 157.80 and 157.86 MHz, test to be located at 3101 West 1st Street, Sioux City, Iowa.

21004-CD-P-(3)-78 Tel-Car, Inc. (new) C.P. for a new 1-way station to operate on 43.58 MHz, base at two sites described as: Loc. No. 1: Flattop Butte, 5.5 miles East of Jerome, Idaho; Loc. No. 2: 7 miles SSW of Albion, Idaho; and control facilities to operate on 454.100 MHz at Loc. No. 3: 408 6th Avenue, West, Twin Falls, Idaho.

21007-CD-P/L-10-78 Radio Dispatch Co. (new) C.P. for a new temporary fixed station to operate on 43.26 43.38 and 43.46 MHz at any temporary off-shore location within territory of the grantee.

21010-CD-P-(3)-78 Radio Telephone Communications, Inc. (KIR200) C.P. to replace transmitter operating on 152.09 MHz, change antenna system and relocate facilities operating on 152.06 152.09 and 152.18 MHz to be located 0.4 mile North of I-10, 0.6 mile West of Old Bainbridge Road, Tallahassee, Fla.

21012-CD-P-78 J. M. Blodgett d.b.a. Radio Page Communications (KWT885) C.P. to change antenna system operating on 35.58 MHz located at Brighton Tower apartment, 2834 Atlantic Avenue, Atlantic City, N.J., Loc. No. 2.

21014-CD-P/ML-(2)-78 The Wheat State Telephone Co., Inc. (KBM514) Reinstatement of expired C.P. to change antenna system and relocate facilities operating on 152.57 MHz and for additional facilities to operate on 152.69 MHz to be located at 106 West First Street, Udall, Kans.

CORRECTION

MAJOR AMENDMENT

21780-CD-P-(4)-74 South Central Bell Telephone Co. (KKI454) Houma, La. Correct file number to read 21780-CD-P-(4)-75. All other particulars to remain as reported on PN No. 889 dated December 19, 1977.

INFORMATIVE:

The proposed construction has been determined to be a Major Action as defined by section 1.1305 of the Commission's Rules.

21006-CD-P-78 King Communications, Inc. (new) C.P. for a new 1-way station to operate on 152.24 MHz to be located at SE Corner of Jackson and Headley Roads, New Greenleaf, Mich.

RURAL RADIO SERVICE

60121-CR-P-78 RCA Alaska Communications, Inc. (WAV576) C.P. to change power, change antenna system and transmitter, and correct coordinates operating on 157.3125 MHz at ALPS remote block valve No. 68, 23 miles NW of Fairbanks, RBV68, Alaska.

60122-CR-P-78 Same as above except, (WAV571) frequency 161.9625 MHZ, ALPS remote block valve No. 62, 71 miles NW of Fairbanks, RBV 62, Alaska.

60123-CR-P-78 Same as above except, (WAV560) frequency 161.8875 MHz, ALPS remote block valve No. 51, 153 miles NW. of Fairbanks, RBV 51, Alaska.

60124-CR-P-78 Same as above except, (WAV561) frequency 161.8875 MHz, ALPS remote block valve No. 53, 148 miles NW. of Fairbanks, RBV 53, Alaska.

60125-CR-P-78 Same as above except, (WAV562) frequency 161.8875 MHz, ALPS remote block valve No. 54, 151 miles NW. of Fairbanks, RBV 54, Alaska.

60126-CR-P-78 Same as above except (WAV603) frequency 161.9625 MHz, ALPS remote block valve No. 104, 7 miles NW. of Fairbanks, RBV 104, Alaska.

60127-CR-P-78 Same as above except (WAV612) frequency 161.8625 MHz, ALPS remote block valve No. 115, 51 miles NW. of Fairbanks, RBV 115, Alaska.

60128-CR-P-78 Same as above except (WAV609) frequency 161.9875 MHz, ALPS remote block valve No. 113, 37 miles NW. of Fairbanks, RBV 113, Alaska.

60129-CR-P-78 Same as above except (WAV573) frequency 161.9625 MHz, ALPS remote block valve No. 67, 39 miles NW. of Fairbanks, RBV 67, Alaska.

60130-CR-P-78 Same as above except (WAV572) frequency 161.9625 MHz, ALPS remote block valve No. 65, 54 miles NW. of Fairbanks, RBV 65, Alaska.

60131-CR-P-78 Same as above except (WAV578) frequency 157.3125 MHz, ALPS remote block valve No. 69, 16 miles NNW. of Fairbanks, RBV 69A, Alaska.

60132-CR-P-78 Same as above except (WAV581) frequency 161.8875 MHz, ALPS remote block valve No. 72, 7 miles NE. of Fairbanks, RBV 72, Alaska.

60133-CR-P-78 Same as above except (WAV577) frequency 157.3125 MHz, ALPS remote block valve No. 69, 18 miles NNW. of Fairbanks, RBV 69, Alaska.

60134-CR-P-78 Same as above except (WAV554) frequency 157.3125 MHz, ALPS remote block valve No. 45, 179 miles NNW. of Fairbanks, RBV 45, Alaska.

60135-CR-P-78 Same as above except (WAV553) frequency 157.3125 MHz, ALPS Remote Block Valve No. 44, 181 miles NNW. of Fairbanks, RBV 44, Alaska.

60136-CR-P-78 Same as above except (WAV552) frequency 157.3125 MHz, ALPS Remote Block Valve No. 43, 184 miles NNW. of Fairbanks, RBV 43, Alaska.

60137-CR-P-78 Same as above except (WAV551) frequency 157.3125 MHz, ALPS Remote Block Valve No. 42, 187 miles NNW. of Fairbanks, RBV 42, Alaska.

60138-CR-P-78 Same as above except (WAV549) frequency 157.3375 MHz, ALPS Remote Block Valve No. 40, 193 miles south of Deadhorse, RBV 40, Alaska.

60139-CR-P-78 Same as above except (WAV548) frequency 161.9875 & 161.9375 MHz, ALPS Remote Block Valve No. 39, 191 miles south of Deadhorse, RBV 39, Alaska.

60140-CR-P-78 Same as above except (WAV547) frequency 161.9875 MHz, ALPS Remote Block Valve No. 37, 181 miles south of Deadhorse, RBV 37, Alaska.

60141-CR-P-78 Same as above except (WAV622) frequency 155.6375 MHz, ALPS Remote Block Valve No. 123, 15 miles east of Valdez, RBV 123, Alaska.

60142-CR-P-78 Same as above except (WAV615) frequency 157.3625 MHz, ALPS Remote Block Valve No. 117, 35 miles NE. of Valdez, RBV 117, Alaska.

60143-CR-P-78 Same as above except (WAV616) frequency 157.3625 MHz, ALPS Remote Block Valve No. 118, 31 miles east of Valdez, RBV 118, Alaska.

60144-CR-P-78 Same as above except (WAV617) frequency 157.3625 MHz, ALPS Remote Block Valve No. 119, 27 miles east of Valdez, RBV 119, Alaska.

60145-CR-P-78 Same as above except (WAV621) frequency 155.6375 MHz, ALPS

Remote Block Valve No. 121A, 17 miles east of Valdez, RBV 121A, Alaska.

60146-CR-P-78 Same as above except (WAV620) frequency 155.6375 MHz, ALPS Remote Block Valve No. 121, 19 miles east of Valdez, RBV 121, Alaska.

60147-CR-P-78 Same as above except (WAV604) frequency 161.9625 MHz, ALPS Remote Block Valve No. 105, 3 miles NNE. of Glennallen, RBV 105, Alaska.

60148-CR-P-78 Same as above except (WAV613) frequency 161.8625 MHz, ALPS Remote Block Valve No. 116, 53 miles south of Glennallen, RBV 116, Alaska.

60149-CR-P-78 Same as above except (WAV597) frequency 157.2625 MHz, ALPS Remote Block Valve No. 98A, 30 miles north of Glennallen, RBV 98A, Alaska.

60150-CR-P-78 Same as above except (WAV596) frequency 157.2625 MHz, ALPS Remote Block Valve No. 98, 33 miles north of Glennallen, RBV 98 Alaska.

60151-CR-P-78 Same as above except (WAV594) frequency 157.2625 MHz, ALPS Remote Block Valve No. 96, 49 miles north of Glennallen, RBV 96, Alaska.

60152-CR-P-78 Same as above except (WAV595) frequency 157.2625 MHz, ALPS Remote Block Valve No. 97, 36 miles north of Glennallen, RBV 97, Alaska.

60153-CR-P-78 Same as above except (WAV593) frequency 157.2625 MHz, ALPS Remote Block Valve No. 95B, 53 miles north of Glennallen, RBV 95B, Alaska.

60154-CR-P-78 Same as above except (WAV592) frequency 157.2625 MHz, ALPS Remote Block Valve No. 95, 65 miles north of Glennallen, RBV 95, Alaska.

60155-CR-P-78 Same as above except (WAV589) frequency 157.3875 MHz, ALPS Remote Block Valve No. 91, 86 miles north of Glennallen, RBV 91, Alaska.

60156-CR-P-78 Same as above except (WAV584) frequency 161.8625 MHz, ALPS Remote Block Valve No. 80, 61 miles SE. of Fairbanks, RBV 80, Alaska.

60157-CR-P-78 Same as above except (WAV583) frequency 161.8625 MHz, ALPS Remote Block Valve No. 77A, 39 miles SE. of Fairbanks, RBV 77A, Alaska.

60158-CR-P-78 Same as above except (WAV582) frequency 161.8875 MHz, ALPS Remote Block Valve No. 73, 7 miles NE. of Fairbanks, RBV 73, Alaska.

60159-CR-P-78 Same as above except (WAV587) frequency 161.8375 MHz, ALPS Remote Block Valve No. 88, 101 miles SE. of Fairbanks, RBV 88, Alaska.

60160-CR-P-78 Same as above except (WAV568) frequency 157.3375 MHz, ALPS Remote Block Valve No. 60, 93 miles NW. of Fairbanks, RBV 60, Alaska.

60161-CR-P-78 Same as above except (WAV567) frequency 157.3375 MHz, ALPS Remote Block Valve No. 59, 102 miles NW. of Fairbanks, RBV 59, Alaska.

60162-CR-P-78 Same as above except (WAV566) frequency 157.3375 MHz, ALPS Remote Block Valve No. 58, 113 miles NW. of Fairbanks, RBV 58, Alaska.

60163-CR-P-78 Same as above except (WAV565) frequency 157.3375 MHz, ALPS Remote Block Valve No. 57, 118 miles NW. of Fairbanks, RBV 57, Alaska.

60164-CR-P-78 Same as above except (WAV563) frequency 161.8875 MHz, ALPS Remote Block Valve No. 56, 124 miles NW of Fairbanks, RBV 56, Alaska.

60165-CR-P-78 Same as above except (WAV557) frequency 161.9625 MHz, ALPS Remote Block Valve No. 49, 163 miles NNW. of Fairbanks, RBV 49, Alaska.

60166-CR-P-78 Same as above except (WAV556) frequency 161.9625 MHz, ALPS Remote Block Valve No. 47, 169 miles NNW. of Fairbanks, RBV 47, Alaska.

60167-CR-P-78 Same as above (WAV546) frequency 161.9875 MHz, ALPS Remote Block Valve No. 36, 174 miles south of Deadhorse, RBV 36, Alaska.

60168-CR-P-78 Same as above (WAV545) frequency 161.9875 MHz, ALPS Remote Block Valve No. 35A, 171 miles south of Deadhorse, RBV 35A, Alaska.

60169-CR-P-78 Same as above (WAV544) frequency 161.9875 MHz, ALPS Remote Block Valve No. 35, 167 miles south of Deadhorse, RBV 35, Alaska.

60170-CR-P-78 Same as above (WAV543) frequency 161.9875 MHz, ALPS Remote Block Valve No. 34, 163 miles south of Deadhorse, RBV 34, Alaska.

60171-CR-P-78 Same as above (WAV541) frequency 157.2625 MHz, ALPS Remote Block Valve No. 33, 159 miles south of Deadhorse, RBV 33, Alaska.

60172-CR-P-78 Same as above (WAV540) frequency 157.2625 MHz, ALPS Remote Block Valve No. 32, 155 miles south of Deadhorse, RBV 32, Alaska.

60173-CR-P-78 Same as above (WAV535) frequency 161.9375 MHz, ALPS Remote Block Valve No. 26, 123 miles south of Deadhorse, RBV 26, Alaska.

60174-CR-P-78 Same as above (WAV539) frequency 157.2625 MHz, ALPS Remote Block Valve No. 31, 149 miles south of Deadhorse, RBV 31, Alaska.

60175-CR-P-78 Same as above (WAV623) frequency 155.6375 MHz, ALPS Remote Block Valve No. 124, 11 miles SE of Valdez, RBV 124, Alaska.

60176-CR-P-78 Same as above (WAV624) frequency 155.6375 MHz, ALPS Remote Block Valve No. 125, 6 miles SSE. of Valdez, RBV 125, Alaska.

60177-CR-P-78 Same as above (WAV605) frequency 161.5875 MHz, ALPS Remote Block Valve No. 107, 8 miles SSE. of Glennallen, RBV 107, Alaska.

60178-CR-P-78 Same as above (WAV606) frequency 161.9875 MHz, ALPS Remote Block Valve No. 108, 13 miles SSE. of Glennallen, RBV 108, Alaska.

60179-CR-P-78 Same as above (WAV601) frequency 161.9625 MHz, ALPS Remote Block Valve No. 103, 11 miles north of Glennallen, RBV 103, Alaska.

60180-CR-P-78 Same as above (WAV599) frequency 157.2625 MHz, ALPS Remote Block Valve No. 101, 18 miles north of Glennallen, RBV 101, Alaska.

60181-CR-P-78 Same as above (WAV600) frequency 157.2625 MHz, ALPS Remote Block Valve No. 102, 15 miles north of Glennallen, RBV 102, Alaska.

60182-CR-P-78 Same as above (WAV598) frequency 157.2625 MHz, ALPS Remote Block Valve No. 100, 24 miles north of Glennallen, RBV 100, Alaska.

60120-CR-P-78 Calvin Black Enterprises (new) C.P. for a new rural subscriber station to operate on 157.77 MHz to be located 46 miles South 82°20' West from Blanding, Utah, Sec. 24, Township 37, Range 15E, Utah.

NM—1631-CF-P-78 Mountain States Telephone & Telegraph Co. (KKK22), Tano, 3 miles NNW of Santa Fe (Santa Fe), N. Mex. (lat. 35°43'20" N. Long. 105°57'36" W.). C.P. to add frequencies 11565.V and 11405V MHz toward Cienega, N. Mex.

NM—1629-CF-P-78 Same (KKA65), 5.3 miles NNW of Bernalillo (Sandoval), N. Mex. (Lat. 35°22'22" N. Long. 106°34'15" W.). C.P. to add frequency 11405V MHz toward Bernalillo, N. Mex.

NM—1630-CF-P-78 Same (KKA72), 3.5 miles SSW of La Cienega (Santa Fe), N. Mex. (Lat. 35°30'51" N., Long. 106°08'30" W.). C.P. to add frequencies 10955V MHz toward Bernalillo, and Tano, N. Mex., 10795V MHz toward Tano, N. Mex.

AK-1550-CF-P-78 RCA Alaska Communications, Inc. (new) Galena ES 7.8 miles SE of Galena, Alaska (Lat. 64°41'18" N., Long 156°43'17" W.). C.P. for a new station on frequency 2120.4H MHz on azimuth 299.4° toward Galena AFB, Alaska.

AK—1551-CF-P-78 Same (new) Galena AFB 1 mile NW of Galera, Alaska (Lat. 64°44'37" N., Long. 156°57'07" W.). C.P. for a new station on frequency 2170.4H MHz on azimuth 119.2° toward Galena ES, Alaska.

TX—1310-CF-P-78 Cameron Telephone Co. (WBA866), NW Corner of 2nd and Pear, Winnie (Chambers), Tex. (Lat. 29°49'10" N., Long. 94°22'55" W.). C.P. to replace transmitters on frequency 2178V MHz toward High Island, Tex.

TX—1309-CF-P-78 Same (WBA867), Seventh Street, High Island (Galveston), Tex., (Lat. 29°33'49" N., Long. 94°23'35" W.). C.P. to replace transmitters on frequency 2128V MHz toward Winnie, Tex.

MO—1647-CF-P-78 United Telephone Co. of Missouri (new) 1215 Broadway, Oak Grove (Jackson), Mo. (Lat. 39°00'15" N., Long. 94°07'42" W.). C.P. for a new station on frequency 10895V MHz on azimuth 92.8° toward Odessa, Mo.

MO—1648-CF-P-78 Same (new) West Dryden Street, Odessa (Lafayette), MO. (Lat. 38°59'51" N., Long. 93°57'15" W.). C.P. for a new station on frequencies 11305V MHz on azimuth 272.9° toward Oak Grove, Mo., and 11625 MHz on azimuth 21.8° toward Lexington, Mo.

MO—1649-CF-P-78 Same (new) 24th Street and Aull Lane, Lexington (Lafayette), Mo. (Lat. 39°10'32" N., Long. 99°51'46" W.). C.P. for a new station on frequency 10975V MHz on azimuth 201.8° toward Odessa, Mo.

CO—1640-CF-P-78 Mountain States Telephone & Telegraph Co. (KOC83), Greeley Junction 3 miles SW of Greeley (Weld), Colo. (Lat. 40°23'10" N., Long. 104°44'11" W.). C.P. to add frequencies 5945.2V, 6004.5V, and 2110H MHz toward Hardin, Colo.

CO—1641-CF-P-78 Same (KPP22), 2 miles SW of Hardin (Weld), Colo. (Lat. 40°19'35" N., Long. 104°26'19" W.). C.P. to increase structure height and add frequencies 6197.2V, 6256.5V, 2165V MHz toward Wiggins, Colo., 6197.2H, 6256.5H, and 2160H MHz toward Greeley Junction, Colo.

CO—1642-CF-P-78 Same (KPP23), 6 miles west of Wiggins (Weld), Colo. (Lat. 40°13'34" N., Long. 104°11'15" W.). C.P. to add frequencies 2110V, 5945.2V, and 6004.5V MHz toward Fort Morgan, Colo., 5945.2H, 6004.5H, and 2115V MHz toward Hardin, Colo.

CO—1643-CF-P-78 Same (KPP24), 410 State Street, Fort Morgan (Morgan), Co o (Lat. 40°15'06" N., Long. 103°47'57" W.). C.P. to replace transmitters, add frequencies 6197.2H, 6256.5H, and 2160V MHz toward Wiggins, Colo., replace antennas on 11405V MHz toward Fremont Butte, Colo., and change frequency 6382.6H MHz to 6375.2V MHz toward Fremont Butte, Colo.

CO—1644-CF-P-78 Same (KPP25), Fremont Butte, 8.5 miles NW of Akron (Washington), Colo (Lat. 40°15'51" N., Long. 103°19'06" W.). C.P. to replace trans-

mitters, change frequencies 6115.7V to 6123.1V MHz toward Sterling, Colo. and 6130.5H MHz to 6123.1H MHz toward Fort Morgan, Colo., replace antennas on frequencies 10755V MHz toward Sterling, Colo. and 10955V MHz toward Fort Morgan, Colo.

CO—1645-CF-P-78 Same (KKP26), 304 SO Division Avenue, Sterling (Logan), Colo. (Lat. 40°37'23" N. Long. 12°40' W.). C.P. to replace transmitters and change frequency 6367.7V to 6375.2H MHz toward Fremont Butte, Colo., move and replace antennas on frequencies 11685V MHz toward Fremont Butte and 2162H MHz toward Peetz, Colo.

CO—1646-CF-P-78 Same WBB233), 9.8 miles east of Peetz (Logan), Colo. (Lat. 49°57'32" N., Long. 102°55'32" W.). C.P. to move antennas on frequency 2112H MHz toward Sterling, Colo.

FL—1632-CF-P-78 American Television & Communications Corp. (WSM71), Fox Lake Road, Highway 405 and I-95, Melbourne, Fla. (Lat. 28°08'53" N., Long. 80°42'12" W.). C.P. add frequency 6315.9V MHz directed toward Micco, Fla. on azimuth 150.1°. (Note: Carrier requests a waiver of section 21.701(i).)

NY—1635-CF-P-78 Eastern Microwave, Inc. (WCG340), 1650 Eastern Avenue, Schenectady, N.Y. (Lat. 42°48'24" N., Long. 73°54'44" W). C.P. to change frequency 6152.8H MHz to 5974.8H MHz toward Helderberg, Mountain, N.Y. on azimuth 200.0°. (Note: Carrier requests a waiver of section 21.701 (i).)

NC—1657-CF-P-78 American Television & Communications Corp. (WBA778), Hooks River Road at George Street, Goldsboro, N.C. (Lat. 35°24'33.4' N., Long. 77°59'15.4" W.). C.P. to add 6212.OH MHz directed toward Kinston, N.C. via power split on azimuth 104.4°. (Note: Carrier requests a waiver of section 21.701(i).)

NC—1658-CF-P-78 Same as above (new) 4.5 miles NE of Kinston, N.C. (Lat. 35°18'33" N., Long. 77°30'56" W.). C.P. for a new station to operate on 5989.7V MHz toward Greenville and 5989.7H MHz toward New Bern, N.C. on azimuths 21.0° and 118.0°, respectively. (Note: Carrier requests a waiver of section 21.701(i).)

MAJOR AMENDMENT

1355-CF-P-78 Mid-Kansas, Inc. (WCT892), 1.5 miles north of Washington, Kans. Change transmit frequency to read 6049.5V MHz directed toward Beatrice and Marysville. All other particulars remain the same as report on Public Notice dated February 21, 1978, Report No. 898.

[FR Doc. 78-7734 Filed 3-22-78; 8:45 am]

[6730-01]

FEDERAL MARITIME COMMISSION

NOTICE OF AGREEMENT FILED

Notice is hereby given that the following agreement has been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of the agreement at the Washington office of the Federal Maritime Commission, 1100 L Street NW., Room 10126, or may inspect the agreement at the Field Offices located at New York, N.Y., New Orleans, La., San Juan, P.R., and San Francisco, Calif. Comments on such agreements, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before April 3, 1978. Any person desiring a hearing on the proposed agreement shall provide a clear and concise statement of the matters upon which they desire to adduce evidence. An allegation of discrimination or unfairness shall be accompanied by a statement describing the discrimination or unfairness with particularity. If a violation of the Act or detriment to the commerce of the United States is alleged, the statement shall set forth with particularity the acts and circumstances said to constitute such violation or detriment to commerce.

A copy of any such statement should also be forwarded to the party filing the agreement (as indicated hereinafter) and the statement should indicate that this has been done.

AGREEMENT NO.: 9902-3 (Sub. 2).

FILING PARTY: Edward Schmeltzer, Esq., Schmeltzer, Aptaker & Sheppard, P.C., Suite 305, 1150 Connecticut Avenue NW., Washington, D.C. 20036.

SUMMARY: The subject agreement provides that Euro-Pacific Joint Service may charter up to 250 TEUs of space in the Europe to U.S. West Coast trade to dispose of an existing cargo backlog.

By Order of the Federal Maritime Commission.

Dated: March 20, 1978.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-7774 Filed 3-22-78; 8:45 am]

[6210-01]

FEDERAL RESERVE SYSTEM

BANCONAC SHARES, INC.

Formation of Bank Holding Company

Banconac Shares, Inc., Hollywood, Fla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 100 percent of the voting shares (less directors' qualifying shares) of Caribbean National Bank, Coral Gables, Fla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Atlanta. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 12, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7699 Filed 3-22-78; 8:45 am]

[6210-01]

CHEMICAL NEW YORK CORP.

Proposed Acquisition of Investment and Capital Management Corp.

Chemical New York Corp., New York, N.Y., has applied, pursuant to section 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 Investment and Capital Management Corp., Chicago, Ill. Notice of the application was published in newspapers of general circulation in communities to be served.

Applicant states that the proposed subsidiary would engage in the activities of acting as investment or financial adviser to the extent of serving as investment adviser, as defined in section 2(a)(20) of the Investment Company Act of 1940, to an investment company registered under that Act; providing portfolio advice to any other person; and furnishing general economic information and advice, general economic statistical forecasting services and industry studies. 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 outweighs 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 New York.

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 April 13, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7706 Filed 3-22-78; 8:45 am]

[6210-01]

EMPIRE BANCORP, INC.

Acquisition of Bank

Empire Bancorp, Inc., Kansas City, Mo., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 90 percent or more of the voting shares of The Bank of Otterville, Otterville, 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 Kansas City. 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 not later than April 12, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7705 Filed 3-22-78; 8:45 am]

[6210-01]

FIRST CITY BANCORPORATION OF TEXAS, INC.

Acquisition of Bank

First City Bancorporation of Texas, Inc., Houston, Tex., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 100 percent of the voting shares (less directors' qualifying shares) of West Ten National Bank, El Paso, Tex., a proposed new bank. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. 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 not later than April 12, 1978.

Board of Governors of the Federal Reserve System, March 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7701 Filed 3-22-78; 8:45 am]

[6210-01]

FIRST EDWARDSVILLE CORP.

Formation of Bank Holding Company

First Edwardsville Corp., Edwardsville, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares of Edwardsville National Bank & Trust Co., Edwardsville, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of 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 April 11, 1978.

Board of Governors of the Federal Reserve System, March 15, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7695 Filed 3-22-78; 8:45 am]

[6210-01]

FIRST FORMOSO, INC.

Formation of Bank Holding Company

First Formoso, Inc., Formoso, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 85.33 percent of the voting shares (less directors' qualifying shares) of the First National Bank of Formoso, Formoso, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. 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 not later than April 10, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7697 Filed 3-22-78; 8:45 am]

[6210-01]

FIRST THOMAS BAN CORP.

Formation of Bank Holding Company

First Thomas Ban Corp., Thomas, Okla., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less director's qualifying shares) of the First National Bank of Thomas, Thomas, Okla. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. 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 April 11, 1978.

Board of Governors of the Federal Reserve System, March 16, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7696 Filed 3-22-78; 8:45 am]

[6210-01]

OTTO BREMER CO.

Acquisition of Bank

Otto Bremer Co., St. Paul, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 36.3 percent of the voting shares of Foster County Bank & Trust Co., Carrington, N. Dak. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 10, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7702 Filed 3-22-78; 8:45 am]

[6210-01]

OTTO BREMER CO.

Acquisition of Bank

Otto Bremer Co., St. Paul, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 31.3 percent of the voting shares of Detroit State Bank, Detroit Lakes, Minn. The fac-

tors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 10, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7703 Filed 3-22-78; 8:45 am]

[6210-01]

OTTO BREMER CO.

Acquisition of Bank

Otto Bremer Co., St. Paul, Minn., has applied for the Board's approval under section 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 20.5 percent of the voting shares of the Casselton State Bank, Casselton, N.Dak. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than April 10, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7704 Filed 3-22-78; 8:45 am]

[6210-01]

OTTO BREMER CO.

Acquisition of Bank

Otto Bremer Co., St. Paul, Minn., has applied for the Board's approval under 3(a)(3) of the Bank Holding Company Act (12 U.S.C. 1842(a)(3)) to acquire 19.5 percent of the voting shares of First American National Bank of St. Cloud, St. Cloud, Minn. 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 Minneapolis. 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 not later than April 10, 1978.

Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7707 Filed 3-22-78; 8:45 am]

[6210-01]

P.N.B. FINANCIAL CORP.

Formation of Bank Holding Company

P.N.B. Financial Corp., Chicago, Ill., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 81.78 percent of the voting shares of Park National Bank of Chicago, Chicago, Ill. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Chicago. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 13, 1978.

The Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7700 Filed 3-22-78; 8:45 am]

[6210-01]

PRAIRIE BANKSHARES, INC.

Formation of Bank Holding Company

Prairie Bankshares, Inc., Bucklin, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 86.4 percent or more of the voting shares of The State Bank, Pretty Prairie, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the act (12 U.S.C. 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than April 11, 1978.

The Board of Governors of the Federal Reserve System, March 17, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7698 Filed 3-22-78; 8:45 a.m.]

[6210-01]

SHAWNEE BANK SHARES, INC.

Formation of Bank Holding Company

Shawnee Bank Shares, Inc., Shawnee, Kans., has applied for the Board's approval under section 3(a)(1) of the Bank Holding Company Act (12 U.S.C. 1842(a)(1)) to become a bank holding company by acquiring 80 percent of the voting shares of The Shawnee State Bank, Shawnee, Kans. The factors that are considered in acting on the application are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Shawnee Bank Shares, Inc., Shawnee, Kans., has also applied, pursuant to section 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 C. H. Pflumm & Sons Insurance Agency, Shawnee, Kans. Notice of the application was published on January 19, 1978, in "The Kansas City Star," a newspaper circulated in Kansas City, Jackson County, Mo.

Applicant states that the proposed subsidiary would engage in the sale of credit life and accident and health insurance directly related to extensions of credit by The Shawnee State Bank. 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 April 11, 1978.

Board of Governors of the Federal Reserve System, March 15, 1978.

GRIFFITH L. GARWOOD,
Deputy Secretary of the Board.

[FR Doc. 78-7694 Filed 3-22-78; 8:45 am]

[6820-22]

GENERAL SERVICES ADMINISTRATION

REGIONAL PUBLIC ADVISORY PANEL ON ARCHITECTURAL AND ENGINEERING SERVICES

Meeting

Pursuant to Pub. L. 92-463, notice is hereby given of a meeting of the Regional Public Advisory Panel on Architectural and Engineering Services, Region 5, April 6, 1978, from 10 a.m. to 4 p.m., Room 3520A, John C. Kluczynski Federal Building, 230 South Dearborn Street, Chicago, Ill. The meeting will be devoted to the review of the concept submittal for the proposed new Federal Building, U.S. Courthouse, Madison, Wis. The meeting will be open to the public.

WILLIAM B. MORRISON,
Acting Regional Administrator.

[FR Doc. 78-7645 Filed 3-22-78; 8:45 am]

[6820-24]

[Case No. 78-0045; Intervention Notice 55]

ILLINOIS COMMERCE COMMISSION AND COMMONWEALTH EDISON CO.

Proposed Intervention in Rate Increase Proceeding

The Administrator of General Services seeks to intervene in a proceeding before the Illinois Commerce Commission involving an application of Commonwealth Edison Co. for an increase in its tariffed rates for intrastate electric service. The Administrator of General Services represents the interests of the executive agencies of the United States Government as users of utility services.

Persons desiring to make inquires of GSA concerning this case should submit them, in writing, to Mr. Spence W. Perry, Assistant General Counsel, Regulatory Law Division, General Services Administration, 18th and F Streets NW., Washington, D.C. 20405, telephone 202-566-0726, on or before April 24, 1978, and refer to this notice number.

Persons making inquiries are put on notice that the making of an inquiry shall not serve to make any persons parties of record in the proceeding.

(Section 201(a)(4), Federal Property and Administrative Services Act, 40 U.S.C. 481(a)(4)).

Dated: March 10, 1978.

ROBERT T. GRIFFIN,
Acting Administrator of General Services.

[FR Doc. 78-7660 Filed 3-22-78; 8:45 am]

[4110-35]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PRIVACY ACT OF 1974

Systems of Records and Notice of Proposed Routine Uses

AGENCY: Department of Health, Education, and Welfare; Health Care Financing Administration.

ACTION: Notification of new systems of records, Medicare Second Surgical Opinion Experiments, HCFA No. 09-70-0001.

SUMMARY: A new system of records of the Health Care Financing Administration is hereby published in accordance with the requirements of 5 U.S.C. 522a(e)(4) (Privacy Act of 1974, Pub. L. 93-579, 88 Stat. 1896). In accordance with the provisions of 5 U.S.C. 522a(e)(11), the routine uses of these systems are set out for public comment. Interested persons are invited to submit written comments with respect to these routine uses.

DATES: The routine uses of this new system of records will become effective as proposed without further notice in 60 calendar days from the date of this publication, May 22, 1978, unless comments are received on or before May 22, 1978, which would result in a contrary determination. A new system report was filed for this new system with the Director, Office of Management and Budget, the Speaker of the House, and the President of the Senate on March 10, 1978.

ADDRESS: Comments should be addressed to Privacy, Office of Management and Budget, Health Care Financing Administration, 330 C Street SW., Washington, D.C. 20201. Comments received will be available for inspection in Room 4200-B, Mary E. Switzer Building, at the above address.

FOR FURTHER INFORMATION CONTACT:

Mel Gangestad, Privacy Officer, Office of Management and Budget, Health Care Financing Administration, Room 4200-B, Mary E. Switzer Building, 330 C Street SW., Washington, D.C. 20201, or call 202-245-0621.

SUPPLEMENTARY INFORMATION: The Health Care Financing Administration, Department of Health, Education, and Welfare, proposes to initiate a new system of collecting data under the authority of section 402(a) of the 1967 amendments to the Social Security Act, as amended by section 222(b)(1) of the 1972 amendments to the Social Security Act. Experiments are scheduled to run through April 1981 in 17 New York counties and through July 1981 in 3 Michigan counties. The purpose of these experiments is to provide data necessary to determine the impact of Medicare second surgical opinion programs on total Medicare program costs, surgery rates, consumer and provider decisionmaking regarding surgery, and health outcomes (i.e., quality of care) for beneficiaries who use and do not use the experimental second opinion benefit, provided under these demonstrations with waiver of Medicare part B copayment and deductible requirements. Specifications for this system of records follow:

ROBERT A. DERZON,
Administrator, Health Care Financing Administration.

09-70-0001

System name:

Medicare Second Surgical Opinion Experiments, HEW/HCFA/OPPR.

Security classification:

None.

System location:

Blue Cross and Blue Shield of Greater New York, 622 Third Avenue, New York, N.Y. 10017, and 3 Park Avenue, New York, N.Y. 10016, and Blue Cross and Blue Shield of Michigan, 600 Lafayette East, Detroit, Mich. 48226.

Categories of individuals covered by the system:

Physicians who practice, and Medicare beneficiaries who reside in the carrier area of Blue Cross and Blue Shield of Greater New York (plus Queens) or in Macomb, Oakland, or Wayne Counties for which the Medicare carrier is Blue Cross and Blue Shield of Michigan.

Categories of records in the system:

Physicians: personal identification and demographic data.

Beneficiaries: personal identification, demographic data, and health status information pertinent to advisability of patient undergoing elective surgery.

Authority for maintenance of the system:

Section 402(a) of the 1967 Amendments to the Social Security Act, as amended by section 222(b)(1) of the 1972 Amendments to the Social Security Act, Pub. L. 92-603.

Routine users of records maintained in the system, including categories of users and purposes of such uses:

(a) Blue Cross and Blue Shield of Greater New York and Blue Cross and Blue Shield of Michigan will use the data to: (1) operate referral centers to help eligible Medicare beneficiaries locate consultants and obtain second/

third opinions, (2) collect information necessary to conduct referral operations and evaluate the impact of the program, and (3) modify claims processing systems to permit waiver of copayment and deductible requirements under part B of Medicare on all second/third surgical opinion claims (i.e., physician and ancillary service costs). The Office of Policy, Planning, and Research (OPPR), HCFA, will use the information to coordinate all data collection, reimbursement, and evaluation activities. HCFA will contract via request for proposals with an independent third party which will use data in the system to evaluate the impact of the second surgical opinion programs.

(b) Disclosure may be made to a congressional office from the record of an individual in response to an inquiry from the congressional office made at the request of that individual.

(c) In event of litigation where one of the parties is: (a) the Department, any component of the Department, or any employee of the Department in his or her official capacity; (b) the United States where the Department determines that the claim, if successful, is likely to directly affect the operations of the Department or any of its components; or (c) any Department employee in his or her individual capacity where the Justice Department has agreed to represent such employee, the Department may disclose such records as it deems desirable or necessary to the Department of Justice to enable that Department to effectively represent such party, provided such disclosure is compatible with the purpose for which the records were collected.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Hardcopy intake forms, first opinion physician/surgeon reports and consultants' reports will be stored in locked metal file cabinets in the referral centers established within the contractors' carrier offices. Completed data tapes created from hardcopy forms will be stored in the tape libraries maintained by the contractors for storage of routine Medicare claims tapes and subject to the same security precautions.

Retrievability:

Hardcopy stored in referral centers will be retrievable by beneficiary name. Beneficiary information stored on tape will be retrievable by beneficiary name and health insurance claim number; provider information stored on tape will be retrievable by physician name and provider number.

Safeguards:

All records will be retained in secure storage areas accessible only to authorized employees of Blue Cross and Blue Shield of Greater New York, Blue Cross and Blue Shield of Michigan, and the evaluation contractor staff. All employees having access to records have been notified of criminal sanctions for unauthorized disclosure of information on individuals. After the hardcopy and tapes are validated and analyzed by the evaluation contractor, they will be returned to HCFA and retained in secure storage areas until December 31, 1987. At this time, hardcopy collection forms will be destroyed and the tapes will be erased by degaussing.

For computerized records, where appropriate, ADP systems security procedures will be instituted with reference to guidelines contained in DHEW Information Processing Standards Publication 3 (IPS PUB 3) and the National Bureau of Standards Federal Information Processing Standards Publications (FIPS PUB 41 and FIPS PUB 31) (e.g., use of password access). By taking all the aforementioned precautions, we have reduced the risk of unauthorized access to a minimum.

Retention and disposal:

Hardcopy data collection forms and magnetic data tapes with identifiers will be retained in secure storage areas. The disposal technique of degaussing will be used to strip magnetic tape of all identifying names and numbers in December 1987. Hardcopy will be destroyed at this time.

System manager and address:

Acting Associate Administrator for Policy, Planning, and Research, Switzer Building, Room 5074, 330 C Street SW., Washington, D.C. 20201.

Notification procedure:

Any physician or Medicare beneficiary who participates in this demonstration as a provider or recipient of service may request his data record in writing. This request should be addressed to the system manager. To obtain data on physicians, the requestor should provide the name and business address of the physician; to obtain data on a Medicare beneficiary, the requestor should provide the beneficiary's name and home address.

Record access procedures:

Same as notification procedure. Requestor should also reasonably specify the record contents being sought. These access procedures are in accordance with Department Regulations (45 CFR, section 5b.5(a)(2) FEDERAL REGISTER, October 8, 1975, page 4710).

Contesting record procedures:

Contact the system manager at the address specified under notification procedure above, and reasonably identify the record and specify the information to be contested. These procedures are in accordance with Department Regulations (45 CFR, section 5b.7) FEDERAL REGISTER, October 8, 1975, page 44711).

Record source categories:

Referral Center Intake Forms are completed by a referral center analyst upon receiving a call from a Medicare beneficiary requesting a second opinion under the demonstrations. First Opinion Physician/Surgeon Report Forms are completed by the first opinion physician in the Blue Cross and Blue Shield of Michigan demonstration and by the first surgeon in the Blue Cross and Blue Shield of Greater New York demonstration. The consultant's report is completed by second/third opinion consultants who are participating in the demonstrations.

Systems exempted from certain provisions of the act:

None.

[FR Doc. 78-7719 Filed 3-22-78; 8:45 am]

[4110-83]

Health Resources Administration

HEALTH SERVICE AREAS 3 AND 5 IN FLORIDA

Redesignation

In accordance with section 1511(b)(4) of the Public Health Service Act, as amended by Pub. L. 93-641, the Secretary of Health, Education, and Welfare has determined that Florida Health Service Areas 3 and 5 should be revised to include Volusia County in Health Service Area 3, and delete Volusia County from Health Service Area 5. This revision constitutes approval of a redesignation request initiated by the Governor of Florida on January 22, 1976. The request complied with the requirements of the Health Service Area Redesignation Guidelines published in the FEDERAL REGISTER, Vol. 41, No. 180, September 15, 1976.

Section 122.205 of the governing regulations, provides that the Secretary will determine the populations of such areas based upon the latest available estimate from the Department of Commerce and will publish annually in the FEDERAL REGISTER a list of all health service areas and their populations. A Notice to this effect was published on September 2, 1977 (42 FR 44288-44289). A determination has been made that the population of the revised health service area 3 is 728,080 and the population of the revised health service area 5 is 1,006,620.

FLORIDA

Health Service Area 3 is the geographic area comprised of the following counties:

Baker, Clay, Duval, Flagler, Nassau, Saint Johns, and Volusia.

Health Service Area 5 is the geographic area comprised of the following counties:

Brevard, Orange, Osceola, and Seminole.

Dated: March 18, 1978.

HENRY A. FOLEY, Ph. D.,
Administrator.

[FR Doc. 78-7853 Filed 3-22-78; 8:45 am]

[4110-02]

Office of Education

NATIONAL ADVISORY COUNCIL ON ETHNIC HERITAGE STUDIES

Meeting

AGENCY: National Advisory Council on Ethnic Heritage Studies.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and proposed agenda on the forthcoming meeting of the National Advisory Council on Ethnic Heritage Studies. It also describes the functions of the Council. Notice of these meetings is required under the Federal Advisory Committee Act (5 U.S.C. Appendix 1.10(a)(2)). This document is intended to notify the general public of their opportunity to attend.

DATES: Meetings April 20-21, 1978, 9 a.m. to 4:30 p.m.

ADDRESS: Room 3652, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT:

Dr. Thomas E. Cotner, Acting Chief, Ethnic Heritage Studies Branch, Office of Education, Room 3913, ROB 3, 7th and D Streets SW., Washington, D.C. 20202. Telephone 202-245-7401.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Ethnic Heritage Studies was established under section 906(a) of the Elementary and Secondary Education Act of 1965 as added by section 504(a) of the Education Amendments of 1972, Pub. L. 92-318 (20 U.S.C. 900a-4).

The Council is directed to: (1) Advise the Secretary, the Assistant Secretary for Education; and the Commission of Education on the implementation of title IX of the Elementary and Secondary Education Act of 1965 in order to provide assistance designed to afford students the opportunity to learn about their own cultural heritage and the contributions of the other ethnic groups of the Nation.

(2) Perform specific functions as follows:

(a) Make recommendations to the Commissioner, the Assistant Secretary, and the Secretary regarding the collection of data to facilitate program planning and evaluation; e.g., recommend a survey of needs to determine or modify program priorities, or suggest national or regional reviews of intercultural curriculum and personnel development.

(b) Suggest innovations or program changes as the program evolves and develops toward improving ethnic heritage studies.

(c) Suggest promising areas of inquiry to give direction to research; e.g., recommend ethnographic studies as required for substantial intercultural curriculum materials development.

(d) Provide such administrative and legislative proposals as may be appropriate.

(e) Not later than March 31 of each year, submit to the Congress a report of its activities, findings, and recommendations.

The meeting will open to the public beginning at 9 a.m. and ending at 4:30 p.m. each day. The meeting will be held at Regional Office Building 3, Room 3652, 7th and D Streets SW., Washington, D.C. 20202.

The proposed agenda includes:

(1) Adoption of the agenda, and approval of the minutes of the last meeting.
(2) Subcommittee reports.
(3) Meeting with the Commissioner of Education to discuss Program and Budget.
(4) Duties and responsibilities of Council members.
(5) Review of the Program Guidelines.
(6) Public testimony.
(7) Status report on the evaluation of proposals for grants.
(8) Discussion of proposals for Nationwide dissemination centers: the role of a center.
(9) Review of Guidelines for preparing proposals.
(10) Review of products.

Records shall be kept of all Council proceedings and shall be available for public inspection at the office of the Ethnic Heritage Studies Branch, Office of Education, Room 3919, Regional Office Building 3, 7th and D Streets SW., Washington, D.C. 20202.

Signed at Washington, D.C., on March 16, 1978.

THOMAS E. COTNER,
Acting Chief, Ethnic Heritage Studies Branch.

[FR Doc. 78-7687 Filed 3-22-78; 8:45 am]

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Colorado 16210]

COLORADO

Partial Termination of Proposed Withdrawal and Reservation of Lands

MARCH 15, 1978.

Notice of a Forest Service, U.S. Department of Agriculture application, Colorado 16210, for withdrawal and reservation of lands for public purposes was published as FR Doc. 72-9347, on page 12245 of the issue of June 21, 1972 and republished pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976 in order to give opportunity to request public hearing. The second notice was published as FR Doc. 78-115, on page 1011 of the issue of January 5, 1978. The applicant agency has cancelled its application insofar as it affects the following described lands:

NEW MEXICO PRINCIPAL MERIDIAN, SAN JUAN NATIONAL FOREST

U.S. HIGHWAY 550 TRAVEL INFLUENCE ZONE

A strip of land 200 feet wide on each side of the U.S. Highway 550 centerline through the following described lands:

T. 41 N., R. 8 W., Protraction 24B, dated May 5, 1965,
Sec. 2, W½W½;½
Sec. 3, E½E½;
Sec. 10, NE¼NE¼;
Sec. 11, NW¼ and S½ except lands being withdrawn for Mineral Creek Campground Site;
Sec. 12, SW¼ and SW¼SE¼;
Sec. 13, NE¼ and NE¼NW¼
T. 42 N., R. 8 W., Protraction 24B, dated May 5, 1965.
Sec. 14, the portion of SW¼NE¼ from Red Mountain Pass to the south line, E½SW¼, W½SW¼ and SE¼;
Sec. 22 SS¼SW¼ and SE¼;
Sec. 23, NW¼ and W½SW¼;
Sec. 27, NW¼NE¼ and E½NW¼.

Also a strip of land 200 feet in width east of the centerline and 400 feet in width on the west side of the centerline of U.S. Highway 550 through the following described lands:

T. 42 N., R. 8 W.,
Sec. 26, W½W½;
Sec. 27, E½E½;
Sec. 34, E½E½;
Sec. 35, W½W½,

the proposed withdrawal excluding all or portions of mineral patents lying within these strips and was subject to other unperfected mining claims as may exist.

GRAND MESA-UNCOMPAHGRE NATIONAL FOREST

BENCHMARK LOOKOUT

T. 41 N., R. 15 W.,
Sec. 31, East 10 chains of lot 4, and W½SE¼SW¼.

The areas described aggregate approximately 442.0 acres.

Therefore, pursuant to the regulations contained in 43 CFR Part 2350, and 44 U.S.C. 1507 such lands will be relieved of the segregative effect of the above-mentioned applications on or before April 24, 1978.

MERRILL G. ANDERSON,
Leader, Montrose Team, Branch of Adjudication

[FR Doc. 78-7661 Filed 3-22-78; 8:45 am]

[4310-84]

[NM 32937, 32938, 32939, 32969 and 32979]

NEW MEXICO

Applications

MARCH 14, 1978.

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 ten 4½-inch natural gas pipeline rights-of-way across the following lands:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 21 S., R. 21 E.,
Sec. 10, SW¼SE¼;
Sec. 15, W½NE¼ and SE¼SE¼;
Sec. 22, NE¼NE¼;
Sec. 23, W½NW¼.
T. 21 S., R. 27 E.,
Sec. 15, SW¼NW¼;
Sec. 22, E½SE¼;
Sec. 23, SW¼SW¼;
Sec. 26, NW¼SW¼;
Sec. 27, N½SE¼.

These pipelines will convey natural gas across 2.656 miles of public lands in Eddy County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the applications should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-7725 Filed 3-22-78; 8:45 am]

[4310-84]

[NM 32930]

NEW MEXICO

Application

MARCH 15, 1978.

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 one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 31 N., R. 9 W.,
Sec. 18, lots 13 and 14.

This pipeline will convey natural gas across 0.095 of a mile of public land in San Juan County, N. Mex.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved, and if so, under what terms and conditions.

Interested persons desiring to express their views should promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 6770, Albuquerque, N. Mex. 87107.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-7662 Filed 3-22-78; 8:45 am]

[4310-84]

[NM 32941]

NEW MEXICO

Application

MARCH 15, 1978.

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), Phillips Petroleum Co. has applied for one 4½-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 14 S., R. 28 E.,
Sec. 8, SE¼NE¼;
Sec. 9, SW¼NW¼.

This pipeline will convey natural gas across 0.271 of a mile of public land in Chaves County, N. Mex.

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 promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-7663 Filed 3-22-78; 8:45 am]

[4310-84]

[NM 32987]

NEW MEXICO

Application

MARCH 15, 1978.

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), Natural Gas Pipeline Co. of America has applied for one 4-inch natural gas pipeline right-of-way across the following land:

NEW MEXICO PRINCIPAL MERIDIAN, NEW MEXICO

T. 17 S., R. 30 E.,
Sec. 5, lots 2, 3, SE¼NW¼, N½SW¼, and SW¼SW¼;
Sec. 7, E½NE¼, N½SE¼, and SW¼SE¼;
Sec. 8, NW¼NW¼.

This pipeline will convey natural gas across 2.150 miles of public land in Eddy County, N. Mex.

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 promptly send their name and address to the District Manager, Bureau of Land Management, P.O. Box 1397, Roswell, N. Mex. 88201.

FRED E. PADILLA,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-7664 Filed 3-22-78; 8:45 am]

[4310—84]

OREGON

Establishment of Recreation Use Controls Within Boundaries of Wild River Area of Rogue River Component of National Wild and Scenic Rivers System

Public notice is hereby given by authority of the Wild and Scenic Rivers Act (82 Stat. 906; 16 U.S.C. 1271 et seq.), Federal Land Policy and Management Act of 1976 (90 Stat. 2743; 43 U.S.C. 1701 et seq.); Land and Water Conservation Fund Act (78 Stat. 899), as amended (16 U.S.C. 4601-6a); 31 U.S.C. § 483.a, 43 U.S.C. 1181a; 43 U.S.C. 1201; 43 U.S.C. 1374; 16 U.S.C. 670 g-n; 16 U.S.C. 1241 et seq.; 43 CFR Part 18; 43 CFR Subpart 6223; 43 CFR Subpart 6263; notice of revised development and management plans for the Rogue National Wild and Scenic River, Oreg. (37 FR 13408, July 7, 1972); 30 Stat. 35, as amended (16 U.S.C. 551); 33 Stat. 628 (16 U.S.C. 472); 36 CFR 211.1; 36 CFR 251.1 through 251.3; 36 CFR 261.50; and 36 CFR 261.58, that the Federal lands described in 34 FR 15571, October 7, 1969, and 37 FR 13415, July 7, 1972, which are located between the mouth of Grave Creek and the mouth of Watson Creek, the regulated area, are hereby open to permitted noncommercial boaters and to auhorized outfitters and guides, when engaged in commercial operations, who meet the qualifications set forth below and are in compliance with the provisions herein stated. The State of Oregon, acting by and through the Marine

Board in cooperation with the Federal agencies and Oregon scenic waterways system by authority of ORS 488.600(3), has promulgated regulations for use of State waters located in the area described above.

DEFINITIONS

1. "Commercial use" is recreational use of the public lands for business or financial gain. When any authorized outfitter, employee, or agent of an authorized outfitter, operator, or participant makes or attempts to make a profit, salary, increase his capital worth, advance or promote his business or financial standing, or supports, in any part, other programs or activities from amounts received from or for services rendered to customers or participants in the permitted activity, as a result of having the special recreation permit, the use will be considered commercial. The collection by an authorized outfitter or his agent of any fee, charge, or other compensation which is not strictly a sharing of, or is in excess of, actual costs or expenses incurred for the purpose of the activity or use shall make the activity or use commercial. Recreation use by educational and therapeutic institutions is considered commercial when the above criteria are met. Profit making organizations are automatically classified as commercial, even if that part of their activity covered by the permit is not profit making. Nonprofit status of any group or organization under the Internal Revenue, or postal laws, or regulations does not in itself determine whether an event or activity arranged by such a group or organization is noncommercial. Any person, group, or organization seeking to qualify as noncommercial shall have the burden of establishing to the satisfaction of the authorized officer that no financial or business gain will be derived from the proposed use.

2. "Actual costs or expenses" are costs, or expenses necessarily incurred for the permitted activity or use. These terms include, but are not limited to, the actual cost of such items as expendable equipment and supplies. Actual costs or expenses will not include any salaries, profit, increase of capital worth, allowances, or subsidies of any other activities of the authorized outfitter or sponsor, the purchase or amortization of nonexpendable supplies or equipment, any allowance for undersubscribed events, or any monetary compensation for sponsors or participants.

3. "Outfitter" is any person undertaking commercial use of the public lands within the regulated area, *Provided however,* That only one outfitter will be recognized for each group of people constituting a guided boating party.

4. "Authorized outfitters" are those outfitters who have been issued a current Federal commercial outfitter-guide permit.

5. "Noncommercial recreation use," for the purpose of this notice, will be any recreational use that does not meet the criteria stated above for "commercial use."

6. "Noncommercial user" is any person undertaking noncommercial recreation use of the public lands within the regulated area.

7. "Regulated area" is the Rogue wild area from Grave Creek to Watson Creek as described in 34 FR 15571, October 7, 1969, and 37 FR 13415, July 7, 1972.

8. "Regulated period" is the period from the Friday preceding Memorial Day through Labor Day of each year.

9. "Managing agencies" are the U.S. Forest Service and Bureau of Land Management, the Oregon State scenic waterways and the Oregon State Marine Board.

STIPULATIONS/CONDITIONS—GENERAL REQUIREMENTS

To comply with the letter and intent of the Wild and Scenic Rivers Act the managing agencies find it necessary to regulate all down-river float trips within the regulated area.

Noncommercial use shall be regulated during the regulated period. All commercial use shall be regulated throughout the entire year.

Total use on the river during the regulated period will be restricted to approximately 120 people per day with opportunity for the noncommercial and commercial users to each utilize 50 percent of that total use.

No boating party will be authorized to operate in the regulated area without obtaining a valid permit and complying with the stipulations contained therein.

All boating parties shall register at Grave Creek as they enter the regulated area.

Therefore, commercial and noncommercial use of the previously described regulated area will be permitted under the following limitations and conditions.

PERMIT REQUIREMENTS AND PROCEDURES

A. NONCOMMERCIAL

During the regulated period, noncommercial down-river boat use in the regulated area shall be limited to parties holding a noncommercial use permit (special recreation permit) issued by the managing agencies. The permits must be obtained in advance of the date of the trip.

No noncommercial boating party shall be larger than twenty (20) persons total.

Noncommercial use for any given day which is reserved more than seven (7) days in advance will be limited to sixty (60) persons per day entering the regulated area except as provided herein.

Permits will be issued only to a party leader or a designated alternate. Only the party leader shall apply for a permit and he/she shall indicate the number of members in the party.

Use permits for each day will be issued until permits reach not less than fifty-four (54) people. The next application for a permit that does not exceed eight (8) people and a total allocation of sixty-two (62) people will be accepted.

Application for noncommercial use permits (special recreation permits) may be obtained from: Siskiyou National Forest, P.O. Box 440, Grants Pass, Oreg. 97526, phone 503-479-5301.

Between January 1 and March 15: During this period party leaders may request no more than two (2) permits during the regulated period, but may indicate a "second choice" date for each. Applications will be processed between March 15 and March 30. Each party leader will be assigned their preferred trip date unless request for that day exceed allowable totals.

For each such day a lottery will be held. Unsuccessful applicants will be given their second choice date if available or will, if necessary, participate in a lottery for that date. Permits will be mailed to successful applicants by March 30.

Between April 15 and Labor Day: During this period, party leaders may request permits on a first-come-first-served basis for any available open dates. Only one (1) such advance permit, in addition to any already assigned before March 30, may be held by a party leader at any one time. After a permit has been used another may be requested.

All scheduled trips as defined above must be confirmed at least seven (7) days before the authorized starting date.

Any advance permit not confirmed will be forfeited and, along with individual starts remaining open, will be automatically placed in a common-use pool to be reallocated on a first-come-first-served basis.

B. COMMERCIAL

Outfitters must apply to the BLM Medford Office, 310 West Sixth Street, Medford, Oreg. 97501, phone 503-779-2351, ext. 430, for a Federal commercial outfitter-guide permit (special recreation permit) at least 90 days prior to beginning commercial operations. No outfitter will be authorized to operate in the regulated area without obtaining a valid permit and complying with the stipulations contained therein. Permits shall only be issued to outfitters who have qualified under the terms of the 1973 closure notice, published in the FEDERAL REGISTER, 38 FR 34901, December 20, 1973.

Guides hired or contracted by an authorized outfitter in conjunction with an authorized float trip shall also be permitted to operate in the regulated area under the terms of the authorized outfitter's permit.

The base commercial schedule as adopted in 1977, which includes the 1973 camping use level of starts plus a 30 percent expansion factor, is hereby adopted as the standard schedule for future use. Except as provided herein, authorized outfitters may only conduct those trips officially included in the approved schedule. Additional starts to a total of 6,000 potential passengers will be allocated from those schedule dates remaining open. These additional starts will be determined before December 1 each year. Remaining open start dates within the schedule will be placed in the common-use pool. No additional allocations to authorized outfitters will be made for the Labor Day or Memorial weekends since any remaining allocations for these periods have been specifically reserved for use by noncommercial users.

No commercial boating party shall be larger than twenty-four (24) persons total, including crew members, except as noted herein. Trip registration (i.e., validation of Rogue River commercial trip cards) at the Grave Creek entry point to the regulated area shall state the total number of persons in each party. Recognizing that circumstances beyond an authorized outfitter's reasonable control may occasionally require carrying passengers not planned for and in excess of stipulated party sizes, the following flexibility provision is made: 20 percent of an authorized outfitter's trips, according to the approved schedule, may carry as many as two (2) persons beyond the stipulated party size if the party is scheduled as small (1-12 persons total, including crew members). If the party is scheduled as large (not more than 24 persons total, including crew members), as many as three (3) persons beyond the stipulated party size may be carried. The number of such trips for each authorized outfitter will be determined by the scheduling agency and each outfitter will be advised of the figure.

During the regulated period, scheduling of authorized down-river commercial trips entering the regulated area each day shall not exceed three (3) large parties and one (1) small party, except when the approved schedule calls for two (2) small parties in lieu of one (1) large party from August 1 to Labor Day.

All scheduled trips, as defined above, must be confirmed at least seven (7) days before the authorized starting date.

Any scheduled trips not confirmed as specified in the above paragraph will be forfeited and automatically returned to a common-use pool to be reallocated on a first-come-first-served basis. Relinquishing trips or passengers will not prevent an outfitter from utilizing those opportunities in future years.

An authorized outfitter's authorization to conduct float trips is not a salable commodity. Commercial operations on the river must be understood as being a privilege, not a right. Any transfer of authorized use in conjunction with the sale of a business must be approved by the managing agencies prior to such a transfer. Disapproval may be based upon the lack of qualifications of the proposed transferee, the inability of the river and land resources to sustain the use, or other just cause.

C. COMMON POOL TRIPS

All passenger potential not allocated through the commercial or noncommercial permit system, as provided for in (A) and (B) above, will be placed in a common-use pool for utilization by either commercial or noncommercial river users.

This common pool will be available for specific start dates for only the seven (7) days prior to the actual start date on a first-come-first-served basis.

Party size will be limited to a maximum of twenty (20) people (including guides) or to the maximum number or people remaining in the common-use pool, whichever is the lesser.

Permits will be confirmed at time of application.

ENFORCEMENT

A. COMMERCIAL

In the event the authorized outfitter violates the trip schedules or party size limitations contained in the approved authorized outfitter's schedule, he shall be subject to the following penalties and to penalties prescribed under the applicable State of Oregon regulations:

Oversize parties. For each person, passenger, or crew-member, exceeding the maximum authorized party size (including the flexibility provision) in any one boating party, the authorized outfitter's maximum party size will be reduced by three (3) passengers on that same scheduled day the next season.

Unscheduled trips. Any authorized outfitter taking an unscheduled trip during the regulated season will have his subsequent year's trip allocation reduced by one (1). The forfeited trip will be the scheduled trip closest to the date of the unauthorized trip.

The permit may be terminated upon the repeated violation of trip schedules or party size limitations or upon the breach of any of the other conditions of this permit or at the discretion of the managing agencies.

Outfitters who have qualified under the terms of the 1973 closure notice, published in the FEDERAL REGISTER, 38 FR 34901, December 20, 1973, taking any commercial trips on the River without first obtaining a Federal commercial outfitter-guide permit shall not be issued a permit the following year.

The outfitter or lead guide of any unpermitted commercial trip will be subject to the penalties prescribed under 43 CFR 18.12; 43 CFR 6263.0-7; 36 CFR 261.10c; and under applicable State of Oregon regulations.

B. NONCOMMERCIAL

A party leader, or designated alternate, will be subject to the penalties prescribed under the authorities stated herein and to the penalties prescribed under applicable State of Oregon regulations if their party exceeds the maximum authorized party size or violates other requirements of the regulations.

All members of a party entering the regulated area without a valid permit will be subject to the penalties prescribed in 43 CFR 6263.0-7.

The provisions of this notice shall become effective January 1, 1978, and shall remain in effect until revoked.

E. J. PETERSEN,
Acting Oregon State Director.

D. H. MORTON,
Acting Regional Forester,
Forest Service.

MARCH 16, 1978.

[FR Doc. 78-7654 Filed 3-22-78; 8:45 am]

[4310-84]

[W-61827]

WYOMING

Application

MARCH 13, 1978.

Notice is hereby given that pursuant to section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Panhandle Eastern Pipe Line Co. of Kansas City, Mo., filed an application for a right-of-way to construct a pipeline system consisting of 4-inch, 6-inch, 8-inch, and 12-inch pipelines for the purpose of transporting natural gas across the following described public lands:

SIXTH PRINCIPAL MERIDIAN, WYOMING

T. 23 N., R. 95 W.,
Secs. 19 and 30.
T. 19 N., R. 96 W.,
Secs. 6 and 8.
T. 20 N., R. 96 W.,
Secs. 6, 8, 20, and 32.
T. 21 N., R. 96 W.,
Secs. 4, 16, and 28.
T. 22 N., R. 96 W.,
Secs. 4, 16, 28, and 30.

T. 23 N., R. 96 W.,
Secs. 10, 14, 15, 17, 18, 20, 23, 24, 28, 29, and 33.
T. 24 N., R. 96 W.,
Secs. 5, 6, and 7.
T. 22 N., R. 97 W.,
Secs. 10, 14, 15, and 26.
T. 23 N., R. 97 W.,
Secs. 1, 3, 10, 11, 12, and 13.
T. 24 N., R. 97 W.,
Secs. 1, 2, 3, 10, 14, 15, 16, 21, 22, 23, 26, 27, 28, 34, and 35.
T. 25 N., R. 97 W.,
Sec. 35.

The proposed pipeline system will transport natural gas from several wells located in Sweetwater County, Wyo. to a point of connection with Panhandle Eastern Pipe Line Co.'s proposed 12-inch pipeline as listed below:

Natural gas will be transported from the Davis North Sheep Camp No. 1 well located in the SE¼ of Section 9, T. 22 N., R. 97 W.; the Davis Hay Reservoir No. 2 well located in the SW¼ of Section 11, T. 23 N., R. 97 W.; the Davis Hay Reservoir No. 4 well located in the NW¼ of Section 26, T. 24 N., R. 97 W.; the Davis Fair Federal No. 1 well located in the NE¼ of Section 7, T. 24 N., R. 97 W.; the Davis Betty Jean No. 1 well located in the SW¼ of Section 30, T. 22 N., R. 96 W.; the Davis Huber Federal No. 1 well located in the NE¼ of Section 30, T. 23 N., R. 95 W.; the Davis Hay Reservoir No. 7 well located in the NW¼ of Section 23, T. 24 N., R. 97 W.; the Davis Hay Reservoir No. 15 well located in the NE¼ of Section 36, T. 24 N., R. 97 W.; the Davis Hay Reservoir No. 6 well located in the NW¼ of Section 34, T. 24 N., R. 97 W.; the Davis Great Divide No. 1 well located in the SW¼ of Section 10, T. 23 N., R. 96 W.; the Davis Hay Reservoir No. 1 well located in the NW¼ of Section 35, T. 24 N., R. 97 W.; the Davis Hay Reservoir No. 5 well located in the SE¼ of Section 27, T. 24 N., R. 97 W.; and the Davis South Sheep Camp No. 1 well located in the SW¼ of Section 25, T. 22 N., R. 97 W., all of Sweetwater County, Wyo. and will connect into Panhandle Eastern Pipe Line Co.'s proposed 12-inch main pipeline at the following described points of connection:

NW¼ of Section 28, T. 22 N., R. 96 W.; SE¼ of Section 35, T. 24 N., R. 97 W.; SE¼ of Section 15, T. 24 N., R. 97 W.; SW¼ of Section 35, T. 25 N., R. 97 W.; NW¼ of Section 28, T. 22 N., R. 96 W.; NE¼ of Section 18, T. 23 N., R. 96 W.; SE¼ of Section 15, T. 24 N., R. 97 W.; NE¼ of Section 2, T. 23 N., R. 97 W.; SE¼ of Section 35, T. 24 N., R. 97 W.; NE¼ of Section 18, T. 23 N., R. 96 W.; SE¼ of Section 35, T. 24 N., R. 97 W.; SE¼ of Section 15, T. 24 N., R. 97 W.; and in the NW¼ of Section 28, T. 22 N., R. 96 W., all within 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, 1300 Third Street, P.O. Box 670, Rawlins, Wyo. 82301.

HAROLD G. STINCHCOMB,
Chief, Branch of Lands and Minerals Operations.

[FR Doc. 78-7655 Filed 3-22-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Field Museum of Natural History, Roosevelt Road at Lake Shore Drive, Chicago, Ill. 60605.

The applicant requests a permit to take (salvage) dead specimens of endangered species for possible accession to their collection for scientific research.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2287. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 24, 1978. Please refer to the file number when submitting comments.

Dated: March 20, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-7735 Filed 3-22-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Harold Lee Benesch, 4863 I-25 North, Pueblo, Colo. 81008.

The applicant requests a permit to purchase in interstate commerce the following birds which were the result of captive breeding: 50 pairs of masked bobwhite quail (*Colinus virginianus ridgwayi*), 50 pairs of Montezuma quail (*Crytonyx montezumae merriami*), 6 pairs of Attwater's greater prairie chickens (*Tympanuchus cupido attwateri*) for enchancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2276. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 24, 1978. Please refer to the file number when submitting comments.

Dated: March 20, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-7736 Filed 3-22-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Robert J. Sutton, Rural Route 2, Vandalin, Ill.

The applicant requests a permit to purchase in interstate commerce, one pair of Hawaiian geese (*Branta sandvicensis*) from the St. Louis, Mo., Zoo for enhancement of propagation. Humane care and treatment during transport has been indicated by the applicant.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2187. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 24, 1978. Please refer to the file number when submitting comments.

Dated: March 20, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch, Federal Wildlife Permit Office.

[FR Doc. 78-7737 Filed 3-22-78; 8:45 am]

[4310-55]

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: Columbian White-tailed Deer NWR, Rt. 1, Box 376C, Cathlamet, Wash. 98612.

The applicant requests a permit to capture, mark and release Columbian white-tailed deer (*Odocoileus virginianus leucurus*) for fawn mortality and population research to enhance the survival of the species.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by

writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2263. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 24, 1978. Please refer to the file number when submitting comments.

Dated: March 20, 1978.

FRED L. BOLWAHNN,
Acting Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-7738 Filed 3-22-78; 8:45 am]

[4310-55]

MARINE MAMMALS

Issuance of Permit

On January 9, 1978, a notice was published in the FEDERAL REGISTER (42 FR 77-35265) that an application had been filed with the Fish and Wildlife Service by Sea World Inc. for a permit to capture twenty (20) subadult walrus (*Odobenus rosmarus*) and eight (8) walrus pups for scientific research and educational display.

Notice is hereby given that on March 14, 1978 as authorized by the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361-1407), the Fish and Wildlife Service issued a permit to Sea World, Inc., subject to certain conditions set forth therein. The permit is available for public inspection during normal business hours at the Fish and Wildlife Service's office in 1717 H. Street NW. Washington, D.C.

Dated: March 20, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-7741 Filed 3-22-78; 8:45 am]

[4310-55]

Fish and Wildlife Service

ENDANGERED SPECIES PERMIT

Receipt of Application

Applicant: John S. Kessler, RD-4, Taylorville, Ky. 40071.

The applicant requests a permit to capture and release specimens of the Indiana bat (*Myotis sodalis*) to establish its presence at proposed Corps of Engineers civil works projects.

Documents and other information submitted with this application are available to the public during normal business hours in Room 534, 1717 H Street NW., Washington, D.C., or by writing to the Director, U.S. Fish and Wildlife Service (WPO), Washington, D.C. 20240.

This application has been assigned file number PRT 2-2249. Interested persons may comment on this application by submitting written data, views, or arguments to the Director at the above address on or before April 24, 1978. Please refer to the file number when submitting comments.

Dated: March 20, 1978.

DONALD G. DONAHOO,
Chief, Permit Branch,
Federal Wildlife Permit Office.

[FR Doc. 78-7739 Filed 3-22-78; 8:45 am]

[4310-31]

Geological Survey

KNOWN RECOVERABLE COAL RESOURCE AREA

Lame Jones Creek, Mont.

Pursuant to authority contained in the Act of march 3, 1879 (43 U.S.C. 31), as supplemented by Reorganization Plan No. 3 of 1950 (43 U.S.C. 1451, note), 220 Departmental Manual 2, Secretary's Order No. 2948, and Section 8A of the Mineral Leasing Act of February 25, 1920, as added by Section 7 of the Federal Coal Leasing Amendments Act of 1975 (Pub. L. 94-377, August 4, 1976), Federal lands within the State of Montana have been classified as subject to the coal leasing provisions of the Mineral Leasing Act of February 25, 1920, as amended (30 U.S.C. 201). The name of the area, effective date, and total acreage involved are as follows:

(26) MONTANA

Lames Jones Creek (Montana) Known Recoverable Coal Resource Area; May 31, 1977: 42,555 acres.

A diagram showing the boundaries of the area classified for leasing has been filed with the appropriate land office of the Bureau of Land Management. Copies of the diagram and the land description may be obtained from the Conservation Manager, Central Region, U.S. Geological Survey, MS 609, Box 25046, Federal Center, Denver, Colo. 80225.

Dated: March 16, 1978.

W. A. RADLINSKI,
Acting Director.

[FR Doc. 78-7665 Filed 3-22-78; 8:45 am]

[4310-10]

Office of the Secretary

[Order No. 3018]

ALASKA NATURAL GAS TRANSPORTATION SYSTEM

Organizational and Functional Responsibilities

Section 1. *Purpose.* The purpose of the Order is to establish supervisory and management responsibilities for Department of the Interior supervision of the Alaska Natural Gas Transportation System (ANGTS).

Section 2. *Authority.* This Order is issued in accordance with the authority provided by section 2 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

Section 3. *Responsibility.* Supervisory, management and support responsibilities are assigned as follows:

a. *The Under Secretary.* The Under Secretary serves as Chairman of the Federal Task Force on Alaska Oil Development; resolves internal jurisdictional and other conflicts which may arise within the Department; and supervises the functions of the Assistant Secretary—Land and Water Resources conducted pursuant to this order.

b. *The Assistant Secretary—Land and Water Resources.* The Assistant Secretary—Land and Water Resources is the principal Department official responsible for day-to-day management of pipeline matters for the Department and, under the direction of the Under Secretary, coordinates contacts with congressional committees, pipeline officials, State governments and the general public; serves as the Department's representative on interagency policy boards and committees; supervises the Department's Project Manager; and provides fiscal control and management of costs associated with the Department's responsibilities for pipeline systems, including budget consolidation and reimbursement billings to the appropriate companies.

c. *Office of the Project Manager—ANGTS.* There is hereby established the Office of the Project Manager—ANGTS. The Project Manager is the Department's authorized officer for implementation of the Alaska Natural Gas Transportation Act, section 28 of the Mineral Leasing Act, and regulations issued pursuant thereto, insofar as they relate to ANGTS. The Office is established for the purpose of providing a focal point of control for matters relating to coordination of activities of the Department of the Interior relating to ANGTS including right-of-way grants, permits, and other authorizations issued in connection with ANGTS which relate to the design, construction, operation, maintenance, or termination of ANGTS and any stipulations attached to such authorizations. The Office will also serve as the focal point for the Department of the Interior coordination with the Federal Inspector of Construction provided for in section 7(a) of the Alaska Natural Gas Transportation Act. The Project Manager is responsible for enforcing the terms and conditions of the above authorizations; protecting Federal interests relating to the System; monitoring the grantees, permittees and their agents, contractors

and subcontractors; and coordinating monitoring activities with State officials along the route. Further, the Project Manager is responsible for the the coordination of billing of charges to the ANGTS owners. Such billings will be based on plans submitted by the appropriate bureaus for operations associated with and approved for planning, report preparation, studies, liaison and other activities required for ANGTS.

d. *Heads of Bureaus and Offices.* The Directors of the Bureau of Land Management, Fish and Wildlife Service, Geological Survey, and the heads of other bureaus and offices within the Department of the Interior will make available to the Project Manager such personnel and expertise as the Project Manager may from time to time require. Personnel provided will be under the direction and supervision of the Project Manager.

(1) By July 1 of each year, the heads of the bureaus and offices will furnish the Project Manager the operating plans referred to in section 3c above, covering work which the bureau of office anticipates performing during the next fiscal year in connection with ANGTS and for which reimbursement will be sought from the ANGTS owners.

(2) The heads of the bureaus or offices will maintain a separate record of all work done and expenditures made in connection with ANGTS and will submit that record to the Project Manager at such times and is such form as may be requested.

(3) Each affected bureau or office head will designate a liaison officer to coordinate fiscal matters with the Project Manager.

e. *Office for Equal Opportunity.* The Office for Equal Opportunity shall perform all responsibilities of the Department under section 17 of the Alaska Natural Gas Transportation Act. By October 1 of each year, the Director, Office for Equal Opportunity, will furnish the Project Manager an operating plan covering work which the Office anticipates performing during the next fiscal year in connection with the ANGTS owners. A liaison officer shall be designated by the Director, Office for Equal Opportunity, to coordinate efforts with the Project Manager.

Section 4. *Secretarial Delegation of Authority.*—a. *Assistant Secretary—Land and Water Resources.* All authority granted to the Secretary of the Interior by title I and title II of the Act of November 16, 1973, Pub. L. 93-153, 87 Stat. 576 (Trans-Alaska Pipeline Act and amendments to the Mineral Leasing Act of 1920), Pub. L. 94-579 (Federal Land Policy and Management Act) and the Alaska Natural Gas Transportation Act, 90 Stat. 2903, is hereby delegated to the Assistant Secretary—Land and Water Resources.

b. *Director, Bureau of Land Management.*—(1) Subject to the supervisory authority of the Assistant Secretary—Land and Water Resources, the authority granted to the Secretary of the Interior by Pub. L. 94-579, and the Alaska Natural Gas Transportation Act, 90 Stat. 2903, is hereby delegated to the Director, Bureau of Land Management, except any authority of the Secretary, Assistant Secretary—Land and Water Resources, or the Project Manager, as may be reserved or otherwise delegated in the right-of-way grants, permits or other authorizations hereafter issued for ANGTS (including the authority to amend or modify said grants); *provided,* That all authorizations, including but not limited to right-of-way grants, permits, and other authorizations issued pursuant to the above-cited statutes which relate to the construction, operation, maintenance or termination of ANGTS, will be issued only with the concurrence of the Project Manager as described in section 4c of this Order and shall be delivered to the applicant or holder by the Project Manager.

(2) Authority pursuant to title I and title II of the Act of November 16, 1973, Pub. L. 93-153, 87 Stat 576 (Trans-Alaska Pipeline Authorization Act and amendments to the Mineral Leasing Act of 1920) has previously been delegated to the Director, Bureau of Land Management, by Order No. 3003 dated April 26, 1977.

c. *Project Manager—ANGTS.* The Project Manager—ANGTS subject to the supervisory authority of the Assistant Secretary—Land and Water Resources is delegated:

(1) The authority of the Secretary of the Interior necessary to perform the functions specified for the authorized officer in such right-of-way grants and temporary use permits and other authorizations as may be issued by the Department of the Interior in connection with ANGTS including ensuring compliance with the provisions of such grants, permits, and authorizations.

(2) The authority, subject to the limitation set forth in Part 205 of the Departmental Manual, to enter into procurement contracts or modifications thereof.

d. *Redelegation.* The authority hereby delegated in sections 4a, 4b, and 4c of this Order may be redelegated.

Section 5. *Effective Date.* This Order is effective immediately. Its provisions will remain in effect until termination of ANGTS is completed, or until this Order is amended, superseded, or revoked, whichever occurs first.

Dated: March 16, 1978.

CECIL D. ANDRUS,
Secretary of the Interior.

[FR Doc. 78-7673 Filed 3-22-78; 8:45 am]

[7020-02]

INTERNATIONAL TRADE COMMISSION

[332-98]

PROBABLE ECONOMIC EFFECT OF U.S. ADOPTION OF NEW RULES OF CUSTOMS VALUATION

Investigation

In response to a request dated February 24, 1978, by the Special Representative for Trade Negotiations, at the direction of the President, the U.S. International Trade Commission on March 9, 1978, instituted an investigation, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of submitting a report which would, inter alia, provide—

(1) An analysis of the rules for customs valuation recently proposed for international adoption by one of our major trading partners at the Multilateral Trade Negotiations (MTN) in Geneva, Switzerland;

(2) A determination of rates of duty which, in the Commission's judgment, had the American Selling Price (ASP) bases of valuation not been applicable at the time, would have provided an amount of duty on imports of products currently subject to the ASP bases of valuation (during a recent representative period), substantially equivalent to the amount collected as a result of the application of the ASP bases of valuation; and

(3) An identification of any articles subject to the valuation provisions of section 402a of the Tariff Act of 1930 (19 U.S.C. 1402) (so-called "Final List" merchandise), except articles subject to the ASP basis of valuation, for which adoption of the proposed valuation rules would result in a sufficient change in the amount of duty collected to have a significant economic effect on imports or on the domestic industry producing like or directly competitive articles.

The full text of the request, including a summary of the proposed rules for customs valuation, is appended to this notice.

The Commission will shortly issue for public comment proposed converted rates of duty on products currently subject to ASP bases of valuation. At that time, the Commission will give notice of the time and location of public hearings to be held in connection with this investigation.

Issued: March 16, 1978.

By order of the Commission:

KENNETH R. MASON,
Secretary.

THE SPECIAL REPRESENTATIVE FOR TRADE NEGOTIATIONS,
Washington, D.C., February 24, 1978.

Hon. DANIEL MINCHEW,
Chairman, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

DEAR CHAIRMAN MINCHEW: The Multilater-

al Trade Negotiations (MTN) currently under way in Geneva, Switzerland, involve the consideration of various measures, besides tariff rates, that may affect the flow of international trade. Among these are the standards used for valuing merchandise for customs purposes.

In the Nontariff Measures Subgroup on Customs Matters in the trade negotiations, one of our major trading partners has recently proposed for international adoption a new set of rules for customs valuation. Adoption of these rules, or some negotiated form of these rules, by the United States would require extensive modification of U.S. valuation provisions contained in sections 402 and 402a of the Tariff Act of 1930. All aspects of the proposed valuation rules must be carefully evaluated in any international negotiation of them.

To aid our negotiators in their considerations, under the provisions of section 332(g) of the Tariff Act of 1930, I request, at the direction of the President, that the Commission conduct an investigation, through a public hearing and other appropriated means, and provide this Office reports on the following:

1. An analysis of the proposed rules for customs valuation (a summary of which is attached), including, inter alia—

(a) The Commission's judgment as to the overall probable economic effect that U.S. adoption of such rules would have on U.S. imports and on domestic industries if adopted on a f.o.b. basis and if adopted on a c.i.f. basis;

(b) The potential consequences of their adoption for U.S. customs administration;

(c) The degree to which international adoption would operate fairly and uniformly among all classes of shippers in international trade, and

(d) Whether adoption of an international valuation standard by the United States and other major trading nations would benefit U.S. exports.

2. Specifically with respect to benzenoid chemicals provided for in items 403.02 to 409.00, inclusive, of the Tariff Schedules of the United States (TSUS), certain plastic- or rubber-soled footwear with fabric uppers (TSUS item 700.60), wool knit gloves and mittens valued not over $1.75 per dozen pairs (TSUS item 704.55), and certain canned clams (TSUS item 114.05), for which headnote provisions in the TSUS specify the bases to be used for customs valuation—

(a) A determination of rates of duty which, in the Commission's judgment, had such headnote provisions not been applicable at the time, would have provided an amount of duty on imports of such products during a recent representative period substantially equivalent to the amount collected as a result of the application of the headnote provisions;[1]

(b) The Commission's overall judgment as to whether the determinations would have been significantly different had the proposed rules been used as the basis for customs appraisement;

(c) An assessment of the degree to which such converted rates applied under the proposed valuation rules would provide protection to the domestic industries equivalent to that of the existing rates and valuation methods; and

(d) Assuming adoption of such valuation rules; the probable economic effect upon domestic industries producing like or directly competitive products—

(i) of adopting these rates, and

(ii) making a reduction of up to 60 percent in the new rates, staged in accordance with the provisions of section 109 of the Trade Act of 1974.

3. An identification of any articles subject to the valuation provisions of section 402a of the tariff Act of 1930 (except benzenoid chemicals in schedule 4, part 1, of the TSUS, certain plastic- or rubber-soled footwear with fabric uppers in TSUS item 700.60, and wool knit gloves and mittens in TSUS item 704.55) for which adoption of the proposed valuation rules would result in a sufficient change in the amount of duty collected to have a significant economic effect on imports or on the domestic industry producing like or directly competitive articles; for such articles, a determination of rates of duty which, had the proposed valuation rules been in effect at the time, would in the Commission's judgment have provided an amount of duty on imports of such articles during a recent representative period substantially equivalent to the amount collected under the provisions of section 402a; and, assuming adoption of the proposed valuation rules, the probable economic effect upon domestic industries producing like or directly competitive products of (i) adopting these rates, and (ii) making a reduction of up to 60 percent in the new rates, staged in accordance with the provisions of section 109 of the Trade Act of 1974.

Our Government is making every effort to bring the MTN to a conclusion by the summer of this year. It is, therefore, imperative that we have the Commission's reports as soon as possible, but not later than June 1, 1978. To aid in the expeditious public consideration of these matters, promptly after receipt of this letter the Commission is requested to issue for public comment the proposed converted rates of duty, requested in paragraph 2(a) above, that the Commission would be considering for inclusion in its report.

Arrangements will be made with the Treasury Department for the U.S. Customs Service to assist the Commission in obtaining information required for its investigation and reports.

Sincerely,

ROBERT S. STRAUSS.

Attachment.

SUMMARY OF RULES FOR CUSTOMS VALUATION PROPOSED BY ONE DELEGATION IN THE MULTILATERAL TRADE NEGOTIATIONS

A. METHODS OF CUSTOMS VALUATION

1. Subject to the general provisions of these rules (Part B), the price paid or payable for imported goods will be the basis for determining the customs value of goods provided—

(a) That the buyer and seller are not related or, if they are related, that such relationship did not result in a price reduction not covered in B(1) or to a price significantly lower than that available to any other buyer operating at the same commercial level or purchasing such goods in the same quantity as the buyer in question;

(b) That the buyer is established in the country of importation;

(C) That the use and disposition of the goods is entirely at the option of the buyer as a result of the sale; and

(d) That the date of the contract of sale does not precede the date referred to in B(7) by more than [number to be specified] months.

2. If the customs value of the imported goods cannot be determined under the provisions of A(1), then the price paid or payable for identical goods sold by the same seller at or about the same time as the imported goods to another buyer in the importing country will, provided that such identical goods are intended for the same market in the importing country and subject otherwise to the provisions of A(1), be the basis for determining such value. If the two buyers concerned do not operate at the same commercial level or customarily purchase in different quantities, appropriate adjustments reflecting this situation should be made.

3. If the customs value of the imported goods cannot be determined under the provisions of A(1) and A(2), then the price paid or payable for similar goods sold in the same market and at or about the same time as the imported goods either to the buyer whose goods are being imported or to another buyer in the importing country will, provided that such similar goods are intended for the same market in the importing country and subject otherwise to the provisions of A(1), be the basis for determining such customs value. If the two buyers concerned do not operate at the same commercial level or customarily purchase in different quantities, appropriate adjustments reflecting this situation should be made.

4. If the customs value of the imported goods cannot be determined under the provisions of A(1), A(2), and A(3), the goods will then be valued on the basis of the price at which they are sold or offered for sale by the buyer to persons in the importing country who are not related to the buyer, due allowance being made for—

(a) Either the commissions usually paid or agreed to be paid, or the additions for profit and general expenses usually made, in connection with sales in such country of goods of the same class or kind;

(b) The usual costs of transport and insurance and other usual costs incurred within the country of importation;

(c) Where appropriate, the costs, charges, and expenses referred to in B(3);

(d) Customs duty and any other taxes chargeable at importation or by reason of the sale of the goods within the country of importation; and

(e) Differences in prices resulting from differences between the individual quantities being sold or offered for sale and the quantity being imported.

5. If the customs value of imported goods cannot be determined under the provisions of (A)(1), (A)(2), (A)(3), and (A)(4), then the customs value will be determined in such manner as may be prescribed by legal instrument. Prescriptions made by legal instrument under this provision shall be based on objective criteria relevant to the circumstances of the particular sale or other transaction and shall be consistent with the principles and general provisions of these rules.

[1] To the extent practicable, and consonant with sound principles of customs nomenclature, the rate provisions should differentiate between articles like or similar to articles produced in the United States in a recent representative period and articles not like or similar to those produced in the United States. However, the nomenclature should not contain any provisions that would make the future classification of imports in any of the items dependent upon whether the imported article is like or similar to an article produced in the United States. Also, the proposed rates should be based on imports in a period not less than a full year, unless it can be shown that a lesser period is representative of shipments in a year.

However, no such legal instrument shall provide for the determination of customs value on the basis of—

(a) The cost of production of goods;

(b) The selling price in the country of importation of identical, similar, or comparable goods grown, produced, or manufactured in such country;

(c) The price of identical, similar, or comparable goods on the domestic market of the country of exportation; or

(d) The price of identical, similar, or comparable goods for export to a country other than the country of importation.

B. GENERAL PROVISIONS

1. In determining the customs value of imported goods, due allowance shall be made for any reduction in price granted by the seller to the buyer to the extent that it is has not been allowed for in the price paid or payable provided—

(a) That the reduction was granted at the date of the contract of sale;

(b) That the reduction related to the goods being imported; and

(c) That such a reduction was freely available at the date of the contract of sale to any other buyer operating at the same commercial level or purchasing such goods in the same quantity as the buyer in question.

2. In determining the customs value of imported goods, the following shall be added to the price paid or payable to the extent that they have not been included in such price:

(a) The value of any additional consideration which the buyer is obliged to discharge himself or to require others to discharge as a condition of the sale;

(b) Selling commissions;

(c) Brokerage borne by the seller;

(d) Duties and taxes applicable outside the country of importation from which the goods are not relieved because of exportation;

(e) The cost of containers which are treated as being one for customs purposes with the goods in question; and

(f) The cost of packing whether for labor or materials.

3. In determining the customs value of imported goods, the following may be added, whether in whole or in part, to the price paid or payable to the extent that they have not been included in such price:—

(a) Loading and unloading charges;

(b) The cost of transport to the port or place of importation; and

(c) The cost of insurance if such is not required to be taken out in the country of importation.

4. The following shall not be included in the customs value of goods:

(a) Duties and taxes applicable outside the country of importation from which the goods are relieved because of exportation;

(b) Duties and taxes applicable in the country of importation;

(c) Costs, charges, and expenses undertaken by the buyer which he is not obliged to discharge himself or require others to discharge as a condition of the sale;

(d) Fees for the drawing up outside the country of importation of documents incidental to the introduction of the goods into that country;

(e) By way of derogation from paragraph (B)(2)(a), the cost of advertising within the country of importation of the goods being imported, which the buyer is obliged to discharge or to require others to discharge as a condition of the sale; and

(f) The cost of insurance if such is required to be taken out in the country of importation.

5. Where a contract of sale contains a revision clause, the price for the purposes of determining the customs value of goods shall be the price finally paid or payable.

6. The price to be taken into account in determining the customs value of goods shall be the cash price as at a time laid down in the relevant legislation of the country of importation concerned.

7. The material time for valuation for customs purposes shall be fixed by the legislation of the country of importation concerned but in no case shall such time be fixed at a date later than the date of acceptance by the customs authorities of the declaration for home use in respect of the imported goods.

8. Rates of exchange to be used when determining the customs value of goods shall be duly published by the competent authorities of the country of importation concerned and shall reflect as effectively as possible, in respect of the period covered by each such document of publication, the real values of the currencies concerned in terms of the currency of the country of importation.

9. When the quantity of goods being cleared for home use on a particular customs declaration represents a partial delivery of a larger quantity purchased by the same buyer in the one transaction, any price reduction granted by reference to such larger quantity shall be duly allowed for when determining the customs value of goods provided that such reduction would be freely available under similar conditions to any other buyer.

10. Each country of importation shall provide a procedure for appeal to an independent and impartial body against valuation decisions.

11. All laws and legal instruments giving effect to these rules shall be published in conformity with Article X of the GATT by the country of importation concerned.

12. In these Rules—

(a) "Customs value of goods" means the value of goods for the purposes of levying ad valorem duties of customs on imported goods;

(b) "country of importation" means country or customs territory of importation.

13. For the purposes of these Rules persons shall be deemed to be related if—

(a) They are officers or directors of one another's businesses;

(b) They are partners in business;

(c) They are employer and employee;

(d) Any person directly or indirectly owns, controls, or holds [number to be specified] per centum or more of the issued stock or shares of both of them; or

(e) They are directly or indirectly controlling, controlled by, or under common control with, any person.

[FR Doc. 78-7491 Filed 3-22-78; 8:45 am]

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[332-98]

PROBABLE ECONOMIC EFFECT OF U.S. ADOPTION OF NEW RULES OF CUSTOMS VALUATION

Publication of Preliminary Proposed Converted Rates of Duty for Products Subject to Duty on the American Selling Price Bases of Valuation; Identification of Ad Valorem Equivalent Rates for Certain Articles Subject to Appraisement on the Basis of Section 402a of the Tariff Act of 1930; Notice of Public Hearing

In response to a request dated February 24, 1978, by the Special Representative for Trade Negotiations, at the direction of the President, the U.S. International Trade Commission on March 9, 1978, instituted an investigation, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), for the purpose of submitting a report which would, inter alia, provide—

(1) An analysis of the rules for customs valuation recently proposed for international adoption by one of our major trading partners at the Multilateral Trade Negotiations (MTN) in Geneva, Switzerland;

(2) A determination of rates of duty which, in the Commission's judgment, had the American Selling Price (ASP) bases of valuation not been applicable at the time, would have provided an amount of duty on imports of products currently subject to the ASP bases of valuation (during a recent representative period), substantially equivalent to the amount collected as a result of the application of the ASP bases of valuation; and

(3) An identification of any articles subject to the valuation provisions of section 402a of the Tariff Act of 1930 (19 U.S.C. 1402) (so called "Final List" merchandise), except articles subject to the ASP basis of valuation, for which adoption of the proposed valu-

ation rules would result in a sufficient change in the amount of duty collected to have a significant economic effect on imports or on the domestic industry producing like or directly competitive articles.

Publication of proposed converted rates of duty. Appended to this notice are preliminary schedules of proposed converted rates of duty on products currently subject to the American Selling Price (ASP) bases of valuation together with explanatory materials.

Articles subject to appraisement on bases of section 402a of the Tariff Act of 1930. Also appended is a list of ad valorem equivalent (AVE) rates of duty covering articles currently subject to appraisement on the bases of the valuation provisions of section 402a of the Tariff Act of 1930 (so called "Final List" merchandise) for which, according to data available to the Commission for calendar year 1976, the transaction value would result in a difference in the ad valorem equivalent rate of duty of one-half of a percentage point or more.

Public hearing. Beginning on April 17, 1978, at 10 a.m., e.s.t., in the Hearing Room of the U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, the Commission will hold public hearings with respect to all facets of the proposed rules for customs valuation, including—

(1) The probable economic effects on U.S. imports and industries of U.S. adoption of such rules (on both an F.O.B. and a C.I.F. basis);

(2) The effect such adoption would have on U.S. Customs administration;

(3) Whether such rules would operate fairly and uniformly among all classes of shippers;

(4) Whether the adoption of an international valuation system would benefit U.S. exporters;

(5) Whether the proposed converted duty rates appended hereto would have provided an amount of duty on imports of such products during a recent representative period substantially equivalent to the amount collected under ASP;

(6) Whether such converted rates would have been significantly different had the conversion been based on the proposed valuation rules;

(7) The degree to which the converted rates (under the proposed value rules) would provide protection to the domestic industry equivalent to that which currently exists;

(8) Assuming adoption of the proposed valuation rules, the probable economic effect upon domestic industries of: (i) adopting such rates, and (ii) of reducing such adopted rates up to 60% in accordance with the provisions of the Trade Act of 1974;

(9) An identification of any articles subject to the valuation provisions of section 402a of the Tariff Act of 1930 (other than those subject to ASP) for which adoption of the proposed rules would result in a sufficient change in the amount of duty collected to have a significant economic effect on imports or on the domestic industry producing like or directly competitive articles; and

(10) For any such articles, any information which would assist the Commission in determining proposed rates of duty which, had the proposed valuation rules been in effect, would provide an amount of duty on imports of such articles substantially equivalent to the amount collected under section 402a.

Requests to appear. Requests to appear at the hearing must be filed in writing with the Secretary of the Commisssion not later than April 10, 1978. Parties who have properly entered an appearance by this date will be individually notified of the date on which they are scheduled to appear. Such notice will be sent as soon as possible after April 12, 1978. Any person who fails to receive such notification by April 14, 1978, should immediately communicate with the Office of the Secretary of the Commission.

Written submissions. Interested persons may submit written statements in lieu of or in addition to attendance at the hearing. All written submissions, except those qualifying as "confidential business data", will be available for public inspection in the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Persons seeking confidential treatment for all or part of a submission should clearly so mark each page of the submission or part thereof for which confidential treatment is requested. Such submissions or parts thereof will be given confidential treatment if they conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. 201.6).

To be assured of consideration by the Commission, written statements should be submitted at the earliest practical date, but no later than April 28, 1978.

By order of the Commission.

Issued: March 17, 1978.

KENNETH R. MASON,
Secretary.

PRELIMINARY PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

The preliminary proposed converted rates shown in the following schedule are the rates of duty which, had the American Selling Price (ASP) bases of valuation not been applicable at the time, would have provided an amount of duty on imports of products currently subject to the ASP bases of valuation,[1] substantially equivalent to the amount collected as a result of the application of the ASP bases of valuation. Every effort was made to follow sound standards of tariff nomenclature. In the case of benzenoid chemicals, footwear and gloves preliminary converted column 2 rates are not provided.[2] Such rates could be determined by adjusting the current rates in column 2 so that they would bear the same relationship to the converted column 1 rates as the relationship which now exists between the rates in these two columns.

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[1] These products are generally referred to as benzenoid chemicals and products, rubber-soled fabric-upper footwear, certain canned clams, and certain wool knit gloves.

[2] Column 2 rates in the TSUS are applicable to the products of certain Communist-dominated or controlled countries or areas. Imports of articles subject to ASP provisions from such countries or areas have not been significant in recent years.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	Articles	Current MFN Rate of Duty	Proposed Converted Rate of Duty A	Proposed Converted Rate of Duty B
		Subpart B. - Industrial Organic Chemicals			
		Subpart B headnotes:			
		1. The provisions of items 403.02 to 403.60, inclusive, in this subpart shall apply not only to the products described therein when obtained, derived, or manufactured in whole or in part from products described in subpart A 1/ of this part, but shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in said subpart A.			
	2/	2. For the purpose of classification of merchandise provided for under item 403.60, the following provisions shall govern: (a) The term "derivatives" refers to only those derivatives which may be obtained by one or more of the following processes: Halogenation, nitration, nitrosation, or sulfonation, and is to be understood to include sulfonyl halides. (b) A compound with functional groups described in two or more subclasses under item 403.60 is to be classified in the latest applicable subclass. For example, 4-acetamido-2-amino-phenol, which contains three functional groups, will be classified in 403.60BF Amides), rather than in 403.60BD & BE (Aminophenols), or in 403.60BB & BC (Amines), or in 403.60Z (Phenols). When applicable, classification should be made in accordance with the following principles: (i) Salts of organic acids (including phenols) with inorganic bases and salts of organic bases with inorganic acids are to be classified under same superior heading as the organic acid or base; salts of organic acids with organic bases are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free base, whichever is listed later. (ii) Esters of organic acids are to be classified either under the superior heading which describes the functional groups present in the free acid or under the one which describes the functional groups present in the free alcohol or phenol, whichever is listed later. (iii) The above provisions apply also in cases where the component having the functional groups described under the later superior heading is not of benzenoid origin. For example, benzyl acetate is classified under carboxylic acids (403.60AP-AU) rather than under alcohols (403.60Y).			

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products in any physical form having a benzenoid, quinoid, or modified benzenoid structure, not provided for in subpart A 1/ or C 6/ of this part:			
A	403.02	Anthracene having a purity of 30% or more by weight	1.4¢ per lb. + 8% ad val.	1.4¢ per lb. + 8% ad val.	8.2% ad val.
A	403.04	Carbazole having a purity of 65% or more by weight	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	14.6% ad val.
A	403.06	Naphthalene which after the removal of all water present has a solidifying point of 79°C. or above	0.7¢ per lb. + 4% ad val.	0.7¢ per lb. + 4% ad val.	7% ad val.
A	403.08	Phthalic anhydride	1.2¢ per lb. + 7% ad val.	1.2¢ per lb. + 8.6% ad val.	14.5% ad val.
A	403.10	Styrene	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	15.8% ad val.
		All distillates of coal tar, blast-furnace tar, oil-gas tar, and water-gas tar, which on being subjected to distillation yield in the portion distilling below 190°C. a quantity of tar acids equal to or more than 5% by weight of the original distillate or which on being subjected to distillation yield in the portion distilling below 215°C. a quantity of tar acids equal to or more than 75% by weight of the original distillate:			
A	403.40	Phenol (carbolic acid) which on being subjected to distillation yields in the portion distilling below 190°C. a quantity of tar acids equal to or more than 5% by weight of the original distillate	1.5¢ per lb. + 8.5% ad val.	1.5¢ per lb. + 12.5% ad val.	20.9% ad val.
A	403.42	Cresylic acid which on being subjected to distillation yields in the portion distilling below 215°C. a quantity of tar acids equal to or more than 75% by weight of the original distillate	0.85¢ per lb. + 5% ad val.	0.85¢ per lb. + 5% ad val. 7/	6.9% ad val. 7/
A	403.44	Metacresol, orthocresol, paracresol, and metaparacresol, all the foregoing having a purity of 75% or more by weight	0.8¢ per lb. + 5% ad val.	0.8¢ per lb. + 5.3% ad val.	6.3% ad val.
A	403.46	Other	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 8.4% ad val.	9.8% ad val.
	403.48	2-Acetamido-3-chloroanthraquinone; o-Acetoacetanisidide; o-Acetoacetotoluidide; 2',4'-Acetoacetoxylidide; 3'-Aminoacetophenone; 1-Amino-5-benzamidoanthraquinone; o-Anisidine; p-Anisidine; 6-Chloro-m-cresol [OH=1]; m-Diethylaminophenol; 4-Chloro-2,5-dimethoxyaniline [NH_2=1]; 1,8-Dihydroxy-4,5-dinitroanthraquinone; 2,4-Dimethoxyaniline; 3-Ethylamino-p-cresol; Iminodianthraquinone; 5-Methoxy-m-phenylenediamine; N-Methylaniline; dl-Phenylephrine base; Phenylsulfone; 2-Pyridinecarboxaldehyde; Sodium tetraphenylboron; 2,4,6-Trimethylaniline (mesidine); and Vinylcarbazole, mono:			

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
			Cyclic organic chemical products, etc. (con.):			
	403.48		2-Acetamido-3-chloroanthraquinone, etc. (con.):			
	(con.)	A	6-Chloro-m-cresol [OH=1].....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10.2% ad val.	11.3% ad val.
		B	1,8-Dihydroxy-4,5-dinitroanthraquinone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10.8% ad val.	10.9% ad val.
		C	Methylanilines.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 9.3% ad val.	10.9% ad val.
			Amines having one or more oxygen functions, and their derivatives:			
		D	3'Aminoacetophenone; o-Anisidine; p-Anisidine; m-Diethylaminophenol; 3-Ethylamino-p-cresol; Iminodianthraquinone; 5-Methoxy-m-phenylenediamine; and dl-Phenylephrine base.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 16.2% ad val.	17.4% ad val.
		E	4-Chloro-2,5-dimethoxylaniline [NH_2=1]; and 2,4-Dimethoxyaniline.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10.4% ad val.	10.9% ad val.
		F	2-Acetamido-3-chloroanthraquinone; o-Acetoacetanisidide; o-Acetoacetotoluidide; 2',4'-Acetoacetoxylidide; and 1-Amino-5-benzamidoanthraquinone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 13.2% ad val.	14.7% ad val.
		G	Phenylsulfone.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 13.3% ad val.	15.3% ad val.
		H	Sodium tetraphenylboron.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	10% ad val.
		I	2-Pyridinecarboxaldehyde; and Vinylcarbazole, mono.....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	10% ad val.
	403.50		p-Aminobenzoic acid; 7-Amino-1,3-naphthalenedisulfonic acid and its salts; 5-Amino-2-naphthalenesulfonic acid and its salts; 8-Amino-1-naphthalenesulfonic acid and its salts; 8-Amino-2-naphthalenesulfonic acid and its salts; 6-Amino-1-naphthol-3-sulfonic acid and its salts; 8-Amino-1-naphthol-5-sulfonic acid and its salts; 4-Amino-2-stilbenesulfonic acid and its salts; Biligrafin acid; 3,5-Diacetamido-2,4,6-triiodobenzoic acid; 2,3-Dichloro-1,4-naphthoquinone; m-Dimethylaminophenol; Gentisic acid; p-Hydroxybenzoic acid; 1-Hydroxy-2-carbazolecarboxylic acid; Hydroxycinnamic acid and its salts; 2-Hydroxy-3-dibenzofurancarboxylic acid; 2-Naphthol-3,6-disulfonic acid and its salts; 7-Nitronaphth[1,2]oxadiazole-5-sulfonic acid and its salts; p-Nitrotoluene; p-Phenetidine; m-Phenylenediamine; o-Phenylenediamine; N-Phenyl-2-naphthylamine; 2,4,4',5'-Tetrachlorophenylsulfone; Toluene-2,4-diamine; o-Toluenesulfonamide; and 2,4-Xylidine:			
		A	p-Nitrotoluene.....	1.4¢ per lb. + 10% ad val.	9/	9/
		B	2-Naphthol-3,6-disulfonic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 13.5% ad val.	14.8% ad val.
		C	2,3-Dichloro-1,4-naphthoquinone.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 13% ad val.	13.9% ad val.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/		Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
	403.50 (con.)		Cyclic organic chemical products, etc. (con.): p-Aminobenzoic acid, etc. (con.):			
		D	Gentisic acid; p-Hydroxybenzoic acid; and Hydroxycinnamic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.1% ad val.	13.8% ad val.
			Amines and their derivatives:			
		E	7-Amino-1,3-naphthalenedisulfonic acid and its salts; 5-Amino-2-naphthalenesulfonic acid and its salts; 8-Amino-1-naphthalenesulfonic acid and its salts; 4-Amino-2-stilbenesulfonic acid and its salts; m-Phenylenediamine; o-Phenylenediamine; N-Phenyl-2-naphthylamine; Toluene-2,4-diamine; and 2,4-Xylidine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.1% ad val.	13.4% ad val.
		F	8-Amino-2-naphthalenesulfonic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 9.7% ad val.	10.3% ad val.
		G	p-Aminobenzoic acid; 6-Amino-1-naphthol-3-sulfonic acid and its salts; 8-Amino-1-naphthol-5-sulfonic acid and its salts; m-Dimethylaminophenol; and p-Phenetidine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.7% ad val.	13.2% ad val.
		H	Biligrafin acid; and 3,5-Diacetamido-2,4,6-triiodobenzoic acid....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 8.5% ad val.	8.6% ad val.
		I	2,4,4',5'-Tetrachlorophenylsulfone.....	1.4¢ per lb. + 10% ad val.	9/	9/
		J	1-Hydroxy-2-carbazolecarboxylic acid; 2-Hydroxy-3-dibenzofurancarboxylic acid; and 7-Nitronaphth[1,2]oxadiazole-5-sulfonic acid and its salts.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 16.6% ad val.	17.7% ad val.
		K	o-Toluenesulfonamide.....	1.4¢ per lb. + 10% ad val.	9/	9/
			Other:			
A	403.58		Ethoxyquin (1,2-Dihydro-6-ethoxy-2,2,4-trimethylquinoline).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.1% ad val.	18.5% ad val.
	403.60		Other:			
			Hydrocarbons:			
		A	Alkylbenzenes and polyalkylbenzenes.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.3% ad val.	26.6% ad val.
		B	Bi- and polyphenyls.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	16.8% ad val.
		C	α-Methylstyrene.....	1.7¢ per lb. + 12.5% ad val.	9/	9/
		D	Vinyltoluene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	17.7% ad val. 7/
		E	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.4% ad val.	25.9% ad val.
			Halogenated hydrocarbons:			
		F	Benzyl chloride (α-Chlorotoluene)...	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	18.2% ad val. 7/
		G	Benzotrichloride (α,α,α,-Trichlorotoluene).....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.2% ad val.	15.7% ad val.
			Chlorobenzenes, mono-,di-, and tri-:			
		H	Monochlorobenzene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 28.6% ad val.	43.6% ad val.
		I	Orthodichlorobenzene.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 26.3% ad val.	38.1% ad val.

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other (con.):			
		Halogenated hydrocarbons (con.):			
		Chlorobenzenes, etc. (con.):			
	J	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	13.2% ad val.
	K	Chlorinated biphenyl	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.1% ad val.	16.8% ad val.
	L	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.3% ad val.	22.8% ad val.
		Hydrocarbon derivatives:			
	M	Monochloromononitrobenzenes	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.4% ad val.	25% ad val.
	N	4,4'-Dinitrostilbene-2,2'-disulfonic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.6% ad val.	18.7% ad val.
	O	Nitrated benzene, toluene, or naphthalene	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 8.9% ad val.	10.5% ad val.
	P	Nitrotoluenesulfonic acids	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 23.3% ad val.	27.1% ad val.
	Q	p-Toluenesulfonyl chloride	1.7¢ per lb. + 12.5% ad val.	9/	9/
		Other:			
	R	Benzenesulfonyl chloride; 1-chloro-2,4-dinitrobenzene; 2,7-Naphthalenedisulfonic acid; and p-Toluenesulfonic acid monohydrate	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.9% ad val.	19.1% ad val.
	S	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.4% ad val.
		Alcohols, phenols, ethers (including epoxides and acetals), aldehydes, ketones, alcohol peroxides, ether peroxides, ketone peroxides, and their derivatives:			
	T	Alkyl cresols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	14.3% ad val.
	U	Alkyl phenols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 25% ad val.	27.5% ad val.
	V	Naphthols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.7% ad val.	26.4% ad val.
	W	Nitrophenols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.1% ad val.	19.1% ad val.
	X	Resorcinol	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	14.2% ad val. 7/
		Other:			
	Y	Alcohols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
	Z	Phenols and phenol-alcohols	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.7% ad val.	14.7% ad val.
		Halogenated, sulfonated, nitrated, or nitrosated derivatives of phenols or phenol alcohols:			
	AA	o-Chlorophenol; p-Chlorophenol; 2,4-Dichlorophenol; 6,7-Dihydroxy-2-naphthalenesulfonic acid; 6,7-Dihydroxy-2-naphthalenesulfonic acid, sodium salt; 7-Hydroxy-1,3-naphthalenedisulfonic acid,, dipotassium salt;			

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other (con.):			
		Alcohols, phenols, ethers, etc. (con.):			
		Other (con.):			
		Halogenated, sulfonated, etc. (con.):			
		6-Hydroxy-2-naphthalenesulfonic acid, sodium salt; and 2-Naphthol-6-sulfonic acid, ammonium salt.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.4% ad val.	20.9% ad val.
	AB	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.3% ad val.	14.9% ad val.
		Ethers, ether-alcohols, ether-phenols, ether-alcohol-phenols, peroxides of alcohols, ethers, and ketones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AC	Anisole, technical; Benzoin isopropyl ether; 2-Chloro-1,4-dibutoxy-5-nitrobenzene; 1-chloro-2,5-diethoxy-4-nitrobenzene; p-Dimethoxybenzene; and o-Nitroanisole.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22% ad val.	25.5% ad val.
	AD	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.6% ad val.
	AE	Epoxides, epoxyalcohols, epoxyphenols, and epoxyethers, with a three- or four-member ring, and their halogenated, sulfonated, nitrated, or nitrosated derivatives.....	1.7¢ per lb. + 12.5% ad val.	10/	10/
	AF	Acetals and hemiacetals and single and complex oxygen function acetals and hemiacetals, and their halogenated, sulfonated, nitrated, or nitrosated derivatives.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13% ad val.	13.4% ad val.
	AG	Aldehydes, aldehyde-alcohols, aldehyde-ethers, aldehyde-phenols, and other single or complex oxygen-function aldehydes; cyclic polymers of aldehydes; paraformaldehydes.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.9% ad val.	13.2% ad val.
	AH	Halogenated, sulfonated, nitrated, or nitrosated derivatives of aldehydes, aldehyde-alcohols, aldehyde-ethers, aldehyde-phenols, and other single or complex oxygen-function aldehydes, cyclic polymers of aldehydes and paraformaldehyde.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 24.3% ad val.	25.4% ad val.

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other (con.):			
		Alcohols, phenols, ethers, etc. (con.):			
		Other (con.):			
	AI	Ketones, ketone-alcohols, ketone-phenols, ketone-aldehydes, quinones, quinone-alcohols, quinone-phenols, quinone-aldehydes, and other single or complex oxygen-function ketones and quinones, and their halogenated, sulfonated, nitrated, or nitrosated derivatives....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.1% ad val.	13.7% ad val.
		Carboxylic acids, anhydrides, halides, acyl peroxides, peroxyacids, and their derivatives:			
	AJ	1,2,4-Benzenetricarboxylic acid, 1,2-dianhydride (Trimellitic anhydride).....	1.7¢ per lb. + 12.5% ad val.	9/	9/
	AK	Benzoic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	18.5% ad val. 7/
	AL	Benzoyl chloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.7% ad val.	17.8% ad val.
	AM	Isophthalic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	19.3% ad val. 7/
	AN	Terephthalic acid.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 24% ad val.	24.4% ad val.
	AO	Terephthalic acid, dimethyl ester.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.1% ad val.	22.1% ad val.
		Other:			
		Monocarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AP	Benzoyl peroxide; Bis(2,4-dichlorobenzoyl) peroxide; o-Chlorobenzoic acid; 3,5-Dinitrobenzoic acid; 2-Fluorobenzoyl chloride; Methyl-3,4-dimethoxy-6-nitrobenzoate; Nitraminic acid; m-Nitrobenzoic acid; p-Nitrobenzoic acid; and m-Nitrobenzoyl chloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.9% ad val.	18.7% ad val.
	AQ	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	12.9% ad val.
		Polycarboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AR	1,2,4,5-Benzenetetracarboxylic-1,2:4,5-dianhydride; 1,1'-Binaphthalene-8,8'-dicarboxylic acid; 1,2-Cyclohexanedicarboxylic anhydride; Diethylphenyl malonate; Isophthaloyl chloride; 1,4,5,8-Naphthalenetetracarboxylic acid; 3,4,9,10-Perylenetetracarboxylic acid; and 5-Sulfoisophthalic acid-1, 3-dimethyl ester, sodium salt.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.7% ad val.	23.1% ad val.

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Carboxylic acids, anhydrides, etc. (con.):			
		Other (con.):			
		Polycarboxylic acids, etc. (con.):			
	AS	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 11.6% ad val.	13.5% ad val.
		Carboxylic acids with alcohol, phenol, aldehyde, or ketone function and other single or complex oxygen-function carboxylic acids and their anhydrides, halides, peroxides, and peracids, and their halogenated, sulfonated, nitrated, or nitrosated derivatives:			
	AT	2-Bromo-α-resorcylic acid; 4-tert-Butylphenyl salicylate; Glycerol trimellitate anhydride; p-Hydroxybenzoic acid, butyl ester; p-Hydroxybenzoic acid, ethyl ester; p-Hydroxybenzoic acid, methyl ester; p-Hydroxybenzoic acid, propyl ester; 3-Hydroxy-2-naphthoic acid; Phenoxyacetic acid; Salicylic acid, technical; and 3,4,5-Trimethoxybenzoic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.9% ad val.	19.3% ad val.
	AU	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.1% ad val.
	AV	Esters of inorganic acids (except hydrocyanic acid, hydrogen halides, and hydrogen sulfide) and their derivatives	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.4% ad val.	15% ad val.
		Amines and their derivatives:			
	AW	Aniline	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 11.6% ad val.	16.4% ad val.
	AX	4,4'-Diamino-2,2'-stilbenedisulfonic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.7% ad val.	22.5% ad val.
	AY	N,N-Dimethylaniline	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.1% ad val.	13.6% ad val.
	AZ	4,4'-Methylenedianiline	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	14.6% ad val.
	BA	Nitrodiphenylamine	1.7¢ per lb. + 12.5% ad val.	9/	9/
		Other:			
	BB	2-(p-Aminoanilino)-5-nitrobenzenesulfonic acid; 2-Amino-p-benzenedisulfonic acid, sodium salt; 4-Amino-m-benzenedisulfonic acid; p-Aminobenzylmethylamine; 2-Amino-5-chloro-p-toluenesulfonic acid [SO_3H=1]; 6-Amino-4-chloro-m-toluenesulfonic acid [SO_3H=1] (ZB ACID); 2-Amino-1,5-naphthalenedisulfonic acid; 3-Amino-1,5-naphthalenedisulfonic acid (C acid); 3-Amino-1,5-naphthalenedisulfonic acid, salts;			

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Amines and their derivatives (con.):			
		Other (con.):			
		2-Amino-1-naphthalenesulfonic acid, (Tobias acid); 6-Amino-2-naphthalenesulfonic acid (Broenner's acid); 6-Amino-2-naphthalenesulfonic acid, sodium salt (Broenner's acid, sodium salt); 2-Amino-5-nitrobenzenesulfonic acid [SO_3H=1]; 2-Amino-5-nitrobenzenesulfonic acid, sodium salt; 6-Amino-m-toluenesulfonic acid [SO_3H=1]; Benzidine base; N,N-Bis(2-hydroxyethyl)-3-chloroaniline; 5-Chloro-2-aminobenzotrifluoride; m-Chloroaniline; o-Chloroaniline; p-Chloroaniline; 4-Chlorometanilic acid; 2-Chloro-4-nitroaniline (o-chloro-p-nitroaniline); N-Cyclohexyl-N'-phenylenediamine; 2,4-Diaminobenzenesulfonic acid [SO_3H=1]; 2,5-Diaminobenzenesulfonic acid [SO_3H=1]; 4,4'-Diamino-2,2'-stilbenedisulfonic acid, sodium salt; 3,3'-Dichlorobenzidine base and salts; 3,5-Dichlorosulfanilic acid [SO_3H=1]; N,N'-Dicyclohexyl-p-phenylenediamine; N,N-Diethylaniline; Dimethylaniline; N-(1,3-Dimethylbutyl)-N-phenyl-p-phenylenediamine; N,N-Dimethyl-p-phenylenediamine; 2,4-Dinitroaniline; α-(N-ethylanilino)-m-toluenesulfonic acid; N-Ethyl-m-toluidine; Metanilic acid (m-aminobenzenesulfonic acid); 1-Naphthylamine (α-naphthylamine); 2-Naphthylamine (β-naphthylamine); o-Nitroaniline; p-Nitroaniline; 2-Nitro-p-phenylenediamine; 5-Nitro-o-toluidine [NH_2=1]; Sulfanilic acid (p-aminobenzenesulfonic acid) and salt; Toluene-2,5-diamine sulfate; m-Toluidine; α,α,α-Trifluoro-m-toluidine; α,α,α-Trifluoro-o-toluidine; 2,5-xylidine (p-xylidine); and 2,6-xylidine.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.9% ad val.	20.8% ad val.
	BC	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.3% ad val.	13.3% ad val.

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Amines having one or more oxygen functions, and their derivatives:			
	BD	3'-Aminoacetanilide; 1-Aminoanthraquinone and salts; 1-Amino-4-bromo-2-anthraquinone sulfonic acid; 1-Amino-4-bromo-9,10-dihydro-9,10-dioxo-2-anthracenesulfonic acid and sodium salt; 1-Amino-2-bromo-4-hydroxyanthraquinone; 2-Amino-5-chlorobenzophenone; 1-Amino-2,4-dibromoanthraquinone; 4-Amino-5-hydroxy-2,7-naphthalene-disulfonic acid (H acid); 6-Amino-4-hydroxy-2-naphthalene-sulfonic acid; 4-Amino-5-methoxy-o-toluene-sulfonic acid; 8-Amino-2-naphthol; 7-Amino-1-naphthol-3,6-disulfonic acid (2R acid); p-Aminophenol; 7-Anilino-4-hydroxy-2-naphthalene-sulfonic acid; Anthranilic acid (o-aminobenzoic acid); 4,4'-Bis[dimethylamino]benzophenone (Michler's ketone); 5-Chloro-o-anisidine [NH_2=1] (4-chloro-o-anisidine [OCH/3=1]); 1,4-Diamino-2,3-dihydroanthraquinone; 2,5-Dianilinoterephthalic acid; p-(Diethylamino)benzaldehyde; N,N-Diethyl-m-phenetidine; 3,3'-Dimethoxybenzidine; 3,3'-Dimethoxybenzidine dihydrochloride; m-(Dimethylamino) benzoic acid; 4-Hydroxymetanilic acid; D(-)-p-Hydroxyphenyl glycine; 1-(Methylamino)-4-p-toluidino-anthraquinone; 5-Methyl-o-anisidine [NH_2=1]; 4-Nitro-o-anisidine [NH_2=1]; 5-Nitro-o-anisidine [NH_2=1]; o-Phenetidine; D(-)-2-Phenylglycine; D(-)-2-Phenylglycine chloride hydrochloride; 2,2'-[(Phenyl)imino] diethanol (N-phenyldiethanolamine); 4-Sulfoanthranilic acid; and 2,2'-(m-Tolylimino)diethanol.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.6% ad val.	16.2% ad val.
	BE	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.2% ad val.	12.8% ad val.
		Amides and their derivatives:			
	BF	4-Acetamido-2-aminophenol.....	1.7¢ per lb. + 12.5% ad val.	9/	9/
	BG	Benzanilide.....	1.7¢ per lb. + 12.5% ad val.	9/	9/
		Other:			
	BH	4-Acetamido-2-aminobenzene-sulfonic acid; 5-acetamido-2-aminobenzene-sulfonic acid; Acetoacetanilide; p-Acetoacetotoluidide;			

See footnotes at end of schedule.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Amides and their derivatives (con.):			
		Other (con.):			
		4'-Aminoacetanilide; 3-Amino-p-anisamide; p-Aminobenzamide; Aminomethoxyacetanilide; 3-Amino-4-methylbenzamide; 2'-Chloroacetoacetanilide; 4'-Chloro-2',5'-dimethoxyaceto-acetanilide; 4,5'-Dibenzamido-1,1'-iminodi-anthraquinone; 2'-5'-Dimethoxyacetoacetanilide; 2,5-Di-p-toluidinoterephthalic acid; 3-Hydroxy-N-(2-hydroxyethyl)-2-naphthamide; 1,1'-Iminobis[4-benzamidoanthra-quinone]; 1,1'-Iminobis[5-benzamidoanthra-quinone]; 2'-Nitro-p-acetanisidide; 7,7'-Ureylenebis[4-hydroxy-2-naph-thalenesulfonic acid]; and 7,7'-Ureylenebis[4-hydroxy-2-naph-thalenesulfonic acid], disodium salt	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.1% ad val.	19.1% ad val.
	BI	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.4% ad val.	13.1% ad val.
		Other nitrogen-function compounds (except those in which the only nitrogen function is a nitro ($-NO_2$) or a nitroso (-NO) group, or an ammonium salt of an organic acid) and their derivatives:			
	BJ	Benzonitrile	1.7¢ per lb. + 12.5% ad val.	9/	9/
	BK	Diazoaminobenzene (1,3-diphenyl-triazene)	1.7¢ per lb. + 12.5% ad val.	9/	9/
	BL	Toluenediisocyanates	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 8% ad val.	10.7% ad val.
		Other:			
	BM	Quaternary ammonium salts and hydroxides	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 11.2% ad val.	11.2% ad val.
	BN	Carboxyimide-function compounds (including orthobenzoic sulfimide and its salts) and imine-function compounds	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.1% ad val.	21% ad val.
		Nitrile-function compounds:			
	BO	3-(N-ethylanilino) propio-nitrile; 3-(N-methylanilino)-propio-nitrile; and Phenylacetonitrile	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.5% ad val.	22.7% ad val.
	BP	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.7% ad val.	13.4% ad val.
		Diazo-, azo-, and azoxy-compounds:			
	BQ	p-[(p-Aminophenyl)azo] benzenesulfonic acid; p-[(p-Aminophenyl)azo] benzenesulfonic acid, sodium salt;			

See footnotes at end of schedule.

PRELIMINARY
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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Other nitrogen function compounds, etc. (con.):			
		Other (con.):			
		Diazo-, azo-, and azoxy-compounds (con.):			
		Metanilic azoanisidine; Naphth[1,2-d][1,2,3]oxadiazole-5-sulfonic acid; and 5-Nitro-1-diazo-2-naphthol-4-sulfonic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.9% ad val.	21.3% ad val.
	BR	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	12.8% ad val.
	BS	Organic derivatives of hydrazine or hydroxylamine	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	14.6% ad val.
		Compounds with other nitrogen functions:			
	BT	Polymethylene polyphenyl isocyanate	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.2% ad val.	21% ad val.
	BU	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13% ad val.
		Organo-inorganic compounds (i.e., compounds having an atom other than carbon, hydrogen, oxygen, nitrogen, chlorine or other halogen attached directly to a carbon atom), and their derivatives:			
	BV	Benzenethiol (Thiophenol)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12% ad val.	13% ad val.
		Other:			
	BW	Organo-sulfur compounds	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	13% ad val.
	BX	Organo-mercury compounds	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.6% ad val.
	BY	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.4% ad val.	22.1% ad val.
		Heterocyclic compounds and their derivatives (including lactones and lactams but excluding epoxides with three membered rings, anhydrides and imides of polybasic acids, and cyclic esters of polyhydric alcohols with polybasic acids):			
	BZ	1,2-Dihydro-2,2,4-trimethylquinoline	1.7¢ per lb. + 12.5% ad val.	9/	9/
	CA	2,2'-Dithiobisbenzothiazole	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.9% ad val.	21.2% ad val.
	CB	2-Mercaptobenzothiazole, sodium salt (2-Benzothiazolethiol, sodium salt)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	42.1% ad val.
		Other:			
	CC	2-Aminobenzothiazole; 2-Amino-6-nitrobenzothiazole; 2-(p-Aminophenyl)-6-methyl-benzothiazole; 2-(p-Aminophenyl)-6-methyl-7-benzothiazolesulfonic acid and salt; Antioxidant ZMB (2-benzimidazolethiole, zinc salt); Benzothiazole; 3-(o-Chlorophenyl)-5-methyl-4-isoxazolecarboxylic acid;			

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

CSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Cyclic organic chemical products, etc. (con.):			
		Other (con.):			
	403.60 (con.)	Heterocyclic compounds, etc. (con.):			
		Other (con.):			
		3-(o-Chlorophenyl)-5-methyl-4-isoxazolecarboxylic acid, acid chloride; 1-(p-Chlorophenyl)-3-methyl-2-pyrazolin-5-one; 2-Chloropyridine; 5-Chloro-8-quinolinol hydrochloride; N-Cyclohexyl-2-benzothiazolesulfenamide; 2,4-Diamino-6-phenyl-S-triazine; Dichloro-2-aminobenzothiazole; 8,18-Dichloro-5,15-diethyl-5,15-dihydrodiindolo-(3,2-B:3',2'-m)triphenodioxazine; 2,5-Dichloro-4-(3-methyl-5-oxo-2-pyrazolin-1-yl)benzenesulfonic acid; 3-(2',6'-Dichlorophenyl)-5-methyl-isoxazole-4-carbonyl chloride; 2,6-Dihydroxyisonicotinic acid; 4,6-Dihydroxypyrimidine; Indole-2,3-dione; 2-Mercaptobenzothiazole; 3-Methyl-1,2,5-dichloro-4-sulfophenyl pyrazole-5-one; 2-Methylindole; 3-Methyl-1-phenyl-2-pyrazolin-5-one (Developer Z); Methylphenylpyrazolone; 2-Methylresorcinol; 3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one; Nicotinic acid-N-oxide; 5-Nitroindazole; 5-oxo-1-Phenyl-2-pyrazoline-3-carboxylic acid, ethyl ester; 5-oxo-1-(p-sulfophenyl)-2-pyrazoline-3-carboxylic acid (Pyrazolone T); N-Oxydiethylene-2-benzothiazole sulfenamide; 1(2H)-Phthalazinone; Phthalocyanine crude, copper salt, monochlorinated; Poly-2,2,4-trimethyl-1,2-dihydroquinoline; Pyridine-2,6-dicarboxylic acid; 4-Pyridylmercaptoacetyl chloride hydrochloride; Quinoline; Quinoline-3-carboxylic acid (3-Oxyquinaldine carboxylic acid); 2,4-Quinolinediol, sodium; 8-Quinolinol; and 1,3,3-Trimethyl-2-methyleneindoline	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.4% ad val.	17.4% ad val.
	CD	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.4% ad val.	12.7% ad val.

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
			Cyclic organic chemical products, etc. (con.):			
			Other (con.):			
	403.60 (con.)		Sulfonamides, sultones, sultams, and other organic compounds:			
		CE	Copper phthalocyanine ([Phthalocyanato (2-)] copper)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.8% ad val.	18.1% ad val.
			Other:			
		CF	Sulfonamides: N-Butylbenzenesulfonamide; N-tert-Butyl-2-benzo-thiazolesulfonamide; 4-Hydroxymetanilamide; and p-Toluenesulfonamide	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18% ad val.	19.5% ad val.
		CG	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.8% ad val.	13.2% ad val.
		CH	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.5% ad val.	15.3% ad val.
			All other products, by whatever name known, not provided for in subpart A 1/ or C 6/ of this part, including acyclic organic chemical products, which are obtained, derived, or manufactured in whole or in part from any of the cyclic products having a benzenoid, quinoid, or modified benzenoid structure provided for in the foregoing provisions of this subpart or in subpart A 1/ of this part:			
'A	403.70		Caprolactam monomer	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	12.5% ad val.
A	403.75		Hexamethylene adipamide	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 11.5% ad val.	14.2% ad val.
A	403.78		Methylcyclohexanone	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 10% ad val.	10.3% ad val.
			Other:			
A	403.79		Maleic anhydride	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.6% ad val.	23.1% ad val.
	403.80		Other:			
		A	Acetone	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.7% ad val.	35.6% ad val.
		B	Adipic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.8% ad val.	26.4% ad val.
		C	Cyclohexane	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	27.5% ad val.
		D	Cyclohexanone	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.8% ad val.
		E	Fumaric acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 27.2% ad val.	36.2% ad val.
		F	Hexamethylenediamine	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 6.8% ad val.	7.9% ad val.
		G	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.8% ad val.	17.8% ad val.
A	403.90		Mixtures in whole or in part of any of the products provided for in this subpart	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val., but not less than the highest rate applicable to any component material.	15.8% ad val., but not less than the highest rate applicable to any component material.

See footnotes at end of schedule.

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PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	Articles	Current MFN Rate of Duty	Proposed Converted Rate of Duty A	Proposed Converted Rate of Duty B
		Subpart C. - Finished Organic Chemical Products			
		Subpart C headnotes: 1. The provisions of this subpart providing for products obtained, derived, or manufactured in whole or in part from products described in subparts A 1/ or B 1/ of this part shall also apply to products of like chemical composition having a benzenoid, quinoid, or modified benzenoid structure artificially produced by synthesis, whether or not obtained, derived, or manufactured in whole or in part from products described in the said subpart A or B. 2. The term "pesticides" in item 405.15 means products, such as insecticides, rodenticides, fungicides, herbicides, fumigants, and seed disinfectants, chiefly used to destroy undesired animal or plant life. 3. The term "plastics materials" in item 405.25 embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which plasticizers, fillers, colors, or extenders may have been added. The term includes, but is not limited to, phenolic and other tar-acid resins, styrene resins, alkyd and polyester resins based on phthalic anhydride, coumarone-indene resins, urethane, epoxy, toluene sulfonamide, maleic, fumaric, aniline, and polyamide resins, and other synthetic resins. The plastic materials may be in solid, semi-solid, or liquid condition, such as flakes, powders, pellets, granules, solutions, emulsions, and other basic forms not further processed. 4. The term "plasticizers" in item 405.40 means substances which may be incorporated into a material (usually a plastic, resin material, or an elastomer) to increase its softness, flexibility, workability, or distensibility. 5. The term "drugs" in this subpart means those substances having therapeutic or medicinal properties and chiefly used as medicines or as ingredients in medicines. 6. For the purposes of the provisions of this subpart relating to "Colors, dyes, stains, and related products" (except products provided for in item 406.80) -- (a) the specific duties shall be based on standards of strength which shall be established by the Secretary of the Treasury, and upon all importations of such articles which exceed such standards of strength the specific duty shall be computed on the weight which the article would have if it were diluted to the standard strength, but in no case shall any such articles of whatever strength be subject to a less specific duty than that provided in the respective items of this subpart; (b) it shall be unlawful to import or bring into the United States any such product unless the invoice shall bear a plain, conspicuous, and truly descriptive statement of the identity and percentage, exclusive of diluents, of such product;			

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	Articles	Current MFN Rate of Duty	Proposed Converted Rate of Duty A	Proposed Converted Rate of Duty B
		(c) it shall be unlawful to import or bring into the United States any such product, if the immediate container or the invoice bears any statement, design, or device regarding the product or the ingredients or substances contained therein which is false, fraudulent, or misleading in any particular; and (d) in the enforcement of the foregoing provisions of this headnote the Secretary of the Treasury shall adopt a standard of strength for each dye or other product which shall conform as nearly as practicable to the commercial strength in ordinary use in the United States prior to July 1, 1914. If a dye or other product has been introduced into commercial use since said date then the standard of strength for such dye or other product shall conform as nearly as practicable to the commercial strength in ordinary use. If a dye or other product was or is ordinarily used in more than one commercial strength, then the lowest commercial strength shall be adopted as the standard of strength for such dye or other product.			
	2/	7. For the purpose of the classification of merchandise provided for under item 405.25, the following provisions shall apply: (a) The term "thermosplastic resins" means those materials in unfinished forms which in their final state as finished articles are capable of being repeatedly softened by increase of temperature and hardened by decrease of temperature. (b) The term "thermosetting resins" (or thermosets) means those materials in unfinished forms which in their final state as finished articles are substantialy infusible. Thermosetting resins are often liquids at some stage in their manufacture or processing and are cured by heat, catalysis, or other chemical means. After being fully cured, thermosets cannot be resoftened by heat. (c) Copolymers and terpolymers not specially provided for shall be classified as if they consisted entirely of that monomer which is present in the largest amount by weight on a resin content basis (i.e., excluding the weight of plasticizers, liquid diluents, fillers, or other additives). Any polymer consisting of two or more monomers which are present in equal amounts shall be classified as if it consisted entirely of that monomer whose polymer is listed first under the thermoplastic or thermosetting resins, as appropriate.			
	2/	8. Any product described in two or more of the subclasses under item 407.85 is to be classified in the first applicable subclass.			
	2/	9. For the purposes of this subpart-- (a) The term "surface-active agents", means synthetic organic chemical compounds, or mixtures thereof, which function as surface tension modifiers and are chiefly used for any one or combination of the following purposes: As detergents, wetting agents, emulsifiers, dispersants, or foaming agents. (b) The term "synthetic detergents" embraces formulated materials which are used chiefly for household, laundry, and industrial cleaning purposes, and which consist of one or more surface-active agents as the active ingredients in combination with colors, brighteners, perfumes, inert diluents, builders, and extenders such as inorganic salts, polyphosphates, polysilicates or sodium carboxymethylcellulose.			

See footnotes at end of schedule.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/		Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
			Products obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 11/ of this part:			
			Explosives:			
			Trinitrotoluene:			
A	405.04		Valued not over 15 cents per pound	1.7¢ per lb. + 11% ad val.	9/	9/
	405.05		Valued over 15 cents per pound	Free	Free	Free
A	405.06		Other	1.7¢ per lb. + 11% ad val.	9/	9/
A	405.10		Ink powders	1.7¢ per lb. + 11% ad val.	9/	9/
A	405.15		Pesticides:			
			Not artificially mixed:			
		A	Fungicides	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.9% ad val.
			Herbicides (including plant growth regulators):			
		B	6-tert-Butyl-β-cresol; 4-Chloro-2-methylphenoxyacetic acid; 2,4-Dichlorophenoxyacetic acid; 4-(2,4-Dichlorophenoxy)butyric acid; Dinitrobutylphenol; 3-(3,4-Dichlorophenyl)-1,1-dimethylurea; and 2,4,5-Trichlorophenoxyacetic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.1% ad val.	16.9% ad val.
		C	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	13.3% ad val.
			Insecticides:			
		D	Chlorobenzilate; 4,4'-Dichloro-α-trichloromethylbenzhydrol; O,O-Diethyl,O-(p-nitrophenyl) phosphorothioate; and Hexachlorocyclohexane, 100% gamma isomer	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20.1% ad val.	22% ad val.
		E	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.8% ad val.	13.7% ad val.
		F	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.4% ad val.
		G	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 9.7% ad val.	15.2% ad val.
A	405.20		Photographic chemicals	3¢ per lb. + 19% ad val.	3¢ per lb. + 21% ad val.	21.3% ad val.
A	405.25		Plastics materials:			
		A	Concentrated dispersions of pigments in plastics materials	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	10.2% ad val.
		B	Paints and enamel paints	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	10.2% ad val.
		C	Varnishes and lacquers	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 11.4% ad val.	13% ad val.
			Other:			
			Thermoplastic resins:			
		D	Petroleum hydrocarbon and coumarone-indene resins	1.4¢ per lb. + 9% ad val.	9/	9/
		E	Polyamide resins, nylon type	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.3% ad val.	11.6% ad val.
		F	Polycarbonate resins	1.4¢ per lb. + 9% ad val.	1.3¢ per lb. + 9% ad val.	9.8% ad val.
		G	Polyester resins, saturated	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	9.7% ad val.
		H	Acrylonitrile-butadiene-styrene (ABS) resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.4% ad val.	12.6% ad val.
		I	Methyl methacrylate-butadiene-styrene (MBS) resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 13.5% ad val.	16.8% ad val.
		J	Styrene-acrylonitrile (SAN) resins	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.1% ad val.	11.5% ad val.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
			Products obtained, derived, or manufactured etc. (con.):			
A	405.25 (con.)		Plastics materials (con.):			
			Other (con.):			
			Thermoplastic resins (con.):			
		K	Polystyrene resins and styrene copolymers, terpolymers (except ABS, MBS, and SAN resins).....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.2% ad val.	11.7% ad val.
		L	Other.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.8% ad val.	10.8% ad val.
			Thermosetting resins:			
		M	Alkyd resins.....	1.4¢ per lb. + 9% ad val.	9/	9/
		N	Allyl resins (e.g., diallyl phthalate).....	1.4¢ per lb. + 9% ad val.	9/	9/
		O	Epoxy resins.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.4% ad val.	10.7% ad val.
		P	Phenolic resins.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9.6% ad val.	12.2% ad val.
		Q	Polyester resins, unsaturated.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val. 7/	12.9% ad val. 7/
		R	Polyurethane resins.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.3% ad val.	11.5% ad val.
		S	Other.....	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 9% ad val.	10% ad val.
A	405.30		Products chiefly used as assistants in preparing or finishing textiles:			
		A	Surface-active agents and synthetic detergents.....	1.4¢ per lb. + 8% ad val.	1.4¢ per lb. + 10.7% ad val.	12.6% ad val.
		B	Other.....	1.4¢ per lb. + 8% ad val.	1.4¢ per lb. + 9.9% ad val.	10.8% ad val.
A	405.35		Products (except those in item 405.30) chiefly used for any one or combination of the following purposes: As detergents, wetting agents, emulsifiers, dispersants, or foaming agents.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.9% ad val.	17.2% ad val.
A	405.40		Products chiefly used as plasticizers.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.7% ad val.	22.4% ad val.
A	405.45		Sodium benzoate.....	1.5¢ per lb. + 10.5% ad val.	1.5¢ per lb. + 15.3% ad val.	19.7% ad val.
A	405.55		Synthetic tanning materials.....	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 24.4% ad val.	35.7% ad val.
			Colors, dyes, stains, and related products:			
	406.02		Sulfur black, "Colour Index Nos. 53185, 53190, and 53195".....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 14% ad val.	16.8% ad val.
	406.04		Vat blue 1 (synthetic indigo), "Colour Index No. 73000".....	1.5¢ per lb. + 10% ad val.	1.5¢ per lb. + 14.4% ad val.	16.5% ad val.
	406.10		Acid black 31, 50, 94, 129; acid blue 45, 54, 106, 127, 129, 143; acid brown 44, 46, 48, 58, 188, 189; acid green 40; acid red 130, 145, 174, 211; acid violet 19, 31, 41, 48; acid yellow 2, 75, 116; basic blue 3; basic orange 22; basic red 13, 14; basic yellow 1, 11, 13; direct black 62, 91; direct blue 86, 92, 106, 108, 109, 160, 172; direct brown 103, 115, 116; direct green 5, 29, 31; direct orange 37; direct red 83; direct yellow 28; disperse blue 30; disperse red 4; fluorescent brightening agent 18, 24, 32; ingrain blue 2;			

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Colors, dyes, stains, and related products (con.):			
	406.10 (con.)	mordant black 8; mordant green 47; mordant red 17, 27; reactive black 1; reactive blue 1, 2, 4; reactive orange 1; reactive red 1, 2, 3, 5, 6; reactive yellow 1; solvent orange 11; solvent yellow 25; vat blue 2; vat brown 3; vat orange 2, 7; vat red 44; vat violet 9, 13; vat solubilized orange 3; and vat yellow 4, 20; all the foregoing obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 11/ of this part:			
	A12/	Acid blue 45, 106; Acid yellow 116; Basic blue 3; Basic red 14; Basic yellow 13; Direct blue 86; Direct blue 106; Direct yellow 28; Direct red 83; Disperse red 4; Fluorescent brightening agent 32; Solvent orange 11; Solvent yellow 25; Vat brown 3; Vat orange 2, 7; and Vat violet 9, 13.....	16% ad val.	22.6% ad val.	22.6% ad val.
	B	Other.....	16% ad val.	17.7% ad val.	17.7% ad val.
	406.30	Colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 11/ of this part:			
		Acid dyes:			
	A12/	Acid black 1, 24, 52, 60, 107; Acid blue 1, 7, 14, 15, 15R, 25, 40, 62, 71, 76, 78, 80, 82, 83, 104, 113, 120, 158, 158A, 175, 183, 224, 245, 258, 277, 278, 284, 294; Acid brown 85, 159, 264; Acid green, 9, 16, 25, 27, 50, Green GN; Acid red, 1, 51, 52, 73, 85, 87, 97, 114, 119, 151, 186, 194, 225, 251, 289, 296, 299; Acid orange, 7, 10, 78, 80, 85, 87, 116, 127; Acid yellow, 3, 19, 36, 44, 49, 59, 60, 73, 78, 99, 118, 119, 121, 169, 198; and Acid violet, 17, 49.....	20% ad val.	30.7% ad val.	30.7% ad val.
	B	Other acid dyes.....	20% ad val.	23% ad val.	23% ad val.
		Basic dyes:			
	C12/	Basic black M; Basic blue 1, 5, 7, 9, 22, 26, 47, 54; Basic brown 4; Basic green 1, 4; Basic red 1, 52, 54; Basic orange 2, 38, 40, 85; Basic yellow 2, 49; and Basic violet 1, 3, 4, 10, 11, 35.....	20% ad val.	30.9% ad val.	30.9% ad val.
	D	Other.....	20% ad val.	22.6% ad val.	22.6% ad val.
		Direct dyes:			
	E12/	Direct black 38, 114;			

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Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Colors, dyes, stains, and related products (con.):			
	406.50 (con.)	Colors, dyes, and stains (except toners), etc. (con.):			
		Direct dyes (con.):			
		Direct brown 1, 2, 6, 80, 95; Direct red 2, 33, 62, 79, 118, 184, 218, 221; Direct orange 8, 57; and Direct yellow 6, 11, 12, 27, 47, 58, 106, 132	20% ad val.	28.6% ad val.	28.6% ad val.
	F	Other	20% ad val.	23.8% ad val.	23.8% ad val.
		Disperse dyes:			
	G12/	Disperse blue 1, 3, 5, 9, 14, 35, 60, 73, 87, 127, 148, 149; Disperse brown 1, 2, 5; Disperse red 11, 13, 46, 54, 55, 59, 60, 74, 82, 91, 92, 132, 167, 185, 204; Disperse orange 1, 5, 25, 32, 33, 45, 55, 58, 61, 66, 71; Disperse yellow 3, 5, 23, 49, 54, 64, 99, 114, 116; and Disperse violet 1, 4, 8, 31	20% ad val.	22% ad val.	22% ad val.
	H	Other	20% ad val.	22.5% ad val.	22.5% ad val.
	I	Fluorescent brighteners	20% ad val.	19% ad val.	19% ad val.
		Solvent dyes:			
	J12/	Solvent black 5, 6, 7, 29, 35; Solvent blue 4, 7, 11, 25, 35, 44, 45, 46, 48, 60, 70, 78, 104; Solvent brown 43, 48; Solvent green 3; Solvent red 7, 8, 9, 10, 11, 24, 30, 49, 52, 91, 111, 122, 127; Solvent orange 5, 6, 41, 59, 60; Solvent yellow 14, 16, 19, 21, 29, 56, 62, 82, 83, 85, 88, 95, 119; and Solvent violet 8, 13, 24	20% ad val.	28% ad val.	28% ad val.
	K	Other	20% ad val.	19.9% ad val.	19.9% ad val.
		Reactive dyes:			
	L12/	Reactive black 31; Reactive blue 19, 21, 27, 137; Reactive brown 1, 7; Reactive red 33, 41, 43, 49, 120; Reactive orange 41, 46; and Reactive violet 6	20% ad val.	21.6% ad val.	21.6% ad val.
	M	Other	20% ad val.	20.5% ad val.	20.5% ad val.
		Vat dyes:			
	N12/	Vat black 25, 27; Vat blue 4, 5, 6, 14, 16, 18, 20, 22, 181; Vat brown 1; Vat green 1, 3; Vat red 10, 32; Vat orange 1, 15; Vat yellow 1, 2, 33; and Vat violet 2	20% ad val.	32.9% ad val.	32.9% ad val.
	O	Other	20% ad val.	20.9% ad val.	20.9% ad val.
	P	Other	20% ad val.	21.9% ad val.	21.9% ad val.
	406.60	Natural alizarin and natural indigo; colors, dyes, and stains (except toners), whether soluble or not in water, obtained, derived, or manufactured in whole or in part from natural alizarin or natural indigo; color acids, color bases, indoxyl, indoxyl compounds, and leuco-compounds (whether colorless or not), obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A 1/ or B 11/ of this part	2.8¢ per lb. +	2.8¢ per lb. +	31.2% ad val.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/		Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
	406.70		Colors, dyes, stains, etc. (con.): Color lakes and toners, obtained, derived, or manufactured in whole or in part from natural alizarin, natural indigo, or any product provided for in subpart A 1/ or B 11/ of this part:			
		A12/	Pigment blue 15 (alpha), 15 (beta), 19, 60, 66; Pigment green 7, 10, 36, 41; Pigment red 3, 23, 38, 48, 49, 53, 57, 122, 149, 153; Pigment orange 5, 13, 43; Pigment yellow 1, 3, 12, 13, 24, 62, 73, 74, 83, 93, 95, 98, 106; and Pigment violet 23	20% ad val.	25.8% ad val.	25.8% ad val.
		B	Other	20% ad val.	20.4% ad val.	20.4% ad val.
A	406.80		Fast color bases, fast color salts, and Naphthol AS and its derivatives:			
		A	Fast color salts	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
		B	Fast color bases	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 13.3% ad val.	14.2% ad val.
		C	Naphthol AS and derivatives	1.7¢ per lb. + 10% ad val.	1.7¢ per lb. + 15% ad val.	15.8% ad val.
			Products suitable for medicinal use, and drugs: Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 11/ of this part:			
			Products suitable for medicinal use:			
A	407.02		Acetanilide	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 25% ad val.	27% ad val.
A	407.04		Benzaldehyde	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	15% ad val. 7/
A	407.06		Benzoic acid	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.2% ad val.	21.4% ad val.
A*	407.08		2-Naphthol (beta-naphthol)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	13.9% ad val.
A	407.10		Resorcinol	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 9.4% ad val.	10.1% ad val.
A*	407.12		Salicylic acid and its salts	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 20% ad val.	21.8% ad val.
			Drugs:			
A	407.20		Acetphenetidine (phenacetin)	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 12.1% ad val.	12.9% ad val.
A	407.25		Acetylsalicylic acid (aspirin)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.7% ad val.	25.6% ad val.
A	407.30		Antipyrine	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.7% ad val.	15% ad val.
A	407.32		5-Chloro-7-iodo-8-quinolinol and 2-[1-(p-chlorophenyl)-3-dimethyl-aminopropyl]pyridine maleate	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 16.3% ad val.	16.4% ad val.
A	407.35		Diethylaminoacetoxylidide (xylocaine)	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 24.8% ad val.	25.1% ad val.
A	407.40		5-Ethyl-5-phenylhexahydropyrimidine-4,6-dione	1.2¢ per lb. + 8.5% ad val.	1.2¢ per lb. + 8.6% ad val.	8.6% ad val.
			Hydantoin derivatives:			
A	407.45		Methylphenethylhydantoin	1.4¢ per lb. + 9% ad val.	9/	9/
A	407.50		Other	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 12.6% ad val.	13% ad val.
			Imidazoline derivatives:			
A	407.55		2-Benzyl-4,5-imidazoline hydrochloride	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 11.7% ad val.	11.8% ad val.
A	407.60		Phenylbenzylaminoethylimidazoline hydrochloride	1.4¢ per lb. + 9% ad val.	9/	9/
A	407.70		Other	1.4¢ per lb. + 9% ad val.	1.4¢ per lb. + 10.2% ad val.	10.2% ad val.

See footnotes at end of schedule.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item	8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
			Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
	407.72		Phenylephrine hydrochloride; sulfadiazine; sulfaguanidine; sulfamerazine; sulfamethazine; sulfapyridine; and salicylazosulfapyridine:			
		A	Phenylephrine hydrochloride.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 13% ad val.	13.1% ad val.
		B	Sulfamethazine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 17.8% ad val.	18.5% ad val.
		C	Sulfadiazine, sulfaguanidine, sulfamerazine, sulfapyridine, and salicylazosulfapyridine.....	1.4¢ per lb. + 10% ad val.	1.4¢ per lb. + 28.5% ad val.	29% ad val.
	407.75		Phenolphthalein.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.5% ad val.	15.2% ad val.
A	407.80		Salol.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val. 7/	13.3% ad val. 7/
	407.85		Other: Alkaloids and their salts and other derivatives:			
		A	Ephedrine, pseudoephedrine, racephedrine, and their salts.	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.4% ad val.	16.6% ad val.
		B	Papaverine and its salts: Papaverine; and Papaverine hydrochloride.	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 28.9% ad val.	29.1% ad val.
		C	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.5% ad val.	13.6% ad val.
		D	Other: Homatropine hydrobromide; Homatropine methylbromide; Isonicotinic acid hydrazide (isonazide); and Levamisole hydrochloride.	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 24.5% ad val.	24.6% ad val.
		E	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.6% ad val.	14.6% ad val.
		F	Antihistamines, including those chiefly used as antinauseants: Diphenhydramine hydrochloride; Methapyrilene hydrochloride; Pheniramine maleate; Phenyltoloxamine citrate; Pyrilamine maleate; and Tripelennamine hydrochloride..	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 22.8% ad val.	23% ad val.
		G	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
			Anti-infective agents: Antibiotics:			
		H	Ampicillin and its salts.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.5% ad val.	13.5% ad val.
		I	Penicillin G salts.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
		J	Penicillin, not specially provided for: Amoxcillin; Amoxcillin trihydrate; Carbenicillin disodium; Penicillin V; Penicillin V, potassium; and Talampicillin.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 15.7% ad val.	15.8% ad val.
		K	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.
		L	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.5% ad val.	12.5% ad val.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
	407.85 (con.)	Other (con.): Anti-infective agents (con.):			
		Anti-infective sulfonamides:			
	M	Sulfathiazole and sulfathiazole sodium.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 36.9% ad val.	38% ad val.
	N	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 26.6% ad val.	27% ad val.
		Anti-infective agents, not specially provided for:			
	O	Chloroquinaldol; Chloroquine phosphate; Dinitolmide; Dithiazanine; Mandelic acid; Merbromin; Methenamine mandelate; and Piperazine adipate.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18.7% ad val.	19.4% ad val.
	P	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.8% ad val.	12.8% ad val.
		Autonomic drugs, except alkaloids and their derivatives:			
	Q	Chlorothiazide; Dopamine HCl; Hydrochlorothiazide; Hydroflumethiazide; Isoproterenol hydrochloride; L-Dopa; Metaraminol bitartrate; Norephedrine hydrochloride; Phenylpropanolamine Phenylpropanolamine hydrochloride; Propantheline bromide; Propranolol hydrochloride; Pseudoephedrine hydrochloride; and Trihexylphenidyl hydrochloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 19.9% ad val.	20% ad val.
	R	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13% ad val.	13% ad val.
		Cardiovascular drugs, except alkaloids and their derivatives:			
	S	Ferrous fumarate; Methyl dopa; Procainamide hydrochloride; and Tolbutamide.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 18% ad val.	18.9% ad val.
	T	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.1% ad val.	13.2% ad val.
	U	Dermatological agents and local anesthetics.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 14.3% ad val.	14.9% ad val.
		Drugs primarily affecting the central nervous system, except alkaloids and their derivatives:			
		Analgesics, antipyretics, and nonhormonal anti-inflammatory agents:			
	V	Propoxyphene hydrochloride.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 33.3% ad val.	33.4% ad val.
	W	Other.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.3% ad val.	13.4% ad val.
	X	Anticonvulsants, hypnotics, and sedatives.....	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.5% ad val.	13.7% ad val.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/	Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
		Products suitable for medicinal use, and drugs (con.): Obtained, derived, or manufactured, etc. (con.): Drugs (con.):			
	407.85 (con.)	Other (con.): Drugs primarily affecting the central nervous system, etc. (con.): Antidepressants, tranquilizers, and other psychotherapeutic agents:			
	Y	Acepromazine maleate; Chlordiazepoxide; Chlordiazepoxide hydrochloride; and Hydroxyzine hydrochloride	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 41.5% ad val.	41.6% ad val.
	Z	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 12.6% ad val.	12.6% ad val.
	AA	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 16.3% ad val.	16.4% ad val.
		Hormones, synthetic substitutes, and antagonists:			
	AB	Diethylstilbesterol; Epinephrine bitartrate (levo); and Epinephrine hydrochloride (levo)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.7% ad val.	21.7% ad val.
	AC	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.3% ad val.	13.3% ad val.
		Vitamins, provitamins, and their analogs and derivatives used primarily for their vitamin activity:			
	AD	Vitamin B_2 (riboflavin and its salts and esters)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.3% ad val.	17.5% ad val.
	AE	Vitamin B_{12} (cyanocobalamin and related compounds with vitamin B_{12} activity)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 40.4% ad val.	40.4% ad val.
	AF	Vitamin E (dl-α-tocopherol and its esters)	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 17.6% ad val.	17.9% ad val.
	AG	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	13.8% ad val.
	AH	Other	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 13.6% ad val.	13.7% ad val.
		Drugs, from whatever source obtained, produced or manufactured:			
A	407.90	Guaiacol and its derivatives	1.7¢ per lb. + 12.5% ad val.	1.7¢ per lb. + 21.9% ad val.	22.7% ad val.

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SCHEDULE 4. - CHEMICALS AND RELATED PRODUCTS
Part 1. - Benzenoid Chemicals and Products

GSP	Item 8/		Articles	Current MFN Rate of Duty 3/	Proposed Converted Rate of Duty A 4/	Proposed Converted Rate of Duty B 5/
			Aromatic or odoriferous compounds including flavors, not marketable as cosmetics, perfumery, or toilet preparations, and not mixed, and not containing alcohol:			
			Obtained, derived, or manufactured in whole or in part from any product provided for in subpart A 1/ or B 11/ of this part:			
A	408.05		Benzyl acetate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 52.1% ad val.	58.8% ad val.
A	408.10		Benzyl benzoate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 42.1% ad val.	47.2% ad val.
A	408.15		Diphenyl oxide	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 21.1% ad val.	29.4% ad val.
A	408.20		Heliotropin	1.7¢ per lb. + 11% ad val.	1.7¢ per lb. + 13.8% ad val.	14% ad val.
A	408.25		Methyl anthranilate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 11.2% ad val.	12.4% ad val.
A	408.30		Musk, artificial	2.8¢ per lb. + 9% ad val.	2.8¢ per lb. + 11.4% ad val.	12% ad val.
A	408.35		Phenylacetaldehyde	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 20.2% ad val.	20.8% ad val.
A	408.40		Phenethyl alcohol	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 38.5% ad val.	40.8% ad val.
A	408.45		Saccharin	1.5¢ per lb. + 9.5% ad val.	1.5¢ per lb. + 12.9% ad val.	13.7% ad val.
A	408.60		Other compounds:			
		A	p-Anisaldehyde	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 18.1% ad val.	18.6% ad val.
		B	Ethyl vanillin	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 40.1% ad val.	40.7% ad val.
		C	α-Methylbenzyl alcohol	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 25.4% ad val.	30.6% ad val.
		D	α-Pentylcinnamaldehyde	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 22.5% ad val.	
		E	Other	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 29% ad val.	29.8% ad val.
			From whatever source obtained, derived, or manufactured:			
A	408.70		Coumarin	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 24.1% ad val.	24.9% ad val.
A	408.75		Methyl salicylate	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 22.5% ad val.	
A	408.80		Vanillin	1.5¢ per lb. + 9.5% ad val.	1.5¢ per lb. + 10.2% ad val.	10.6% ad val.
A	409.00		Mixtures in whole or in part of any of the products provided for in this subpart	3.5¢ per lb. + 22.5% ad val.	3.5¢ per lb. + 23% ad val., but not less than the highest rate applicable to any component material.	24.9% ad val., but not less than the highest rate applicable to any component material.

See footnotes at end of schedule.

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SCHEDULE 7. - SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS
Part 1. - Footwear; Headwear and Hat Braids; Gloves; Luggage, Handbags, Billfolds, and Other Flat Goods

GSP	Item	Articles	Current Column 1 Rate	Proposed Converted Rate
		Subpart A. - Footwear		
		Footwear (whether or not described elsewhere in this subpart) which is over 50 percent by weight of rubber or plastics or over 50 percent by weight of fibers and rubber or plastics with at least 10 percent by weight being rubber or plastics:		
		Hunting boots, galoshes, rainwear, and other footwear designed to be worn over, or in lieu of, other footwear as a protection against water, oil, grease, or chemicals or cold or inclement weather, all the foregoing having soles and uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear with uppers of nonmolded construction formed by sewing the parts thereof together and having exposed on the outer surface a substantial portion of functional stitching):		
		Other footwear (except footwear having uppers of which over 50 percent of the exterior surface area is leather):		
		Having uppers of which over 90 percent of the exterior surface area is rubber or plastics (except footwear having foxing or a foxing-like band applied or molded at the sole and overlapping the upper):		
		***		
	700.60	Other:		
	A	Footwear without open toes or open heels, the uppers of which extend six inches or more above the heel seat.....	20% ad val.	20% ad val.
		Other:		
	B	Footwear with open toes or open heels; footwear of the slip-on type, that is, held to the foot without the use of laces or buckles, the foregoing with soles not vulcanized to the upper and not produced by injection molding or other molding process.....	20% ad val.	22% ad val.
	C	Other.....	20% ad val.	48% ad val.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 1. - ANIMAL AND VEGETABLE PRODUCTS
Part 3. - Fish and Shellfish

GSP	Item	Articles	Current Column 1 Rate	Proposed Converted Rate	Current Column 2 Rate	Proposed Converted Rate
		Subpart E. - Shellfish				
		Shellfish, fresh, chilled, frozen, prepared, or preserved (including pastes and sauces):				
		Clams:				
		In airtight containers:				
		Razor clams (Siliqua Patula).....				
	114.05	Other:				
	A	Whole boiled clams in containers the contents of which do not exceed 24 ozs.....	14% ad val.	21.4% ad val.	35% ad val.	205.2% ad val.
	B	Other.....	14% ad val.	14% ad val.	35% ad val.	35% ad val.

PRELIMINARY
PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY
SUBJECT TO ASP BASES OF VALUATION

SCHEDULE 7. - SPECIFIED PRODUCTS; MISCELLANEOUS AND NONENUMERATED PRODUCTS
Part 1. - Footwear; Headwear and Hat Braids; Gloves; Luggage,
Handbags, Billfolds, and Other Flat Goods

GSP	Item	Articles	Current Column 1 Rate	Proposed Converted Rate
		Subpart C. - Gloves		
		Gloves and glove linings of textile materials:		
		Gloves not of lace or net and not ornamented:		
	704.55	Of wool, knit, and valued not over $1.75 per dozen pairs.....	30¢ per lb. + 26% ad val.	30¢ per lb. + 26% ad val. 1/
		1/ No imports under this TSUS item in 1976.		

FOOTNOTES

1/ Subpart A, part 1 of the TSUS (Organic Chemical Crudes).
2/ Proposed new legal headnote to accompany proposed subdivisions of existing TSUS items.
3/ Column 1 rates of duty in the TSUS.
4/ Proposed column 1 rates of duty which reflect the currently applicable specific component and a conversion of the ad valorem component of compound rates of duty.
5/ Alternate proposed column 1 rates of duty which reflect a conversion of the currently applicable rates of duty, whether compound or ad valorem, to an ad valorem rate.
6/ Subpart C, part 1 of the TSUS (Finished Organic Chemical Products).
7/ Conversion of this rate was based on domestic price quotations of competitive products.
8/ Letters (A, B, C, etc.) in this column indicate proposed subdivisions of existing TSUS items.
9/ No data are available at this time upon which to base a converted rate.
10/ This subclass is proposed in order to exhaust the residual category for alcohols, phenols, ethers, etc. No data are available at this time upon which to base a converted rate.
11/ Subpart B, part 1 of the TSUS (Industrial Organic Chemicals).
12/ The specified products represent the bulk of all products on which the converted rates were based. Consonant with sound principles of tariff nomenclature, trade-name products are not specified, although they were included for purposes of calculating the converted rates. In view of the low import volume of trade-name products the effect of including them in calculating the converted rates is de minimis.

EXPLANATION OF PRELIMINARY PROPOSED CONVERTED RATES OF DUTY ON PRODUCTS CURRENTLY SUBJECT TO ASP

BENZENOID CHEMICALS AND PRODUCTS

Determination of Preliminary Proposed Converted Rates

In preparing the schedule of proposed converted rates of duty for benzenoid chemicals, the Commission computed converted rates for 2,730 chemicals and products. The data for the conversion were gathered from 1976 customs entries. Where 1976 data were not available the proposed conversions were based on 1975 or 1974 data, and if that was not available they were based on domestic price quotations of competitive products. In a few instances no data were available upon which to base a conversion. The converted rates were obtained by dividing the calculated duty for each importation of benezenoid chemicals by the foreign invoice value (i.e., the transaction value). These foreign invoice values were obtained from the Commission's analysis of over 21,000 customs entries. Two converted rates of duty have been proposed for consideration—one would continue the compound rate structure which currently exists in the TSUS, while the second represents an ad valorem equivalent converted rate. When appropriate, as explained below, the Commission proposed separate converted rates for imports of benezenoid chemicals and products which had been classified by Customs as competitive or noncompetitive. The Commission's analysis of the data used for the conversion revealed that approximately 21 percent by quantity and 37 percent by value of the imports of benezenoid chemicals and products were purchased by domestic subsidiaries from their foreign parent companies.

Data used for converting rates. The Commission regularly obtains by analysis of customs entries certain information regarding each importation of benezenoid chemicals and products through the principal U.S. customs districts,[1] including the date of shipment, net weight, invoice value, liquidated value, and the names of the foreign exporter and the U.S. importer. The Commission has such information on approximately 21,500 entries of dutiable benezenoid chemicals for calendar year 1976.

In preparing the conversion of rates of duty for benezenoid chemicals the Commission converted rates for 2,730 chemicals and products with an associated quantity of 361 million pounds, a liquidated value of 610 million dollars, and a calculated duty of 87 million dollars.

Computation of proposed converted rates. Based on data for individual intries of benezenoid chemicals in 1976, converted rates were determined for 243 articles provided for in the 73 dutiable items in subparts B and C, part 1, schedule 4 of the TSUS. Nearly all of the rates are compound, i.e., with specific (cents per pound) and ad valorem components. For 21 articles no data were available upon which to base converted rates. Two sets of converted rates of duty (labeled A and B) have been proposed for consideration. Rate A would continue the compound rate structure which currently exists in the TSUS for most benezenoid chemicals and products. Rate B is an ad valorem equivalent converted rate.

Proposed converted rates of duty A. For the TSUS items under which imports of benzenoid chemicals and products were entered in 1976, the current specific components of the rates of duty were maintained and the ad valorem components were converted as follows: The calculated duty, based on only the ad valorem component of the current rate, for each chemical or product of group of chemicals or products, was divided by the foreign invoice value for such chemical or product or group of chemicals or products; the result was the ad valorem component of the converted rate. This ad valorem component represents a trade-weighted average for each chemical or product or group of chemicals or products.

Proposed converted rates of duty B. The procedure for determining proposed converted rates of duty B was identical to the procedure used with respect to proposed converted rates of duty A, except that the calculated duty was based on both the ad valorem and the specific (where appropriate) components of the current rate of duty for each article or group of articles.

Considerations Involved in Determining the Converted Rates

Fourteen of the 73 existing dutiable provisions for benzenoid chemicals and products were divided into subclasses in order to minimize the extent of duty changes. These subclasses were formed by converting existing statistical annotations into legal classes or by grouping chemically-related compounds or products. Whenever it was appropriate, competitive articles or groups of articles were segregated from noncompetitive ones.

Number of converted rates per TSUS item. A converted rate was determined for each importation of benzenoid chemicals in 1976 through the principal U.S. Customs districts. The range and distribution or the converted rates were inspected for each TSUS item containing more than one product as well as for TSUS items covering only one chemical product. For some items the range of converted rates was small and evenly distributed in terms of volume of imports. For such items only one set of converted rates was determined.

For other TSUS items covering several to many chemicals or products the range of converted rates was large. In such items, products or groups of related products with substantial imports were combined into subclasses and assigned converted rates.

Rates for competitive and noncompetitive imports. Separate converted rates were established, where appropriate, for imports of those benzenoid chemicals and products which had been classified by Customs as competitive or noncompetitive. When, during 1976, Customs classified an importation of a benzenoid chemical or product as competitive, all importations of that chemical or product were considered competitive for purposes of the conversion. This decision resulted in the classification of 84 percent of the total quantity and 61 percent of the total value of benzenoid imports as competitive. When a mixture of competitive and noncompetitive products existed for a proposed subclass and there was a substantial import volume of both competitive and noncompetitive products, and the converted rates for the competitive and noncompetitive products differed substantially, separate converted rates were established for competitive and noncompetitive products.

FOOTWEAR HAVING UPPERS OF FABRIC AND SOLES OF RUBBER OR PLASTICS

Footwear having uppers of fibers and soles of rubber or plastics are provided for in item 700.60 of the TSUS. Such footwear consists of sneakers, joggers, certain other footwear intended for athletic use, slippers, sandals, espadrilles, and certain other footwear having soles of rubber or plastics and uppers of fabric and rubber or plastics which less than 90 percent of the exterior surface area of the upper is rubber or plastics. In 1976, 32 million pairs or 28 percent of the total imports of footwear classified for in item 700.60 were dutiable on the basis of the American selling price (ASP) of like or similar footwear domestically produced.

Determination of the Preliminary Converted Rate

The determination of the preliminary converted rates for footwear were based on data collected from liquidated customs entries for the last 7 months of 1976 for shipments from

[1]The data obtained do not cover all importations. The statistical coverage in 1976, based on quantity ranges from 51 percent for flavor and perfume materials to 74 percent for medicinals and pharmaceuticals, 78 percent for pigments, 80 percent for intermediates, and 84 percent for dyes.

South Korea and Taiwan that entered the ports of New York and Boston in TSUS item number 700.60 that were dutiable on the basis of the American selling price. Data for the first 5 months of 1976 are still being gathered, as is data from New York, Boston, Los Angeles, and Seattle for the first 6 months of 1977. Any such data which are received prior to the completion of this investigation will be considered in the final determination of ad valorem equivalent rates.

Item 700.60 was divided into three subclasses, indentified as A, B, and C in the tabulation of preliminary converted rates. Class A, with a rate of 20 percent ad valorem, has been designated to provide for footwear that has been determined by the Customs Service to be not like or similar to articles produced in the United States and, therefore, not subject to valuation based on the ASP. This category contains various types of boots.

Class B, with a preliminary proposed rate of 22 percent ad valorem, provides for a group of imported footwear which had been appraised on either ASP or non-ASP bases depending upon whether the particular style of imported footwear falling within the group was like or similar to domestically produced footwear. Such items include certain sandals, slippers, espadrilles, and other casual footwear. The preliminary converted rate for item 700.60B was derived by averaging the customs liquidated value of the ASP and non-ASP entries of these articles. In 1976 the majority of such articles were not valued on the basis of ASP.

Class C, with a proposed rate of 48 percent ad valorem, provides for footwear that is primarily valued on the basis of ASP. This group consists of sneakers, joggers, and certain other footwear intended for athletic use.

CERTAIN CANNED CLAMS

TSUS item 114.05 covers clams other than razor clams (including clam pastes and sauces but not clam chowder) in airtight containers. Included in this item are whole clam meats, minced clam meats, smoked whole clam meats, clam sauce, and seasoned, baked, and broiled clams canned in the Orient. Canned boiled baby clams are the clams which the U.S. Customs Service has principally found to be like or similar to a domestic product. Such clams are believed to comprise 85 percent of those subject to ASP duty treatment; the remainder consists of canned minced or chopped clams. The current rate of duty for item 114.05 is 14 percent ad valorem under column 1 and 35 percent under column 2.

Total imports of canned clams covered by TSUS item 114.05 amounted in 1977, to 7,752,000 pounds with an entered value of $9,158,000. Imports dutiable on the basis of ASP accounted for an estimated 2 to 3 million pounds, or possibly one-third of the total net weight of the imports under item 114.05.

The ASP for boiled baby clams, as determined by the Customs Service, has remained constant since January 1, 1977. Throughout 1977, it was equivalent to $1.27 per net pound.

For the purpose of determining tentative converted rates for canned clams, all import documents on file at the Commission for the year 1977 were reviewed for TSUS item 114.05. These documents covered 9 percent of the aggregate net weight of total U.S. imports of the item.

Documents were segregated into those whose duty was assessed on ASP and those assessed on export value; quantities and values were tabulated, and unit values were omputed. The documents covered imports only from South Korea and Japan. The converted rates were computed on the basis of entries covering a full calendar year—1977, and were computed on the basis of a weighted average derived from the aforementioned documents from the Commission's files.

In converting the column 2 rate of duty, the Department of Commerce publication IM 146 was used. Normally, Commerce reports ASP imports in terms of dutiable value rather than foreign value. But, fortunately, the value reported in IM 146 for 1977 appears to be foreign value. The IM 146 shows 1977 imports from the People's Republic of China at 12,009 pounds and $2,611, or $0.217 per pound. The People's Republic is the only known supplier in recent years whose products are subject to column 2 rates of duty and all known entries have been subject to ASP valuation.

CERTAIN WOOL KNIT GLOVES AND MITTENS

"Gloves and mittens, finished or unfinished, wholly or in chief value of wool, valued at not more than $1.75 per dozen pairs," which are subject to duty on the basis of ASP, are currently provided for in TSUS item 704.55 at the rate of 40 cents per pound plus 35 percent ad valorem. Importation of wool-knit gloves and mittens valued at not more than $1.75 per dozen pairs virtually ceased in the late 1930's. The value limitation (less than 15 cents per pair) precludes any imports under item 704.55, even if the ASP provision were not in existence. The current cost of even low-grade wool yarn and the rise in labor costs since the 1930's make imports of this item most improbable. The tentative projected rate on TSUS item 704.55 is 40 cents per pound plus 35 percent ad valorem, which is the same as the current rate.

IDENTIFICATION OF AD VALOREM EQUVALENT RATES OF DUTY FOR CERTAIN ARTICLES SUBJECT TO APPRAISEMENT ON THE BASIS OF SECTION 402a OF THE TARIFF ACT OF 1930

Articles listed in Treasury Decision 54521, are subject to appraisement in accordance with the provisions of section 402a of the Tariff Act of 1930, as amended. This so-called "Final List" was established by section 6(a) of the Customs Simplication Act of 1956 so that articles, the dutiable value of which would have decreased by 5 percent or more under the new value law (section 402), would continue to be appraised under the old valuation provisions of section 402a. Imports of articles on the Final List account for approximately 10 percent of U.S. imports.

The Commission, in conducting a preliminary examination of official 1976 import statistics, compared customs entered value, F.A.S. value, and duty collected for every 7-digit item number in the Tariff schedules of the United States Annotated that contained articles subject to valuation under section 402a. For those 7-digit TSUSA item numbers that contained articles subject to both laws of appraisement, a percentage allocation was made for Final List merchandise. Using this data, the Commission has generated the following listing of articles subject to the valuation provisions of section 402a (except articles subject to American Selling Price valuation) for which appraisement at the transaction value would result in a difference in the ad valorem equivalent rate of duty of one-half of a percentage point or more.

This list is not a proposal for conversion of duty rates, but is rather a preliminary list of articles that may be affected if the proposed valuation rules were enacted. The list is being published in order to solicit comments from interested parties as to its accuracy and completeness.

Description	TSUSA	Rate of duty	Customs AVE	Equivalent transaction AVE
Soups, soup rolls, soup tablets or cubes, and other soup preparation, except oysters or oyster juice.	182.5200	7 pct ad valorem	0.069	0.076
Filtering paper, not impregnated, not coated, not surface-colored, not embossed, not ruled, not lined, not printed, and not decorated.	252.5000	6 pct ad valorem	.069	.076
Filtering paper, cut to size or shape	256.1500	5 pct ad valorem	.050	.070
Yarns of cotton, knitting, darning, embroidery, and tatting yarns of cotton, put up for handwork, in lengths not over 840 yd.	303.2042	4¢/lb+8 pct ad valorem	.082	.112

—Continued

Description	TSUSA	Rate of duty	Customs AVE	Equivalent transaction AVE
Velvets, plushes, and velours, of cotton, combed, 48 in and over in width with cut warp pile, weighing 8 oz and over per square yard.	346.3550	30 pct ad valorem	.301	.308
Clothing for papermaking, printing, or other machines, in the piece or as units, not specially provided for of wool, woven.	358.3000	37.5¢/lb+7.5 pct ad valorem	.110	.120
Aluminum chloride anhydrous	417.1800	4 pct ad valorem	.038	.033
Sodium perborate	421.6220	5 pct ad valorem	.050	.055
Polyvinyl pyrrolidone	425.3800	1.5¢/lb+7.5 pct ad valorem	.094	.111
Ink, drawing, liquid	474.2200	4 pct ad valorem	.040	.046
Blacking, powders, liquids, and creams for polishing and cleaning, all the foregoing in immediate containers holding not over 10 lb each.	493.1000	3 pct ad valorem	.030	.036

Description	TSUSA	Rate of duty	Customs AVE[1]	F.A.S. AVE[2]
Ball bearings and parts thereof: Radial ball bearings, having an outside diameter of over 30 mm but not over 52 mm, subject to increased duties under item 923.82.	680.3509	1.7¢/lb+7.5 pct ad valorem	0.175	0.180
Ball bearings, other than radial	680.3522	do	.079	.089
Roller bearings, spherical roller bearing, and parts.	680.3550	do	.080	.088
Other roller bearing, including combination roller and ball bearings.	680.3560	do	.079	.085
Footwear and others	700.5340	37.5 pct ad valorem	.375	.367
Film, black and white, other than motion picture and X-ray.	723.1520	5 pct ad valorem	.050	.056
Film, color, other than motion picture and X-ray	723.1530	do	.050	.065
Photographic papers, silver halide papers for pictorial use, black and white.	723.3020	do	.050	.057
Felt-base floor coverings	728.1500	do	.050	.059
Cased pencils and pencils not specially provided for.	760.4800	25¢/gross+7.5 pct ad valorem	.102	.109
Crayons, leads, over 0.06 in, but less than 0.25 in, in maximum cross-sectional dimension, other than black.	760.5600	8 pct ad valorem	.079	.085
Tubes of rubber or plastics, other than bicycle, or provided for in item 772.50.	772.6000	5 pct ad valorem	.046	.052

[1] Calculated on the basis of the actual customs entered value.
[2] Calculated on the basis of a free alongside or transaction value.

[FR Doc. 78-7492 Filed 3-22-78; 8:45 am]

[7020-02]

[332-87]

CONDITIONS OF COMPETITION IN THE WESTERN U.S. STEEL MARKET BETWEEN CERTAIN DOMESTIC AND FOREIGN STEEL PRODUCTS

Change of Date and Time and Place of San Francisco Hearing

Notice is hereby given that the public hearing in this matter, previously scheduled to begin on Tuesday, May 9, 1978, will now be held beginning at 9:30 a.m., p.s.t., Tuesday, May 16, 1978, in Room 503, U.S. Customs Building, 555 Battery Street, San Francisco, Calif.

Request for appearances at the hearing should be received in writing, by the Secretary of the Commission in his office in the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. 20436, not later than noon, Thursday, May 11, 1978.

Notice of the investigation and public hearings was published in the FEDERAL REGISTER of June 15, 1977 (42 FR 30555), and notice of the previous date and time of the San Francisco hearing was published in the FEDERAL REGISTER of March 3, 1978 (43 FR 8861).

By order of the Commission.

Issued: March 20, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-7768 Filed 3-22-78; 8:45 am]

[7020-02]

[TA-201-32]

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Investigation and Hearings

Investigation instituted. Following receipt of a petition on February 23, 1978, filed on behalf of the Anaconda Co., ASARCO, Inc., Cities Service Co. (Minerals Group), Copper Range Co., Cyprus Mines Corp., Duval Corp., Hecla Mining Co., Inspiration Consolidated Copper Co., Kennecott Copper Corp., Magma Copper Co., Phelps Dodge Corp., and Ranchers Exploration and Development Corp., the U.S. International Trade Commission on March 17, 1978, instituted an investigation under section 201(b) of the Trade Act of 1974 to determine whether unwrought copper, other than alloyed, provided for in item 612.06 of the Tariff Schedules of the United States, is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

Public hearing ordered. A public hearing in connection with this investigation will be held in Tucson, Ariz., beginning on Monday, May 22, 1978. The time and place of the hearing will be announced later. Requests for appearances at the hearing should be received in writing by the Secretary of the Commission at his office in Washington, D.C., not later than noon, Monday, May 15, 1978.

A prehearing conference in connection with this investigation will be held in Washington, D.C., at 9:30 a.m., E.D.T., on May 15, 1978, in Room 117, U.S. International Trade Commission Building, 701 E Street NW.

Inspection of petition. The petition filed in this matter is available for public inspection at the Office of the Secretary, U.S. International Trade Commission and at the New York City office of the U.S. International Trade Commission located at 6 World Trade Center.

By order of the Commission.

Issued: March 20, 1978.

KENNETH R. MASON,
Secretary.

[FR Doc. 78-7769 Filed 3-22-78; 8:45 am]

[4410-02]

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

NATIONAL CRIME INFORMATION CENTER ADVISORY POLICY BOARD

Meeting

Pursuant to the Federal Advisory Committee Act (Pub. L. 92-463), notice is hereby given that a meeting of the National Crime Information Center (NCIC) Advisory Policy Board will be held on April 12, 1978, at the Ramada Inn, Alexandria, Va. The meeting will begin at 8 a.m. and terminate at 5 p.m.

The purpose of this meeting will be to consider recommendations of the Computerized Criminal History Operating Subcommittee of the Advisory Policy Board regarding the development of a functional design of a system for the interstate exchange of criminal history information on a decentralized basis.

The meeting will be open to the public. Persons who wish to make statements and ask questions of the Board members must notify the Designated Federal Employee (DFE) indentified below or the Assistant Director, Technical Services Division, FBI, Washington, D.C. 20535, at least 24 hours prior to the commencement of the session. Name, corporate designation, consumer affiliation or government designation must be provided along with a capsulized version of the statement to be given and an outline of the material to be offered.

Additional information may be obtained from the DFE, Mr. Frank B. Buell, Chief, NCIC Section, Technical Services Division, FBI Headquarters, Washington, D.C. 20535, telephone number 202-324-2606.

Minutes of the meeting will be available upon request from the above-designated FBI official.

WILLIAM H. WEBSTER,
Director.

[FR Doc. 78-7692 Filed 3-22-78; 8:45 am]

[7510-01]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-7]

NASA ADVISORY COUNCIL AERONAUTICS ADVISORY COMMITTEE, SUBCOMMITTEE ON AVIATION SAFETY REPORTING SYSTEM (ASRS)

Meeting

The above named Subcommittee will meet April 19-20, 1978, at the Aircraft Owners and Pilots Association (AOPA), 7315 Wisconsin Avenue, Washington, D.C., in the AOPA Conference Room. The meeting will be open to the public on a first-come, first-served basis up to the seating capacity of the room (about 25 persons).

The Subcommittee, which serves in an advisory capacity only, reviews ASRS operations and NASA actions taken in response to subcommittee recommendations. The Chairman is John H. Winant.

For further information, contact Gene Lyman, 202-755-2380, Executive Secretary of the Subcommittee, NASA Headquarters, Washington, D.C. 20546.

APRIL 19, 1978

8:30 a.m.—Chairman's Opening Remarks.
8:45 a.m.—Executive Secretary's Report.
9 a.m.—Security Group Report.
9:30 a.m.—Management Report (administrative matters).
11 a.m.—Technical Report (safety reports submitted).
1 p.m.—Report on special studies on ASRS data base.
3:30 p.m.—Discussion (ASRS activities and formulation of recommendations).

APRIL 20, 1978

8:30 a.m.—Program Planning on ASRS Evaluation.
11:30 a.m.—Discussion and Recommendation on Future ASRS Directions.
12 m.—Adjournment.

Dated: March 17, 1978.

KENNETH R. CHAPMAN,
Associate Administrator for External Relations.

[FR Doc. 78-7649 Filed 3-22-78; 8:45 a.m.]

[7590-01]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-316]

INDIANA AND MICHIGAN ELECTRIC CO. AND INDIANA AND MICHIGAN POWER CO.

Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 3 to Facility Operating License No. DPR-74, issued to Indiana and Michigan Electric Co., and Indiana and Michigan Power Co., which authorizes Mode 1 operation not to exceed 678 megawatts thermal (twenty percent of rated core power level of 3391 megawatts thermal) for the Donald C. Cook Nuclear Plant, Unit No. 2 (the facility) located in Berrien County, Mich. The amendment is effective as of its date of issuance. This action is a part of the licensing action encompassed in the "Notice of Consideration of Issuance of Facility Operating Licenses and Notice of Opportunity for Hearing Pursuant to 10 CFR Part 50, Appendix D, Section C."

Facility Operating License No. DPR-74 contained condition 2.C(3)(s) concerning modification of the diesel generator alarm and control circuitry which required staff approval prior to Mode 1 operation. This item has been resolved to the satisfaction of the Commission and the appropriate restrictions have been removed in Amendment No. 3. Amendment No. 3 authorizes facility operation in Mode 1 not to exceed 678 megawatts thermal (twenty percent of rated core power level of 3391 megawatts thermal).

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Part 51.5(d)(4) an environmental impact statement, or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) Amendment No. 3 to License No. DPR-74, and (2) the Commission's related Safety Evaluation. These items are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. and at the Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Mich. A copy of items (1) and (2) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Project Management.

Dated at Bethesda, Md., this 16th day of March 1978.

For the Nuclear Regulatory Commission.

KARL KNIEL,
Chief, Light Water Reactors Branch No. 2, Division of Project Management.

[FR Doc. 78-7714 Filed 3-22-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has pub-

lished Revision No. 1 to Section No. 9.4.5 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70.00, including first-year supplements. Annual subscriptions for supplements alone are $30.00. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.4.5 is $4.00. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street, NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 14th day of March, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-7718 Filed 3-22-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 9.4.4 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.4.4 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 14th day of March, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-7715 Filed 3-22-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 9.4.3 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review Plan for the Review of Safety Analysis Reports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available from the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.4.3 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 14th day of March, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-7716 Filed 3-22-78; 8:45 am]

[7590-01]

[NUREG-75/087]

REVISION TO THE STANDARD REVIEW PLAN

Issuance and Availability

As a continuation of the updating program for the Standard Review Plan (SRP) previously announced (FEDERAL REGISTER notice dated December 8, 1977), the Nuclear Regulatory Commission's (NRC's) Office of Nuclear Reactor Regulation has published Revision No. 1 to Section No. 9.4.2 of the SRP for the NRC staff's safety review of applications to build and operate light-water-cooled nuclear power reactors. The purpose of the plan, which is composed of 224 sections, is to improve both the quality and uniformity of the NRC staff's review of applications to build new nuclear power plants, and to make information about regulatory matters widely available, including the improvement of communication and understanding of the staff review process by interested members of the public and the nuclear power industry. The purpose of the updating program is to revise sections of the SRP for which changes in the review plan have been developed since the original issuance in September 1975 to reflect current practice.

Copies of the Standard Review plan for the Review of Safety Analysis Re-

ports for Nuclear Power Plants, which has been identified as NUREG-75/087, are available form the National Technical Information Service, Springfield, Va. 22161. The domestic price is $70, including first-year supplements. Annual subscriptions for supplements alone are $30. Individual sections are available at current prices. The domestic price for Revision No. 1 to Section No. 9.4.2 is $4. Foreign price information is available from NTIS. A copy of the Standard Review Plan including all revisions published to date is available for public inspection at the NRC's Public Document Room at 1717 H Street NW., Washington, D.C. 20555 (5 U.S.C. 552(a)).

Dated at Bethesda this 15th day of March, 1978.

For the U.S. Nuclear Regulatory Commission.

ROGER J. MATTSON,
Director, Division of Systems Safety, Office of Nuclear Reactor Regulation.

[FR Doc. 78-7717 Filed 3-22-78; 8:45 am]

[7590-01]

ADVISORY COMMITTEE ON REACTOR SAFEGUARDS

Proposed Meetings

In order to provide advance information regarding proposed meetings of the ACRS Subcommittees and Working Groups and of the full Committee, the following preliminary schedule is being published. This preliminary schedule reflects the current situation, taking into account additional meetings which have been scheduled and meetings which have been postponed or cancelled since the last list of proposed meetings published in the FEDERAL REGISTER on February 24, 1978. Those meetings which are definitely scheduled have had, or will have, an individual notice published in the FEDERAL REGISTER approximately 15 days (or more) prior to the meeting. Those Subcommittee and Working Group meetings for which it is anticipated that there will be a portion or all of the meeting open to the public are indicated by an asterisk (*). It is expected that the sessions of the full Committee meeting designated by an asterisk (*) will be open in whole or in part to the public. ACRS full Committee meetings begin at 8:30 a.m., and Subcommittee and Working Group meetings usually begin at 8:30 a.m. The exact time when items listed on the agenda will be discussed during full Committee meetings and when Subcommittee and Working Group meetings will start will be published approximately 15 days prior to each meeting. Information as to whether a meeting has been firmly scheduled, cancelled, or rescheduled, or whether changes have been made in the agenda for the April 6-8, 1978 ACRS full Committee meeting can be obtained by a prepaid telephone call to the Office of the Executive Director of the Committee (telephone 202-634-1374, ATTN: Mary E. Vanderholt) between 8:15 a.m and 5 p.m., e.s.t.

SUBCOMMITTEE AND WORKING GROUP MEETINGS

**Indian Point Nuclear Generating Station, Unit No. 3*, March 28, 1978. Rescheduled for April 24, 1978, Washington, D.C.

**McGuire Nuclear Plant*, March 29-30, 1978, Charlotte, N.C. The Subcommittee will review the application of the Duke Power Co. for a license to operate this plant. Notice of this meeting was published in the FEDERAL REGISTER on March 14, 1978.

**Anticipated Transients Without Scram (ATWS)*, March 31, 1978. Rescheduled for April 20, 1978, Washington, D.C.

**Regulatory Activities*, April 5, 1978, Washington, D.C. The Subcommittee will review working papers, future Regulatory Guides, and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations. Notice of this meeting was published in the FEDERAL REGISTER on April 21, 1978.

**New England Power Nuclear Project, Units 1 and 2*, April 20, 1978, Providence, R.I. The Subcommittee will review the application of the New England Power Company for a permit to construct Units 1 and 2 of this Project.

**Anticipated Transients Without Scram (ATWS)*, April 20, 1978 (rescheduled from March 31, 1978), Washington, D.C. The Working Group will discuss various issues pertaining to anticipated transients during reactor operations that might take place without the occurrence of reactor scram. Notices of this meeting were published in the FEDERAL REGISTER on December 2 and 19, 1977, February 15 and 24, 1978, and March 17, 1978.

**Indian Point Nuclear Generating Station, Unit No. 3*, April 24, 1978 (rescheduled from March 28, 1978), Washington, D.C. The Subcommittee will review the request of the Consolidated Edison Co. for a power level increase for Unit No. 3.

**Maine Yankee Atomic Power Station*, May 2, 1978 (rescheduled from March 18, 1978), Washington, D.C. The Subcommittee will review the request of the Maine Yankee Atomic Power Corp. for a power level increase for this Station.

**Resolution of Generic Items*, May 3, 1978, Washington, D.C. The Subcommittee will review progress toward the resolution of the unresolved generic items identified in ACRS Report No. 6, dated November 15, 1977.

**Regulatory Activities*, May 3, 1978, Washington, D.C. The Subcommittee will review working papers, future Regulatory Guides and changes to existing Regulatory Guides; also, it will discuss pertinent activities which affect the current licensing process and/or reactor operations.

**Diablo Canyon Nuclear Power Station*, May 17, 1978, Washington, D.C. The Subcommittee will continue its review of the Pacific Gas and Electric Co.'s applications for operating licenses for units 1 and 2 of this Station.

**Davis Besse Nuclear Power Station, Units 2 and 3*, May 18, 1978, Washington, D.C. The Subcommittee will review the application of the Toledo Edison Co. for a permit to construct Units 2 and 3 of this Station.

ACRS FULL COMMITTEE MEETINGS

APRIL 6-8, 1978

A. *McGuire Nuclear Station, Units 1 and 2—Operating License Review.

B. *Arkansas Nuclear One, Unit 2—Operating License Review.

MAY 4-6, 1978

Agenda to be announced.

Dated: March 20, 1978.

JOHN C. HOYLE,
Advisory Committee Management Officer.

[FR Doc. 78-7811 Filed 3-22-78; 8:45 am]

[7590-01]

[Docket Nos. 50-582, 50-582A, 50-583, and 50-583A]

SAN DIEGO GAS & ELECTRIC CO., ET AL [1]

Receipt of Additional Antitrust Information: Time for Submission of Views on Antitrust Matters.

San Diego Gas & Electric Co., pursuant to section 103 of the Atomic Energy Act of 1954, as amended, filed on February 8, 1978, information requested by the Attorney General for Antitrust Review as required by 10 CFR Part 50, Appendix L. This information concerns two additional prospective owners of the Sundesert nuclear plant, units 1 and 2, the Los Angeles Department of Water & Power and the city of Burbank, Calif. The information was filed in connection with the San Diego Gas & Electric Co.'s application for construction permits for two pressurized water nuclear reactors designated as the Sundesert nuclear plant, units 1 and 2. The proposed facilities are to be located on a site near Blythe in Riverside County, Calif.

The original antitrust portion of the application was submitted on October 29, 1975, and the notice of receipt of the antitrust application was published in the FEDERAL REGISTER on December 5, 1975 (40 FR 56985). The notice of hearing was published in the FEDERAL REGISTER on May 9, 1977 (42 FR 23569). A notice of receipt of additional antitrust information concerning prospective owners, California Department of Water Resources, cities of Anaheim, Glendale, Pasadena, and Riverside, Calif., was published in the FEDERAL REGISTER on April 14, 1977 (42 FR 19535).

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[1] Los Angeles Department of Water and Power, city of Burbank, Calif., California Department of Water Resources, city of Anaheim, Calif., city of Glendale, Calif., city of Pasadena, Calif., and city of Riverside, Calif.

A copy of the above stated documents are available for public inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. 20555, the San Diego County Law Library, 1105 Front Street, San Diego, Calif. 92101, and at the Palo Verde Valley District Library, 125 West Chanslorway, Blythe, Calif 92255.

Any person who wishes to have his views on the antitrust matters with respect to the Los Angeles Department of Water & Power and the city of Burbank, Calif., presented to the attorney General for consideration should submit such views to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Chief, Antitrust and Indemnity Group, Office of Nuclear Reactor Regulation, on or before May 15, 1978.

Dated at Bethesda, Md., this 9th day of March 1978.

For the Nuclear Regulatory Commission.

OLAN D. PARR,
Chief, Light Water Reactors Branch No. 3, Division of Project Management.

[FR Doc. 78-6834 Filed 3-15-78; 8:45 am]

[4910-58]

NATIONAL TRANSPORTATION SAFETY BOARD

[N-AR 78-12]

ACCIDENT REPORTS; SAFETY RECOMMENDATIONS; AND RESPONSES

Reports Availability

The National Transportation Safety Board announces the availability of printed copies of the following accident investigation reports:

Aircraft Accident Report: Allegheny Airlines, Inc., Douglas DC-9, N994VJ, Philadelphia, Pennsylvania, June 23, 1976 (Report No. NTSB-AAR-78-2).—Board investigation determined that the probable cause of this accident was the aircraft's encounter with severe horizontal and vertical wind shears near the ground as a result of the captain's continued approach into a clearly marginal severe weather condition. The aircraft's ability to cope under these conditions was borderline when flown according to standard operating procedures, however, if the aircraft's full aerodynamic and power capability had been used, the wind shear could probably have been flown through successfully. Contributing to the accident was the tower controller's failure to provide timely below-minimum RVR information.

The Safety Board, as a result of this investigation, issued three recommendations to the Federal Aviation Administration (A-77-63, A-77-64, and A-78-3), all of which have previously been noticed in the FEDERAL REGISTER.

Marine Accident Report: Tank Barge B-924 Fire and Explosion with Loss of Life at Greenville, Mississippi, November 13, 1975 (Report No. NTSB-MAR-78-2).—This report and related recommendations M-78-3 through 8 to the U.S. Coast Guard and recommendation M-78-9 to the National Fire Protection Association, (which recommendations have been previously noticed in the FEDERAL REGISTER) resulted from investigation into the accident which occurred when tank barge B-924 caught fire in one of its cargo tanks and exploded while being repaired.

The Safety Board determines that the probable cause of this casualty was the failure of a National Fire Protection Association certified marine chemist to insure that the tank barge B-924 was safe for electric arc welding repairs. Contributing to the accident were the inadequate method currently used for certifying and regulating marine chemists and the absence of adequate mandatory standards or regulations to insure a safe working environment in vessels being repaired.

Marine Accident Report: The National Transportation Safety Board announces that copies of its investigative report, No. NTSB-MAR-78-1, on the February 24, 1977, U.S. Tankship SS *Marine Floridian* collision with Benjamin Harrison Memorial Bridge, Hopewell, Va., are now available. (Report has previously been noticed in the FEDERAL REGISTER.)

Pipeline Accident Report: Consolidated Gas Supply Corporation, Propane Pipeline Rupture and Fire, Ruff Creek, Pennsylvania, July 20, 1977 (Report No. NTSB-PAR-78-1).—This accident occurred when a 12-inch propane pipeline ruptured near the town of Ruff Creek. The liquid, under 450-psig pressure, escaped from the pipeline, vaporized, and propane gas fumes settled like a fog over the bottom of a valley. The Safety Board determines that the probable cause of the accident was the failure by stress-corrosion cracking of a 12-inch propane pipeline which had been subjected to earth subsidence caused by previous coal mining operations underneath the pipeline. The fatalities and property damage resulted from the escaping liquid which vaporized and settled in a valley where it was later ignited by an electrical spark from a truck.

As a result of its investigation, the Safety Board made several recommendations to the consolidated Gas Supply Corporation (P-78-1 through 8), to the Materials Transportation Bureau of the U.S. Department of Transportation (P-78-9 through 11), and the American Petroleum Institute (P-78-12 through 14) all of which have previously been noticed in the FEDERAL REGISTER.

Railroad Accident Report: Head-On Collision of Two Greater Cleveland Regional Transit Authority Trains, Cleveland, Ohio, July 8, 1977 (Report No. NTSB-RAR-78-2).—Two trains of the Greater Cleveland Regional Transit Authority collided head-on on the eastbound track of the Shaker Heights Line, near 92nd and Holton Streets in Cleveland, Ohio. Sixty persons were injured and property damage was estimated to be $100,000.

The Safety Board determines that the probable cause of the accident was the failure of the Greater Cleveland Regional Tranisit Authority to have established rules and procedures, and special instructions to assure safe train operations. Contributing to this accident were the failure of both supervisors to establish and coordinate adequate local procedures for operating trains in both directions on a single track, and, further, the vegetation along the curve which was allowed to grow to the extent that the view was blocked.

As a result of this accident, recommendations were made to the Greater Cleveland Regional Transit Authority (R-78- 7 through 9) which have previously been noticed in the FEDERAL REGISTER.

Safety Recommendations

Highway: H-78- 6 through 14.—On March 8, 1977, a tractor-semitrailer struck the rear of a Campbell County (Va.) Public Schools schoolbus on U.S. Highway 29, near Rustburg, Va. Three of the 33 occupants of the schoolbus died in the collision.

As a result of its investigation of this accident, the Safety Board on March 8 made the following recommendations:

To the Virginia State Board of Education—

Revise its schoolbus operating regulations to eliminate the procedural requirement for the stopping of schoolbuses on the main portion of a roadway when picking up or discharging passengers, and add a requirement that conforms with Highway Safety Program Standard No. 17 which calls for loading and unloading zones off the main traveled portion of the highway wherever practicable. (H-78-6)

Revise its Schoolbus Driver Training Program to place greater emphasis on defensive driving procedures as they relate to observing surrounding traffic before stopping to pick up or discharge passengers. (H-78-7)

To the National Highway Traffic Safety Administration—

Determine whether the States of Florida, Maryland, North Carolina, and South Carolina are in compliance with Highway Safety Program Standard No.5, "Driver Licensing," and if found not in compliance, take necessary action to encourage them to modify their programs to comply. (R-78-8)

Expand Highway Safety Program Standard No. 17, "Pupil Transportation Safety," to provide that no passengers occupy seats in either the foremost or rearmost rows of

passenger seats until all other seats have been occupied. (R-78-9)

Modify Federal Motor Vehicle Safety Standard No. 217 to provide for additional emergency exit points to facilitate escape from and access to schoolbuses regardless of the vehicle's attitude following a collision or overturn. Such exits shall be in addition to the current options set forth in FMVSS No. 217. (R-78-10)

Review available accident statistics involving 1975 and later model schoolbuses equipped with seating arrangements that comply with Federal Motor Vehicle Safety Standard No. 222 to determine if the specific seating, restraining barriers, and impact zone requirements for schoolbuses have reduced the injuries sustained by occupants on these schoolbuses when involved in collisions and rollovers. A report of the findings should be submitted to the National Transportation Safety Board at the earliest opportunity. (H-78-11)

To the Bureau of Motor Carrier Safety, Federal Highway Administration—

Revise its enforcement policy which now precludes the filing of charges against drivers and carriers in violation of the Federal Motor Carrier Safety Regulations unless they have previously been served with a copy of the safety regulations, to permit the filing of charges for violations under severe circumstances such as preventable, fatal highway accidents. (H-78-12)

Request from the Interstate Commerce Commission the identity and categories of all current ICC-registered carriers operating in interstate commerce and of future registrants as soon as possible following their registration. (H-78-13)

To the Governor of North Carolina—

Review its driver improvement program, required by Highway Safety Program Standard No. 5, to identify problem drivers and insure that such drivers are not permitted to operate commercial vehicles. (H-78-14)

Each of the above recommendations is designated "Class II," Priority Action.

Intermodal: I-78-2 through 7.—The Safety Board conducted a special investigation into selected safeguards against bulk gasoline delivery risks at automotive service stations. This investigation was based on a critical review of a fire and explosion near Gadsden, Ala., on August 31, 1976, which killed 3 firemen and injured 28 persons.

Based on its special investigation and findings, on March 9 the Safety Board made the following recommendations:

To the Fire Marshals Association of North America—

Establish a program with the National Fire Protection Association to provide officials acting under Sections 1050 and 1060 of NFPA Code No. 30 with guidelines for identifying "recognized hazards" at service station facilities, so that this code is applied more uniformly within the states. (I-78-2)

Develop a procedure for identifying and reviewing the "recognized hazards" at all gasoline service stations in which variances from NFPA Code No. 30 have been authorized to determine which service stations in a State constitute an unusual safety risk. (I-78-3)

Develop a program to inform local firefighters of the unusual risks that exist at service stations where the code has been relaxed, so that firefighters may respond in the safest possible way to emergencies at such facilities. (I-78-4)

To the American Association of Motor Vehicle Administrators—

Study ways in which States might assure periodic inspection of required hazardous materials safety equipment on tank vehicles which transport hazardous materials within a single State, and report its findings to the Safety Board within a reasonable time. (I-78-5)

To the Underwriters Laboratories, Inc.—

Review and amend UL "Standard for Safety No. 142" for above-ground storage tanks for Class I liquids to protect against violent ruptures and explosions in fires involving such tanks. (I-78-6)

Each of the above recommendations is designated "Class II," Priority Action.

Railroad: R-78- 11 through 13.— The Safety Board's investigation of several recent derailments has disclosed that the probable causes or contributing causes of the accidents were the breaking of wheels due to overheating.

Therefore, on March 9 the Safety Board recommended that the Federal Railroad Administration:

Use emergency powers to prohibit the use of cars equipped with Southern wheel Company high carbon wheels from carrying hazardous materials or from being placed in trains moving hazardous materials. (R-78-11)

Use emergency powers to expedite the replacement of Southern Wheel Company high carbon wheels 70T and UI. (R-78-12)

Promulgate regulations to establish adequate service records so that similar wheel problems will be promptly detected in the future and corrective action taken. (R-78-13)

Each of the above recommendations is designated "Class I," Urgent Action.

Responses to Safety Recommendations

Highway: H-77-9.—This recommendation asks the Federal Highway Administration (FHWA) and the Federal Railroad Administration (FRA) to combine efforts to develop and implement a uniform system of warning devices to attract the attention of motor vehicle drivers approaching railroad-highway grade crossings.

A joint letter from FHWA and FRA on February 14 states that both administrations agree with the Safety Board on the need for uniformity in the highway traffice control and train mounted components of grade crossing systems. FHWA/FRA also state that both administrations are presently working to improve the state of the art of warning devices. Several research efforts are currently underway in various areas which may result in improved traffic control systems. These include:

1. Testing and evaluation of improved passive signing;
2. A study to improve the visibility of grade crossing active devices;
3. The use of strobe lights to supplement grade crossing flashing lights;
4. Grade crossing active advance warning signals; and
5. Visual signals for a positive indication of non-train at railroad grade crossings.

In addition, the FRA states that it is deeply interested in the prospect of improving safety at railroad-highway grade crossings by the use of strobe lights on locomotives. Both administrations state that it is essential that all warning devices and systems be fully tested and evaluated before being approved for standard applications, and that this is a continuing effort of both administrations.

Pipeline: P-77-37.—In its letter of January 30 Alyeska Pipeline Service Company responds to this recommendation which asks them to review its training program for adequacy, reinstruct its personnel in the procedures contained therein, and monitor the employees to assure their compliance with the required standards of safety for pipeline operation. Alyeska states that a significant improvement has been made in their training program that provides basic instructions to new employees after they become familiar with the pump station facility; safety oriented procedures are covered during the initial employee indoctrination; informal on-the-job training followed by formal on-the-job training is a requirement of all new employees; the employee is tested to assure his knowledge; and specific safety related refresher training is provided through weekly safety meetings.

Alyeska also states that a Work Permit is made out for all work performed at the pump station which has to be signed by the pump station supervisor before any work can be performed. The pump station supervisor assures himself that the applicable procedures are in place and proper preparation has been made. In addition, Alyeska states they are instituting a change whereby the safety and fire protection specialist at each pump station will also endorse all work permits, and Senior Managers from Anchorage make frequent trips to the stations to further verify compliance.

Railroad: R-76-7.—FRA's letter of February 16 further responds to the Safety Board's recommendation to observe a statistically adequate sample of trains equipped with cab signals to establish the reliability of this system.

FRA states that Federal inspectors observed cab signal systems during a 20-day period in a region that extended from Washington, D.C., to New York City, and from Philadelphia to Pittsburgh; six different types of cab signal systems installed on more than 100 freight, Amtrak passenger, and MU commuter trains were observed. At no time during these observations did a cab signal indicate a more favorable indication than that intended while operating on tracks where cab signal rules are in effect. Based on these representatives' observations, FRA believes the existing cab signal systems are adequate and reliable.

Aviation: A-74-110.—The Safety Board in its letter of March 10 asks the FAA to advise of any change in their position concerning this recommendation, which deals with air carriers designating the flight attendants to be responsible for use of the megaphones during evacuations, the location of the megaphones, and the types of megaphones installed.

NOTE.—The above notice summarizes Safety Board documents publicly released last week and recommendation response letters recently received.

Single copies of accident reports may be obtained from the Safety Board without charge; multiple copies may be purchased by mail from the National Technical Information Service, U.S. Department of Commerce, Springfield, Va. 22151.

The Board's safety recommendation letters in their entirety are available to the general public; single copies are obtainable without charge. Copies of the full text of responses to recommendations may be obtained at a cost of $4 for service and 10 cents per page for reproduction.

All requests to the Board for copies must be in writing, identified by the report or 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)).)

BARBARA BUSH,
Acting Federal Register Liaison Officer.

MARCH 20, 1978.

[FR Doc. 78-7777 Filed 3-72-78; 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 March 17, 1978 (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; an indication of who will be the respondents to the proposed collection; the estimated number of responses; the estimated burden in reporting hours; and the name of the reviewer or reviewing division or office.

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

OFFICE OF MANAGEMENT AND BUDGET

Human Resources Team: ADP Reorganization Study, single time, 600 ADP Reorganization Study, Lowry, R. L., 395-3772.

DEPARTMENT OF COMMERCE

Bureau of Census, Richmond Public Information Campaign Evaluation Survey D-801XR, single time, households in Richmond, Va., Clearance Office, 395-3772.

DEPARTMENT OF DEFENSE

Defense Civil Preparedness Agency, Public Attitude Toward Civil Preparedness Survey, single time, 1,500 sample of 1,500 households in 48 States, Office of Federal Statistical Policy and Standard, National Security Division, 673-7959.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, BMS Questionnaire for Nurse Applicants, HSA-334, on occasion, 1,500 nurses applying for employment, clearance office, 395-3772.

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration, prospectus for contract titled, "Data Bank for Recycled Bituminous Concrete Pavements" single time, State highway agencies, Straser, A., 395-6132.

REVISIONS

DEPARTMENT OF AGRICULTURE

Agriculture Research Service, 1977-78 Nationwide Food Consumption Survey and Food Intake of Individuals, single time, households, interviewers in U.S. and Puerto Rico, 107,900 responses, 131,660 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Economics, Statistics, and Cooperatives Service-Economics Peanut Cost of Production Survey, other (see SF-83), peanut producers, 900 responses, 900 hours, Office of Federal Statistical Policy and Standard, 673-7959.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration, Registration of Cosmetic Product Establishment FD-2511, on occasion, cosmetic manufacturers and packagers, 50 responses, 25 hours, clearance office, 395-3772.

PUBLIC HEALTH SERVICE

National Medical Care Expenditure Survey, on occasion, sample of household and their rep. doc., hosp., and insurors, 92,500 responses, 74,540 hours, Office of Federal Statistical Policy and Standard, 673-7959.

EXTENSIONS

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Resources Administration, agency reporting system for updating master facility inventory, HRANCHS-0722, on occasion, nursing homes and "other" health facilities in non-CHSS States, 3,000 responses, 240 hours, Office of Federal Statistical Policy and Standard, 673-7959.

Public Health Service, health services funding financial plan summary sheet, annually, ADAMHA Grantees, 1,891 responses, 43,252 hours, Budget Review Division, 395-4775.

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-7850 Filed 3-22-78; 8:45 am]

[8010-01]

SECURITIES AND EXCHANGE COMMISSION

[File No. 81-320; Administrative Proceeding File No. 3-5392]

AARON BROTHERS CORP.

Application and Opportunity for Hearing

MARCH 15, 1978.

Notice is hereby given that Aaron Brothers Corp. ("Applicant") has filed an application pursuant to section 12 (h) of the Securities Exchange Act of 1934, as amended (the "1934 Act"), for an order granting Applicant an exemption from the provisions of sections 12(g) and 15(d) of the 1934 Act.

The Applicant states, in part:

1. On October 3, 1977, Applicant merged with and became a wholly-owned subsidiary of Chromalloy American Corp. ("Chromalloy"). As a result of the merger, Applicant no longer has any publicly owned common stock.

2. The Applicant has filed with the Commission its Form 10-Q for the period ended September 30, 1977.

Applicant argues that the granting of the exemption would not be inconsistent with the public interest or the protection of investors.

For a more detailed statement of the information presented, all persons are referred to said application which is on file in the offices of the Commis-

sion at 500 North Capitol Street, Washington, D.C.

Notice is further given that any interest person not later than April 10, 1978, may submit to the Commission in writing his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reason for such request, and the issues of fact and law raised by the application which he desires to controvert. At any time after said date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7613 Filed 3-22-78; 8:45 am]

[8010-01]

[Rel. No. 10159 (812-4255)]

MASSACHUSETTS CAPITAL RESOURCE CO.

Filing of Application

MARCH 15, 1978.

Notice is hereby given that Massachusetts Capital Resource Co. ("Applicant"), 11 Beacon Street, Boston, Mass. 02116, a Massachusetts limited partnership, has filed an application on December 28, 1977, and amendments thereto on February 1, 1978, February 15, 1978, and March 7, 1978, pursuant to section 6(c) of the Investment Company Act of 1940 (the "Act"), for an order of the Commission exempting it, as well as any of its wholly-owned subsidiaries which may be formed, from all of the provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant was organized on December 27, 1977, pursuant to Chapter 816 of the Acts and Resolves of the General Court of Massachusetts for 1977 (the "MCRC Act"), a special act relating only to Applicant. Applicant asserts that, in accordance with the MCRC Act, only Massachusetts life insurance companies may become general or limited partners in the Applicant. It states further that, in accordance with the MCRC Act, it may form one or more wholly-owned subsidiaries through which its funds may be invested, and that such subsidiary or subsidiaries shall be subject to all appropriate provisions of the MCRC Act.

Applicant states that its purpose is to invest and to reinvest its assets exclusively in securities conforming to the investment criteria set forth in the MCRC Act. Section 15 and 16 of the MCRC Act require Applicant to use its best efforts to invest in certain securities of issuers which are unable to obtain financing on substantially similar terms elsewhere, and which will utilize the proceeds of the investment for purposes which will increase or maintain employment in Massachusetts. Under certain circumstances, Applicant may also invest in marketable obligations of the Commonwealth of Massachusetts, its agencies and its political subdivisions, and in short-term debt obligations. Applicant is required to invest at least $3,000,000 in investments which do not exceed the asset, net worth, and net earnings standards applicable to investments which could be made by a Small Business Investment Company at the time such investments are made.

According to the application, Applicant will exist for a term of twenty-five years from the date of its organization, subject to extension for five years by unanimous consent of all general partners or for a longer period by unanimous consent of all partners. Applicant will be subject to the terms of the MCRC Act for at least twenty-five years from its organization except that it may choose not to be so subject if, on or before December 31, 1982, there is a statutory increase in direct taxes paid by Massachusetts life insurers to Massachusetts, which is other than a proportional part of a general increase in the taxation of businesses in Massachusetts.

The four general partners of Applicant are: John Hancock Mutual Life Insurance Co. Massachusetts Mutual Life Insurance Co. New England Mutual Life Insurance Co. and State Mutual Life Assurance Co. of America, each of which is a mutual life insurance company organized under the laws of the Commonwealth of Massachusetts. The five limited partners of Applicant are Paul Revere Life Insurance Co. Monarch Life Insurance Co. Berkshire Life Insurance Co., Boston Mutual Life Insurance Co., and United Educators Life Insurance Co., each of which is a life insurance company organized under Massachusetts law.

Applicant represents that prior to December 20, 1977, all Massachusetts life insurance companies, of which there are currently eighteen, had been invited to acquire partnership interests in the Applicant. Pursuant to the terms of Applicant's partnership agreement, any Massachusetts life insurance company which is not a member of the Applicant may acquire a limited partnership interest on such terms and conditions as Applicant's general partners determine to be appropriate.

All partners, both general and limited, have agreed to make an aggregate contributions of $20,000,000 in cash to Applicant in each of the calendar years 1977 through 1981, unless three or more general partners holding no less than a 70 percent interest in the capital contributed to Applicant by the general partners determine that the additional funding should be discontinued. Each partner's contribution for any year shall be an amount determined by multiplying $20,000,000 by a fraction, the numerator of which is the admitted assets of such partner as of the preceding December 31, and the denominator of which is the aggregate admitted assets of all partners as of the preceding December 31 (the "Contribution Formula"). Applicant states that admitted assets are the assets of a Massachusetts life insurance company sufficient to meet policyholder claims and obligations of the company valued by the Massachusetts Commissioner of Insurance in accordance with the standards established with respect to annual statements for insurance companies under Massachusetts law.

Applicant represents that as of December 31, 1976, the admitted assets of its partners as set forth in their respective audited annual statements were:

John Hancock	$13,995,567,000
Massachusetts Mutual	6,396,921,000
New England Life	4,984,451,000
State Mutual	1,711,645,000
Paul Revere	585,744,000
Monarch	477,252,000
Berkshire Life	361,543,000
Boston Mutual	130,360,000
United Educators	2,094,000

Applicant states that in accordance with the Contribution Formula, each general partner's and each limited partner's share of the original contribution of $20,000,000 represents less than 1/100 of 1 percent of each partner's admitted assets as of December 31, 1976. Applicant asserts that the use of the Contribution Formula to determine proportionate shares of the aggregate contributions of $20,000,000 per year in the years 1978 through 1981 will insure that each partner's capital contribution will remain a miniscule proportion of its admitted assets. Applicant further represents that the MCRC Act itself limits the total of loans and contributions to the Applicant by a life insurance company to no more than 1 percent of the admitted assets of said life insurance company.

Applicant states that it has not heretofore registered as an investment company under the Act, in reliance upon section 3(c)(1) of the Act which excepts from the definition of "investment company" any issuer whose outstanding securities are owned by not more than 100 persons and which is not making and does not propose to make a public offering of its securities.

Section 3(c)(1) further provides that, for purposes of determining the number of an issuer's shareholders, the shareholders of a corporate investor in that issuer shall be counted if such corporate investor itself owns 10 percent or more of the outstanding voting securities of the issuer.

Applicant argues at length that it has no outstanding voting securities for purposes of section 3(c)(1) of the Act, and that Applicant is not the type of company intended by Congress to be subject to regulation under the Act.

Section 6(c) of the Act provides, in part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person from any provision or provisions of the Act, to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant submits that it is appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act for the Commission to enter an order exempting Applicant, as well as any wholly-owned subsidiary thereof which may be formed in order to invest Applicant's funds, from all of the provisions of the Act for the reason that the partners in Applicant do not require the protections afforded by the Act both by virtue of their institutional character and by virtue of the de minimis nature of their investment in Applicant.

Applicant states that, in addition to the fact that the investments its partners propose to make in it, expressed as percentages of their assets, are miniscule, the partners do not expect to derive any material amount of their revenues from investment in the Applicant. Furthermore, the partners are all regulated insurance companies whose investments, by statute, must meet certain standards calculated to insure continued solvency. Applicant notes that the Massachusetts Insurance Department, the primary regulatory body overseeing operation of the partners in the Applicant, has also been given primary responsibility in overseeing operations of the Applicant itself. Applicant concludes that these factors should provide strong assurance that the interests of policyholders of issuers participating in the Applicant will be adequately protected. Although Applicant does not concede that it is an investment company for purposes of the Act, it seeks an order exempting it from all the provisions of the Act in order to remove such uncertainty as may exist as to its status under the Act.

Applicant has agreed that it shall be a condition for the order it seeks that at no time shall any person other than the present general and limited partners and their successors or other Massachusetts life insurance companies and their successors, own an iterest in the Applicant.

Applicant has also undertaken that, should it decide in the future not to be subject to the terms of the MCRC Act, it shall file a letter as soon as practicable with the Commission advising it of such determination.

Applicant recognizes that any exemption granted pursuant to its application is predicated, in part, on the restrictions placed on the Applicant by the MCRC Act and that, therefore, should Applicant remove itself from the jurisdiction of the MCRC Act, the Commission may reexamine the basis upon which the exemption is granted and, should the Commission deem such action to be necessary, take appropriate action to consider whether to revoke, or to require additional conditions upon, any exemption which has been granted.

Notice is further given that any interested person may, not later than April 10, 1978, at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant at the address stated above. Proof of such service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0-5 of the Rules and Regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7614 Filed 3-22-78; 8:45 am]

[8010-01]

[Rel. No. 14568; (SR-NYSE-78-11)]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

MARCH 16, 1978.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on February 28, 1978, the New York Stock Exchange, Inc., 11 Wall Street, New York, N.Y. 10005, filed with the Commission copies of proposed amendments to its Rule 104.50. The proposal would amend Rule 104.50 to rescind the current requirement that each specialist and specialist organization keep records showing its commission income in each of its specialty stocks, but would implement a requirement that each specialist and specialist organization maintain records in a readily available manner showing (1) total actual commission income earned in all specialty stocks and (2) share volume executed as agent by specialty stock. The rule as amended would continue to require records showing dealer profit and loss by specialty stock and that such records reflect, by specialty stock, any gain or loss occurring within an investment account.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-78-11.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

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. Further, the Commission notes that the amendments approved herein have been necessitated by the introduction of negotiable intra-member rates since May 1, 1976. As a result of negotiable intra-

member rates, the Exchange has indicated in its submission that reporting of actual floor brokerage by specialty stock is often not possible since specialists may bill customers in a manner which reflects total volume or activity of business with a customer rather than income from a particular stock.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof, in that the NYSE's new reporting period will commence on April 3, 1978, prior to the usual thirty day time period for approval of rule filings. Accelerated approval will allow the NYSE to implement the amended reporting requirements for its next reporting period.

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. 78-7615 Filed 3-22-78; 8:45 am]

[8010-01]

[Rel. No. 14569 (SR-NYSE-78-14)]

NEW YORK STOCK EXCHANGE, INC.

Filing of Proposed Rule Change and Order Approving Proposed Rule Change

MARCH 16, 1978.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78(s)(b)(1) (the "Act"), notice is hereby given that on March 10, 1978, the New York Stock Exchange, Inc. ("NYSE"), 11 Wall Street, New York, N.Y. 10005, filed with the Commission copies of a proposed rule change to amend NYSE Rules 390, 395 and 396 which pertain respectively to over-the-counter transactions in stocks, rights and bonds listed on the NYSE. As to the first two classes of listed securities, the amendatory language provides that a member, member organization or affiliated person may execute a customer's order for the purchase or sale of these issues in the over-the-counter market with another person except where the member, member organization or affiliated person is also acting as agent for such other person in the transaction. A similar provision referring a customer order which involves an equity security is also inserted into NYSE Rule 396 which relates otherwise to over-the-counter transactions in debt securities.

Interested persons are invited to submit written data, views and arguments concerning the submission within 21 days from the date of this publication. Persons desiring to make written comments should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to File No. SR-NYSE-78-14.

Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and of all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying at the Commission's Public Reference Room, 1100 L Street NW., Washington, D.C.

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.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of filing thereof in that the instant rule amendments were submitted to conform the pertinent NYSE rules to amended Commission Rule 19c-1 [17 CFR 240.19c-1] under the Act.[1] Rule 19c-1 governs certain off-board agency transactions effected by members of the national securities exchanges, and the amended provision became effective on March 1, 1978.

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. 78-7616 Filed 3-22-78; 8:45 am]

[8010-01]

[File No. 500-1]

STV, INC.

Suspension of Trading

MARCH 10, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of STV, Inc. being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3 p.m. (e.s.t.) on March 10, 1978 through March 19, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7617 Filed 3-22-78; 8:45 am]

[8010-01]

[File No. 500-1]

SUPREME EQUIPMENT & SYSTEMS CORP.

Suspension of Trading

MARCH 14, 1978.

It appearing to the Securities and Exchange Commission that the summary suspension of trading in the securities of Supreme Equipment & Systems Corp., being traded on a national securities exchange or otherwise is required in the public interest and for the protection of investors;

Therefore, pursuant to Section 12(k) of the Securities Exchange Act of 1934, trading in such securities on a national securities exchange or otherwise is suspended, for the period from 3 p.m. on March 14, 1978 through March 23, 1978.

By the Commission.

GEORGE A. FITZSIMMONS,
Secretary.

[FR Doc. 78-7618 Filed 3-22-78; 8:45 a.m.]

[8010-01]

[Release No. 34-14566; File No. SR-PSE-78-5]

PACIFIC STOCK 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. 94-29, 16 (June 4, 1975), notice is hereby given that on March 14, 1978, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission a proposed rule change as follows:

EXCHANGE'S STATEMENT OF THE TERMS OF SUBSTANCE OF THE PROPOSED RULE CHANGE

The Pacific Stock Exchange Incorporated ("PSE") hereby requests to amend Rule VI, Section 58 (v) and Commentary .01, as follows (brackets indicate deletions, italics indicates additions):

RULE VI—EXCHANGE OPTIONS TRADING, ACCOMMODATION LIQUIDATIONS

Sec. 58.
(i) Same.
(ii) Same.
(iii) Same.
(iv) Same.
(v) The Order Book Official appointed to each class of option contracts shall be responsible for 1 cent orders for that class. All bids and offers must be submitted to the Order Book Offi-

[1] See Securities Exchange Act Release No. 14325 (December 30, 1977) (43 FR 13227 (January 9, 1978)).

cial in writing, [and displayed as such in accordance with Section 69,] and the Order Book Official shall effect all such transactions during the day by matching such orders placed with him.

(vi) Same.

Commentary:

.01 An Order Book Official who receives a closing buy order for 1 cent per share at option shall attempt to execute the order against any 1 cent closing sell orders in his possession. If any part of the buy order cannot be immediately executed the Order Book Official shall display the 1 cent bid[.] *in a manner prescribed by the Options Floor Trading Committee.*

[Upon receiving a closing sell order for 1 cent per share at option the Order Book Official shall attempt to execute the order at the best price available. If any part of the sell order cannot be immediately executed the Order Book Official shall display the order as a 1 cent offering. However, since a market or a 1/16 opening buy order may come to the market place next, the 1 cent closing sell order should be filed in time sequence with any order to sell at 1/16. This provides the ability to execute the closing sell order at 1 cent if a closing 1 cent buy order arrives next, or at 1/16 if an opening buy order arrives next.]

An Order Book Official who receives a closing sell order for 1 cent per share at option shall attempt to execute the order against any 1 cent closing buy orders in his possession. If any part of the sell order cannot be immediately executed, the Order Book Official shall display the 1 cent offering in a manner prescribed by the Options Floor Trading Committee.

Since orders to buy and sell at 1 cent are matched by the Order Book Official throughout the day, any orders matched will be deemed to be executed and may not be cancelled or modified by either party. The Order Book Official will attempt to notify each party to a transaction when his order is matched.

EXCHANGE'S STATEMENT OF BASIS AND PURPOSE

The basis and purpose of the foregoing proposed rule is as follows:

The purpose of the proposed rule change is to allow more efficient handling of cabinet orders and to insure that public orders on the book retain priority.

The proposed amendment will help promote just and equitable principles of trade by permitting the fair and orderly execution of orders previously placed in the cabinet, and will allow customers and other market participants seeking to close positions to receive a better price. In addition, the amendment will facilitate the execution of opening orders for customers and other market participants seeking to establish new positions.

Comments have neither been solicited nor received from members on the proposed rule change.

The proposed rule change imposes no burden upon competition.

On or before April 27, 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 change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file six copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street NW., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted by April 24, 1978.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

GEORGE A. FITZSIMMONS,
Secretary.

MARCH 15, 1978.

[FR Doc. 78-7619 Filed 3-22-78; 8:45 am]

[8025-01]

SMALL BUSINESS ADMINISTATION

[Declaration of Disaster Loan Area No. 1448]

ARIZONA

Declaration of Disaster Area

As a result of the President's major disaster declaration, I find that Maricopa County constitutes a disaster area because of damage resulting from severe storms and flooding beginning about February 28, 1978. The Small Business Administration will accept applications for disaster relief loans from disaster victims in the above-named county and adjacent counties, within the State of Arizona.

Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on May 5, 1978, and for economic injury until the close of business on December 5, 1978, at:

Small Business Administration, District Office, 112 North Central Avenue, Phoenix, Ariz. 85004.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 10, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7557 Filed 3-22-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1413; Amdt. 3]

KANSAS

Declaration of Disaster Loan Area

The above numbered Declaration (See 43 FR 2966), Amendment No. 1 (See 43 FR 4892), and Amendment No. 2 (See 43 FR 8603), are amended by adding the following counties:

County	Natural disaster(s)	Date
Brown	Drought	June 1 to July 31, 1977.
Do	Excessive rainfall	Aug. 1 to Sept. 15, 1977.
Doniphan	Drought	June 1 to July 31, 1977.
Do	Excessive rainfall	May 19 and Sept. 12, 1977.
Marshall	Drought	May 15 to Aug. 31, 1977.
Edwards	do	June 15 to Aug. 15, 1977.
Do	Hail storms	May 7 and May 26, 1977.
Do	do	June 11 and June 20, 1977.
Do	do	July 28 and Aug. 9, 1977.
Kiowa	Hail and wind storms	July 21 and July 24, 1977.
Seward	Severe hail storm	Sept. 12, 1977.
Hodgeman	Hail	Aug. 3, 1977.
Do	Extreme hot winds	July 1977.

and adjacent counties within the State of Kansas as a result of natural disasters as indicated. The time for filing applications is extended to August 31, 1978, for physical damage and November 30, 1978, for economic injury.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 10, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7558 Filed 3-22-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1400; Amdt. 3]

LOUISIANA

Declaration of Disaster Loan Area

The above numbered Declaration (See 42 FR 60240), Amendment No.1 (see 43 FR 3199), and Amendment No. 2 (see 43 FR 8604), are amended by adding Allen, Beauregard, Concordia, Iberville, Natchitoches and St. James Parishes and adjacent parishes within the State of Louisiana as a result of natural disasters as indicated. All other information remains the same.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: March 10, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7559 Filed 3-22-78; 8:45 am]

[8025-01]

[Declaration of Disaster Loan Area No. 1367; Amdt. 5]

MISSISSIPPI

Declaration of Disaster Loan Area

The above numbered Declaration (see 42 FR 45977), amendment No. 1 (see 42 FR 58472), amendment No. 2 (see 43 FR 2967), amendment No. 3 (see 43 FR 6666) and amendment No. 4 (see 43 FR 10455), are amended by adding the following counties:

County	Natural disaster(s)	Date
Covington	Drought	Apr. 21, 1978 and Aug. 15, 1977.
Do	Heavy insect infestation	Late summer.
Do	Excessive rainfall	Aug. 15, 1977 to Jan. 1, 1978.
Carroll	do	Nov. 1 to Nov. 30, 1977.
Claiborne	Drought	May 10 to July 15, 1977.
Copiah	Excessive rain	Oct. 1 to Dec. 31, 1977.
Do	Drought	Apr. 23 to July 8, 1977.
DeSoto	do	Jan. 1 to Oct. 31, 1977.
Hinds	do	May 2 to June 14, 1977.
Do	Excessive rain	Aug. 1 to Sept. 30, 1977.
Leflore	Drought	June 15 to Aug. 15, 1977.
Do	Excessive rain	Aug. 16 to Dec. 31, 1977.
Panola	Drought	May 8 to June 13, 1977.
Perry	Excessive rainfall	Aug. 1 until present.
Do	Drought	May 10 to July 20, 1977.
Rankin	do	May 1 to June 30, 1977.
Do	Excessive rain	Sept. 1 to Nov. 30, 1977.
Scott	Drought	Apr. 15 to July 8, 1977.
Do	Excessive rain	Sept 15 to Dec. 31, 1977.
Simpson	Drought	May 1 to July 31, 1977.
Tate	do	Jan. 1 to July 31, 1977.

and adjacent counties within the State of Mississippi, as a result of natural disasters as indicated. All other information remains the same; i.e., the termination date for filing applications for loans for physical damage is close of business on July 3, 1978, and for economic injury until close of business on Oct. 3, 1978.

Dated: March 10, 1978.

A. VERNON WEAVER,
Administrator.

[FR Doc. 78-7560 Filed 3-22-78; 8:45 am]

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD-78-028]

CHEMICAL TRANSPORTATION INDUSTRY ADVISORY COMMITTEE

Annual Meeting; Correction

The notice that appeared in the FEDERAL REGISTER on March 13, 1978 (43 FR 10455), concerning the annual meeting of the Chemical Transportation Industry Advisory Committee was in error as to the day of the week on which the meeting is to be held. The day should be changed to "Thursday." The date of the meeting remains unchanged as April 6, 1978.

For further information contact: Captain C. E. Mathieu, U.S. Coast Guard (G-MHM/83), 400 7th Street SW., Washington, D.C. 20590, 202-426-2306.

Issued in Washington, D.C., on March 16, 1978.

W. L. ENGELSON,
Lieutenant Commander, USCG, Acting Executive Secretary, Marine Safety Council.

[FR Doc. 78-7742 Filed 3-22-78; 8:45 am]

[4910-13]

Federal Aviation Administration

FLIGHT STANDARDS DISTRICT OFFICE AT MEMPHIS, TENN.

Redesignation

Notice is hereby given that on or about April 1, 1978, the General Aviation District Office at Memphis, Tenn., will be redesignated as the Flight Standards District Office No. 63. The office will have responsibility for all general aviation and air carrier activities in the western portion of Tennessee and the northern portion of Mississippi. Services to the public relative to the programs formerly provided will continue to be rendered by the Flight Standards District Office at Memphis without interruption. Communications should be addressed to:

Chief, Flight Standards District Office, 2488 Winchester, Room 137, Memphis, Tenn. 38116.

(Sec. 313(a), 72 Stat. 752; 49 U.S.C. 1354.)

Issued in East Point, Ga., on March 13, 1978.

PHILLIP M. SWATEK,
Director, Southern Region.

[FR Doc. 78-7611 Filed 3-22-78; 8:45 am]

Federal Aviation Administration

METROPOLITAN WASHINGTON AIRPORTS

Notice of Proposed Policy

The Federal Government, through the Federal Aviation Administration (FAA) of the Department of Transportation (DOT), has control over and responsibility for the management, operation, and maintenance of the Metropolitan Washington airports—Washington National (DCA) and Dulles International (IAD), the two air carrier airports serving the Washington, D.C., area. Metropolitan Washington is also served by the Baltimore-Washington International Airport (BWI), owned and operated by the State of Maryland, Department of Transportation (MDOT). FAA actions taken at National and Dulles may influence operations at the Baltimore airport.

A major issue is what the respective roles of these three airports should be in providing air transportation services to the Metropolitan Washington-Baltimore area. Several studies of the issue have been conducted by the DOT, the MDOT and the Metropolitan Washington Council of Governments (COG). Using the results of these studies as a base, the FAA proposes the following policy for the operation and growth of the Metropolitan Washington airports.

A. CURRENT CHARACTERISTICS OF THE METROPOLITAN WASHINGTON AIRPORTS

In examining the two Washington area, FAA-operated airports (DCA and IAD) as a unified transportation system, it is necessary to delineate the most significant physical and operational characteristics of each airport. A brief discussion of these follows:

1. WASHINGTON NATIONAL AIRPORT (DCA)

DCA, located 4½ miles from downtown Washington, is currently the most utilized Washington airport. 12.6 million air carrier passengers used DCA during Calendar Year 1977. Airside capacity is approximately 60 Instrument Flight Rule Operations per hour, of which 40 have been allocated to air carrier operations and 20 to other aircraft operations. The air carrier allocation is fully utilized during most hours of the day. Present terminal facilities at DCA can handle about 3,500 passengers per hour. Many more can and do occasionally pass through the airport, but only with a noticeable

increase in congestion and delay. The recent initiation of Metro service has facilitated handling of passengers at the airport. To reduce the effects of noise in the surrounding residential areas during the night, jet air carrier flights are not scheduled at DCA after 10 p.m. nor before 7 a.m. General aviation interests have also joined in this effort to reduce nighttime noise.

The two major access roads to DCA, U.S. Route 1 and the George Washington Parkway, also are major commuting routes and are operating at or near capacity during peak hours.

The main terminal building at DCA was constructed in the early 1940's, and the north terminal building was added in 1958. Although some modernization has been completed by several air carriers, the aesthetic appearance and internal circulation systems are in need of substantial improvement and modernization.

2. DULLES INTERNATIONAL AIRPORT (IAD)

IAD was the first airport designed to handle jet transports. The terminal building designed by Eero Saarinen is generally recognized as one of the most beautiful and efficient terminals in the country. The airport is located 26 miles from downtown Washington. Since its opening in November 1962, passenger use of IAD has grown to a level of almost 3 million air carrier passengers in Calendar Year 1977.

Airside capacity of IAD is approximately 100 Instrument Flight Rule Operations per hour. Current peak hour air carrier utilization is approximately 30 operations per hour. Terminal capacity of approximately 1,800 passengers per hour is exceeded during the peak periods.

B. DIFFERENTIATION OF ROLES OF THE TWO AIRPORTS

IAD, which opened in November 1962, was designed to provide all levels of airline service to the Washington area. DCA is now considered as the area's short-haul airport. In 1966, by agreement with the carriers, nonstop flights from DCA were restricted to a radius of no more than 650 miles, with seven cities (Minneapolis, St. Louis, Memphis, Tampa, Orlando, Miami, and West Palm Beach) explicitly excluded from the restriction. These cities had nonstop service with propeller aircraft at the time the agreement was established in 1966 and are still provided nonstop service under provisions of a "grandfather" clause.

The two Washington airports have been operated by the FAA for several years without a formalized, comprehensive policy defining their respective roles and guiding their day-to-day operations. Rather, for the past decade, they have been operated under an informal conceptualization which, in essence, continues their historic roles as modified in 1966.

Significant technical, economic, and social changes have occurred in the interim which call for a reconsideration of this nonformalized "policy." These changes include, among other things: (a) increasing community concern over the environmental impact of flight operations at airports in the local areas; (b) recent indications that use of the new, quieter wide-bodies—A-300's, DC-10's L-1011's—at DCA might be desirable as a means of reducing noise around the airport; and (c) increases in air travel demand to and from the Washington area that will require expansion or more efficient utilization of existing airport capacity.

C. POLICY OBJECTIVES

The FAA's review and consideration of possible changes to or refinements in its management and operation of the two FAA-operated Metropolitan Washington airports have been undertaken with the following objectives in mind:

1. To rationalize the role and use of the two airports from an overall transportation viewpoint;

2. To achieve fuller utilization of existing and planned capacity at the airports;

3. To reduce unnecessary constraints on the use of equipment at the airports;

4. To ensure that the growth, uses, and roles of the airports are as compatible as possible with the changing demands and expectations of the community, especially with respect to environmental quality.

5. Establish meaningful noise constraints recognizing that some jet aircraft are quieter than some propeller-driven aircraft.

The FAA believes it is desirable to clarify and make explicit its policy for the operation and growth of the Metropolitan Washington airports. A clear statement on the roles of the airports should be useful to the traveling public, the airlines, and the affected communities. Moreover, it is necessary for the planned improvements of both airports.

D. PROPOSED POLICY FOR METROPOLITAN WASHINGTON AIRPORTS

The Federal Aviation Administration proposes to operate the Metropolitan Washington airports in accordance with the following precepts:

1. Dulles will continue to provide all types of airline service to and from the Washington area. The 650-mile perimeter restriction for nonstop airline service will continue to apply at National except for the seven "grandfather" cities.

2. Air carrier activity at DCA will be limited to no more than 40 "schedules" per hour, exclusive of extra sections, between 7 a.m. and 8:59 p.m. and 20 "schedules" between 9 p.m. and 9:30 p.m. The system will be maintained to limit other aircraft operations to 20 per hour whenever weather conditions dictate. No air carrier aircraft will be scheduled after 9:30 p.m. and before 7 a.m. Air carrier aircraft activity scheduled at or before 9:30 p.m. will be allowed to conclude operations consistent with paragraph 3 of this policy.

3. At Washington National Airport after 10:30 p.m. and before 7 a.m., arrivals will be permitted by only those aircraft types and models creating a noise level of no more than 98 EPNdB under FAR Part 36 test procedures at the FAR-36 landing reference point; departures will be permitted by only those aircraft types and models creating a noise level of no more than 89 EPNdB under FAR Part 36 test procedures at the FAR-36 take-off reference point.

4. Air carrier turbojet operations at DCA will be limited to two- and three-engine aircraft, including wide-bodied airplanes such as A-300, DC-10, and L-1011.

5. Wide-body aircraft will be permitted at DCA after demonstration of: the ability of these aircraft to operate into and out of the airport; and the capability of the airport to accommodate such aircraft, within the constraints established that limit annual total passengers to 16 million by 1985 and 18 million by 1990.

6. The implementation of this policy will be achieved through a combination of voluntary actions by aircraft owners and operators and regulatory actions by the FAA, as required.

Metropolitan Washington, D.C., is one of the few areas served by more than one major airport facility. Restrictions on aviation activity at DCA should have minimal adverse effect on the conduct of interstate air commerce. IAD and BWI can be expected to handle aircraft whenever the FAA determines for policy reasons to restrict use of DCA.

A Draft Environmental Impact Statement and a Technical Analysis of Policy Options support this policy. Copies can be obtained from James T. Murphy, Director, Metropolitan Washington Airports, Environmental Policy Section, Washington National Airport, Hangar 9, Washington, D.C. 20001.

Public hearings on the proposed policy will be scheduled within 45 days. Written comments should be sent to:

Mr. James T. Murphy, Director, Metropolitan Washington Airports, Environmental Policy Section, Washington National Airport—Hangar 9, Washington, D.C. 20001.

JAMES T. MURPHY,
Director, Metropolitan Washington Airports.

[FR Doc. 78-7721 Filed 3-22-78; 8:45 am]

[1505-01]

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

[Notice No. 78-319; Reference: ATF) 1100.83]

DELEGATION TO ASSISTANT DIRECTOR (REGULATORY ENFORCEMENT) OF AUTHORITY OF THE DIRECTOR IN 27 CFR PART 197, DRAWBACK ON DISTILLED SPIRITS USED IN MANUFACTURING NONBEVERAGE PRODUCTS

Order

Correction

In FR Doc. 78-6477 appearing on page 10458 in the issue for Monday, March 13, 1978, make the following corrections:

(1) The information in the heading is corrected to read as set forth above.

(2) In the first paragraph labeled "1. *Purpose.*" the fifth line should have read as follows: "* * * Enforcement) and permits redelegation to Regulatory Enforcement * * *".

[8320-01]

VETERANS ADMINISTRATION

PRIVACY ACT OF 1974

Systems of Records

On page 3984 of the FEDERAL REGISTER of January 30, 1978, there was published a notice that the Veterans Administration was proposing adding three new routine use statements to three systems of records entitled:

49VA21 Veterans, Dependents and Beneficiaries Compensation and Pension Records-VA.

50VA22 Veterans, Dependents, Beneficiaries, and Armed Forces Personnel Education and Rehabilitation Records-VA.

58VA21/22 TARGET-Compensation, Pension, Education, and Rehabilitation Records-VA.

Interested persons were given 30 days in which to submit comments, suggestions, or objections regarding the proposed routine use statements. No comments were received. Accordingly, the proposed routine use statements are adopted without change.

Effective date: The routine use statements are effective March 16, 1978, the date of final approval by the Administrator of Veterans Affairs.

Approved: March 16, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

[FR Doc. 78-7733 Filed 3-22-78; 8:45 am]

[7035-01]

INTERSTATE COMMERCE COMMISSION

[No. MC-C-10032]

DALLAS, TX—TULSA, OK—SUPERHIGHWAY OPERATIONS

Groves Truck Lines, Inc.; Partial Repbulication

AGENCY: Interstate Commerce Commission.

ACTION: Partial republication of the notice of filing of petition for declaratory order, previously published March 9, 1978.

SUMMARY: By petition filed November 30, 1977, petitioner Graves Truck Line, Inc., seeks a ruling as to whether its operations between Dallas, TX, and Tulsa, OK, are in accordance with the Superhighway Rules—Motor Common Carriers of Property, 49 CFR 1042.3.

DATE: Comments on or before April 24, 1978.

ADDRESSES: Send comments to: The Secretary, Interstate Commerce Commission, Washington, DC 20423; Petitioner's representative: John E. Jandera, 641 Harrison Street, Topeka, KS 66603.

The purpose of this partial republication is to include the petitioner representative's name and address.

H. G. HOMME. Jr.,
Acting Secretary.

[FR Doc. 78-7591 Filed 3-22-78; 8:45 am]

[7035-01]

[Volume No. 73]

MOTOR CARRIER, BROKER, WATER CARRIER, AND FREIGHT FORWARDER OPERATING RIGHTS APPLICATIONS

MARCH 14, 1978.

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(e)(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 a 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. Protest 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(e)(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 4963 (Sub-No. 58F), filed February 16, 1978. Applicant: ALLEGHANY CORP., a corporation, d.b.a. JONES MOTOR, Bridge Street and Schuylkill Road, Spring City, PA 19475. Applicant's representative: Roland Rice, 1111 E Street NW., Washington, DC 20004. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Iron and steel articles, plastic pipe and fittings, cast iron pipe and fittings*, between Charlotte, Bakers, and Monroe, NC, and Salem, VA, on the one hand, and, on the other, points in MI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Charlotte, NC.

No. MC 19311 (Sub-No. 40), filed February 2, 1978. Applicant: CENTRAL TRANSPORT, INC., 34200 Mound Road, Sterling Heights, MI 48077. Applicant's representative: Walter N. Bieneman, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to

operate as a *common carrier*, by motor vehicle, over regular routes, in the transportation of: *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) from Jackson, MI, over M-50 to junction I-96 and return over the same route, serving all intermediate points; (2) from Battle Creek, MI, over M-66 to junction M-46, near Edmore, MI, and return over the same route, serving all intermediate points; (3) from Battle Creek, MI, over M-37 to White Cloud, MI, and return over the same route, serving all intermediate points; (4) from Kalamazoo, MI, over M-43 to Lansing, MI, and return over the same route, serving all intermediate points; (5) from Lowell, MI, over M-91 to junction M-46 at Lakeview and return over the same route, serving all intermediate points; (6) from Grand Rapids, MI, over Old U.S.-131 via Howard City, MI, to junction U.S.-131, then via U.S.-131 to Morley, MI, and return over the same route, serving all intermediate points; (7) from junction I-96 and B-35, near Coopersville, MI, via B-35 to Fremont, MI, and return over the same route, serving all intermediate points; (8) from junction I-96 and B-31 at or near Nuncia, MI, via B-31 to junction M-120, then over M-120 and M-82 to Hesperia, MI, and return over the same route, serving all intermediate points; (9) from Muskegon, MI, over U.S.-31 to junction M-20 and return over the same route, serving all intermediate points, and the off-route point of Rothbury, MI: (a) from junction U.S.-31 and Business Route 31 over Business Route 31 via Whitehall and Montague, MI, to junction U.S.-31, and return over the same route, serving all intermediate points; (10) from St. Johns, MI, over M-21 to Grand Rapids, MI, and return over the same route, serving all intermediate points; (11) from junction M-66 and M-44 to Grand Rapids, MI, and return over the same route, serving intermediate points; (12) from junction M-66 and M-57 over M-57 to junction U.S.-131 and return over the same route, serving all intermediate points; (13) from Edmore, MI, over M-46 to junction U.S.-31 and return over the same route, serving all intermediate points; (14) from Morely, MI, over county road (48th St.) to Fremont, MI, then via M-82 to junction B-86, then over B-86 to junction U.S.-31 and return over the same route, serving all intermediate points; (15) from Fremont, MI, over M-82 to junction M-120, then via M-120 to Muskegon, MI, and return over the same route, serving all intermediate points; (16) from White Cloud, MI, over M-37 to junction M-20, then via M-20 to junction U.S.-31 and return over the same route, serving all intermediate points; (17) from Howard City, MI, over unnumbered county road to junction M-82, then via M-82 to junction M-120 and return over the same route, serving all intermediate points.

NOTE.—Hearing Site: Lansing or Grand Rapids, MI. Common control may be involved.

MC 28088 (Sub-No. 32F), filed February 10, 1978. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, VA 22801. Applicant's representative: John R. Sims, Jr., 915 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. Applicant seeks to operate as a *common carrier* by motor vehicle over irregular routes in the transportation of *Frozen foods*, (1) from Allentown and Chambersburg, PA, to St. Louis, Scott City, and Sikeston, MO, and points in AL, FL, GA, IL, IN, KY, MI, MN, MS, TN, and WI; (2) from Frankfort, MI, to AL, FL, GA, KY, MD, NY, NC, OH, PA, SC, TN, VA, and WV; (3) from warehouses utilized by Pet Inc., Frozen Foods Division at Winchester, VA, and Martinsburg, WV, to Allentown and Chambersburg, PA; (4) from warehouse utilized by Pet Inc., Frozen Foods Division, at Fogelsville, PA, to Frankfort, MI; and (5) from warehouses utilized by Pet Inc. at Benton Harbor and Hart, MI, to Allentown and Chambersburg, PA.

NOTE.—(Hearing site: Washington, DC, or St. Louis, MO).

No. MC 30204 (Sub-No. 37F), filed February 6, 1978. Applicant: HEMINGWAY TRANSPORT INC., 438 Dartmouth Street, New Bedford, MA 02740. Applicant's representative: Carroll B. Jackson, 1810 Vincennes Road, Richmond, VA 23229. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Cast iron pipe, fittings, and accessories*, from Lynchburg, VA, to points in DE, MD, NJ, NY, and PA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL, or Washington, DC.

No. MC 31389 (Sub-No. 240F), filed February 21, 1978. Applicant: McLEAN TRUCKING CO., a corporation, 617 Waughtown Street, Winston-Salem, NC 27107. Applicant's representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. 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 the manufacturing and distribution facilities of The Black & Decker Manufacturing Co., located at or near Hampstead, MD, as an off-route point in connection with applicant's regular route operations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC.

No. MC 46518 (Sub-No. 14) (Correction), filed December 5, 1977. Published in the FEDERAL REGISTER issue of February 16, 1978, and republished this issue. Applicant: R. F. C. TRANSPORT, INC., 7200 Fly Road, P.O. Box 207, East Syracuse, NY 13057. Applicant's representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Canned and preserved foodstuffs*, from the plant and distribution facilities of Curtice Burns, Inc., located at or near South Dayton, Oakfield, Le Roy, Leicester, Alton, Shortsville, Phelps, Red Creek, Egypt, Waterloo, and Rushville, NY, to points in ME, NH, and VT.

NOTE.—Common control may be involved. The purpose of this republication is to change applicant's address from 7300 Fly to 7200 Fly which was incorrectly published in the FEDERAL REGISTER. Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Rochester, Syracuse, or Buffalo, NY, or Washington, DC.

No. MC 50069 (Sub-No. 531F), filed February 8, 1978. Applicant: REFINERS TRANSPORT & TERMINAL CORP., 445 Earlwood Avenue, Oregon, OH 43616. Applicant's representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products, vehicle body sealer and sound deadener compound*, in bulk, in tank vehicles, from points in Marion County, TN, to points in the United States (except AK and HI).

NOTE.—Common control and dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held in Washington, DC.

No. MC 51146 (Sub-No. 553) (correction), filed December 23, 1977, published in the FEDERAL REGISTER issue of February 23, 1978 and republished this issue. Applicant: SCHNEIDER TRANSPORT, INC., P.O. Box 2298, Green Bay, WI 54306. Applicant's representative: Wayne Downing (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Such commodities* as are dealt in by retail stores (except foodstuffs and commodities in bulk) from points in CA and WA to the facilities of Dayton Hudson Corp. and Target Stores, Inc., located in MN.

NOTE.—The purpose of this republication is to correct the destination error of MI to

MN because the destination is Minnesota not Michigan. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 78228 (Sub-No. 73F), filed February 13, 1978. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15230. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roof deck*, from Heidelberg, PA, to points in the United States (except AK, HI, CT, DE, IL, IN, NJ, NY, OH, ME, MA, MI, RI, VT, VA, WV and WI); and (2) *materials used in the manufacture of roof deck*, from points in the United States (except AK, HI, CT, DE, IL, IN, NJ, NY, OH, ME, MA, MI, RI, VT, VA, WV and WI), to Heidelberg, PA.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Pittsburgh, PA.

No. MC 80653 (Sub-No. 6F), filed February 10, 1978. Applicant: DAVID GRAHAM CO., a corporation; P.O. Box 115, Croydon, PA 19020. Applicant's representative: Paul Sullivan, 711 Washington Building, Washington, DC 20005. Applicant seeks authority as a motor *common carrier*, over irregular routes, transporting: (1) *Turbines, heat exchangers, and parts of such commodities* from the facilities of Westinghouse Electric Corp. within the Philadelphia, PA, commercial zone to points in the United States (except AK, HI, PA, MA, RI, CT, NY, NJ, DE, MD, VA, WV, NC, and DC); and (2) *equipment, materials, and supplies* used in the manufacture of the commodities named in (1) above (except commodities in bulk) from the destination area in (1) above to the named facilities of Westinghouse Electric Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Philadelphia, PA.

No. MC 100666 (Sub-No. 380F), filed February 13, 1978. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Applicant's representative: Wilburn L. Williamson, 280 National Foundation Life Building, 3535 NW. 58th Street, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes, transporting: *Compounds and roof coating* (except in bulk, in tank vehicles), from facilities utilized by Gulf States Asphalt Co., Inc. at or near Westwego, LA and Beaumont and Houston, TX to points in and east of AZ, CO, NE, SD and ND. (Hearing site: Houston, TX.)

No. MC 105566 (Sub-No. 158F), filed February 8, 1978. Applicant: SAM TANKSLEY TRUCKING, INC., P.O. Box 1119, Cape Girardeau, MO 63701. Applicant's representative: Thomas F. Kilroy, Suite 406 Executive Building, 6901 Old Keene Mill Road, Springfield, VA 22150. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (a) *Boxes, wood or plastic*, from Gideon, MO, to points in the United States (except AK, HI, and MO); and (b) *materials and supplies* used in the manufacture of wood or plastic boxes, from points in the United States (except AK, HI, and MO), to Gideon, MO.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, DC, or St. Louis, Mo.

No. MC 107403 (Sub-No. 1059F), filed February 13, 1978. Applicant: MATLACK, INC., 10 West Baltimore Avenue, Landsdowne, PA 19050. Applicant's representative: Martin C. Hynes, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, over irregular routes, transporting: *Clay*, in bulk, in tank vehicles, from Bath and Langley, SC, to Wooster, OH.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held in Washington, DC.

No. MC 107496 (Sub-No. 1122F), filed: February 8, 1978. Applicant: RUAN TRANSPORT CORP., 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizer and fertilizer material*, in bulk, from the storage facilities of CF Industries, Inc. located at or near Bussen Spur, MO to points in IL.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, IA or St. Louis, MO. Common control may be involved.

No. MC 107496 (Sub-No. 1123F), filed: February 8, 1978. Applicant: RUAN TRANSPORT CORP. 3200 Ruan Center, 666 Grand Avenue, Des Moines, IA 50309. Applicant's representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fertilizers*, in bulk, in tank vehicles, from Alexandria, MN, to points in ND and SD.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Des Moines, IA, or St. Paul, MN Common control may be involved.

No. MC 107515 (Sub-No. 1127F), filed February 13, 1978. 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*, over irregular routes, by motor vehicle, in the transportation of (1) *Foodstuffs* (except commodities in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA to points in AL, CO, CT, DE, FL, GA, IL, IN, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, OK, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC; and (2) *Foodstuffs and materials, equipment and supplies* (except commodities in bulk) in vehicles equipped with mechanical refrigeration, from points in ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, VA, WV, KY, OH, MI, IN, IL, WI, MO, KS, NE, ND, SD, and CO to the facilities of Terminal Ice & Cold Storage Co., at or near Bettendorf, IA.

NOTE.—Applicant holds contract carrier authority in MC 126436 Sub 2 and other sub therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests that it be held at either New York, NY or Washington, DC.

No. MC 108341 (Sub-No. 87F), filed February 21, 1978. Applicant: MOSS TRUCKING COMPANY, INC., 3027 N. Tryon Street, P.O. Box 8409, Charlotte, NC. 28208. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY. 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Adhesives, gypsum and gypsum products, building materials, and lime* (except commodities in bulk, in tank vehicles); and (2) *such materials and supplies as are used in the manufacture, installation and distribution* of the commodities in (1) (except commodities in bulk), between Plasterco, VA on the one hand and, on the other points in CT, DE, IL, IN, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, WI, and DC.

NOTE.—Common control may be involved. If hearing is deemed necessary, the applicant requests that it be held at either Atlanta, GA or Washington, DC.

No. MC 109397 (Sub-No. 394F), filed February 10, 1978. 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: *Air compressors* and *earth drilling machinery* and *equipment*, between Claremont, NH. on the one hand and, on the other, points in the United States (including AK but excluding HI.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the appli-

cant requests that it be held at either Philadelphia, PA or Washington, DC.

No. MC 111231 (Sub-No. 228F), filed February 8, 1978. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment): Between the facilities of Wal-Mart, Inc., at or near Kansas City, MO-KS, St. Louis, MO-IL, Memphis, TN, and Dallas, TX on the one hand and, on the other, points in AR, MO, IL, KS, KY, OK, MS, TN, LA and TX. Restriction: Restricted to shipments originating at or destined to the facilities of Wal-Mart, Inc. (Hearing site: Fort Smith, AR or Tulsa, OK).

No. MC 111729 (Sub-No. 731F), filed February 13, 1978. Applicant: PUROLATOR COURIER CORP., a corporation, 3333 New Hyde Park Road, New Hyde Park, NY. 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: *Exposed and processed film and prints, complimentary replacement film*, and *incidental dealer handling supplies* and *advertising literature* moving therewith (excluding motion picture film used primarily for commercial theatre and television exhibition), between points in WA and OR, as a non-radial movement.

NOTE.—Applicant holds motor contract carrier authority in MC 112750 and Sub numbers thereunder, therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 113587 (Sub-No. 8F), filed February 9, 1978. Applicant: WARD RUGH, INC., P.O. Box 68, Ellensburg, WA 98926. Applicant's representative: Michael D. Duppenthaler, Suite 515, 607 Third Avenue, Seattle, WA 98104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Kraft paper clippings*, in bales, from the plantsite and facilities of Weyerhaeuser Co., located at or near Union Gap, WA, to Seattle, WA. Restricted to movements having a subsequent movement by water.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Yakima or Seattle, WA.

No. MC 114273 (Sub-No. 340F), filed February 13, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicants representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paints, varnishes, preservatives, fillers* (except in bulk, in tank vehicles), from Avon, CT, to Nevada, IA. The purpose of this filing is to substitute single-line service for existing joint-line service.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, IL, or Washington, DC.

No. MC 114273 (Sub-No. 349F), filed February 21, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 52406. Applicants representative: Kenneth L. Core (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk, in tank vehicles), from Cedar Rapids, IA, to points in IL and OH; Louisville, KY; Mechanicsburg, Philadelphia, and West Chester, PA. The purpose of this application is to substitute single-line service for existing joint-line service.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Chicago, IL, or Washington, DC.

No. MC 114290 (Sub-No. 84F), filed February 10, 1978. Applicant: EXLEY EXPRESS, INC., 1205 South Platte River Drive, Denver, CO 80223. Applicants representative: Eldon E. Bresee (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bakery products*, (a) from Buena Park, CA, to points in OR and WA; and (b) from Portland, OR, to points in CA. Restriction: Restricted to the transportation of traffic originating at the above-named origins and destined to the named destinations.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Los Angeles, CA, or Portland, OR.

No. MC 114457 (Sub-No. 355) (Correction), filed January 25, 1978, published in the FEDERAL REGISTER issue of March 2, 1978, and republished this issue. Applicant: DART TRANSIT CO., a corporation, 2102 University Avenue, Saint Paul, MN 55114. Applicant's representative: James H. Wills (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Insulating material* (except in bulk, from the facilities of Fibreboard Corp. at or near Grambling, LA, to points in the United States (except AK and HI).

NOTE.—The purpose of this publication is to show correct sub number of (Sub-No. 355) instead of (Sub-No. 352) as incorrectly published in the FEDERAL REGISTER. If hearing is deemed necessary, applicant requests that it be held at St. Paul, MN, or San Francisco, CA.

No. MC 114632 (Sub-No. 145F), filed February 13, 1978. Applicant: APPLE LINES, INC., P.O. Box 287, Madison, SD 57042. Applicant's representative: Michael L. Carter (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes; transporting: *Foodstuffs*, from Bonner Springs, KS, to points in OK and TX.

NOTE.—Applicant holds motor contract carrier authority in No. MC 129706, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Kansas City, MO.

No. MC 115331 (Sub-No. 451F), filed February 22, 1978. Applicant: TRUCK TRANSPORT INC., 29 Claytin Hills Lane, St. Louis, Mo 63131. Applicant's representative: J. R. Ferris, 230 St. Clair Avenue, East St. Louis, IL 62201. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Paper bags, plastic articles* (except in bulk) *and bags constructed of paper and plastic combined*, from the facilities of Great Plains Bag Corp., located at or near Jacksonville, AR, to points in the States of IL, IN, IA, KY, MI, MN, MO, OH, PA, TN, WV, and WI; and (2) *machinery, materials* (except in bulk), *equipment and supplies* (except in bulk) used in or in connection with the manufacture, distribution, printing, processing, or use of the commodities named in (1) above from points in the States of IL, IN, IA, KY, MI, MN, MO, OH, PA, TN, WV, and WI to the facilities of Great Plains Corp., located at or near Jacksonville, AR.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Little Rock, AR, or Memphis, TN. Common control may be involved.

No. MC 115496 (Sub-No. 81F), filed February 7, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Cochran, GA 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Hardwood flooring and hardwood flooring blocks or squares, adhesives, and accessories*, from the facilities of Bruck Hardwood Floors (a Triangle Pacific Co.), at Nashville, TN, to points in FL, AL, and GA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, Ga.

No. MC 117820 (Sub-No. 17F), filed February 16, 1978. Applicant: AURELIA TRUCKING CO., a corporation, 2136 Pine Grove Avenue, Port Huron,

MI 48060. Applicant's representative: James D. Osmer, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Fabric, textiles, urethane foams, and laminations of fabric, textiles, and urethane foams*, from Stoughton, MA, to points in MI.

NOTE.—Applicant holds contract carrier authority in MC 141918, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Detroit, MI; Boston, MA; or Washington, DC.

No. MC 117940 (Sub-No. 262F), filed February 13, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allan L. Timmerman, 5300 Highway 12, Maple Plain, MN 55359. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), from the facilities of General Mills, Inc., in the Buffalo, NY, commercial zone, as defined by the Interstate Commerce Commission, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and WV. (Hearing site: Minneapolis, MN.)

No. MC 118149 (Sub-No. 2), filed November 16, 1978. Applicant: GLEN A. LEA, Albany, PE, Canada COB 1AO. Applicant's representative: (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fruit juices, preserved fruit, and fresh fruit juices;* and (2) *preserved fruit*, in mixed loads with bananas, and fresh fruit, and vegetables, in temperature-controlled reefer trailers, from Boston, MA, to the ports of entry on the international boundary line between the United States and Canada, located at or near Houlton, ME.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, ME.

No. MC 118159 (Sub-No. 246F), filed February 9, 1978. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 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: (1) *Paper and paper products*, from the plantsites and facilities of Champion International Corp., located at or near Canton, Waynesville, Asheville, and Fletcher, NC, to points in CT, ME, MA, NH, NJ, NY, PA, RI, and VT; and (2) *commodities used or useful in the manufacture of paper and paper products* (except commodities in bulk), from the States enumerated above, to the plantsites and facilities of Champion International Corp., located at or near Canton, Waynesville, Asheville, and Fletcher, NC.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 118202 (Sub-No. 85F), filed February 9, 1978. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, 323 Bridge Street, Winona, MN 55987. Applicant's representative: Thomas J. Beener, Waterloo Savings Bank Building, Suite 340, West Park at Cedar, P.O. Box 5000, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and 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 commodites in bulk), from Waterloo and Independence, IA, to points in FI and LA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at St. Paul, MN.

No. MC 118882 (Sub-No. 6F), filed February 9, 1978. Applicant: JOE L. LAMBERT, d.b.a. JOE LAMBERT TRUCKING SERVICE, 715 Fox Avenue, Harrisville, WV 26362. Applicant's representative: John M. Friedman, 2930 Putnam Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Precast concrete pipe and precast concrete products*, (1) from points in WV to points in OH on and east of a line beginning at Toledo, OH, and running south along Interstate Hwy 75 to junction with U.S. Hwy 68 at Findlay, OH, then along U.S. Hwy 68 to the OH-KY State line at Ripley, OH; and (2) from Zanesville, OH to points in WV.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Charleston, WV or Columbus, OH.

No. MC 119641 (Sub-No. 149F), filed February 9, 1978. Applicant: RINGLE EXPRESS, INC., 450 East Ninth Street, Fowler, IN 47944. Applicant's representative: Alkie E. Scopelitis, 815 Merchants Bank Building, Indianapolis, IN 46204. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plywood, particleboard, hardboard, gypsum board, moulding, plastic articles and accssories* used in the installation thereof, from the plant and storage facilities of Weyerhaeuser Co., at Chesapeake, VA, to points in IL, IN, IA, KS, MI, MN, MO, NE, ND, OH, SD, WV, and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Washington, D.C.

No. MC 119777 (Sub-No. 343F), filed February 10, 1978. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy 85 East Madisonville, KY, 42431. Applicant's representative: Carl U. Hurst, P.O. Drawer L, Madisonville, KY, 42431. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *commodities* (except in bulk) of the type dealt in by retail lumber and building materials stores and home improvement and home furnishing stores, between points in the United States (except AK and HI), as a nonradial movement, restricted to the transportation of shipments moving from or to the facilities utilized by the Wickes Corp.

NOTE.—Applicant holds contract carrier authority in MC 126970 (Sub-No. 1) and other subs, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Detroit, MI or Chicago, IL.

No. MC 121082 (Sub-No. 15F), filed February 8, 1978. Applicant: ALLIED DELIVERY SYSTEM, INC., 2201 Fenkell, Detroit, MI 48238. Applicants representative: Robert E. McFarland, 999 West Big Beaver Road, Suite 1002, Troy, MI 48084. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities*, restricted to individual articles not exceeding 100 pounds in weight, moving in shipments not exceeding 500 pounds in weight from one consignor to one consignee in a single day, on bills of lading of surface, interstate freight forwarders, between Vanderburgh, Floyd, and Clark Counties, IN; Massac and Alexander Counties, IL; Florence, Washington, Hamilton, and Belmont Counties, OH; KY, VA, WV, and MD.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Washington, DC, or Buffalo, NY. Common control may be involved.

No. MC 123872 (Sub-No. 80), filed January 25, 1978. Applicant: W & L MOTOR LINES, INC., P.O. Box 2607, Hickory, NC 28601. Applicants representative: Allen E. Bowman (same address as applicant). 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 and shipping facilities of the Rath Packing Co. at or near Indianapolis, IN to points in KY, NC, and SC. Restricted to traffic originating at named origin and destined to named destinations.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Waterloo, IA, or Charlotte, NC.

No. MC 124251 (Sub-No. 45F), filed February 10, 1978. Applicant: JACK JORDAN, INC., Hwy 41, South, P.O. Box 689, Dalton, GA 30720. Applicants representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Latex*, in bulk, from points in Whitfield County, GA, to points in LA and VA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Atlanta, GA.

No. MC 126539 (Sub-No. 36F), filed February 8, 1978. Applicant: KATUIN BROS. INC., P.O. Box 311, Fort Madison, IA 52627. Applicant's representative: Carl E. Munson, 469 Fischer Building, Dubuque, IA 52001. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs* (except in bulk), in mechanically refrigerated equipment, from the facilities of Terminal Ice & Cold Storage Co., at Bettendorf, IA, to points in IN, KY, MI, OH, PA and WV, restricted to traffic originating at the facilities of Terminal Ice & Cold Storage Co., and destined to named destinations.

NOTE.—Applicant holds motor contract authority in No. MC 129135 (Sub-2), and subnumbers thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at Chicago, IL.

No. MC 127705 (Sub-No. 48F), filed February 13, 1978. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Drawer 68 Gas City, IN 46933. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glass containers*, from Gas City, IN, to points in DE, MD and NJ.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Detroit, MI.

No. MC 127840 (Sub-No. 63F), filed February 21, 1978. Applicant: MONTGOMERY TANK LINES, INC., 17550 Fritz Drive, P.O. Box 382, Lansing, IL 60438. Applicant's representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Inedible animal fats*, in bulk, in tank vehicles, from Perry and Davenport, IA, to Rockford, IL.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Chicago, IL.

No. MC 129862 (Sub-No. 17F), filed February 10, 1978. Applicant: RAJOR, INC., 100 Beta Drive, P.O. Box 756, Franklin, TN 37064. Applicant's representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Air-conditioning and heating units* (except commodities which by reason of size or weight require the use of special equipment) from Hopkinsville, KY, and Newark, DE, to points in AZ, CA, CO, FL, GA, NV, NM, OR, TX, UT, and WA, under a continuing contract or contracts with York Division of Borg-Warner Corp. (Hearing site: Nashville, TN or DC).

No. MC 133689 (Sub-No. 170F), filed February 8, 1978. Applicant: OVERLAND EXPRESS, INC., 719 First Street SW., New Brighton, MN 55112. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Clothing and wearing apparel*, and all component parts used in the manufacture thereof, and materials, supplies and equipment used in the manufacture and sale of clothing and wearing apparel, from points in NC, SC, GA, TN, and AL, to Minneapolis, Montgomery, and Little Falls, MN, and Ashland, WI, restricted to traffic originating at the named origins and destined to the plantsites and storage facilities of Munsingwear Co.

NOTE.—If a hearing is deemed necessary, applicant request it be held at St. Paul, MN.

No. MC 134112 (Sub-No. 6F), filed February 21, 1978. Applicant: NATIONAL FREIGHTWAYS, INC., 1923 South 111th Street, Omaha, NE 68144. Applicant's representative: Gailyn L. Larsen, 521 South 14th Street, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Hides, skins, and pieces therefrom* (except in bulk) from the hide plant of Iowa Beef Processors, Inc., located at or near Dakota City, NE, to points in IL, IN, KS, KY, MI, MO, MA, NJ, NY, OH, PA, WV, WI, and the ports of entry on the international boundary line between the United States and Canada, located in MI and NY, restricted to a transportation service to be performed under a continuing contract, or contracts, with Iowa Beef Processors, Inc.

NOTE.—If a hearing is deemed necessary, the applicant request that it be held at either Sioux City, or Omaha, NE.

No. MC 134477 (Sub-No. 214F), filed February 10, 1978. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Applicant's representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, transporting: (1) *Foodstuffs* (except commodities in bulk), when moving in mechanically refrigerated equipment, from the facilities of Terminal Ice & Cold Storage Co., at Bettendorf, IA to points in AL, AR, CO, CT, DE, GA, IL, IN, KS, KY, LA, ME, MD, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TN, TX, VT, VA, WV, WI, and the DC; (2) *foodstuffs and material equipment and supplies* used in the packaging and process of foodstuffs (except commodities in bulk), from points in CT, DE, GA, IL, IN, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VI, WV, WI, and the DC, to the facilities of Terminal Ice & Cold Storage located at or near Bettendorf, IA. Restricted in (1) and (2) above to traffic originating at or destined to the facilities of Terminal Ice & Cold Storage Co., located at or near Bettendorf, IA.

NOTE.—Hearing site, Minneapolis, MN.

No. MC 134531 (Sub-No. 11F), filed February 10, 1978. Aplicant: AGGREGATE HAULERS, INC., Route 2, Box 559-A, W. Columbia, SC 29169. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Glazed structural masonry products*, from Mount Holly, SC to points in GA, AL, MS, FL, NC, TN, and KY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Columbia, SC.

No. MC 134783 (Sub-No. 42F), filed February 22, 1978. Applicant: DIRECT SERVICE, INC., 940 East 66th Street, Lubbock, TX 79408.Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Building, wall, and insulating boards, and materials and supplies* used in the installation thereof, and insulating materials, except commodities in bulk, (1) from the facilities of Armstrong Cork Co., at or near Pensacola, FL, to AZ, AR, CO, NM, OK, and TX; and (2) from the facilities of Armstrong Cork Co., at or near Beaver Falls and Marietta, PA, to AZ, AR, CO, LA, NM, OK, and TX.

NOTE.—Common control may be involved. Applicant holds contract carrier authority in Docket No. MC 139309 and subs thereto, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, PA or Washington, DC.

No. MC 136008 (Sub-No. 94F), filed February 10, 1978. Applicant: JOE BROWN CO., INC., 20 Third Street

NE., Ardmore, OK 73401. Applicant's representative: John Tipsword (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Bentonite*, from points in Big Horn County, WY, to points in IA, KS, OK, TX, NM, and NE, (2) *barite*, from points in Washington County, MO and Galveston County, TX, to points in KS, and OK.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Houston, TX or Oklahoma City, OK.

No. MC 136848 (Sub-No. 18), filed January 4, 1978. Applicant: JAMES BRUCE LEE AND STANLEY LEE, doing business as Lee Contract Carriers, P.O. Box 48, Old Route 66, Pontiac, IL 61764. Applicant's representative: Edward F. Stanula, P.O. Box 306, South Holland, IL 60473. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Pulpboard, fibreboard, leather and leather byproducts, and materials, supplies, and equipment* used in the manufacture, sale, and distribution of pulpboard (except commodities in bulk), (1) between Bridgewater, MA, on the one hand, and, on the other, Hanover, Westfield, and Akron, PA, Boone Terre, Belle, and St. Louis, MO, Madison, IN, (2) and from Bridgewater, MA, to Franklin, TN, Flowery Branch, GA, and Luray, VA, under a continuing contract or contracts with Jenkins Products Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held in Chicago, IL.

No. MC 138054 (Sub-No. 23F), filed February 21, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garbage disposal units*, (2) *Waste compactor units*, and (3) *parts and accessories for such commodities* (except commodities in bulk, in tank vehicles, and commodities which by reason of size or weight require the use of special equipment), from Racine, WI, to points in AZ, NV, ID, UT, and CO, restricted to a transportation service to be performed under a continuing contract or contracts with Emerson Electric Co. on behalf of its In-Sink-Erator Division of Racine, WI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at St. Louis, MO.

No. MC 138668 (Sub-No. 6F), filed February 3, 1978. Applicant: MERCHANTS DELIVERY & WAREHOUSE CORP., 145 Millwell Drive, St. Louis, MO 63043. Applicant's representative: Austin C. Knetzger, 214 North Clay, Kirkwood, MO 63122. Authority sought to operate as a *contract carrier*, by motor vehicle, over regular routes, transporting: *Such commodities* as are sold or distributed by manufacturers of home care products: from Ada, MI, to points in the St. Louis, MO, commercial zone, from Ada, MI, over Interstate Hwy 196 to junction Interstate 94, then Interstate Hwy 94 to Hammond, IN, and the junction of Interstate Hwy 80, then Interstate Hwy 80 to junction Interstate Hwy 55, then Interstate Hwy 55 to St. Louis, MO, under contract or continuing contracts with Amway Corp.

NOTE.—Common control may be involved. (Hearing site: St. Louis, MO.)

No. MC 139482 (Sub-No. 38F), filed February 9, 1978. Applicant: NEW ULM FREIGHT LINES, INC., County Road 29 West, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foodstuffs* from Belvidere, IL, to points in IN, KY, MI, OH, and Sharon, PA. (Hearing site: Minneapolis or St. Paul, MN.)

No. MC 140050 (Sub-No. 2F), filed February 13, 1978. Applicant: ELVIS A. LONG D.B.A. MOTOR DELIVERY SERVICE, P.O. Box 117, Carrollton, TX 75006. Applicant's representative: Hugh T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products, scrap and waste paper and materials, equipment and supplies* used in the manufacture thereof, between the facilities of Georgia Pacific Corp. at Plano, TX, on the one hand, and, on the other, points in AR, LA, and OK, under a continuing contract with Georgia Pacific Corp. Restricted against the transportation of any of the above named commodities in bulk. (Hearing site: Dallas, TX.)

No. MC 140193 (Sub-No. 2F), filed February 10, 1978. Applicant: RICH B. GRANT, 910 West 24th Street, Ogden, UT 84401. Applicant's representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. 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 packing houses*, 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, inedible tallow and commodities in bulk), from Albert Lea, MN and Cedar Rapids, IA, to the plantsite and storage facilities of Country Pride Foods located at Salt Lake City, UT, under a continuing contract or contracts with Country Pride Foods.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Salt Lake City, UT or Washington, DC.

No. MC 140635 (Sub-No. 8F), filed February 22, 1978. Applicant: ADAMS LINES, INC., 2619 North Street, Omaha, NE 68107. Applicant's representative: Edward A. O'Donnell, 1004 29th Street, Sioux City, IA 51104. 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, in tank vehicles), from the facilities of Union Packing Co., at or near Omaha, NE to Points in KS. Restriction: Restricted to the transportation of shipments originating at the named facilities at or near the named origin and destined to the named destination state.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, NE.

No. MC 140829 (Sub-No. 76) (correction), filed January 30, 1978, published in the FEDERAL REGISTER of March 2, 1978 and republished this issue. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Highway 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, transporting: *Foodstuffs*, from Jersey City, NJ to points in the states of MI, OH, IL and IN, restricted to the traffic originating at the named origin and destined to the named destination states.

NOTE.—The purpose of this republication is to correct docket number error which was incorrectly published in the FEDERAL REGISTER as 104829 but should have been 140829. Applicant holds contract carrier authority in No. MC 136408 and subs thereunder; therefore dual operations may be involved. (Hearing site: Washington, DC.)

No. MC 140934 (Sub-No. 4F), filed February 13, 1978. Applicant: WILLIAM E. MOROG d.b.a. JONICK & CO., 2815 East Liberty Avenue, Vermilion, OH 44089. Applicant's representative: Michael M. Briley, 300 Madison Avenue, Toledo, OH 43604. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Coal*, in bulk, from Mercer County, PA to the facilities of Huron Lime Co. located at or near Huron, OH, under a continuing contract or contracts with Huron Lime Co.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at either Toledo, OH or Washington, DC.

No. MC 141124 (Sub-No. 16F), filed February 16, 1978. Applicant: EVANGELIST COMMERCIAL CORP., P.O. Box 1709, Wilmington, DE 19899. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Abrasives* (except commodities in bulk), from Niagara Falls, NY, to points in IN, IL, MA, OH, PA, WV, and WI; and (2) *commodities used in the manufacture or distribution of abrasives and abrasive products* (except commodities in bulk), from points in IN, IL, MA, OH, PA, WV, and WI, to Niagara Falls, NY.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Chicago, IL, Columbus, OH or Washington, DC.

No. MC 143000 (Sub-No. 6) (correction), filed December 5, 1977, published in the FEDERAL REGISTER issue of February 16, 1978, and republished as corrected this issue. Applicant: HIGH PLAINS GRAIN CO., INC., East Highway 40, P.O. Box 7, Hays, KS 67601. Applicant's representative: Erle W. Francis, 719 Capitol Federal Building, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Dry processed feed and dry feed ingredients*, (a) from McCook, NE, to all points and places in KS on and west of U.S. Hwy 81 and (b) from McPherson, KS, to all points and places in OK, on and east of U.S. Hwy I-35; (2) *dry animal and poultry feed*, in bulk and bags, using self-unloading equipment, with auger discharge, from the facilities of Cargill, Inc., at Kansas City, KS, and Springdale, AR, to all points and places in OK, on and east of U.S. Hwy I-35.

NOTE.—The purpose of this correction is to include the restrictive phrase "with auger discharge", in paragraph 2, and to show the correct point as Springdale, AR, in paragraph 2.

No. MC 143205 (Sub-No. 1F), filed February 23, 1978. Applicant: DAVE HAAS, INC., 203 East Birch Street, Thorp, WI 54771. Applicant's representative: Richard A. Collman, P.O. Box 310, Thorp, WI 54771. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber, ties, poles and posts* from Marathon, Stanley and Chippewa Falls, WI, to points in Aitkin, St. Cloud, Osseo, Duluth, Thief River Falls, Foreston, La Crescent, Minneapolis, St. Paul, Mankato, Faribault, Rochester, Winona and Moorhead, MN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Eau Claire, WI, and if that is not available, then at Minneapolis, MN.

No. MC 143773 (Sub-No. 1), filed January 25, 1978. Applicant: TOL-CO., INC., P.O. Box 489, Hwy 742, Oakboro, NC 28129. Applicant's representative: Allan W. Singer, 810 Baxter Street, Charlotte, NC 28202. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, in the transportation of *Refractory and insulation material, tools, equipment, and supplies related* to installation and repair of boilers in connecting boiler components and accessories, between points in NC, SC, GA, FL, VA, WV, TN, AL, MS, LA, PA, MD, OH, NY, NJ, CT, RI, MA, NH, MI, IN, ME, DC, VT, DE, KY, IL, MI, WI, and AR, under a continuing contract or contracts with Flame Refractories, Inc.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Charlotte, NC or Washington, DC.

No. MC 143913 (Sub-No. 2F), filed February 16, 1978. Applicant: RANDALL LEYDA, R.D. 2 Box 135-A, Charleroi, PA 15022. Applicant's representative: Randall Leyda, R.D. 2 Box 135-A, Charleroi, PA 15022. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Samples of glass ceramic articles in packages*, not more than 2 packages in any one day, not to exceed 40 pounds per package, from the facilities of the Corning Glass Works in Charleroi, PA, to the facilities of the Corning Glass Works in Paden City, WV, under a continuing contract, or contracts, with Corning Glass Works. If a hearing is deemed necessary, applicant requests it be held at either Pittsburgh, PA or Wheeling, WV.

No. MC 144041 (Sub-No. 2F), filed February 10, 1978. Applicant: DOWNS TRANSPORTATION CO., INC., 2705 Canna Ridge Circle NE., Atlanta, GA 30345. 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: *Insulating materials* (except in bulk) from the facilities of Fibreboard Corporation, at Fruita, CO, and Grambling, LA, to points in the United States (except AK and HI).

NOTE.—Applicant holds contract carrier authority in MC 140883 Sub 2 and other subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at San Francisco, CA.

No. MC 144051 (Sub-No. 1F), filed February 16, 1978. Applicant: ALFORD-LOGSTON, INC., 1714 Tabor, Houston, TX 77009. Applicant's representative: Michael Connelly, Esperson Buildings, Houston, TX 77002. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Home care products*, from San Antonio, TX, to points in Acadia, Allen, Avoyelles, Beauregard, Calcasieu, Cameron, Evangeline, Iberia, Jefferson Davis, Lafayette, Rapids, St. Landry, St. Martin, Vermillion, and Vernon Parishes, LA, under a continuing contract or contracts with Stanley Home Products, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Houston, Fort Worth, TX, or New Orleans, LA.

No. MC 144054 (Sub-No. 3F), filed February 16, 1978. Applicant: BILL LITTLEFIELD TRUCKING, INC., 775 E. Vilas Road, Medford, OR 97501. Applicant's representative: Lawrence V. Smart, Jr., 419 NW. 23rd Avenue, Portland, OR 97210. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Gift-wrapped and packaged foods, food products*, and *commodities* dealt in by retail gift shops (except frozen); (2) *plants* and *bulbs* when moving at the same time and in the same vehicle with the commodities in (1) above; and (3) *materials, supplies* and *equipment* used in the manufacture, processing and packaging of the commodities described in (1) above, between Medford, OR, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at or destined to the facilities of Harry and David at Medford, OR. (Hearing site: Medford, OR).

No. MC 144325F, filed February 16, 1978. Applicant: CHARLES DEL SORDO, d/b/a DEL SORDO TRANSPORTATION, 7 Summer Street, Fairhaven, MA 02719. Applicant's representative: Lawrence J. O'Connor, 29 Acushnet Road, Mattapoisett, MA 02739. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Carpets and Rugs*, from Dalton, GA and Chatsworth, GA to Boston, MA, under continuing contract or contracts with National Carpet Centers of New England, Circle Floors Inc., and Arnold S. Katz Corp.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at either Boston, MA or Providence, RI.

No. MC 144354 (Sub-No. 1F), filed February 21, 1978. Applicant: MINDEN CARRIERS, INC., P.O. Box 70, Minden, NE 68959. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in Sections A, C and D of Appendix I to the report in Descriptions in Motor Carrier Certifi-

cates, 61 M.C.C. 209 and 766 (except hides and commodites in bulk), between the facilities of Minden Beef Co. at or near Minden, NE on the one hand, and, on the other, points in the United States (except AK, HI and NE), under continuing contract or contracts with Minden Beef Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Omaha, NE.

No. MC 70353 (Sub-No. 8F), filed February 10, 1978. Applicant: THE PITTSBURGH AND WEIRTON BUS COMPANY, a Corporation, 401 Pennsylvania Avenue, Weirton, WV 26062. Applicant's representative: Sam J. Conti (same address as applicant). Authority sought to operate as a *common carrier* by motor vehicle, over irregular routes, in the transportation of *passengers and their baggage*, in charter and special operations, in round-trip sightseeing and pleasure tours beginning and ending at points in Belmont County, OH and points in Ohio County, WV, and extending to points in the United States (including AK, but excluding HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Steubenville, OH.

No. MC 138713 (Sub-No. 3F), filed February 16, 1978. Applicant: R&G TRANSIT CORP, POB 248, Staunton, IL 62088. Applicant's representative: Ricky Odorizzi (same address as applicant). Authority sought to operate as a *common carrier* over regular routes transporting: *Passengers and their baggage*, (1) between Staunton, IL, and the commercial zone of St. Louis, MO, (a) from Staunton over IL Hwy 4 to Jct I-55, then south on I-55 to Jct I-270, then west over I-270 to Jct I-70, then south over I-70, (b) from Staunton, over I-55 south to exit 37, then over the service road, to Livingstone, Worden and Hamel, then over I-55 south, to Jct I-70 then west to St. Louis; serving the intermediate points of Livingston, Worden, Hamel, Edwardsville and Maryville; (2) with incidental charter operations over irregular routes, between the above points and Greenville, IL, on the one hand, and all points in the United States (except AK and HI), on the other.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either St. Louis, MO or Springfield, IL.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-7572 Filed 3-22-78; 8:45 am]

[7035-01]

[Volume No. 74]

PETITIONS, APPLICATIONS, FINANCE MATTERS (INCLUDING TEMPORARY AUTHORITIES), RAILROAD ABANDONMENTS, ALTERNATE ROUTE DEVIATIONS, AND INTRASTATE APPLICATIONS

MARCH 17, 1978.

PETITIONS FOR MODIFICATION, INTERPRETATION, OR REINSTATEMENT OF OPERATING RIGHTS AUTHORITY

The following petitions seek modification or interpretation of existing operating rights authority, or reinstatement of terminated operating rights authority.

All pleadings and documents must clearly specify the suffix (e.g. M1F, M2F) numbers where the docket is so identified in this notice.

An original and one copy of protests to the granting of the requested authority must be filed with the Commission within 30 days after the date of this notice. Such protests shall comply with Special Rule 247(e) of the Commission's General Rules of Practice (49 CFR 1100.247)* 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 in named.

No. MC 108207 (Sub-No. 475) (Notice of Filing of Petition to Delete Exceptions in Commodity Descriptions), filed January 12, 1978. Petitioner: FROZEN FOOD EXPRESS, INC., P.O. Box 5888, Dallas, TX 75222. Petitioner's representative: Ralph W. Pulley, Jr. 4555 First National Bank Building, Dallas, TX 75202. Petitioner holds motor *common carrier* authority, as indicated below, operating over irregular routes; in MC 108207 (Sub-No. E-2), published in the FEDERAL REGISTER issued of September 3, 1975, transporting: (A) *Frozen foods, and meats, meat products, and meat byproducts* as defined by the Commission (except canned or packaged meats and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), *dairy products* as defined by the Commision, *salad dressing, yeast, and uncooked bakery goods*, (1) from points in MI, IL, and MO, to points in NM, AZ, and CA, restricted against the transportation of commodities except frozen foods and carcass meat from Kansas City, MO, to the destination area; (2) from points in LA, AR, and Memphis, TN, to points in MN, AZ, and CA; (3) from points in that part of OK on and east of Interstate Hwy 35, to points in NM; and (4) from points in OK, to points in AZ and CA; restricted against the transportation of oleomargarine butter, shortening, yeast, salad dressing, and cheese from Shreveport, LA, Little Rock, AR, and Memphis, TN, and points in OK to the destination area; (b) *frozen foods*, and *meats, meat products, and meat byproducts* as defined by the Commission (except canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from points in MS, to points in NM, AZ, and CA. In MC 108207 (Sub-No. E-12), published in the FEDERAL REGISTER issue of December 10, 1974, transporting, *meats, meat products, and meat byproducts* as defined by the Commission (except canned or packaged meats and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*). from points in LA to points in IN. In MC 108207 (Sub-No. E14), published in the FEDERAL REGISTER issue of December 10, 1974, transporting: *meats, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from points in MS to points in IA. In MC 108207 (Sub-No. E-16), published in the FEDERAL REGISTER issue of December 10, 1974, transporting: *Frozen foods*, and *meat, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*) *dairy products* as defined by the Commission, *salad dressing, yeast*, and *uncooked bakery goods*, from Rossville, TN, to points in NM, AZ, and CA. In MC 108207, (Sub-No. E-18), published in the FEDERAL REGISTER issue of December 10, 1974, transporting: *meats, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned and packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from those points in MS on and south of U.S. Hwy 80, to points in KS and NE. In No. MC 108207 (Sub-No. E-19), published in the FEDERAL REGISTER issue of December 12, 1974, transporting: *meats, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from points in AR, and Memphis, TN, to points in IA, KS, and NE. In No. MC 108207 (Sub-No. E-24), published in the FEDERAL REGISTER

*Copies of Special Rule 247 (as amended) can be obtained by writing to the Secretary, Interstate Commerce Commission, Washington, DC 20423.

issue of June 2, 1975, transporting: *meats, meat products, and meat byproducts* (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), as described in sections A and B of Appendix I to the Report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, from points in MS to points in IN, MN, and WI (restricted against the transportation of commodities in bulk). In No. MC 108207 (Sub-No. E-25), published in the FEDERAL REGISTER issue of August 4, 1975, transporting: *dairy products*, from points in KS (except Moline and Parsons, KS), (1) to points in LA, and (2) to points in MS. In No. MC 108207 (Sub-No. E-30), published in the FEDERAL REGISTER issue of February 4, 1975, transporting: *meats, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from points in OK, AR, LA, and Memphis, TN, to points in MN and WI.

In No. MC 108207 (Sub-No. E-33), published in the FEDERAL REGISTER issue of February 4, 1975, transporting: *Frozen foods*, and *meats, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), *dairy products* as defined by the Commission, *salad dressing, yeast, and uncooked bakery goods*, from Rossville, TN, to points in AR, LA, TX, OK, MO, IL, and MI. In No. MC 108207 (Sub-No. E36), published in the FEDERAL REGISTER issue of August 20, 1975, transporting: *Meats, meat products*, and *meat byproducts* 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, canned or packaged meats, canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), and except commodities in bulk, in vehicles, equipped with mechanical refrigeration, from points in NM, AZ, CA, and points in that part of TX on, south, and west of a line beginning at the TX-OK State line, extending along Interstate Hwy 35 to junction U.S. Hwy 84, then along U.S. Hwy 84 to the LA-TX State line, to Mobile, AL. In No. MC 108207 (Sub-No. E37), published in the FEDERAL REGISTER issue of June 9, 1975, transporting: *Frozen foods*, from Humboldt, TN, to points in IL and MI, restricted to the transportation of shipments originating at the warehouse or storage facilities of Ocoma Foods Co., at Humboldt, TN. In MC 108207 (Sub-No. E-38), published in the FEDERAL REGISTER issue of September 4, 1975, transporting: *Meats, meat products*, and *meat byproducts*, 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, canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from points in NM, CA, AZ, and points in TX, on, west, and south of a line beginning at the TX-OK State line, to Dallas, then along Interstate Hwy 20 to junction U.S. Hwy 69, then along U.S. Hwy 69 to junction Interstate Hwy 35, than along Interstate Hwy 35 to junction TX Hwy 63, then along TX Hwy 63 to junction U.S. Hwy 190, then along U.S. Hwy 190 to the TX-LA State line, to Columbia, TN, and Henderson, KY. In No. MC 108207 (Sub-No. E-40), published in the FEDERAL REGISTER issue of December 4, 1975, *fresh meats*, from points in CA, NM, TX, and AZ, to Louisville, KY, and Pittsburgh, PA. In No. MC 108207 (Sub-No. E-51), published in the FEDERAL REGISTER issue of December 4, 1975, *meats, meat products, meat byproducts*, and *dairy products*, from Columbus Junction, IA, to points in NM, AZ, CA, TX, LA, MS, and Memphis, TN. In No. MC 108207 (Sub-No. E-54), published in the FEDERAL REGISTER issue of December 3, 1974, transporting: *Frozen foods*, from Noblesville, IN, to points in TX, NM, AZ, and CA.In No. MC 108207 (Sub-No. E-56), published in the FEDERAL REGISTER issue of June 9, 1975, transporting: *Cheese and frozen foods*, in vehicles equipped with mechanical refrigeration, from Nashville, TN, to points in TX, NM, AZ, and CA. In No. MC 108207 (Sub-No. E-57), published in the FEDERAL REGISTER issue of December 2, 1974, transporting: *Frozen foods*, and *meats, meat products*, and *meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), and except commodities in bulk, in tank vehicles, restricted to commodities which are foodstuffs, from points in CA to Memphis, TN. In No. MC 108207 (Sub-No. E-60), published in the FEDERAL REGISTER issue of December 2, 1974, transporting: *Frozen foods*, and *meats, meat products*, and *meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), *dairy products*, as defined by the Commission, *salad dressing, yeast, and uncooked bakery goods*, from points in LA to points in KS. In No. MC 108207 (Sub-No. E-64), published in the FEDERAL REGISTER issue of December 3, 1974, transporting: *Frozen foods*, and *meats, meat products, and meat byproducts*, as defined by the Commission (except canned or packaged meats, and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), *dairy products*, as defined by the Commission, *salad dressing, yeast, and uncooked bakery goods*, from those points in LA on and west of a line beginning at the AR-LA State line, and extending along U.S. Hwy 167 to Abbeville, then along the Vermillion River to the Gulf of Mexico to points in OH.

In MC 108207 (Sub-No. E-65), published in the FEDERAL REGISTER issue of June 2, 1975, transporting: *meats, meat products, meat byproducts, and articles distributed by meat packinghouses*, as decribed 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, in tank vehicles), (1) from the facilities utilized by Wilson & Co., Inc., at or near Cherokee, IA, to points in TX and LA, and (2) from the facilities utilized by Wilson & Co., Inc., at or near Cherokee, IA, to points in AZ and NM, restricted to the transportation of traffic originating at the plantsite and storage facilities utilized by Wilson & Co., Inc., at or near Cherokee, IA. In MC 108207 (Sub-No. E-69), published in the FEDERAL REGISTER issue of January 23, 1975, transporting: *meat, meat products, and meat byproducts* as defined by the Commission (except canned or packaged meats and canned or packaged meat products, other than canned hams, packaged hams, and packaged bacon*), from points in MI on and south of MI Hwy 55, to points in KS, NE, and those points in IA, on and south and west of a line beginning at the Mississippi River to its junction with Interstate Hwy 80, then along Interstate Hwy 80 to its junction with U.S. Hwy 63, then along U.S. Hwy 63 to the IA-MN State line. In MC 108207 (Sub-No. E-71), published in the FEDERAL REGISTER issue of December 5, 1974, *meats, meat products, and meat byproducts, and frozen foods*, from points in IA, KS, and NE to those points in MS on and south of Hwy 82. And in MC 108207 (Sub-No. E-72), published in the FEDERAL REGISTER issue of December 5, 1975, transporting *frozen foods*, from AZ, NM, and CA, to those points in KY and TN, on and west of a line beginning at the OH-KY State line at St. Thomas, and extending along U.S. Hwy 27 to Lexington, then along U.S. Hwy 68 to Glasgow, then along U.S. Hwy 31-E to Nashville, TN, then along U.S. Hwy 43 to the TN-AL State line. By the instant petition, petitioner seeks to delete the exceptions indicated by an asterisk above.

No. MC 109725 (M1F) Notice of filing of petition to modify commodity

description), filed February 1, 1978. Petitioner: K. F. CROCKER TRANSPORTATION Co., INC., Jewel Hill Road, Ashby, MA 01431. Petitioner's representative: Richard J. Pelletier, 83 State Street, Springfield, MA 01103. Petitioner holds a motor *common carrier* certificate in No. MC 109725 issued June 25, 1973, authorizing transportation over irregular routes, of: (1) *Milk and cream* and *liquid products* thereof, in bulk, in tank vehicles, from points in NH, ME, and VT, to points in MA, CT, and RI; (2) *molasses*, in bulk, in tank trucks, from Boston, MA, to Greenfield, NH; (3) *molasses*, in bulk, in tank vehicles, from Boston and Everett, MA, to points in NH; and (4) *molasses*, for feeding purposes, in bulk, in tank trucks, from Boston and Everett, MA to Manchester, Concord, Nashua, Portsmouth, Newmarket, and Keene, NH, and points in ME, VT, RI, and CT. By the instant petition, petitioner seeks to modify the above authority by adding "liquid feed supplements" to the commodity descriptions in (2), (3), and (4) above.

No. MC 128320M1 (Sub-Nos. 5 and 7) (notice of filing of petition to modify permits), filed January 5, 1978. Petitioner: ART QUIRING, 118½ West Fourth, P.O. Box 1481, Grand Island, NE 68801. Petitioner's representative: Steve K. Kuhlmann, P.O. Box 82028, 500 The Atrium, 1200 North Street, Lincoln, NE 68501. Petitioner holds motor contract carrier permits in No. MC 128325 (Sub-Nos. 5 and 7), issued September 17, 1973, and October 18, 1976, and reissued, as modified, January 9, 1978, respectively, authorizing transportation (1) in MC 128320 (Sub-No. 5), over irregular routes of: *Candy and confectionaries*, from Davenport, IA, to points in CA, FL, GA, ID, OR, TX, and WA. Restriction: The operations authorized herein are limited to a transportation service to be performed, under a continuing contract or contracts, with E. J. Brach & Sons, Inc., of Davenport, IA; and in MC 128325 (Sub-No. 7) as pertinent, over irregular routes, of: *Confectionaries*, from Davenport, IA, to points in NV. Restriction: The operations authorized in the commodity description immediately above are limited to a transportation service to be performed, under a continuing contract or contracts, with E. J. Brach & Sons, Inc. By the instant petition, petitioner seeks to modify its permits in MC 128325 (Sub-No. 5) by changing the territorial description to read (1) between Davenport, IA, on the one hand, and, on the other, Chicago, IL.; and (2) from Chicago, IL, to points in CA, FL, GA, ID, OR, TX, and WA; and in MC 128325 (Sub-No. 7) as pertinent, by changing the commodity and territorial descriptions to read: *Candy and Confectionaries*, from Chicago, IL, to points in NV; all of the above under a continuing contract or contracts with E. J. Brach & Sons, Inc.

No. MC 141823 (Sub-No. 1) (M1F) (notice of filing petition to extend destination territory to contracting shipper), filed February 2, 1978. Petitioner: GLASS CONTAINER TRANSPORT, INC., Route 1, Box 271, Ridgeway, SC 29130. Petitioner's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Petitioner holds a motor contract carrier permit in No. MC 141823 (Sub-No. 1), issued November 3, 1976, authorizing transportation, over irregular routes, of: *Glass bottles and jars, and closures*, from the facilities of Kerr Glass Manufacturing Corp., at or near Dunkirk (Jay County), IN, to Asheville, Durham, Elizabeth City, Elkins, Fayetteville, Gastonia, Goldsboro, Greensboro, Hickory, Jacksonville, Kinston, Lumberton, New Bern, Raleigh, Rocky Mount, Statesville, Wilmington, Wilson, and Winston-Salem, NC, and Charleston, Columbia, Kingstree, and Spartanburg, SC. Restriction: The authority granted herein is limited to a transportation service to be performed, under a continuing contract, or contracts, with Kerr Glass Manufacturing Corp. By this petition, petitioner seeks to amend the destination territory to read, "to points in NC and SC."

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 within 30 days after the date of this Federal Register notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Such pleading shall comply with special rule 247(e) of the Commission's general rules of practice (49 CFR 1100.247) addressing specifically the 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 23441 (Sub-No. 21) (republication), filed June 1, 1976, published in the Federal Register issue of June 24, 1976, and republished this issue. Applicant: LAY TRUCKING CO., INC., 1312 Lake Street, La Porte, IN 46350. Applicant's representative: Donald W. Smith, One Indiana Square, Suite 2465, Indianapolis, IN 46204. A decision and order, of the Commission, Division 1, decided December 7, 1977, served December 22, 1977, authorizes service, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Mowers, tractors, cultivators, agricultural implements, trailers, snow removal equipment, tractors not to exceed 4,000 pounds, and attachments and accessories* for use with said tractors, from the plantsite and warehouse facilities of Simplicity Manufacturing Co., Division of Allis-Chalmers Corp., located at Milwaukee, WI, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the above-named origin.

Note.—The purpose of this republication is to reflect applicant's actual grant of authority.

No. MC 61592 (Sub-No. 386) (republication), filed may 16, 1976, published in the Federal Register, issue of June 24, 1976, republished as amended November 11, 1976, and republished this issue. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, R.R. No. 3, Jeffersonville, IN 47130. Applicant's representative: E. A. DeVine, 101 First Avenue, P.O. Box 737, Moline, IL 61265. A decision and order of the Commission, Division 1, decided December 7, 1977, served December 22, 1977, authorizes service, in interstate or foreign commerce, as a *common carrier*, by motor vehicle, over irregular routes, in the transportation of: *Mowers, tractors, cultivators, agricultural implements, trailers, snow removal equipment, tractors not to exceed 4,000 pounds, and attachments and accessories* for use with said tractors, from the plantsite and warehouse facilities of Simplicity Manufacturing Co., Division of Allis-Chalmers Corp., located at Milwaukee, WI, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the above-named origin.

Note.—The purpose of this republication is to reflect applicant's actual grant of authority.

No. MC 114211 (Sub-No. 302) (republication), filed May 11, 1977, published in the Federal Register issue of June 16, 1977, and republished this issue. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Applicant's representative: Daniel Sullivan, Suite 1600, 10 South La Salle Street, Chicago, IL 60603.

The initial decision of the Administrative Law Judge, dated November 17, 1977, and served November 29, 1977, became the order of the Commission by a notice dated December 29, 1977, and served January 24, 1978. Said initial decision finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: *Snowmobiles, parts, and accessories thereof,* from points in Lancaster County, NE, to points in the United States (except AK and HI), including ports of entry between the United States and Canada located in WA, ID, MT, ND, MI, and NY, restricted to traffic originating at facilities utilized by Kawasaki Motors Corp., U.S.A., at the named origins; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to reflect applicant's commodity description as to the transportation of snowmobiles, parts, and accessories thereof, in lieu of recreational vehicles and equipment; parts and accessories of, and paraphernalia used in connection with recreational vehicles and equipment and to name the ports of entry between the United States and Canada.

No. MC 125433 (Sub-No. 110) (republication), filed July 21, 1977, published in the FEDERAL REGISTER issue of September 1, 1977, and republished this issue. Applicant: F-B TRUCK LINE CO., a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister (same address as applicant). The initial decision of the Administrative Law Judge, dated November 17, 1977, and served November 29, 1977, became the order of the Commission by a notice dated December 29, 1977, and served January 24, 1978. Said initial decision finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: *Snowmobiles, parts, and accessories thereof,* from points in Lancaster County, NE, to points in the United States (except AK and HI), including ports of entry between the United States and Canada located in WA, ID, MT, ND, MI, and NY, restricted to traffic originating at facilities utilized by Kawasaki Motors Corp., U.S.A., at the named origins; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to broaden the commodity and territorial descriptions.

No. MC 134404 (Sub-No. 33) (republication), filed April 5, 1977, published in the FEDERAL REGISTER issue of April 28, 1977, and republished this issue. Applicant: AMERICAN TRANSFREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Applicant's representative: Eugene M. Malkin, 5 World Trade Center, Suite 6193, New York, NY 10048. An order of the Commission, Review Board No. 1, decided January 5, 1978, finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *contract carrier,* by motor vehicle, over irregular routes, in the transportation of: *Screws, nuts, bolts, plugs, and fastening devices,* between Strongsville, OH, on the one hand, and, on the other, Detroit and Fenton, MI, under a continuing contract or contracts with Amerace Corp., of Butler, NJ; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to: (1) Delete the words "and points within the commercial zone thereof" after Detroit, MI, since authority to serve Detroit embraces authority to serve its commercial zone; (2) to add Fenton, MI, to the territorial description; and (3) to indicate that Amerace Corp. is located at Butler, NJ, in lieu of Union, NJ, as previously published.

No. MC 135231 (Sub-No. 22) (republication), filed December 6, 1976, published in the FEDERAL REGISTER issue of January 21, 1977, and republished this issue. Applicant: NORTH STAR TRANSPORT, INC., Route 1 and 59 West, Thief River Falls, MN 56701. Applicant's representative: Anthony C. Vance, 1300 Old Chain Bridge Road, McLean, VA 22170. The initial decision of the Administrative Law Judge, dated November 17, 1977, and served November 29, 1977, became the order of the Commission by a notice dated December 29, 1977, and served January 24, 1978. Said initial decision finds that the present and future public convenience and necessity require operations by applicant, in interstate or foreign commerce, as a *common carrier,* by motor vehicle, over irregular routes, in the transportation of: *Snowmobiles, parts, and accessories thereof,* from points in Lancaster County, NE, to points in the United States (except AK and HA), including ports of entry between the United States and Canada located in WA, ID, MT, ND, MI, and NY, restricted to traffic originating at facilities utilized by Kawasaki Motors Corp., U.S.A., at the named origins; that applicant is fit, willing, and able properly to perform such service and to conform to the requirements of the Interstate Commerce Act and the Commission's rules and regulations thereunder. The purpose of this republication is to indicate applicant's actual grant of authority. Applicant seeks also to convert its permits in No. MC 134145 Sub-Nos. 1, 3, 5, 6, 7, 13, 14, 19, 22, 27, 30, 31, 32, 36, 48, 55) and the proposed authority in Sub-No. 64, to a certificate of public convenience and necessity.

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 to 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(e)(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 no representative is named. If the protest includes a request for oral hearing, such requests shall meet the requirements of section 247(e)(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 3062 (Sub-No. 41), filed January 20, 1978. Applicant: INMAN FREIGHT SYSTEM, INC., 321 North Spring Avenue, Cape Girardeau, MO 63701. Applicant's attorney: Joel H. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Authority sought: To operate as a *common carrier*, by motor vehicle, over regular routes. Commodity description: *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). Territory sought: (1) Between Paducah, KY, and Memphis, TN, serving no intermediate points: From Paducah over U.S. Hwy 45 to junction U.S. Hwy 51 at or near Fulton, KY, then over U.S. Hwy 51 to Memphis, and return over the same route. (2) Between Paducah, KY, and Cairo, IL, serving no immediate points: From Paducah over U.S. Hwy 60 to Cairo, and return over the same route. (3) Between Paducah, KY, and St. Louis, MO, serving the intermediate points of Metropolis and Vienna, IL, and the off-route point of Joppa, IL: From Paducah over U.S. Hwy 45 to junction IL Hwy 146 at or near Vienna, then over IL Hwy 146 to junction U.S. Hwy 51 at or near Anna, IL, then over U.S. Hwy 51 to junction U.S. Hwy 460 at or near Ashley, IL, then over U.S. Hwy 460 to East St. Louis, IL, then across the Mississippi River bridge to St. Louis, and return over the same route. (4) Between Paducah, KY, and Evansville, IN, serving no intermediate points: From Paducah over U.S. Hwy 60 to junction U.S. Hwy 41 at or near Henderson, KY, then over U.S. Hwy 41 to Evansville, and return over the same route. (5) Between the junction of IL Hwy 37 and IL Hwy 169 and the junction of IL Hwy 169 and the junction of U.S. Hwy 45, serving all intermediate points: From the junction of IL Hwy 37 and IL Hwy 169 over IL Hwy 169 to the junction of IL Hwy 169 and U.S. Hwy 45, and return over the same route.

NOTE.—Hearing site: Paducah, KY.

No. MC 44605 (Sub-No. 48), filed January 27, 1978. Applicant: MILNE TRUCK LINES, INC., 2500 West California Avenue, Salt Lake City, UT 84104. Applicant's representative: Henry A. Dahn, same address as applicant. 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, soda ash, and those requiring special equipment), serving Alchem, WY, as an off-route point in connection with applicant's otherwise authorized regular route operations.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held in Salt Lake City, UT.

No. MC 45194 (Sub-No. 18F), filed February 13, 1978. Applicant: LATTAVO BROTHERS, INC., 2230 Shepler Church Avenue SW., Canton, OH 44706. Applicant's representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Roller bearings, removable rock bits, steel and steel products, and equipment, materials and supplies* used in the manufacture of roller bearings, removable rock bits, and steel and steel products between the plant sites and facilities of The Timken Company and the plant sites and facilities of The Latrobe Steel Company located at Bucyrus, Canton, Columbus, Ashland, New Philadelphia, and Wooster, OH; Gaffney, SC; Lincolnton, NC; Colorado Springs, CO; and Latrobe, PA, on the one hand, and, on the other, points in the United States (except HI and AK).

NOTE.—Common control may be involved. Hearing site requested, Columbus, OH, or Washington, DC.

No. MC 63417 (Sub-No. 128F), filed February 6, 1978. Applicant: BLUE RIDGE TRANSFER COMPANY, INC., P.O. Box 13447, Roanoke, VA 24034. Applicant's representative: William E. Bain, P.O. Box 13447, Roanoke, VA 24034. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting *glass containers* from the facilities of Midland Glass Company, Inc. at or near Warner Robins, GA to NC counties of Alamance, Caswell, Chatham, Davidson, Davie, Durham, Forsyth, Guilford, Orange, Person, Randolph, Rockingham, Stokes, Surry, Yadkin, and VA counties of Bedford, Campbell, Carroll, Floyd, Franklin, Halifax, Henry, Montgomery, Patrick, Pittsylvania, Pulaski and Roanoke and returned shipments from above destinations to above origin.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held either in Roanoke, VA or Washington, DC.

No. MC 104523 (Sub-No. 68F), filed February 21, 1978. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 17, Friend, NE 68359. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry antibiotics*, from Omaha, NE, to Sigourney, IA, and Quincy, IL.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Omaha, NE.

No. MC 106398 (Sub-No. 794F), filed February 17, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Buildings, building panels, building parts, and materials, accessories, and supplies* used in the installation, erection and construction of buildings, building panels, and building parts (except commodities in bulk). From the facilities of Butler Manufacturing Co. at or near Annville, Lebanon County, PA. To points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IN, LA, KS, LA, MI, MN, MS, MO, MT, NE, NV, NM, ND, OK, OR, SC, SD, TX, UT, WA, WI and WY.

NOTE.—If a hearing is deemed necessary, the applicant requests it be held at Washington, DC. Common control may be involved.

Docket No. MC 107515 (Sub-No. 1126F), filed February 13, 1978. Applicant: REFRIGERATED TRANSPORT CO., INC., Post Office Box 308, Forest Park, GA 30050 Applicant's representative: Alan E. Serby, Suite 375, 3379 Peachtree Road N.E., Atlanta, GA 30326. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Carpet, carpet backing, carpet padding*, and *adhesives* (except in bulk), from facilities of General Felt Industries, Philadelphia, PA; and Trenton and Camden, NJ; and Eddystone, PA, to points in AL, FL, GA, LA, MS, NC, SC, TN, TX and VA, restricted to traffic originating at the named origins and destined to the named destinations.

NOTE.—Applicant holds contract carrier authority in MC 126436 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 Philadelphia, PA, or Atlanta, GA.

No. MC 109397 (Sub-No. 387), filed December 29, 1977. Applicant: TRI—STATE MOTOR TRANSIT CO., a Corporation, P.O. Box 113, Joplin, MO 64801. Applicant representative: Max G. Morgan, 223 Ciudad Building, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *radioactive mate-*

rials from points in Converse County, WY and Live Oak County, TX to the Sequoyah facility of Kerr McGee near Gore, OK.

NOTE.—Common Control may be involved. If a hearing is deemed necessary applicant requests that it be held at either Dallas or Fort Worth, TX, or Oklahoma City, OK.

No. MC 109689 (Sub-No. 328), filed January 30, 1978. Applicant: W. S. HATCH CO., 643 South 800 West, Woods Cross, UT 84087. Applicant's representative: Mark K. Boyle, 345 South State Street, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *cleaning, scouring and washing compounds*, in containers, from Salt Lake County, UT, Los Angeles and Alameda County, CA, to Sweetwater County, WY and Salt Lake City, UT, restricted to the account of Church & Dwight Co., Inc. only.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Salt Lake City.

No. MC 110410 (Sub-No. 21), filed January 21, 1978. Applicant: BENTON BROTHERS FILM EXPRESS, INC., 168 Baker Street NW., Atlanta, GA 30313. Applicant's representative: James L. Fant (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodites* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the Jacksonville International Airport, at or near Jacksonville, FL, on the one hand, and, on the other, Charleston, SC and Savannah, GA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Jacksonville, FL or Atlanta, GA.

No. MC 111485 (Sub-No. 19F), filed February 22, 1978. Applicant: PASCHALL TRUCK LINES, INC., Route 4, Murray, KY 42071. Applicant's representative: John M. Ballenger, Suite 400 Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. 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, households goods as defined by the Commission, commodities in bulk, and those requiring special equipment): (1) between Fulton, KY, and Murray, KY, as follows: from Fulton over U.S. Hwy 45 to the junction of KY Hwy 94, then over KY Hwy 94 to Murray, and return over the same route, serving all points located within five miles of Fulton as off-route points; (2) between Murray, KY, and the junction of KY Hwy 94 and U.S. Hwy 68, as follows: from Murray over KY Hwy 94 to its junction with U.S. Hwy 68, and return over the same route; (3) between Murray, KY, and Calvert City, KY, as follows: from Murray over U.S. Hwy 641 to its junction with U.S. Hwy 68, then over U.S. Hwy 68 to its junction with KY Hwy 95, then over KY Hwy 95 to Calvert City, and return over the same route; (4) between the junction of KY Hwy 95 and U.S. Hwy 62, and the junction of U.S. Hwy 62 and U.S. Hwy 68, as follows: from the junction of KY Hwy 95 and U.S. Hwy 62 over U.S. Hwy 62 to the junction of U.S. Hwy 62 and U.S. Hwy 68, and return over the same route; (5) between Arlington, KY, and Murray, KY, as follows: from Arlington over KY Hwy 80 to its junction with KY Hwy 97, then over KY Hwy 97 to its junction with KY Hwy 121, then over KY Hwy 121 to Murray, and return over the same route; (6) between Fulton, KY, and Paducah, KY, as follows: from Fulton over U.S. Hwy 45 to Paducah and return over the same route, and serving all points within five miles of Fulton, KY as off-route points; (7) between Nashville, TN, and Paducah, KY, as follows: from Nashville over U.S. Hwy 41 to the junction of U.S. Hwy 68, then over U.S. Hwy 68 to Paducah, and return over the same route, serving Fenton, KY, and all intermediate points between Fenton and Paducah, KY. From Nashville over Interstate Hwy 24 to Paducah and return over the same route; (8) between Louisville, Ky, and the intersection of U.S. Hwy 641 and U.S. Hwy 68 as follows: from Louisville over Interstate Hwy 65 to its intersection with the Western KY Parkway, then over the Western KY Parkway to its intersection with U.S. Hwy 62 at or near Eddyville, KY, then over U.S. Hwy 641 to its intersection with U.S. Hwy 68, and return over the same route; (9) between Fulton, KY, and Memphis, TN, as follows: from Fulton over U.S. Hwy 51 to Memphis and return over the same route, serving no intermediate points, but serving all off-route points located within five miles of Fulton, KY as off-route points; (10) between Paducah, KY, and St. Louis, MO, as follows: from St. Louis over Interstate Hwy 64 to the junction of Interstate Hwy 57, then over Interstate Hwy 57 to the junction of Interstate Hwy 24, then over Interstate Hwy 24 to Paducah and return over the same route; (11) in connection with the above-described regular-routes, service to all intermediate points and off-route points located in the following KY counties: Ballard, Carlisle, Hickman, Fulton, Calloway, Graves, McCracken, and Marshall.

NOTE.—Applicant presently holds authority to serve Memphis and Nashville, TN; St. Louis, MO; and Louisville, Calvert City, Grand Rivers, Benton, Mayfield, Murray, Hazel, and Aurora, KY, over regular routes, pursuant to authority contained in its lead, Sub-No. 7, and Sub-No. 10 certificates subject, however, to certain restrictions. The effect of this application is to (1) remove those restrictions, (2) authorize service to Paducah, KY, over regular routes, and (3) authorize service to all intermediate and off-route points in an eight county area of Kentucky west of Kentucky Lake. If a hearing is deemed necessary, applicant requests that it be held at Paducah, KY.

No. MC 111729 (Sub-No. 727), filed January 19, 1978. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 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: 1. *Business papers, records, and audit and accounting media of all kinds;* 2. *Parts:* Automotive, mechanical, electrical and electronic, restricted against the transportation of packages or articles weighing more than 100 pounds in the aggregate from one consignor to one concignee on any one day; between Baltimore, MD on the one hand and, on the other, Goldsboro, Middlesex and Rocky Mountain, MC.

NOTE.—Applicant holds motor contract carrier authority in No. MC 112750 and Sub-Numbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington DC

No. MC 111729 (Sub-No. 729), filed January 30, 1978. Applicant: PUROLATOR COURIER CORP., 333 New Hyde Park Road, New Hyde Park, NY 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: *Household and industrial cleaning products, toilet preparations, insect control products, air fresheners, brooms, brushes, mops and advertising material related thereto*, between points in AZ; restricted against the transportation of shipments weighing in excess of 150 pounds.

NOTE.—Applicant holds motor contract carrier authority in No. MC 112750 and Subnumbers thereunder, and therefore dual operations may be involved. Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 112304 (Sub-No. 133F), filed February 13, 1978. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, OH 45223. Applicant's representative: John D. Herbert (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Freight trailers, dump bodies, with or without dump-*

ing devices, dumping hoists, hoists, truck cranes, freight bodies, auto bodies, machine parts, hydraulic cylinders, and hydraulic pumps, lift gates, and parts, accessories, and attachments for the above specified commodities; and (2) *materials, equipment, and supplies* used in the manufacture, production, and assembly, distribution, and sale of the commodities in (1) above, between Streator, IL on the one hand and, on the other, points in the United States in and east of ND, SD, NE, KS, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Chacago, IL or Washington, DC. Common control may be involved.

No. MC 112822 (Sub-No. 451F), filed February 22, 1978. Applicant: BRAY LINES INC., 1401 North Little Street, P.O. Box 1191, Cushing, OK 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: *Confectioneries*, from the facilities of Switzer Candy Co., a Division of Beatrice Foods, at or near St. Louis, MO, to points in AZ, CA, CO, ID, KS, NE, OR, UT and WA.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Los Angeles or San Francisco, CA. Common control may be involved.

No. MC 113271 (Sub-No. 45F), filed February 13, 1978. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Applicant's representative: Ray F. Koby, 314 Montana Building, Great Falls, MT 594-1. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Acid*, in bulk, (1) From Anaconda, MT, to points in CO, ID, MN, ND, OR, UT, WA and WY; and (2) between points in WA, restricted to the transportation of shipments having a prior movement by rail.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Great Falls or Anaconda, MT.

No. MC 113388 (Sub-No. 123F), filed February 13, 1978. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, P.O. Box 618, Seaford, DE 19973. Applicant's representative: Charles Ephraim, Suite 600, 1250 Connecticut Avenue NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Frozen food*, from storage facilities, Mt. Airy Cold Storage, at Mt. Airy, MD, to points in OH, WV, VA, NC, MD, DE, DC, PA, CT, NY, NJ, MA, NH, ME; and (2) *returned, refused and rejected merchandise*, in reverse direction.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 113828 (Sub-No. 254F), filed March 13, 1978. Applicant: O'BOYLE TANK LINES, INC., P.O. Box 30006, Washington, DC 20014. Applicant's representative: William P. Sullivan, Federal Bar Building West, 1819 H Street, NW., Washington, D.C. 20006. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities in bulk* (1) Between points in DC, DE, FL, GA, MD, NJ, NY, NC, PA, SC, VA and WV. (2) Between points in (1) on the one hand and on the other, other points in the United States (except AK and HI), and (3) Between points in the United States (except AK and HI) restricted to shipments moving under the provisions of "Continuous Movement" tariffs where the initial shipment of the continuous movement originates or the concluding shipment of the continuous movement terminates in the area described in (1) above.

NOTE.—Common control may be involved. No duplicating authority is sought. Coincidental cancellation will be requested of numerous certificates embracing duplicating bulk traffic. If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 113855 (Sub-No. 407F), filed February 16, 1978. Applicant: INTERNATIONAL TRANSPORT, INC., a corporation, 2450 Marion Road SE., Rochester, MN 55901. Applicant's representative: Thomas J. Van Osdel, 502 First National Bank Building, Fargo, ND 58102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, in interstate or foreign commerce, transporting: *Machinery*, and *parts, attachments* and *accessories* for machinery, from Moline, IL, to points in the United States, including AK, but (excluding HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests it be held at Chicago, IL.

No. MC 117439 (Sub-No. 56), filed December 22, 1977. Applicant: BULK TRANSPORT, INC., 5500 Florida Boulevard, P.O. Box 1429, Baton Rouge, LA 70821. Applicant's representative: Edward A. Winter, 235 Rosewood Drive, Metairie, LA 70005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *cement*, in bulk and in bags, from the distribution facilities of Missouri Portland Cement Co., in St. James Parish, LA, to points in AL, AR, FL, GA, LA, MS, OK, and TX.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Baton Rouge or New Orleans, LA.

No. MC 119793 (Sub-No. 1F), filed March 1, 1978. Applicant: DEWEY L. WILFONG d.b.a. D & W TRUCK LINES, INC., P.O. Box 427, Parsons, WV 26287. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, D.C. 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Glass*, from the facilities of Fourco Glass Co., located at or near Clarksburg, WV and Jerry Run (Taylor County), WV, to points in the United States in and east of MN, IA, MO, AR, and TX, and (2) *Materials, supplies and equipment* used in the manufacture or distribution of glass, from points in the United States in and east of MN, IA, MO, AR, TX, to the facilities of Fourco Glass Co., located at or near Clarksburg, WV and Jerry Run (Taylor County), WV, restricted to the transportation of traffic moving under a continuing contract or contracts with Fourco Glass Co.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Charleston, WV, or Washington, DC. Applicant holds common carrier authority in MC 142873, therefore dual operations may be involved.

No. MC 120257 (Sub-No. 41) (Correction) filed December 30, 1977, published in the FEDERAL REGISTER issue of February 23, 1978, and republished as corrected this issue. Applicant: K. L. BREEDEN & SONS, INC., 401 Alamo Street, Terrell, TX 75160. Applicant's representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel coils*, and *iron and steel sheets* from Birmingham, AL to points in AR, LA, OK, TN and TX.

NOTE.—The purpose of this republication is to include the original destination points as stated above. If a hearing is deemed necessary, the applicant requests that it be held at Brimingham, AL.

No. MC 123255 (Sub-No. 131) (Correction), filed January 13, 1978, published incorrectly in the FEDERAL REGISTER issue of February 24, 1978, as MC 123253 (Sub-No. 131), and republished as corrected this issue. Applicant: B & L MOTOR FREIGHT, INC., 140 Everett Avenue, Newark, OH 43055. Applicant's representative: C. F. Schnee, Jr. (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle over irregular routes transporting: *Container and container ends and materials and supplies* used in the manufacture and distribution of containers and container ends, between the facilities of Jos. Schlitz Brewing Co., located at or near Milwaukee and Oak Creek, WI; Memphis, TN; Longview, TX; Tampa, FL; Syracuse and Raddison, NY; Winston-Salem, NC; Chats-

worth and Van Nuys, CA; and Fairport, NY, a non-radial movement, restricted to shipments originating at and destined to the facilities of the Jos. Schitz Brewing Co.

NOTE.—The purpose of this republication is to correct applicants docket number MC 123255 (Sub-No. 131), which was published incorrectly as MC 123253 (Sub-No. 131). Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at Columbus, OH.

No. MC 123383 (Sub-No. 81F), filed February 13, 1978. Applicant: BOYLE BROTHERS, INC., R.D. No. 2, Box 329C Medford, NJ 08055. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Composition board, plywood, furniture stock panels, and wood dimension stock*, from Chicago and Calumet IL and Burns Harbor, IN, to points in ND, SD, NE, KS, OK, TX, MN, IA, MO, AR, WI, IL, IN, MI, OH, KY, TN, PA, NY, NJ, NC, VA, CT, RI, VT, and NY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Boston, MA.

No. MC 124692 (Sub-No. 191F), filed February 16, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel and iron and steel articles* from St. Louis, MO to points in MT, WY, ID, UT, AZ, NV, CA, OR and WA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at St. Louis, MO.

No. MC 124692 (Sub-No. 192F), filed February 16, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel forms and parts and accessories used in the installation of iron and steel forms from Des Moines, IA to points in MT, WY, UT, AZ, ID, WA, OR, NV and CA.*

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Des Moines, IA.

No. MC 124692 (Sub-No. 193F), filed February 16, 1978. Applicant: SAMMONS TRUCKING, P.O. Box 4347, Missoula, MT 59806. Applicant's representative: J. David Douglas, P.O. Box 4347, Missoula, MT 59806. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Particle board* from MN to IL, IN, IA, KS, MI, MO, NE, ND, OH, SD and WI.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Portland, OR.

No. MC 124821 (Sub-No. 30), filed January 5, 1978. Applicant: WILLIAM GILCHRIST, 105 North Keyser Ave., Old Forge, PA 18518. Applicant's representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Automotive parts* and *supplies* and *accessories*, from points in OH, RI, NY, NJ, MA, CT, IN, IL, MD, DE, MS, LA, and CA, to Exeter and Moosic, PA.

NOTE.—Applicant holds contract carrier authority in No. MC 124608 Sub-No. 5, therefore dual operations may be involved. Common control may also be involved. If a hearing is deemed necessary, applicant requests it be held at Washington, DC.

No. MC 124947 (Sub-No. 95F), filed February 6, 1978. Applicant: MACHINERY TRANSPORTS, INC., 1945 South Redwood Road, Salt Lake City, UT 84104. Applicant's representative: David J. Lister, 1945 South Redwood Road, Salt Lake City, UT 84104. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Overhead cranes and parts*, (except in bulk), from the plantsite of Alliance Machine Company, located at or near Alliance, OH, to points in the United States, (except HI and AK.)

NOTE.—Common control may be involved. (Hearing: Cleveland, OH).

No. MC 126542 (Sub-No. 6F), filed February 16, 1978. Applicant: B. R. WILLIAMS TRUCKING, INC., P.O. Box 3310, Oxford, AL 36201. Applicant's representative: John W. Cooper, Suite 200, Woodward Building, 1927 1st Avenue North, Birmingham, AL 35203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Iron and steel valves and component parts*, from the plant site of Crane Company located at or neat Washington, IA; and from the plant site and warehouse facilities of Phelps Dodge Brass Co., a division of Phelps Dodge Industries, Inc., located at or near Anniston, AL to points in the United States (except HI and AK), under a continuing contract or contracts with Phelps Dodge Brass, a division of Phelps Dodge Industries, Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Birmingham, AL.

No. MC 128279 (Sub-No. 30), filed January 23, 1978. Applicant: ARROW FREIGHTWAYS, INC., 150 Woodward Road SE., P.O. Box 25125, Albuquerque, NM 87125. Applicant's representative: Olif Q. Boyd, 150 Woodward Road SE., P.O. Box 25125, Albuquerque, NM 87125. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Commodities requiring the use of special equipment*, between points in AZ, CO, and NM.

NOTE.—Applicant states that it presently holds authority in its Sub 19 authorizing the requested authority within 200 miles of Albuquerque, NM, and the named States, but does not seek duplicating authority. If a hearing is deemed necessary, applicant requests that it be held at Albuquerque, or Santa Fe, NM.

No. MC 129301 (Sub-No. 9F), filed February 13, 1978. Applicant: ENGLISH & SONS CORP., 412 Kingshighway, Thorofare, NJ 08086. Applicant's representative: James H. Sweeney, P.O. Box 684, Woodbury, NJ 08096. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Plastic containers*, from the facilities of Liqui-Box Corp., at Auburn, MA, to the facilities of Liqui-Box Corp., at Thorofare, NJ, under a continuing contract or contracts with Liqui-Box Corp., at Thorofare, NJ.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Philadelphia, PA, or Washington, DC.

No. MC 133095 (Sub-No. 181F), filed February 10, 1978. Applicant: TEXAS-CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Applicant's representative: Rocky Moore (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Laredo, TX, to points in NJ, LA, NC, TN, PA, OH, WA, DC, MD, DE, VA, AL, and GA.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held Dallas, TX. Applicant holds contract carrier authority in MC 136032 and subs thereunder, therefore dual operations may be involved.

No. MC 133590 Sub-No. 13), filed January 17, 1978. Applicant; WESTERN CARRIERS, INC., 288 Franklin Street, Worcester, MA 01604. Applicant's representative: David M. Marshall, 101 State Street, Suite 304, Springfield, MA 01103. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by sporting goods stores, sporting goods departments of department stores, discount houses, hardware stores and other establishments, and *materials, supplies, and equipment* used in the manufacture, distribution, and sale of such commodities (except in bulk), between points in the United States (except AK and HI) including ports of entry on the international boundary line between the United States and Canada under a continuing contract or contracts with Questor Corp.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Hartford, CT, Boston, MA, Albany, NY, or Washington, DC.

No. MC 135454 (Sub-No. 19F), filed February 16, 1978. Applicant: DENNY TRUCK LINES, INC., 893 Ridge Road, Webster, NY 14580. Applicant's representative: Francis P. Barrett, 60 Adams Street, P.O. Box 238, Milton, MA 02187. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Canned and preserved foodstuffs* from Manchester, NY to New York, NY, DC, MD, NJ, OH and PA and (2) *glass containers and covers, lids and tops* for glass containers, from New York, NY, DC, MD, NJ, OH, and PA to Manchester, NY. Applicant holds contract carrier authority under MC 143740 and other subs, therefore dual operations may be involved.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Rochester, or New York City NY.

No. MC 138512 Sub-No. 31F), filed February 13, 1978. Applicant: ROLAND'S TRANSPORTATION SERVICES, INC., d.b.a. WISCONSIN PROVISIONS EXPRESS, P.O. Box 477, Cudahy, WI 53110. Applicant's representative: Richard C. Alexander, Suite 412 Empire Building, 710 North Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Frozen pet food ingredients*, in mechanically refrigerated trailers, from Frankfort and Shelbyville, IN; to Jefferson and Oconto, WI; Kansas City and St. Joseph, MO; Sebring, OH; Topeka, KS; and Forest Grove, OR, under a continuing contract, or contracts, with Bausback Corp., located at Shelbyville, IN. Hearing site, Chicago, IL.

No. MC 139206 (Sub-No. 7F), filed February 16, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MO 64043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: (1) *Radiators, radiator cores, coolers, heat exchangers, heaters, copper articles, solder, tubes, and copper sheets, and parts and accessories therefor*, and (2) *materials, equipment and supplies* used in the manufacture, sale, assembly, transportation, processing, repair, coating and distribution of the commodities in (1) above (except commodities in bulk), between Mount Vernon, Salem and Chicago, IL on the one hand and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic moving under a continuing contract, or contracts, with Chromalloy American Corporation.

NOTE.—Applicant is a commonly controlled contract carrier for and on behalf of Chromalloy American Corp. and the purpose of this application is to enable the shipper to replace its private carriage with the contract carrier services of applicant. Applicant already holds similar authority for the shipper between thirteen (13) other locations of the shipper, on the one hand, and, on the other, points in the United States. Common control and dual operations may be involved. Dual operations and common control were approved in Docket No. MC-F-12514. If a hearing is deemed necessary, the applicant requests that it be held at St. Louis, MO.

No. MC 139206 (Sub-No. 8F), filed February 17, 1978. Applicant: F.M.S. TRANSPORTATION, INC., Box 1597, 2564 Harley Drive, Maryland Heights, MD 63043. Applicant's representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Authority sought by applicant to operate as a *contract carrier* by motor vehicle, over irregular routes transporting: (1) *Castings, patterns, and molds and parts and accessories therefore;* and (2) *materials, equipment and supplies* used in the manufacture, processing, sale, molding, assembly, transportation, repair, and distribution of the commodities in (1) above (except commodities in bulk), between Kendallville, IN on the one hand and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic moving under a continuing contract, or contracts, with Chromalloy American Corporation.

NOTE.—Applicant states that it is a commonly controlled contract carrier for Chromalloy American Corp. and the purpose of this application is to allow shipper to substitute applicant's contract carrier operations for the shipper's private carriage. Applicant states it already holds authority to transport traffic between thirteen (13) other locations of shipper, on the one hand, and, on the other, points in the United States (except AK and HI). (2) Applicant further states that common control and dual operations may be involved. Common control and dual operations were approved in Docket No. MC-F-12514. If a hearing is deemed necessary, it is requested in St. Louis, MO.

No. MC 139495 (Sub-No. 318F), filed February 16, 1978. Applicant: NATIONAL CARRIERS, INC., 1501 East Eighth Street, P.O. Box 1358, Liberal, KS 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: *Household appliances*, from the facilities of Proctor-Silex located at or near Baltimore, MD, to AK, AZ, CA, CO, IA, ID, KS, LA, MN, MO, MT, ND, NE, NM, NV, OK, OR, SD, TX, UT, WA and WY.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Washington, DC.

No. MC 141740 (Sub-No. 5F), filed February 22, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN 46012. Applicant's representative: Donald W. Smith, Suite 945, 9000 Keystone Crossing, Indianapolis, IN 46240. Authority sought to operate as a *contract carrier*, by motor vehicles, over irregular routes, transporting: *Electrical components* from Florence and Lexington, KY and Peru, IN to Dallas, Mesquite and Carrollton, TX. Restriction: Restricted to traffic originating at the named origins and destined to the named destinations, under a continuing contract or contracts with Square D Co.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Indianapolis, IN, or Louisville, KY.

No. MC 141804 (Sub-No. 99F), filed February 16, 1978. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 422, Goodlettsville, TN 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: *Floor mats (plastic or rubber), and display parts and accessories*, from Los Angeles and Orange Counties, CA, to points in and east of MN, IA, MO, AR and LA.

NOTE.—Common control may be involved. If a hearing is deemed necessary, the applicant requests that it be held at either Nashville, TN or Los Angeles, CA.

No. MC 142447 (Sub-No. 6), filed January 23, 1978. Applicant: LOUISIANA-PACIFIC TRUCKING CO., a corporation, P.O. Drawer AB, New Waverly, TX 77358. Applicant's representative: Harold R. Ainsworth, 2307 American Bank Building, New Orleans, LA 70130. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Sawdust and shavings*, (1) from the facilities of Louisiana-Pacific Corp., located at Jasper, TX, to the facilities of Louisiana-Pacific Corp., located at Urania, LA; and (2) from the facilities of Louisiana-Pacific Corp., located at Carthage, TX, to the facilities of Louisiana-Pacific Corp., located at Urania, LA, under a continuing contract, or contracts, with Louisiana-Pacific Corp.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Houston, TX.

No. MC 142698 (Sub-No. 1F), filed March 1, 1978. Applicant: B. A. STRICKLAND, 620 Old Highway 99 North, Burlington, WA 98233. Applicant's representative: Henry C. Win-

ters, 235 Evergreen Building, Renton, WA 98055. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper articles*, between the plantsite of Everett Pad & Paper Co., Inc., located at or near Everett, WA, on the one hand, and, on the other, points in AZ, CA, CO, ID, MT, NV, OR, WA, and WY, under a continuing contract or contracts with Everett Pad & Paper Co., Inc.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at either Everett or Seattle, WA.

No. MC 142706 (Sub-No. 2F), filed February 16, 1978. Applicant: EARLY BIRD TRANSFER, INC., 210 Fourth Street, International Falls, MN 56649. Applicant's representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. 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:* (1) From Minneapolis and St. Paul, MN, to Chicago, IL, and Detroit, MI; and (2) from Chicago, IL, to Eau Claire, WI, and Minneapolis, St. Paul, St. Charles, and Mantorville, MN.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Minneapolis-St. Paul, MN, or Chicago, IL.

No. MC 143779 (Sub-No. 1), filed January 29, 1978. Applicant: PAUL MANNING, d.b.a. ATLANTA-FAYETTE MOTOR EXPRESS, 146 Georgia Avenue, Fayetteville, GA 30214. Applicant's representative: Paul Manning, Route 2, Gingercake Road, Fayetteville, GA 30214. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *General commodities* (except commodities in bulk, those requiring special equipment because of size or weight, classes A and B explosives and household goods as defined by the Commission), between Atlanta, GA, (commercial zones) and Woolsey, GA: From Atlanta, GA over Interstate Hwy 75 to junction with GA Hwy 85, then over GA Hwy 85 to Fayetteville, GA, serving as an intermediate point, then over GA Hwy 92 to Woolsey, GA, serving Brooks, GA, as an off-route point, and return over the same route.

NOTE.—If a hearing is deemed necessary, applicant requests that it be held at Atlanta, GA, or Washington, DC.

No. MC 144026, filed January 16, 1978. Applicant: WILLIAMS CARTAGE CO., INC., P.O. Box 897, Hartsville, SC 29550. Applicant's representative: Robert L. McGeorge, 1054 Thirty-first Street NW., Washington, DC 20007. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Prefabricated metal buildings; knocked-down, and component parts thereof; and iron and steel articles*, (1) between Jamestown, OH, and points in OH, MI, IN, KY, TN, NC, SC, GA, FL, AL, MS, LA, VA, WV, MD, DE, PA, NY, NJ, CT, RI, MA, VT, NH, ME, IL, WI, MN, IA, MO, AR, and the ports of entry on the International Boundary Line between the United States and Canada, located at points in MN, MI, NY, VT, NH, and ME, for furtherance into the provinces of ON, PQ, NB, and NS, Canada; and (2) between the facilities of American Buildings Co., located at Jamestown, OH, Atlantic, IA, and Eufaula, AL, under a continuing contract or contracts in (1) and (2) above with American Buildings Co.

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held either in the State of AL, SC, or Washington, DC.

No. MC 144098 (Sub-No. 1F), filed: February 16, 1978. Applicant: METRO TRUCKING CO., INC., 1523 North 9th Street, Milwaukee, WI 53205. Applicant's representative: Joseph T. Bambrick Jr., P.O. Box 216 Douglassville, PA 19518. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Used household goods*, restricted to the transportation of shipments having a prior or subsequent movement, in container, beyond the points authorized and further restricted to the performance of pick up and delivery service in connection with the packaging, crating, and containerization or repacking, uncrating, and decontainerization of such shipments, between points in Milwaukee County, WI, on the one hand, and, on the other, points in WI.

NOTE.—If a hearing is deemed necessary, the applicant requests that it be held at Washington, DC.

No. MC 144145 (Sub-No. 2), filed January 26, 1978. Applicant: GILBERT TRUCK LINES, INC., South Alger Road, Route No. 2, Ithaca, MI 48847. Applicant's representative: James R. Davis, 1018 Michigan National Tower, Lansing, MI 48933. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soybean meal*, in bulk, in hopper-type vehicles, from the facilities of Cargil Inc., located at Chicago, IL, to points in MI on and south of MI Hwy 55.

NOTE.—Common Control may be involved. If a hearing is deemed necessary, applicant requests it be held at either Lansing or Detroit, MI.

No. MC 144293 (Sub-No. 1), filed: December 14, 1977. Applicant: GEORGE McFARLAND, SR., Box 21, Oakland, MN 56076. Applicant's representative: Thomas J. Beener, Waterloo Savings Bank Building, Suite 340 West Park at Cedar, P.O. Box 5000, Waterloo, IA 50704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, articles distributed by meat packing plants and foodstuffs* (except hides and commodities in bulk) from the plantsite of Geo. A. Hormel & Co. at Austin, MN, to Chicago, IL, Fargo, ND, and points in WI restricted to product originating at the named origin and destined to the named points.

NOTE.—If a hearing is deemed necessary the applicant requests it be held at Minneapolis-St. Paul, MN.

No. MC 144311F, filed February 13, 1978. Applicant: FOREST RAY REYNOLDS, 1325 West Heatherbrae, Phoenix, AZ 85013. Applicant's representative: Donald W. Powell, 1833 North Third Street, Phoenix AZ 85004. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from St. Louis, MO, Houston, TX, Los Angeles, CA, and Fairfield, CA, to Phoenix, AZ, under continuing contract or contracts with Hensley & Co., Wholesale.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Phoenix, AZ.

No. MC 144407 (Correction), filed January 3, 1978, published in the FEDERAL REGISTER issue of February 23, 1978, as MC 138882 (Sub-No. 33), and republished, as corrected, this issue. Applicant: DECKER TRANSPORT CO., INC., 412 Route 23, Pompton Plains, NJ 07444. Applicant's representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07834. Authority sought to operate as a *common carrier*, over irregular routes, transporting *Highway marking strip glass and ballotini*, crushed or beaded (except in bulk in tank vehicles), *materials, equipment, and supplies* used in the manufacture and sale of the above named commodities (except in bulk in tank vehicles), between the facilities of Potters Industries Inc., at or near Hawthorne, CA, on the one hand, and, on the other, points in AZ, NV, OR, WA, NM, UT, TX, ND, SD, WY, CO, ID, and MT.

NOTE.—Applicant holds motor contract carrier authority in No. MC 138235, and subs thereunder, therefore dual operations may be involved. If a hearing is deemed necessary, applicant requests it be held at New York, NY, or Washington, DC. The purpose of this correction is to show applicant's docket number as MC 144407.

PASSENGERS

No. MC 143611 (Sub-No. 1F), filed February 16, 1978. Applicant: CALVIN A. REINBOLD, d.b.a. SPORT TOURS, 1402 Liberty Street, Allen-

town, PA 18102. 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: *Passengers and their baggage* in the same vehicle with passengers, limited to the transportation of no more than fourteen (14) passengers in any one vehicle (excluding the driver and nonseated children under 10 years of age), in special and charter operations, between Allentown, Bethlehem, and Easton, PA, and their commercial zones, on the one hand, and on the other, Newark Airport, Newark, NJ, and John F. Kennedy International Airport, Jamaica, NY.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at either Allentown or Philadelphia, PA, or Washington, DC.

No. MC 144237, filed January 26, 1978. Applicant: EUGENE T. FALBO d.b.a. MOUNTAIN VIEW TRAILWAYS, R.D. No. 1, Box 46, Latrobe, PA 15650. Applicant's representative: John A. Pillar, 205 Ross Street, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage*, in the same vehicle, in round-trip special and charter operations, beginning and ending at points in the townships of Unity and Derry and the borough of Latrobe, Westmoreland County, and extending to points in the United States (including AK but excluding HI).

NOTE.—Common control may be involved. If a hearing is deemed necessary, applicant requests that it be held at either Pittsburgh or Greensburg, PA.

No. MC 144307 (Sub-No. 1F), filed February 13, 1978. Applicant: RIVER BUS LINES, INC., P.O. Box 8622, Jackson, MS 39204. Applicant's representative: Don Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, and regular routes, transporting: Route A (regular routes) *Passengers and their baggage and express and newspapers* in the same vehicle with passengers: Between Memphis, TN, and Helena, AR, serving all intermediate points: From Memphis, TN, via Interstate Hwy 40 and/or U.S. Hwy 70 to Lehi, AR, then via U.S. Hwy 79 to Marianna, AR, then via AR Hwy 1 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Helena AR. Route B (irregular routes) *Passengers and their baggage* in one-way and round-trip charter operations: From points on the routes described in Route A above to all points in the United States including AK but (excluding HI), and return.

NOTE.—If a hearing is deemed necessary, applicant requests it be held at Memphis, TN.

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 within 30 days after the date of this Federal Register notice. Such protests shall comply with Special Rules 240(c) or 240(d) of the Commission's General Rules of Practice (49 CFR 1100.240) and shall include a concise statement of protestant's interest in the proceeding. A copy of the protest shall be served concurrently upon applicant's representative, or applicant, if no representative is named.

No. MC-F-12938 (supplemental) (Cooper-Jarrett, Inc.—Purchase (Portion)—Scherer Freight Lines, Inc., Associated Transport, Inc., Thomas J. Cahill, Trustee in Bankruptcy), published in the August 26, 1976 issue of the FEDERAL REGISTER. This supplemental notice reflects the decision of Review Board Number 5, as enumerated in its order served March 8 1978, to permit applicant to amend its application. Under the amended application applicant seeks to operate as a common carrier of general commodities, over regular routes between Chicago, IL, and Milwaukee, WI, from Chicago over IL Hwy 21 to junction U.S. Hwy 45, then over U.S. Hwy 45 to junction Milwaukee County Hwy "A" then over Milwaukee County Hwy "A" to Milwaukee, WI, with restrictions. Service is authorized to and from all intermediate points on the said route.

No. MC-F-13534. Authority sought for purchase by CENTRAL STORAGE & TRANSFER CO. OF HARRISBURG, 3500 Industrial Road, Harrisburg, PA, 17105, of a portion of the operating rights of P.F. McDADE AND SON, INC., 5660 Rising Sun Avenue, Philadelphia, PA, 19120, and for acquisition by A. JOSEPH J. FURJANIC, 301 Brighton Street, Enhaut, PA, of control of such rights through the purchase. Applicants' attorney: Christian V. Graf, Esquire, 407 North Front Street, Harrisburg, PA, 17101. Operating rights sought to be transferred: General commodities, except those of unusual value, classes A and B explosives, livestock, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment, as a common carrier over irregular routes between Philadelphia, PA, on the one hand, and, on the other, points in NJ within 15 miles of Camden, NJ. Application has been filed for temporary authority under section 210a(b).

No. MC-F-13536. Authority sought for purchase by RED BALL MOTOR FREIGHT OF CALIFORNIA, INC., 3177 Irving Boulevard, Dallas, TX 75247, of the operating rights of Rogers Motor Express, P.O. Box 3971, Modesto, CA 95352, and for acquisition by Red Ball Motor Freight, Inc., 3177 Irving Boulevard, Dallas, TX 75247, and RBM Transportation Systems, Inc. and Telecom Corp., both of 2424 Houston Natural Gas Building, 1200 Travis Street, Houston, TX 77002, of control of such rights through the transaction. Applicants' attorneys: Russell R. Sage, Suite 400, Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312, for transferee: George M. Carr, 235 Montgomery Street, San Francisco, CA 94104, for Transferor. Interstate operating rights sought to be transferred: *General commodities*, with exceptions, as a *common carrier* over regular routes (1) between San Francisco, CA, and Roseville, CA: From San Francisco over Interstate Hwy 80 to Roseville, and return over the same route; (2) between Sacramento,CA, and Redlands, CA: From Sacramento over California Hwy 99 to junction Interstate Hwy 5 at or near Wheeler Ridge, CA then over Interstate Hwy 5 to its junction with Interstate Hwy 10, then over Interstate Hwy 10 to Readlands, and return over the same route; (3) between San Francisco,CA, and Placerville,CA: From San Francisco over Interstate Hwy 80 to its junction with Interstate Hwy 580, then over Interstate Hwy 580 to its junction with Interstate Hwy 205, then over Interstate Hwy 205 to its junction with Interstate Hwy 5, then over Interstate Hwy 5 to its junction with CA Hwy 99, then over CA Hwy 99 to its junction with U.S. Hwy 50, then U.S. Hwy 50 to Placerville, and return over the same route; (4) between junction CA Hwy 120 and Interstate Hwy 5 at Mossdale Wye, CA, and junction CA Hwy 120 and 108 at Yosemite Junction, CA: From junction CA Hwy 120 and Interstate Hwy 5 at Mossdale Wye over CA Hwy 120 to junction CA Hwy 120 and 108 at Yosemite Junction, and return over the same route; (5) between Yosemite Junction, CA, and Dardanelle, CA: From Yosemite Junction over CA Hwy 108 to Dardanelle, and return over the same route; (6) between Fairfield,CA and Clements, CA: From Fairfield over CA Hwy 12 to Clements, and return over the same route; (7) between Clements, CA and Jackson, CA: From Clements over California Hwy 88 to Jackson, and return over the same route; (8) between junction CA Hwy 4 and Interstate Hwy 80 near Pinole over CA Hwy 4 to Stockton, and return over the same route; (9) between junction CA Hwy 33 and Interstate Hwy 205 near Tracy, CA, and Maricopa, CA: From junction CA Hwy

33 and Interstate Hwy 205 over CA Hwy 33 to Maricopa, and return over the same route; (10) between the CA-OR State line near Pelican Beach, CA, and San Ysidro, CA: From the CA-OR State line over U.S. Hwy 101 to its junction with Interstate Hwy 5 at Los Angeles, then over Interstate Hwy 5 to San Ysidro, CA, and return over the same route; (11) between junction CA Hwy 1 and U.S. Hwy 101 near Oxnard, CA, and junction U.S. Hwy 101 and Interstate Hwy 5 near Capistrano Beach, CA: From junction CA Hwy 1 and U.S. Hwy 101 near Oxnard over CA Hwy 11 to junction with Interstate Hwy 5 near Capistrano Beach, and return over the same route; (12) between Roseville, CA, and Yuba City, CA: From Roseville over CA Hwy 65 to CA Hwy 20, then over CA Hwy 20 to Yuba City, and return over the same route; (13) between Ignacio, CA, and Vallejo, CA: From Ignacio over CA Hwy 37 to Vallejo, and return over the same route; (14) between Marysville,CA, and Oroville, CA: From Marysville over CA Hwy 70 to Oroville, and return over the same route; (15) between Riverside,CA, and San Diego, CA: From Riverside over U.S. Hwy 395 to San Diego, and return over the same route; (16) between Gilroy, CA, and Califa, CA: From Gilroy over CA Hwy 152 to Califa, and return over the same route; and (17) between Oakland, CA, and San Jose, CA: From Oakland over CA Hwy 17 to San Jose, and return over the same route. Service is authorized at all intermediate points on the foregoing routes, and at all off-route points located within 25 miles of said routes. Restrictions: (a) No local service shall be provided between the San Francisco commercial zone, on the one hand, and, on the other, points in Marin, Sonoma, or Napa Counties located north of San Rafael, CA: (b) No service shall be provided locally between points in the Los Angeles commercial zone; and (c) service between points authorized to be served under routes (1)-(17) above, on the one hand, and, on the other, points in the Los Angeles commercial zone, is limited to the interchange of shipments with other carriers at points in the Los Angeles commercial zone. Red Ball Motor Freight of California, Inc., holds no authority from this Commission. However, it is controlled through stock ownership by Red Ball Motor Freight Inc. Red Ball Motor Freight, Inc. is authorized to operate as a common carrier in the State of AL, AZ, AR, CA, CO, FL, OK, TN, and TX. Application has been filed for temporary authority under section 210a(b).

NOTE.—MC 2229 (Sub-No. 201) F is a directly related matter.

No. MC-F-13537. Authority sought for purchase by TELFER TANK LINES, INC., End of Foster Street, P.O. Box 709, Martinez, CA 94553, of a portion of the operating rights and property of Allyn Transportation Co., 14011 South Central Avenue, Los Angeles, CA 90052, and for acquisition by John W. Telfer and Asilee E. Telfer all of End of Foster Street, P.O. Box 709, Martinez, CA 94553, of control of such rights and property through the purchase. Applicants' attorneys: R. Y. Schureman, Russell, Schureman & Hancock, 1545 Wilshire Boulevard, Los Angeles, CA 90017; Daniel W. Baker, Handler, Baker & Greene, P.C., 100 Pine Street, Suite 2550, San Francisco, CA 94111. Operating rights sought to be purchased: *Liquid asphalt and road oils, in tank vehicles, and petroleum fuel oils, in mixed loads,* from points in Clark County, NV, to points in Washington, Kane, Garfield, Iron, Beaver, and Piute Counties, UT; *fuel oil, in bulk, in tank vehicles,* from points in Los Angeles and Kern Counties, CA, to generating facilities at or near Phoenix, Glendale, Tempe, Red Rock, Casa Grande, Tucson, Chandler, and Yuma, AZ; *asphalt and asphalt products,* from points in Los Angeles County, CA, to points in Dona Ana County, NM; *liquid asphalt, asphaltic emulsions, and road oils, in bulk, in tank vehicles, and petroleum fuel oil when transported in mixed loads with liquid asphalt, asphaltic emulsions or road oils, in bulk, in tank vehicles,* from points in Sacramento and Contra Costa Counties, CA, to points in NV; *asphalt, emulsions, and road oils,* from points in Los Angeles County, CA, to points in Grant, Cation, Sierra, Luma, and Hidalgo Counties, NM; *road oils, and liquid asphalts,* in bulk, in tank vehicles, between points in AZ, points in CA located in and south of Ventura, Los Angeles, and San Bernardino Counties, CA, and points in that part of NV located on and south of U.S. Hwy 6; *petroleum road oils and asphaltic emulsions,* in bulk, in tank vehicles, between points in NV and from points in Modoc, Lassen, Plumas, Sierra, Nevada, Placer, Eldorado, Alpine, and Mono Counties, CA, to points in NV. Vendee is authorized to operate as a *common carrier* in CA, AZ, NV, and OR. 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 within 30 days of this notice. All pleadings and documents must clearly specify the "F" suffix where the docket is so identified in this notice. Protests shall comply with Special Rule 247(e) 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 684 (Sub-No. 3F), filed March 6, 1978. Applicant: GREENMOUNT STORAGE WAREHOUSE, INC., 2604 Greenmount Avenue, Baltimore, MD 21218. Applicant's representative: Thomas R. Kingsley, 1819 H Street NW., Washington, DC 20006. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Household goods,* as defined by the Commission, (1) Between Washington, DC, except points in the commercial zone within Montgomery County, MD, on the one hand, and, on the other, points in CT, DE, NC, RI, SC, and DC; (2) between points in MD (except Indian Head and points in MD within 5 miles thereof) and VA; (3) between points in MD (except Indian Head and points in MD within 5 miles of Indian Head), DE, points in VA on and north of Interstate 64 from Virginia Beach to VA-WV State line, then points in WV on the north of Interstate 64 to junction U.S. Hwy 250, then points in WV on or north of U.S. Hwy 250 to junction U.S. Hwy 219, then points in WV on and east of U.S. Hwy 219 to PA State line, then points in PA on and east of U.S. Hwy 219 to junction Interstate 76, then points in PA on and south of Interstate 76 to junction U.S. Hwy 220, then points in PA on and east of U.S. Hwy 220, to junction Interstate 80 then points in PA on and south of Interstate 80 to the PA-NJ State line, then points in NJ on and south of Interstate 80 to NJ-NY State line and junction Interstate 95, then points in NY on, south and east of Interstate 95 to junction Interstate 295, then points in NY on, south and east of Interstate 295 to Long Island Sound; (4) between points in above paragraph 3, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, NC, OH, PA, RI, SC, WV, and DC.

NOTE.—This is a gateway elimination application, and is a matter directly related to

a transfer proceeding in No. MC-F—C77540, published in the FEDERAL REGISTER issue of March 9, 1978. If a hearing is deemed necessary, applicant requests it be held at Baltimore, MD, or Washington, DC.

No. MC 2229 (Sub-No. 201F), filed March 8, 1978. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 75247. Applicant's representative: Russell R. Sage, Suite 400, Overlook Building, 6121 Lincolnia Road, P.O. Box 11278, Alexandria, VA 22312. 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), (1) between San Francisco, CA, and Roseville, CA: From San Francisco over Interstate Hwy 80 to Roseville, and return over the same route; (2) between Sacramento, CA, and Redlands, CA: From Sacramento over CA Hwy 99 to junction with Interstate Hwy 5 at or near Wheeler Ridge, CA, then over Interstate Hwy 5 to its junction with Interstate Hwy 10, then over Interstate Hwy 10 to Redlands, and return over the same route; (3) between San Francisco, CA, and Placerville, CA: From San Francisco over Interstate Hwy 80 to its junction with Interstate Hwy 580, then over Interstate Hwy 580 to its junction with Interstate Hwy 205, then over Interstate Hwy 205 to its junction with Interstate Hwy 5, then over Interstate Hwy 5 to its junction with CA Hwy 99, then over CA Hwy 99 to its junction with U.S. Hwy 50, then over U.S. Hwy 50 to Placerville, and return over the same route; (4) between junction CA Hwy 120 and Interstate Hwy 5 at Mossdale Wye, CA, and junction CA Hwys 120 and 108 at Yosemite Junction, CA: From junction CA Hwy 120 and Interstate Hwy 5 at Mossdale Wye over CA Hwy 120 to junction CA Hwys 120 and 108 at Yosemite Junction, and return over the same route; (5) between Yosemite Junction, CA, and Dardanelle, CA: From Yosemite Junction over CA Hwy 108 to Dardanelle, and return over the same route; (6) between Fairfield, CA, and Clements, CA: From Fairfield over CA Hwy 12 to Clements, and return over the same route; (7) between Clements, CA, and Jackson, CA: From Clements over CA Hwy 88 to Jackson, and return over the same route; (8) between junction CA Hwy 4 and Interstate Hwy 80 near Pinole, CA, and Stockton, CA: From junction CA Hwy 4 and Interstate Hwy 80 near Pinole over CA Hwy 4 to Stockton, and return over the same route; (9) between junction CA Hwy 33 and Interstate Hwy 205 near Tracy, CA, and Maricopa, CA: From junction CA Hwy 33 and Interstate Hwy 205 over CA Hwy 33 to Maricopa, and return over the same route; (10) between the CA-OR State Line near Pelican Beach, CA, and San Ysidro, CA: From the CA-OR State Line over U.S. Hwy 101 to its junction with Interstate Hwy 5 at Los Angeles, then over Interstate Hwy 5 to San Ysidro, CA, and return over the same route; (11) between junction CA Hwy 1 and U.S. Hwy 101 near Oxnard, CA, and junction of U.S. Hwy 101 and Interstate Hwy 5 near Capistrano Beach, CA: From junction CA Hwy 1 and U.S. Hwy 101 near Oxnard over CA Hwy 1 to junction with Interstate Hwy 5 near Capistrano Beach, and return over the same route; (12) between Roseville, CA, and Yuba City, CA; From Roseville over CA Hwy 65 to CA Hwy 20, then over CA Hwy 20 to Yuba City, and return over the same route; (13) between Ignacio, CA, and Vallejo, CA: From Ignacio over CA Hwy 37 to Vallejo, and return over the same route; (14) between Marysville, CA, and Oroville, CA: From Marysville over CA Hwy 70 to Oroville, and return over the same route; (15) between Riverside, CA, and San Diego, CA: From Riverside over U.S. Hwy 395 to San Diego, and return over the same route; (16) between Gilroy, CA, and Califa, CA: From Gilroy over CA Hwy 152 to Califa, and return over the same route; and (17) between Oakland, CA, and San Jose, CA: From Oakland over CA Hwy 17 to San Jose, and return over the same route. Service is authorized at all intermediate points on the foregoing routes, and at all off-route points located within 25 miles of said routes. Restrictions: (a) No local service shall be provided between the San Francisco commercial zone, on the one hand, and, on the other, points in Marin, Sonoma, or Napa Counties located north of San Rafael, CA; (b) no service shall be provided locally between points in the Los Angeles commercial zone; and (c) service between points authorized to be served under routes (1)–(17) above, on the one hand, and, on the other, points in the Los Angeles commercial zone, is limited to the interchange of shipments with other carriers at points in the Los Angeles commercial zone.

NOTE.—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 a section 5(2) proceeding in MC-F-13536, published in a previous section of this FEDERAL REGISTER issue. Common control may be involved. If a hearing is deemed necessary, applicant requests is be held at San Francisco, CA, or Modesto, CA.

No. MC 110683 (Sub-No. 128F), filed March 9, 1978. Applicant: SMITH'S TRANSFER CORP., P.O. Box 1000, Staunton, VA 24401. Applicant's representative: Francis W. McInerny, 1000 Sixteenth Street NW., Washington, DC 20036. 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 Boston, MA, and Manchester, NH, from Boston over Interstate Hwy 93 to Manchester, NH, and return over the same route, serving all intermediate points and all points in NH as off-route points; (2) between Portland, ME, and Manchester, NH, as an alternate route for operating convenience only, from Portland, ME, over Interstate Hwy 95 to Portsmouth, NH, then over NH Hwy 101 to Manchester, NH, and return over the same route serving no intermediate points; (3) between Hartford, CT, and Manchester, NH, from Hartford, CT, over Interstate Hwy 86 to the intersection of Interstate Hwy 90 immediately north of Sturbridge, MA; then over Interstate Hwy 90 to its intersection with Interstate Hwy 495; then over Interstate Hwy 495 to its intersection with U.S. Hwy 3 at or near Lowell, MA, then over U.S. Hwy 3 to Manchester, NH, and return over the same route serving all intermediate points and serving all points in NH as off-route points.

NOTE.—If a hearing is deemed necessary, applicants request that it be held at Washington, DC and/or Boston, MA. This application was consolidated with MC-F-13314, Consolidated Freightways Corp. of Delaware—Purchase (Portion)—M & M Transportation Co.; MC-F-13333, Smith's Transfer Corp.—Purchase (Portion)—Nelson Freightways, Inc., and MC 42487 (Sub-No. 873—F), Consolidated Freightways Corp. of Delaware, for record-handling purposes by order of Administrative Law Judge, David H. Allard, dated March 6, 1978, and all four proceedings have been scheduled for a continued pretrial conference before Administrative Law Judge Allard on April 21, 1978, at 9:30 a.m. at the offices of the Interstate Commerce Commission, Washington, DC. Applicant states the purpose of this application is to convert irregular routes to regular routes.

MOTOR CARRIER INTERSTATE 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.

CA Docket No. A. 57875, filed February 17, 1978. Applicant: DI SALVO TRUCKING CO., 660 Masiposa Street, San Francisco, CA 94107. Applicant's representative: Thomas M. Loughran, 100 Bush Street, 21st Floor, San Francisco, CA 94104. Certificate of public convenience and necessity sought to operate a freight service, as follows: Transportation of *general commodities* (with the exceptions noted below), from to and between points and places located on State Hwy 29 between Napa and Calistoga, and points within 5 miles of said highway, inclusive. Except that pursuant to the authority herein granted carrier shall not transport any shipments of: (1) Used household goods, personal effects and office, store, and institution furniture, fixtures, and equipment not packed in salemen's hand sample cases, suitcases, overnight or boston bags, brief cases, hat boxes, valises, traveling bags, trunks, lift vans, barrels, boxes, cartons, crates, cases, baskets, pails, kits, tubs, drums, bags (jute, cotton, burlap, or gunny), or bundles (completely wrapped in jute, cotton, burlap, gunny, fibreboard, or straw matting); (2) automobiles, trucks, and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses, and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis; (3) livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine, or wethers; (4) liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers, or a combination of such highway vehicles; (5) commodities when transported in bulk in dump trucks or in hopper-type trucks; (6) commodities when transported in motor vehicles equipped for mechanical mixing in transit; (7) fruits or vegetables, fresh or greens (not cold pack or frozen). Intrastate, interstate and foreign commerce authority sought. Hearing: Date, time, and place not yet fixed. Requests for procedural information should be addressed to California Public Utilities Commission, California State Building, 350 McAllister Street, San Francisco, CA 94102, and should not be directed to the Interstate Commerce Commission.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-7573 Filed 3-22-78; 8:45 am]

[7035-01]

[Notice No. 617]

ASSIGNMENT OF HEARINGS

MARCH 20, 1978.

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 141511 (Sub-No. 1), Robert W. Rettig, d.b.a. Protein Express, is assigned for hearing April 13, 1978, at Chicago, IL, and will be held at Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 110988 (Sub-No. 346), Schneider Truck Lines, Inc., is assigned for hearing April 12, 1978, at Chicago, IL, and will be held at Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 110420 (Sub-No. 771), Quality Carriers, Inc., and MC 124078 (Sub-No. 726) Schwerman Trucking Co., and MC 111594 (Sub-No. 77), CW Transport, Inc., is assigned for hearing April 11, 1978, at Chicago, IL, and will be held at Room 1319 Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 143508, Ashborne Transportation Co., is assigned for hearing April 10, 1978, at Philadelphia, PA, and will be held at Courtroom No. 8, New U.S. Courthouse, 601 Market Street.

AB 10 (Sub-No. 6), Wabash Railroad Co. and Norfolk & Western Railway Co. abandonment between Fairbury and Clay in Livingston County, IL, is assigned for hearing April 17, 1978, and will be held at City Hall Council Chambers, 321 North Main Street, Pontiac, IL.

MC 19311 (Sub-No. 34), Central Transport, Inc., now assigned April 3, 1978, at Chicago, IL, is postponed to May 8, 1978 (2 weeks), at Chicago, IL, at a location to be later designated.

MC 531 (Sub-No. 351), Younger Brothers, Inc., now assigned April 12, 1978, at Chicago, IL, is postponed indefinitely.

MC 139495 (Sub-No. 263), National Carriers, Inc., now assigned April 11, 1978, at Chicago, IL, will be held in Room 2502, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 128270 (Sub-No. 23), Rediehs Interstate, Inc., now assigned April 17, 1978, at Chicago, IL, will be held in Room 3855A, 230 South Dearborn Street.

MC 114273 (Sub-No. 305), CRST, Inc., is now assigned for hearing April 14, 1978 (1 day), at Chicago, IL, and will be held in Room 2502, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 114457 (Sub-No. 327), Dart Transit Co., is now assigned for hearing April 13, 1978 (1 day), at Chicago, IL, and will be held in Room 2502, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 107496 (Sub-No. 1106), Ruan Transport Corp., is now assigned for hearing April 12, 1978 (1 day), at Chicago, IL, and will be held in Room 2502, Everett McKinley Dirksen Building, 219 South Dearborn Street.

MC 8600 (Sub-No. 35), Werner Continental, Inc., now assigned May 2, 1978, at Chicago, IL, is cancelled transferred to modified procedure.

AB 12 (Sub-No. 53), Southern Pacific Transportation Co., abandonment Bonita Junction and Seagoville in Nacogdoches, Rusk, Cherokee, Anderson Henderson, Kaufman, and Dallas Counties, TX, now being assigned for continued hearing on the 24th day of April 1978 (2 weeks), at the Sheraton Inn, 2843 West Northwest Loop 323, Tyler, TX.

MC 125433 (Sub-No. 114), F-B Truck Line Co., is assigned for hearing April 25, 1978, at Los Angeles, CA, and will be held at Courtroom 323, Federal Building and Courthouse, 312 Spring Street.

FF 56 (Sub-No. 7), Superior Fast Freight, is assigned for hearing, May 1, 1978, at Los Angeles, CA, and will be held at Courtroom, 323 Federal Building and Courthouse, 312 North Spring Street.

MC 143477, Arcadian Motor Carriers, is assigned for hearing April 27, 1978, at Los Angeles, CA, and will be held at Courtroom 323 Federal Building and Courthouse, 312 North Spring Street.

MC 109397 (Sub-No. 371), Tri-State Motor Transit Co., Inc., is assigned for hearing April 26, 1978, at Los Angeles, CA, and will be held at Courtroom, 323 Federal Building and Courthouse, 312 North Spring Street.

MC 134922 (Sub-No. 236), B. J. McAdams, Inc., is assigned for hearing April 17, 1978, at Philadelphia, PA, and will be held at U.S. Customs Court, Room-3d floor, U.S. Customs House Building.

MC 124692 (Sub-No. 188), Sammons Trucking, and MC 114211 (Sub-No. 340), Warren Transport, Inc., are now assigned for hearing July 18, 1978, at the offices of the Interstate Commerce Commission, Washington, D.C.

MC 143507, Ace Transportation Co., Inc., is assigned for hearing April 18, 1978, at Philadelphia, PA, and will be held at U.S. Customs Courtroom-3d floor, U.S. Customs House Building.

MC 119619 (Sub-No. 114), Distributors Service Co., is assigned for hearing April 21, 1978, at Philadelphia, PA, and will be held at U.S. Customs Courtroom-3d floor, U.S. Customs House Building.

MC 113784 (Sub-No. 55), Laidlaw Transport Ltd, now being assigned for continued hearing May 22, 1978, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 116915 (Sub-No. 33), Eck Miller Transportation Corp., now assigned April 10, 1978, at Dallas, TX, will be held in Room 5B-43, Federal Building, 1100 Commerce Street.

MC 119988 (Sub-No. 127), Great Western Trucking Co., Inc., now assigned April 12, 1978, at Dallas, TX, will be held in Room 5B-43, Federal Building, 1100 Commerce Street.

MC 120761 (Sub-No. 31), Newman Bros. Trucking Co., now assigned April 13, 1978, at Dallas, TX, will be held in Room 5B-43, Federal Building, 1100 Commerce Street.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-7743 Filed 3-22-78; 8:45 am]

[7035-01]

[Ex Parte No. MC-43]

LEASE AND INTERCHANGE OF VEHICLES BY MOTOR CARRIERS

Order

Ligon Specialized Hauler, Inc. (MC 119777), Lumber Transport, Inc. (MC 109462 and numerous subs), Cherokee Hauling & Rigging, Inc. (MC 127834 and numerous subs), Virginia Hauling, Inc. (MC 13806 and numerous subs), and Horne Heavy Hauling, Inc. (MC 35045 and numerous subs), all under common control, have filed a petition for waiver of paragraphs (a)(3) and (c) of section 1057.4 of the Lease and Interchange of Vehicles Regulations (49 CFR 1057).

We find: 1. That petitioners have an effective jointly administered safety program.

2. That petitioners will be able to more efficiently operate if permitted to trip lease.

3. That petitioners request for relief beyond that already provided by paragraph (c) is not warranted.

It is ordered:

1. That waiver of paragraph (a)(3) is granted, provided petitioners remain in compliance with the motor carrier safety regulations of the U.S. Department of Transportation and under common control.

2. That waiver of paragraph (c) is denied.

Decided March 8, 1978.

By the Commission, Motor Carrier Leasing Board, Board Members Burns, Turkington, and Sibbald. Board Member Turkington did not participate.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-7744 Filed 3-22-78; 8:45 am]

[7035-01]

[Notice No. 34TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

MARCH 14, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the FEDERAL REGISTER publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the FEDERAL REGISTER. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, DC, and also in the ICC Field Office to which protests are to be transmitted.

MOTOR CARRIERS OF PROPERTY

No. MC 340 (Sub-No. 47TA), filed February 27, 1978. Applicant: QUERNER TRUCK LINES, INC., 1131 Austin Street, San Antonio, TX 78208. Applicant's representative: J. L. Querner (same address as applicant). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Foodstuffs,* in mechanically refrigerated equipment (except commodities in bulk, in tank vehicles), from the facilities of Kraft, Inc., at Garland, TX, to points in LA, MS and TN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Kraft, Inc., 500 Peshtigo Court, Chicago, IL 60690. Send protests to: Richard H. Dawkins, District Supervisor, Interstate Commerce Commission, Room B-400, Federal Building, 727 East Durango Boulevard, San Antonio, TX 78206.

No. MC 7156 (Sub-No. 8TA), filed February 9, 1978. Applicant: WILLIAMS TRANSFER CO., P.O. Box 706, 2995 Prairie Road, Eugene, OR 97401. Applicant's representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Used household goods,* between points in Lane County, OR. Restriction: The service is restricted to the transportation of traffic having a prior or subsequent movement, in containers, beyond the points authorized and further restricted to the performance of pickup and delivery service in connection with packing, crating, and containerization or unpacking, uncrating, and decontainerization of such traffic, for 180 days. Supporting shipper(s): Based Procurement Office, Department of the Air Force, Kingsley Field, OR 97601. Send protests to: A. E. Odoms, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 114 Pioneer Courthouse, 555 Southwest Yamhill Street, Portland, OR 97204.

No. MC 41406 (Sub-No. 64TA), filed February 27, 1978. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, P.O. Box 2176, Hammond, IN 46323. Applicant's representative: E. Stephen Heisley, 666 11th Street NW., No. 805, Washington, DC 20001. 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 facilities of Bethlehem Steel Corp., at Sparrows Point, MD, to points in NY, NJ, and PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bethlehem Steel Corp., W. R. Cunningham, Assistant, General Transportation Manager, Bethlehem, PA 18016. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 52704 (Sub-No. 162TA), filed February 6, 1978. Applicant: GLENN McCLENDON TRUCKING CO., INC., P.O. Drawer H, Opelika Hwy, Lafayette, AL 36862. Applicant's representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic containers,* restricted to movement in special 45 foot swing-door trailers with rear door opening and inside height of 110¾ inches, between the facilities of Sewell Plastics, Inc., located at or near Atlanta, GA, Arlington, TX, Charlotte, NC, Collierville, TN, Havre de Grace, MD, Hollywood, FL, Kansas City, KS, Jackson, MS, Orlando, FL, and Reserve, LA, and from the facilities of Sewell Plastics, Inc., to points in AL, AR, FL, GA, KY, LA, MS, MO, NC, OK, SC, TN, TX, VA, WV, and DC, (2) *plastic preforms or plastic base cups for plastic containers,* from the facilities of Sewell Plastics, Inc., located at or near Atlanta, GA, the facilities of Coats & Clark, Inc., at or near Seneca, SC, and the facilities of Southeastern Kusan,

Inc., at or near Greenville, SC, to the facilities of Sewell Plastics, Inc., located at or near Atlanta, GA, Arlington, TX, Charlotte, NC, Collierville, TN, Havre de Grace, MD, Hollywood, FL, Kansas City, KS, Jackson, MS, Orlando, FL, and Reserve, LA, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of plastic containers or parts therefor (except commodities in bulk), from points in the destination States named in (1) above, to the facilities of Sewell Plastics, Inc., located at or near Atlanta, GA, Arlington, TX, Charlotte, NC, Collierville, TN, Havre de Grace, MD, Hollywood, FL, Kansas City, KS, Jackson, MS, Orlando, FL, and Reserve, LA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sewell Plastics, Inc., 5111 Phillip Lee Drive, Atlanta, GA 30336. Send protests to: Mabel E. Holston, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, Room 1616-2121 Building, Birmingham, AL 35203.

No. MC 58035 (Sub-No. 15TA), filed in December 30, 1977. Applicant: Trans-Western Express, Ltd., 48 East 56th Avenue, Denver, CO 30216. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings*, knocked down or in sections, and related component parts, accessories and fixtures therefore; (2) such materials, equipment and supplies as are used in the erection, completion and maintenance of prefabricated metal buildings. From the plantsite of Marathon Metallic Building Co., at or near Fort Collins, CO, to points in WY, points in that portion of SD on and west of a line beginning at the ND State line, then south over U.S. Hwy 83 to junction U.S. Hwy 16, then over U.S. Hwy 16 to junction U.S. Hwy 183, and then over U.S. Hwy 183 to the NE State line, and to points in those portions of NE and KS on and west of U.S. Hwy 183, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Marathon Metallic Building Co., P.O. Box 14240, 4601 Holmes Road, Houston, TX, 77021. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th St., 492 U.S. Customs House, Denver, CO 80202.

No. MC 94265 (Sub-No. 262 TA), filed February 21, 1978. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305, Route 460 West, Windsor, VA 23487. Applicant's representative: Clyde W. Carver, Suite 212, Roswell Road, NE., Atlanta, GA 30342. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, meat by-products* as described in section A of appendix I to the report in Descriptions in Motor Carrier Certificates, 61 MCC 209 and 766, (except hides and commodities in bulk, in tank vehicles), from the plantsite and storage facilities of Land O'Frost, Inc., located at Searcy, AR, to all points in VA, for 180 days. Supporting shipper(s): Daniel Perry Traffic Manager, Land O'Frost, Inc., 16850 Chicago Avenue, Lansing, IL 60438. Send protests to: Paul D. Collins District Supervisor, Bureau of Operations, Room 10-502 Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 105813 (Sub-No. 233TA), filed February 22, 1978. Applicant: BELFORD TRUCKING CO., INC., P.O. Box 2009, 1759 SW 12th Street, Ocala, FL 32670. Applicant's representative: Arnold L. Burke, 180 North LaSalle Street, Chicago, IL 60601. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen fruits and vegetables*, from Jacksonville, FL, to Tampa, FL, restricted to traffic having an immediately prior movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southland Frozen Foods, Inc., 1 Linden Place, Great Neck, NY 11021. Send protests to: G. H. Fauss, Jr., District Supervisor, Bureau of Operations, Interstate Commerce Commission, Box 35008, 400 West Bay Street, Jacksonville, FL 32202.

No. MC 102616 (Sub-No. 940TA), filed February 13, 1978. Applicant: COASTAL TANK LINES, INC., P.O. Box 5555, 230 North Cleveland-Massillon Road, Akron, OH 44313. Applicant's representative: David F. McAllister, 250 North Cleveland-Massillon Road, Akron, OH 44313. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing compounds, herbicides*, in bulk, from the plantsite and storage facilities utilized by Shell Chemical Co., a division of Shell Oil Co., at or near El Paso, IL, to the States of CO, GA, FL, IN, IA, KS, KY, MN, MO, NE, NY, NC, OH, PA, TX and WI, for 180 days. Supporting shipper(s): Shell Oil Co., Two Shell Plaza, P.O. Box 2099, Houston, TX 77001. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Office Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 106398 (Sub-No. 795TA), filed February 27, 1978. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, P.O. Box 3329, Tulsa, OK 74103. Applicant's representative: Irvin Tull, 525 South Main, Tulsa, OK 74103. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products*, (except in bulk), from the facilities of The Dow Chemical Co., at or near Midland, MI; Magnolia, AR; and Pevely, MO, to points in the United States, on and east of U.S. Hwy 85, for 180 days. Supporting shipper(s): Dow Chemical U.S.A., P.O. Box 36000, Strongville, OH 44136. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW 3rd, Oklahoma City, OK 73102.

No. MC 110420 (Sub-No. 775TA), filed February 8, 1978. Applicant: QUALITY CARRIERS, INC., P.O. Box 186, Pleasant Prairie, WI 53158. Applicant's representative: Joseph K. Reber, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Weed killing compound, herbicides*, in bulk, from the plantsite and storage facilities utilized by Shell Chemical Co., a division of Shell Oil Co., at or near El Paso, IL, to points in CO, GA, FL, IN, IA, KS, KY, MN, MO, NE, NY, NC, OH, PA, TX and WI, for 180 days. Supporting shipper: Shell Chemical Co., Two Shell Plaza, P.O. Box 2099, Houston, TX 77001 (R. E. Bolstad). Send protests to: John E. Hyden, District Supervisor, Interstate Commerce Commission, Bureau of Operations, U.S. Federal Building and Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

No. MC 111375 (Sub-No. 90TA), filed February 27, 1978. Applicant: PIRKLE REFRIGERATED FREIGHT LINES, INC., P.O. Box 3358, Madison, WI 53704. Applicant's representative: Charles E. Dye, P.O. Box 3358, Madison, WI 53704. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared pizza, pizza components and ingredients, advertising materials, specialties and related equipment and supplies*, from Santa Ana and Los Angeles, CA, and their commercial zones to points in IL, IA, MI, MN, OH and WI, for 180 days. Supporting shipper: Sebatasso's Pizza, Inc, 240 East Dyer Road, Santa Ana, CA 92707. Send protests to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 112822 (Sub-No. 449TA), filed February 16, 1978. Applicant: BRAY LINES INCORPORATED, 1401 North Little Street, P.O. Box 1191, Cushing, OK 74023. Applicant's representative: Charles D. Midkiff,

1401 North Little Street, Cushing, OK 74023. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Confectioneries* from the facilities of Switzer Candy Co., at or near St. Louis, MO, to Phoenix, AZ; Cabazan, El Segundo, Fremont, Hayward, Los Angeles, and Sunnyvale, CA; Denver, CO; Pocatello, ID; Kansas City, KS; Lincoln and Omaha, NE; Portland, OR; Salt Lake City, UT; and Seattle and Spokane, WA; for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Switzer Candy Co., Division of Beatrice Foods Co., 1600 North Broadway, St. Louis, MO 63102. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Court House Building, 215 NW. 3rd, Oklahoma City, OK 73102.

No. MC 118288 (Sub-No. 49TA), filed February 27, 1978. Applicant: FROST TRUCK LINES, INC., 3040 Glendale Boulevard, Los Angeles, CA 90039. Applicant's representative: Stephen F. Frost, P.O. Box 39639, Los Angeles, CA 90039. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* (except commodities in bulk, in tank vehicles, classes A and B explosives and household goods), when moving on the bills of freight forwarders, from Los Angeles, CA, to Seattle, Tacoma, Bellingham, Everett, Yakima, Pasco, and Spokane, WA, Medford, Salem, Eugene, and Portland, OR, and Boise, ID, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Superior Fast Freight, 611 North Mission Road, Los Angeles, CA 90033. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 119619 (Sub-No. 122TA), filed March 1, 1978. Applicant: DISTRIBUTORS SERVICE CO., 2000 West 43d Street, Chicago, IL 60609. Applicant's representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy, confectionery, gum, and dessert preparations*, in straight or mixed shipments, from plantsite of Leaf Confectionery at Chicago, IL, to Baltimore, MD, Boston, MA, Buffalo, Syracuse, and New York, NY, Pittsburgh and Philadelphia, PA, Washington, DC, including their commercial zones, thereof as defined by the Commission, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Leaf Confectionery, Inc., 1155 North Cicero Avenue, Chicago, IL 60651. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 129 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 123389 (Sub-No. 41TA), filed February 15, 1978. Applicant: CROUSE CARTAGE CO., P.O. Box 586, Hwy 30 West, Carroll, IA 51401. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. 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 plantsites of and facilities utilized by Farmland Foods, Inc., at or near Crete, Lincoln, and Omaha, NE, and Carroll, Denison, Des Moines, Fort Dodge, Sioux City, and Iowa Falls, IA, to points in KY, TN, NC, SC, MS, AL, GA, LA, and FL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dean Wilson, Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 124896 (Sub-No. 46TA), filed February 27, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Applicant's representative: B. H. Williamson, 1107 Brookside Drive, Wilson, NC 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum and petroleum products*, for Quaker State Oil Refining Corp., from Congo and St. Mary's, WV, to the states of AL, GA, NC, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker State Oil Refining Corp., P.O. Box 989, Oil City, PA 16301. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 124896 (Sub-No. 47TA), filed February 27, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Applicant's representative: B. H. Williamson, 1107 Brookside Drive, Wilson, NC 27893. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* (except hides and commodities in bulk), for Geo. A. Hormel & Co., from Ottumwa, IA, to points in NC, SC, and VA, for 180 days. Applicant has also filed and underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Geo. A. Hormel & Co., P.O. Box 800, Austin, MN 55912. Send protests to: Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 127608 (Sub-No. 5TA), filed February 27, 1978. Applicant: B-BROS. CARTAGE, INC., P.O. Box 21, 1020 West 129th Place, Blue Island, IL 60406. Applicant's representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Aluminum articles* (except in bulk), from the facilities of Reynolds Metals Co. at McCook, IL, to points in MI, OH, IN and KY, under a continuing contract, or contracts, with Reynolds Metals Co., for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Reynolds Metals Co., Ralph H. Bell, General Manager, Transportation, P.O. Box 27003, Richmond, VA 23261. Send protests to: Patricia A. Roscoe, Transportation Assistant, Interstate Commerce Commission, Everett McKinley Dirksen Building, 219 South Dearborn Street, Room 1386, Chicago, IL 60604.

No. MC 128527 (Sub-No. 102TA), filed February 8, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pipe hangers, steel pipe, fabricated, and accessories and fittings thereto*, from the facilities of Huico, Inc., at or near Meridian, IN, to points in the United States (including AK, but excluding HI), for 180 days. Applicant does not intend to tack or interline authority. Supporting shipper(s): Huico, Inc., P.O. Box 208, Meridian, IN 83642. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706

No. MC 128527 (Sub-No. 103TA), filed February 10, 1978. Applicant: MAY TRUCKING CO., P.O. Box 398, Payette, ID 83661. Applicant's representative: Timothy R. Stivers, P.O. Box 162, Boise, ID 83701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular

routes, transporting: *Salt*, in bags, from the facilities of the Great Salt Lake Minerals & Chemicals Corp., at or near Ogden (Little Mountain), UT, and the facilities of Utah Salt Co., at or near Wendover, UT, to Boise and Gooding, IN, Billings and Dillon, MT, and Riverton and Torrington, WY, and points in their Commercial Zones, for 180 days. Applicant does not intend to tack or interline authority. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Southwest Hide Co., P.O. Box 7553, Boise, ID 83707. Send protests to: Barney L. Hardin, District Supervisor, Interstate Commerce Commission, Suite 110, 1471 Shoreline Drive, Boise, ID 83706.

No. MC 134064 (Sub-No. 9TA), filed February 22, 1978. Applicant: INTERSTATE TRANSPORT, INC., 1820 Atlanta Hwy, Gainesville, GA 30501. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Petroleum products, in containers, oil filters, and vehicle body sealer and sound deadener compound* (except in bulk), from the facilities utilized by Quaker State Oil Refining Corp., at or near St. Marys and Congo, WV, to points in AL, FL, GA, and SC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker State Oil Refining Corp., Box 989, Oil City, PA 16301. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 134467 (Sub-No. 28TA), filed February 27, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Prepared flour mixes and frosting mixes* (except in bulk), from the plantsite and storage facilities utilized by Chelsea Milling Co., at or near Chelsea, MI, to points in AZ, CA, OR, UT, and WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Chelsea Milling Co., Chelsea, MI 48118. Send protests to: William H. Land, Jr., District Supervisor, 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 136711 (Sub-No. 33TA), filed February 27, 1978. Applicant: McCORKLE TRUCK LINE, INC., P.O. Box 95181, 2840 South High Street, Oklahoma City, OK 73109. Applicant's representative: G. Timothy Armstrong, 6161 North May Avenue, Oklahoma City, OK 73112. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Coal* (except in bulk, in dump vehicles), from the facilities of Russell Creek Coal Co., at or near Welch, OK, to the City of Springfield Water, Light & Power Co., at Springfield, IL, for 180 days. Supporting shipper(s): Russell Creek Coal Co., P.O. Box 418, Welch, OK 74369. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3d, Oklahoma City, OK 73102.

No. MC 138328 (Sub-No. 57TA), filed February 14, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRIZES, I-80 and Highway 50, P.O. Box 37308, Omaha, NE 58137. Applicant's representative: Donna Ehrlich (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plastic materials and plastic articles* (except plastic pipe, except commodities in bulk, in tank vehicles, and except "size and weight" commodities), from points in TX and LA, to points in AL, AR, CA, CT, DE, DC, FL, GA, IL, IN, IA, KS, KY, MD, MA, MI, MN, MS, MO, NE, NJ, NY, NC, OH, OR, PA, RI, SC, TN, VA, WA, WV, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): (1) Joseph Misa, Traffic Manager, Polymer Materials, Inc., 100 Adams Boulevard, Farmingdale, NY 11735; (2) Edward Nassbegg, President Pleschem International, Inc., 5 Beechwood Court, Dix Hills, NY 11746; (3) Goldmark Plastic Compounds, Inc., Kenneth Gross, Secretary-Treasurer, Nassau Terminal Road, New Hyde Park, NY 11040. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 139638 (Sub-No. 3TA), filed February 22, 1978. Applicant: N. L. MONTGOMERY, INC., Route 1, Box 37-A, Wirtz, VA 24184. Applicant's representative: W. T. Jones, Route 1, Box 372, Rocky Mount, VA 24151. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lumber*, from Barbour, Braxton, Greenbrier, Logan, Nicholas, Pocahontas, Raleigh, Randolph, Tucker, Wayne and Webster Counties, WV, to Caldwell, Catawba, Cumberland, Cleveland, Davidson, Guilford, Forsyth, Macon, New Haven, and Yadkin Counties, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): W. M. Cramer Lumber Co., P.O. Box 2888, Hickory, NC 28601. Send protests to: Irene W. Yost, Secretary, Interstate Commerce Commission, Bureau of Operations, P.O. Box 210, Roanoke, VA 24011.

No. MC 140024 (Sub-No. 86TA), filed February 8, 1978. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Applicant's representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Alcoholic beverages*, from a point on the U.S. Canadian boundary at or near Champlain, NY, to Denver, CO, and its commercial zone, restricted to transportation of shipments moving in foreign commerce, for 180 days. Carrier will interline. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Howco, Inc., 3525 Stapleton Drive, Box 38371, Denver, CO 80238. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 492 U.S. Customshouse, 721 19th Street, Denver, CO 80202.

No. MC 140615 (Sub-No. 23TA), filed February 9, 1978. Applicant: DAIRYLAND TRANSPORT, INC., P.O. Box 1116, Wisconsin Rapids, WI 54494. Applicant's representative: Dennis C. Brown, P.O. Box 1116, Wisconsin Rapids, WI 54494. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Byproducts of cheese unfit for human comsumption*, from Hainesport, NJ, to Chicago and Kankakee, IL; Lafayette and Terre Haute, IN; Los Angeles and Vernon, CA; Zanesville, OH; St. Paul, MN; Meadville, PA, and Rochester, NY, for 180 days. Supporting shipper(s): Emco Division, Brooke Bond Foods, Inc., P.O. Box 285, Hainesport, NJ 08036. Send protest to: Ronald A. Morken, District Supervisor, Interstate Commerce Commission, 139 West Wilson Street, Room 202, Madison, WI 53703.

No. MC 140677 (Sub-No. 19TA), filed February 15, 1978. Applicant: JOHN T. BREWER, JOHN R. BREWER AND LEWIS L. BREWER, d.b.a. BREWER TRUCKING, 1603 East Tallent, Rapid City, SD 57701. Applicant's representative: J. Maurice Andren, 1734 Sheridan Lake Road, Rapid City, SD 57701. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and accessories* used in the installation thereof, (except commodities in bulk, in tank vehicles and plastic pipe and fittings used in or in connection with the discovery, development, distribu-

tion of natural gas and petroleum and their products and byproducts), from the facilities of Cresline Plastic Pipe Co., Inc., at Council Bluffs, IA, to points in the United States, (except AK and HI); (2) *materials, supplies, and accessories* used in the manufacture and distribution of plastic pipe, plastic fittings, and accessories used in the installation thereof, (except commodities in bulk, in tank vehicles), from all points in the United States, (except AK and HI), to the facilities of Crestline Plastic Pipe Co., Inc., at Council Bluffs, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Cresline Plastic Pipe Co., Inc., 955 Diamond Avenue East, Evansville, IN 47717. (John C. Van Hoy, Distribution Manager.) Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC 141740 (Sub-No. 4TA), filed February 21, 1978. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. 46012. Applicant's representative: Donald W. Smith, Suite 945, 900 Keystone Crossing, Indianapolis, IN. 46204. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Electrical components*, from Florence and Lexington, KY, and Peru, IN, to Dallas, Mesquite, Carrollton, TX, restricted to traffic originating at and destined to the named origins and destinations and to service, under a continuing contract, or contracts, with Square D Co., for 180 days. Supporting shipper(s): Square D Co., 7375 Empire Drive, FLorence, KY 41042. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 141921 (Sub-No. 11TA), filed February 9, 1978. Applicant: SAV-ON TRANSPORTATION, INC., 143 Frontage Road, Manchester, NH 03101. Applicant's representative: John A. Sykas (same address as applicant). Authority sought to operate as a *common 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, skins, and commodities, in bulk), from Sioux City, IA, to points in CT, FL, GA, ME, MA, NH, NY, PA and RI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Sioux Land Beef Processors, Inc., 1826 Chicago Avenue, P.O. Box 2371, Sioux City, IA 51107 (James Boddiker, Traffic Manager). Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Louden Road, Concord, NH 03301.

No. MC 143957TA (third correction), filed November 10, 1977, published in the FEDERAL REGISTER issue of February 6, 1978, republished in the FEDERAL REGISTER issue of March 3, 1978, and republished as corrected in this issue. Applicant: ILLINI EXPRESS, INC., P.O. Box 1564, Sioux City, IA 51102. Applicant's representative: Charles M. Williams, Kimball and Williams, 350 Capitol Life Center, Denver, CO 80203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, as amended, transporting: *Chemicals, acids, solvents, and edible oils*, except in bulk, part (A) from: (1) The facilities of Hawkins Chemical Co. and Exxon Chemical Corp., at or near Minneapolis, MN; (2) The facilities of F.M.C. Corp., at or near Lawrence, KS; (3) Chicago, IL and points in its commercial zone; (4) The facilities of Olin Chemical Co., at or near Joliet, IL; (5) The facilities of Sanford Chemical Co., at or near Elk Grove Village, IL; (6) The facilities of Velsicol Chemical Co. and James Varley & Son Co., at or near St. Louis, MI; (7) The facilities of BASF Wyandotte Chemical Corp., and Penwalt Corp., at or near Wyandotte, MI; (8) The facilities of Ozark-Mahoning Co., at or near Tulsa, OK; (9) The facilities of Floridin Co., at or near Berkeley Springs, WV, and Quincy, FL; (10) The facilities of Ash Grove Chemical Co., at or near Springfield, MO; (11) The facilities of Lien Chemical Co., at or near Rapid City, SD; (12) The facilities of Burris Chemical Co., at or near Charleston, SC; (13) The facilities of Barnebey Cheney, at or near Columbus, OH; (14) The facilities of Cities Service Co., at or near Copperhill, TN; (15) The facilities of Ft. Recovery Industries, at or near Ft. Recovery, OH; (16) The facilities of Great Lakes Chemical Corp., at or near West Lafayette, IN; (17) The facilities of Keyes Fiber Co., at or near Hammond, IN; (18) The facilities of Marathon Morco Co., at or near Dickinson, TX; (19) The facilities of Mazer Chemical, at or near Gurnee, IL; (20) The facilities of Quality Chemical Co., at or near Baltimore, MD; (21) The facilities of Stauffer Chemical Co., at or near Greenriver, WY; (22) The facilities of West Vaco Chemical Division, at or near Covington, VA; (23) The facilities of Lowe's Inc., at or near Oran, MO; (24) The facilities of P.P.G. Industries, at or near Barberton, OH and Natrium, WV; (25) The facilities of Diamond Shamrock Chemical Co., at or near Painesville, OH; (26) The facilities of Allied Chemical Co., at or near North Claymont, DE, Richmond, VA, and Wilmington, DE; (27) The facilities of E. I. DuPont, at or near Memphis, TN; (28) The facilities of Dow Chemical Co., at or near Midland, MI; to the plantsite and storage facilities utilized by Warren-Douglas Chemical Co. at or near Sioux City, IA and Omaha, NE. Restricted, only as to traffic from IL and IN, to shipments moving in mixed loads with traffic moving from origins other than those in IL or IN. Part (B) From: The facilities of Warren-Douglas Chemical Co. at or near Omaha, NE and Sioux City, IA: to points in OK, TX, NM, and Phoenix, AZ, and points in its commercial zone. Restrictions: (1) Restricted to transportation service under a continuing contract or contracts with Warren-Douglas Chemical Co.; (2) restricted to transportation in vehicles equipped with mechanical refrigeration devices.

No. MC 144321TA, filed February 13, 1978. Applicant: R & R CONTRACT HAULERS, INC., 1423 Duke Street, West Columbia, SC 29169. Applicant's representative: Harry S. Dent, P.O. Box 528, Columbia, SC 29202. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer, beer containers and beer-related products*, from Detroit, MI, and Louisville, KY on the one hand, and, on the other, to Winston-Salem, Greensboro, Asheville and Salisbury, NC, and Spartanburg and Rock Hill, SC, for 180 days. Supporting shipper(s): There are approximately (5) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 144308TA, filed February 13, 1978. Applicant: BRIAN HENDERSON, d.b.a. FASTWAY FREIGHT LINES, P.O. Box 4251, Spartanburg, SC 29303. Applicant's representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street NW., Washington, DC 20036. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wearing apparel*, (2) *General commodities*, restricted to traffic having an immediate prior or subsequent movement by air, between Atlanta, GA; Charlotte, NC, and Oconee, Pickens, Greenville, Spartanburg, Anderson, Cherokee, and York Counties, SC, on the one hand, and, on the other, Washington, DC; Baltimore, MD; Philadelphia, PA; Cleveland, Columbus and Cincinnati, OH; NJ and NY,

for 180 days. Supporting shipper(s): There are approximately (15) statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, DC, or copies thereof which may be examined at the field office named below. Send protests to: E. E. Strotheid, District Supervisor, Interstate Commerce Commission, Room 302, 1400 Building, 1400 Pickens Street, Columbia, SC 29201.

No. MC 144324TA, filed February 13, 1978. Applicant: AUTOBUS LATERRIERE, INC., 4543 bld Talbot, Chicoutimi, Quebec. Applicant's representative: Guy Poliquin, barrister, 580 Grande Allee East, Suite 140, Quebec, Quebec. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Passengers and their baggage* in same vehicle in round-trip, charter and special operations beginning and ending at ports of entry on the International Boundary Lines between the United States and Canada located in ME, NH, VT, NY and MI, and extending to points in all of the United States (except AK and HI), restricted to the transportation of passengers beginning and ending at Laterriere, Chicoutimi, Jonquiere and Alma, Quebec, for 180 days. Supporting shipper(s): Les Boyages Saguenay Inc., 283 St-Dominique Street, Jonquiere, Quebec. Send protests to: Ross J. Seymour, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Room 3, 6 Louden Road, Concord, NH 03301.

By the Commission.

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

[FR Doc. 78-7745 Filed 3-22-78; 8:45 am]

[7035-01]

[Notice No. 35TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

March 13, 1978.

The following are notices of filing of applications for temporary authority under section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 13900 (Sub-No. 29TA), filed February 13, 1978. Applicant: MIDWEST HAULERS, INC., 228 Superior Street, Toledo, OH 43604. Applicant's representative: Leslie A. Peters, 4027 South Wells Street, Chicago, IL 60609. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *General commodities* which are at the time moving on bills of lading of freight forwarders, between Washington and Kansas City, MO; and points in their respective commercial zones on the one hand, and on the other, Salt Lake City, UT; Reno and Las Vegas, NV; Sacramento, San Francisco, Oakland, San Jose, Fresno, Los Angeles, and San Diego, CA; Phoenix and Tuscon, AZ; St. Louis, MO; and points within their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Universal Carloading & Distributing Co., Inc., 345 Hudson Street, New York, NY 10014; Acme Fast Freight, Inc., 2355 New Hyde Park Road, New Hyde Park, NY 11040; Inter State Express, Inc., 56-25 56th Terrace, Maspeth, NY 11378. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 20010 (Sub-No. 184TA), filed January 23, 1978. Applicant: ARKANSAS-BEST FREIGHT SYSTEM, INC., 301 South 11th Street, Fort Smith, AR 72901. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. 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 the facilities of Beird Poulan located at Marshall, TX, as an off-route point in connection with applicant's authorized regular route operations at Shreveport, LA (ABF's authority to serve Shreveport, LA, is found at page 3, lines 64-68, and page 4, lines 31-34, of its operating authority, attached hereto), for 180 days. Supporting shipper: Beaird Poulan, P.O. Box 9329, Shreveport, LA 71109. Send protests to: District Supervisor, Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 58035 (Sub 15TA), filed December 30, 1977. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Avenue, Denver, CO 30216. Applicant's representative: Edward T. Lyons, Jr., 1600 Lincoln Center Building, Denver, CO 80264. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Prefabricated metal buildings*, knocked down or in sections, and related component parts, accessories, and fixtures therefore; and (2) *such materials, equipment and supplies* as are used in the erection, completion, and maintenance of prefabricated metal buildings, from the plantsite of Marathon Metallic Building Co., at or near Fort Collins, CO, to points in WY, points in that portion of SD on and west of line beginning at the ND State line, then south over U.S. Hwy 83 to junction U.S. Hwy 16, then over U.S. Hwy 16 to junction U.S. Hwy 183, and then over U.S. Hwy 183 to the NE State line, and to points in those portions of NE and KS on and west of U.S. Hwy 183. Supporting shipper: Marathon Metallic Building Co., P.O. Box 14240, 4601 Holmes Road, Houston, TX 77021. Send protests to: Roger L. Buchanan, District Supervisor, Interstate Commerce Commission, 721 19th Street, 492 U.S. Customs House, Denver, CO 80202.

No. MC 105045 (Sub 80TA), filed February 13, 1978. Applicant: R. L. JEFFRIES TRUCKING CO., INC., 1020 Pennsylvania Street, P.O. Box 3277, Evansville, IN 47708. Applicant's representative: Robert P. Cline, 1020 Pennsylvania Street, P.O. Box 3277, Evansville, IN 47708. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and accessories* used in the installation thereof (except commodities in bulk, in tank vehicles, and plastic pipe and fittings used in or in connection with the discovery, development, distribution of natural gas and petroleum and their products and byproducts), (2) *materials, supplies, and accessories* used in the installa-

tion thereof (except commodities in bulk, tank vehicles), from the facilities of Cresline Plastic Pipe Co., Inc., at Council Bluffs, IA, to all points in the United States (except AK and HA) to the facilities of Cresline Plastic Co., Inc., at Council Bluffs, IA, from all points in the United States (except AK and HA), for 180 days. Supporting shipper: Cresline Plastic Pipe Co., Inc., 955 Diamond Avenue East, Evansville, IN 47717. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 105886 (Sub-No. 28TA), filed February 27, 1978. Applicant: MARTIN TRUCKING, INC., East Poland Avenue, P.O. Box 67, Bessemer, PA 16112. Applicant's representative: Henry M. Wick Jr., Esq., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Brick*, from facilities of Powell & Minnock Brick Works, Inc., at or near Coeymans, NY, to points in Allegheny, Beaver, Butler, Fayette, Washington, and Westmoreland Counties, PA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Powell & Minnock Brick Works, Inc., 300 West Washington Street, Chicago, IL 60608. Send protests to: John J. England, District Supervisor, Interstate Commerce Commission, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222.

No. MC 109124 (Sub-No. 42TA), filed February 28, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Applicant's representative: James M. Burtch, Attorney-at-Law, 100 East Broad Street, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Pallets*, from Teft, IN, to Oregan, OH. Applicant has also filed an underlying ETA seeking up to 90 days of authority. Supporting shipper: Globe Industries, Inc., 2638 East 12th Street, Chicago, IL 60633. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 110563 (Sub-No. 218TA), filed February 28, 1978. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 North, Sidney, OH 45365. Applicant's representative: Victor J. Tambascia (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper and paper products and pulpboard*, from Franklin, VA, to points in the States of IL, IN, KY, MI, OH, and WI. Supporting shipper: Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, ICC, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 110659 (Sub-No. 24TA), filed February 28, 1978. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia Street West, P.O. Box 6743, Charleston, WV 25302. Applicant's representative: John M. Freidman, 2930 Putman Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and beer*, in containers, and used empty containers on return from the plantsites of the Miller Brewing Co. at Eden, NC, to Huntington, Mabscott, and Williamson, WV. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Paul R. Hall, President, Atomic Distributing Co., 417 2d Avenue, Huntington, WV 25701. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 110659 (Sub-No. 25TA), filed February 28, 1978. Applicant: COMMERCIAL CARRIERS, INC., 975 Virginia Street West, P.O. Box 6743, Charleston, WV 25302. Applicant's representative: John M. Freidman, 2930 Putman Avenue, Hurricane, WV 25526. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and beer* in containers, and used empty containers on return, from the plantsite of the Miller Brewing Co. at Eden NC, to Charleston, WV. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority, Supporting shipper: James Mazzei, President, Capitol Beverage Co., 500 Hunt Avenue, Charleston, WV 25302. Send protests to: Miss Frances A. Ciccarello, Secretary, Interstate Commerce Commission, 3108 Federal Office Building, 500 Quarrier Street, Charleston, WV 25301.

No. MC 114632 (Sub-No. 150TA), filed February 27, 1978. Applicant: APPLE LINES, INC., 212 Southwest Second Street, P.O. Box 287, Madison, SD 57024. Applicant's representative: Michael L. Carter (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Irrigation systems and pipe, and parts and accessories* of irrigation systems, from Elk Point, SD, to points in AL, AR, CO, GA, IL, IN, IA, KS, KY, LA, MI, MN, MO, SD, TN, TX, MI, NE, NM, and ND, (2) *materials, parts and supplies* used in the manufacture, assembly, and distribution of irrigation systems and pipe from points named in (1) above to Elk Point, SD. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Terra Chemical International, Inc., 4th Jackson, Sioux City, IA 51101, Robert A. Stone, Traffic Manager. Send protests to: J. L. Hammond, District Supervisor, Interstate Commerce Commission, Bureau of Operations, Room 455, Federal Building, Pierre, SD 57501.

No. MC (Sub-No. 115496), filed February 10, 1978. Applicant: LUMBER TRANSPORT, INC., P.O. Box 111, Hwy 23 South, Cochran, GA 31014. Applicant's representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials* used in the installation and application of such commodities (except commodities in bulk), from Franklin, OH, to points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV; and, (2) *Materials, equipment, and supplies* used in the manufacture, installation or application of roofing or building materials (except commodities in bulk) from points in AL, FL, GA, KY, MS, NC, SC, TN, VA, and WV to Franklin, OH, for 180 days. Supporting shipper: Georgia-Pacific Corp., 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 117815 (Sub-No. 280TA), filed March 1, 1978. Applicant: PULLEY FREIGHT LINES, INC., 405 Southeast 20th Street, Des Moines, IA 50317. Applicant's representative: Dewey Marselle, (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Frozen foods* (except in bulk) from the facilities of General Foods Corp., located in points in MN to points in AR, IL, IN, IA, KS, LA, MI, MO, NE, ND, OH, OK, SD, TX, and WI. Restricted to traffic originating at the plantsites and storage facilities of General Foods Corp. and destined to the named destination States. Supporting shipper: General Foods Corp., 250 North Street, White Plains, NY. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 117940 (Sub-No. 260TA), filed February 8, 1978. Applicant: NATIONWIDE CARRIERS, INC., P.O. Box 104, Maple Plain, MN 55359. Applicant's representative: Allen L. Timmerman, 5300 Hwy 12, Maple Plain, MN 55359. Authority sought to oper-

ate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Foodstuffs*, (except commodities in bulk), (1) from Toledo, OH, to points in the commerical zones of Bridgeport, CT; Mechanicsburg, PA; Chattanooga, TN; Galesburg and Chicago, IL; and Buffalo, NY; and (2) from Buffalo, NY, and points in the Chicago, IL, commerical zone to Toledo, OH, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: General Mills, Inc., P.O. Box 1113, Minneapolis, MN 55440. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 124679 (Sub-No. 89TA), filed February 28, 1978. Applicant: C. R. ENGLAND & SONS, INC., 975 West 2100 South Street, Salt Lake City, UT 84119. Applicant's representative: Daniel E. England (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Smoked meats*, from the plantsite and storage facilities of A & R Meats, Inc., at Salt Lake City, UT to Denver, CO. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): A & R Meats, Inc., 3585 South Fourth West, Salt Lake City, UT 84115, George E. Young, salesman. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 125708 (Sub-No. 144TA), filed February 28, 1978. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 West 152nd Street, East Chicago, IN 46312. Applicant's representative: Thomas P. Cullen, 109 Velma, South Roxana, IL 62087. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Steel, pipe, bars, and wire mesh*, from Andrews, SC, to points in the United States in and east of ND, SD, NE, KS, OK, and TX. Restricted to traffic originating at the factilities of the Parker Steel Co. located at Andrews, SC. Supporting shipper(s): Parker Steel Co., 4293 Monroe Street, Toledo, OH 43606. Send protests to: Beverly J. Williams, Transportation Assistant, Interstate Commerce Commission, Federal Building and U.S. Courthouse, 46 East Ohio Street, Room 429, Indianapolis, IN 46204.

No. MC 126045 (Sub-No. 21TA), filed February 10, 1978. Applicant: ALTER TRUCKING AND TERMINAL CORP., P.O. Box 3122, Davenport, IA 52808. Applicant's representative: Kenneth F. Dudley, 611 Church Street, P.O. Box 279, Otumwa, IA 52501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Tractors* (except truck tractors), *agricultural machinery and implements, grain bins and parts and attachments* for the above-described commodities from Davenport, IA, to points in IL, IN, IA, KY, OH, and WI. Restricted to traffic originating at the plantsite of Long Manufacturing Co. located at or near Davenport, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Long Mfg. NC, Inc., 3863 River Drive, Davenport, IA 52801. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 127579 (Sub-No. 6TA), filed February 9, 1978. Applicant: HAULMARK TRANSFER, INC., P.O. Box 343, Cockeysville, MD 21030. Applicant's representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Paper*, from the facilities of Union Camp Corp. at Franklin, VA, to points in NJ and DE and points in MD, PA, and WV on and east of Interstate Hwy 81 and Washington, DC, for 170 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): William F. Worrell, Manager, Traffic Analysis, Union Camp Corp., 1600 Valley Road, Wayne, NJ 07470. Send protests to: William L. Hughes, District Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 128940 (Sub-No. 33TA), filed February 18, 1978. applicant: RICHARD A. CRAWFORD, d.b.a. R. A. CRAWFORD TRUCKING SERVICE, P.O. Box 722, 9327 Riggs Road Adelphi, MD 20783. Applicant's representative: Edward N. Button, P.O. box 1417, 1329 Pennsylvania Avenue, Hagerstown, MD 217040. Authority sought to operate as a *contract carrier*, by motor vehicle over irregular routes, transporting: *Candy, and confectionery items and dessert preparations* requiring temperature controlled vehicles, from Chicago, IL, and its commercial zone to Baltimore, MD, Washington, DC, Philadelphia, PA, New York, NY, Pittsburgh, PA, and Richmond, Va, and their respective commercial zones, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of authority. Supporting shipper(s): Leaf Confectionery, Inc., 1155 North Cicero Avenue, Chicago, IL 60651. Send protests to: Interstate Commerce Commission, Room 1413, District Supervisor W.C. Hersman, 12th and Constitution Avenue NW., Washington, D.C. 20423.

No. MC 133189 (Sub-No. 13TA), filed February 7, 1978. Applicant: VANT TRANSFER, INC., 5075 Northeast Mulcare Drive, Minneapolis, MN 55421. Applicant's representative: John B. Van de North, Jr., c/o Briggs & Morgan, 2200 First National Bank Building, St. Paul, MN 55101. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Metal culverts*, set up or knocked down, and parts used in the installation thereof; *steel piling, steel posts, and steel fencing slats*, all in straight or mixed loads (1) from Shakopee and Bemidji, MN, to points in WI, ND, SD, IA, and NE; and (2) From Des Moines and Sioux City, IA, to Shakopee and Bemidji, MN, for 180 days. Supporting shipper(s): Wheeler Division/St. Regis Paper Co.—Northern, Culvert Operations, P.O. Box 160, 1100 Hoak Drive, West Des Moines, IA 50265. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

No. MC 134467 (Sub 27TA), filed February 16, 1978. Applicant: POLAR EXPRESS, INC., P.O. Box 845, Springdale, AR 72764. Applicant's representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, CO 80203. Authority sought to operate as a *common carrier*, by motor vehicle, over *irregular routes*, transporting: *Petroleum products*, in containers, *oil filters*, and *vehicle body sealer* and *sound deadener compound* (except in bulk), from the facilities utilized by Quaker State Oil Refining Corp. at or near St. Marys, and Congo, WV, to points in AR, OK, and TX, for 180 days. Applicant has filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Quaker State Oil Refining Corp., Box 989, Oil City, PA 16301. Send protests to: District Supervisor William H. Land, Jr., 3108 Federal Office Building, 700 West Capitol, Little Rock, AR 72201.

No. MC 135385 (Sub-No. 4TA), filed January 27, 1978. Applicant: J. C. BANGERTER & SONS, INC., 1265 North Main Street, Bountiful, UT 84010. Applicant's representative: Zar E. Hayes, 310 South Main Street, No. 1200, Salt Lake City, UT 84101. Authority sought to operate as a *common carrier*, by motor vehicle, over regular routes, transporting: *Such merchandise as is dealt in by wholesale, retail and chain grocers*, for the accounts of Smith's Management Corp. and its division, Intermountain Souvalls, from the warehouses of Smith Management

Corp. and Intermountain Souvalls at Layton and Salt Lake City, Utah, respectively, to Albuquerque, NM, via U.S. Highways I-80 to Springville, Utah; then via 6-50 to junction with I-70; then via I-70 to junction with 163 near Crescent Junction, Utah; then via 163-166 to Gallup, NM and then via I-40 to Albuquerque, NM; with an alternate route from the same points to Albuquerque via U.S. Highways I-80 to Springville, Utah: then via 6-50 to junction with I-70; then via I-70 to Grand Junction, CO; then via 550 to Farmington, NM; then via 64 to Shiprock, NM; then via 666 to Gallup, NM; then via I-40 to Albuerque, NM, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Smith's Management Corp., 1544 South Redwood Road, Salt Lake City, Utah 84104, (Wesley R. Snow, President). Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State St., Salt Lake City, Utah 84138.

No. MC 135874 Sub 101TA, filed February 27, 1978. Applicant: LTL PERISHABLES, INC., 550 East 5th St. South, South St. Paul, MN 55075. Applicant's representative: Randy Busse, same as above. Authority sought to operate as a *common carrier,* by motor vehicle, over *irregular routes,* transporting: *Frozen foods* (except commodities in bulk) from points in MN to points in the states of AR, IL, IN, IA, KS, LA, MI, WI, MO, NE, ND, OH, OK, SD, and TX, for 180 days. Supporting shipper(s): General Foods Corp., 250 North Street, White Plains, NY. Send protests to: Delores A. Poe, Transportation Assistant, Interstate Commerce Commission, Bureau of Operations, 414 Federal Building and U.S. Court House, 110 South 4th St., Minneapolis, MN 55401.

No. MC 138328 (Sub-No. 56TA), filed February 14, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: (1) *Plastic pipe, plastic pipe fittings, and accessories* used in the installation thereof (except commodities in bulk, in tank vehicles, and plastic pipe, and fittings, used in or in connection with the discovery, development, distribution of natural gas and petroleum and their products and byproducts) from the facilities of Cresline Plastic Pipe Co., Inc. at Council Bluffs, IA to points in the United States (except AK and HI); and (2) *Materials, supplies, and accessories* used in the manufacture and distribution of plastic pipe, plastic fittings, and accessories used in the installation thereof (except commodities in bulk, in tank vehicles) from all points in the United States (except AK and HI) to the facilities of Cresline Plastic Pipe Co., Inc., at Council Bluffs, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: John C. Van Hoy, Distribution Manager, Cresline Plastic Pipe Co., Inc., 955 Diamond Avenue East, Evansville, IN 47717. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

No. MC 138328 (Sub-No. 58TA), filed February 14, 1978. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I-80 and Hwy 50, P.O. Box 37308, Omaha, NE 68137. Applicant's representative: Donna Ehrlich (same as above). Authority sought to operate as a *common carrier,* by motor vehicle, over irregular routes, transporting: *Calcium propionate, sodium diacetate* (except commodities in bulk), from Verona, MO to Phoenix, AZ; Fayetteville, and Rogers, AR; Birmingham, AL; San Francisco, CA; Denver, CO; Indianapolis, IN; Sioux City, IA; Chicago, and Downers Grove, IL; Baltimore, MD; Minneapolis, MN; North Bergen, NJ; Brooklyn, NY; Philadelphia, Downington, and Harrisburg, PA; Memphis, TN; Aiken, SC; Dallas, TX; and Seattle, WA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Evelyn Higgins, Director of Marketing, Federated Mills, Inc., 110 Kennedy Drive, Smithtown, NY 11787. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th St., Omaha, NE 68102.

No. MC 141597 (Sub-No. 5TA), filed February 28, 1978. Applicant: RIVERSIDE TRUCK LINES, INC., 919 4th Ave., South, Denison, IA 51442. Applicant's representative: James M. Hodge, 1980 Financial Center, Des Moines, IA 51442. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Meat, meat products, and 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 Certifications, 61 MCC 209 and 766 (except hides and commodities in bulk). From the facilities of Farmland Foods Inc., located at or near Denison, Carrolm, and Iowa Falls, IA and Crete, NE to points in CT, DE, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. Restrictions: Restricted to the transportation of traffic originating at the above-named origins and destined to the above-named destination States. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Dean Wilson, Traffic Manager, Farmland Foods, Inc., P.O. Box 403, Dension, IA 51442. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 141618 (Sub-No. 4TA), filed February 27, 1978. Applicant: DAVID C. BURNS d.b.a. DAVID C. BURNS TRUCKING, 1146 East Main Street, Casa Grande, AZ 85222. Applicant's representative: Donald E. Fernaays, Suite 320, 4040 East McDowell Road, Phoenix, AZ 85008, 602-275-3124. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Insulation,* in packages having an immediate prior movement by water, and moving in shipper's own trailers when requested. From Los Angeles Harbor, CA to the facilities of Bell Housing components at or near Sun City, AZ, under a continuing contract or contracts with Bell Housing Components, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): Bell Housing Components, P.O. Box 1705, Sun City, AZ 85372. Send protests to: Andrew V. Vaylor, District Supervisor, Interstate Commerce Commission, Room 2020, Federal Building, 230 North First Avenue, Phoenix, AZ 85025.

No. MC 143378 (Sub-No. 5TA), filed February 28, 1978. Applicant: WESTERN PROVISIONERS, INC., P.O. Box 15861, Salt Lake City, UT 84115. Applicant's representative: Chester A. Zyblut, 1030 15th Street NW., Washington, DC 20005. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Skis, poles, and accessories,* (a) between Williston, VT and Clearfield, UT, (b) from Clearfield, UT to points in CA, OR, WA, and CO. Supporting shipper(s): Rossignol Ski Co., Building Y-15, Freeport Center, Clearfield, UT, Michael G. Larkin, Western Sales Manager. Send protests to: District Supervisor, Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State street, Salt Lake City, UT 84138.

No. MC 144136 (Sub-No. 1TA), filed January 4, 1978. Applicant: STOVER LINES, INC., 5636 Northwest 17th Street, Topeka, KS 66618. Applicant's representative: Clyde N. Christey, 514 Capitol Federal Building, 700 Kansas Avenue, Topeka, KS 66603. Authority sought to operate as a *contact carrier,* by motor vehicle, over regular routes, transporting: *General commodities*

(except commodities in bulk and class A and class B explosives), restricted however, to traffic having an immediately prior or subsequent movement by air, (1) between Forbes Industrial Park at or near Topeka, KS, and Will Rogers World Airport at or near Oklahoma City, OK, serving the Wichita Municipal Airport at or near Wichita, KS, as an intermediate point. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to the KS Turnpike; then south and west over KS Turnpike to U.S. Interstate Hwy No. 35; then south over U.S. Interstate Hwy No. 35 to its intersection with U.S. Hwy No. 54; then west over U.S. Hwy No. 54 to the Wichita Municipal Airport; then return over U.S. Hwy No. 54 to U.S. Interstate Hwy No. 35; then southerly over U.S. Interstate Hwy No. 35 to U.S. Hwy No. 62; then west over said U.S. Hwy 62 to Will Rogers World Airport and return over the same routes. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to the KS Turnpike; then southwesterly over the KS Turnpike to its intersection with U.S. Hwy No. 50; then westerly over U.S. Hwy No. 50 to its intersection with U.S. Interstate Hwy No. 35 West; then southerly over U.S. Interstate Hwy No. 35 West to its intersection with U.S. Hwy No. 54; then westerly over said U.S. Hwy No. 54 to Wichita Municipal Airport and return over the same route as an alternate route for the operating convenience of the carrier only. (2) Between Forbes Industrial Air Park at or near Topeka, KS, and the Will Rogers World Airport at or near Oklahoma City, OK, serving the Tulsa, OK International Airport at or near Tulsa, OK as an intermediate point. From Forbes Industrial Air Park southerly over U.S. Hwy 75 to OK State Hwy No. 11; then easterly over said OK State Hwy No. 11 to Tusla International Airport; then westerly over OK State Hwy No. 11 to its intersection with U.S. Hwy No. 75; then west over U.S. Interstate Hwy No. 75 to its intersection with U.S. Interstate Hwy No. 244; then southwesterly over said U.S. Interstate Hwy No. 244 to U.S. Interstate Hwy No. 44; then southwesterly over U.S. Interstate Hwy No. 44 to U.S. Interstate Hwy No. 35; then southerly over U.S. Interstate Hwy No. 35 to U.S. Hwy No. 62; then westerly over U.S. Hwy No. 62 to the Will Rogers World Airport and return over the same route. (3) Between Forbes Industrial Air Park at or near Topeka, KS and the Des Moines Municipal Airport at or near Des Moines, IA, serving the Kansas City International Airport at or near Kansas City, MO as an intermediate point. From Forbes Industrial Air Park at or near Topeka, KS northerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then easterly over U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 635; then northerly over U.S. Interstate Hwy No. 635 to U.S. Interstate Hwy No. 29; then northerly over U.S. Interstate Hwy No. 29 to the Kansa City International Airport; then easterly over MO State Hwy No. 291 to U.S. Interstate Hwy No. 35; then northerly over U.S. Interstate Hwy No. 35 over to Army Post Road; then east over Army Post Road to the Des Moines Municipal Airport and return over the same route. From Forbes Industrial Air Park at or near Topeka, KS northerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then easterly over said U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 35; then northerly over U.S. Interstate Hwy No. 35 to Army Post Road; then east over said Army Post Road to the Des Moines Municipal Airport and return over the same route for the operating convenience of the carrier only.

(4) Between Forbes Industrial Air Park at or near Topeaka, KS and the des Moines Municipal Airport at or near Des Moines, IA, serving the Eppley Field at or near Omaha, NE, as an intermediate point. From Forbes Industrial Air Park northerly over U.S. Hwy No. 75 to NE state Hwy No. 165; then northeasterly over NE State Hwy 165 to Eppley field; then southwesterly over NE State Hwy No. 165 to U.S. Hwy No. 75; then southerly over U.S. Hwy 75 to U.S. Interstate Hwy No. 80; then easterly over said U.S. Interstate Hwy No. 80 to U.S. Interstate Hwy No. 35; then south over U.S. Interstate Hwy No. 35 to Army Post Road; then east over said Army Post Road to the Des Moines Municipal Airport and return over the same route. (5) Between Forbes Industrial Air Park at or near Topeaka, KS and Lincoln Municipal Airport at or near Lincoln, NE. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to NE State Hwy No. 2; then west over said NE State Hwy No. 2 to U.S. Hwy No. 34; then north over said U.S. Hwy No. 34 to Cornhusker Hwy; then west over Cornhusker Hwy to Lincoln Municipal Airport and return over the same route. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to NE State Hwy No. 165; then northeasterly over NE State Hwy No. 165 to Eppley Field; then southwesterly over NE State Hwy No. 165 to U.S. Interstate Hwy No. 480; then southwesterly over U.S. Interstate Hwy No. 480 to U.S. Interstate Hwy No. 80; then over U.S. Interstate Hwy No. 80 to Lincoln Municipal airport and return over the same route as an alternate route for operating convenience of the carrier only. (6) Between Forbes Industrial Air Park at or near Topeka, KS and Lambert-St. Louis International Airport at or near St. Louis, MO serving Kansas City International Airport at or near Kansas City, MO as an intermediate point. From Forbes Industrial Air Park north over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then east on U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 635; then northeasterly over U.S. Interstate Hwy No. 635 to U.S. Interstate Hwy No. 29; then northwesterly over U.S. Interstate Hwy No. 29 to Kansas City International Airport; then southeasterly over U.S. Interstate Hwy No. 29 to U.S. Interstate Hwy No. 70; then easterly over U.S. Interstate Hwy No. 70 to Lambert-St. Louis International airport and return over the same route. From Forbes Industrial Airport at or near Topeka, KS northerly over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then easterly over U.S. Interstate Hwy No. 70 to Lambert-St. Louis International Airport, and return over the same route, for the operating convenience of the carrier only. (7) Between Forbes Industrial Air Park at or near Topeka, KS and Springfield Municipal airport at or near Springfield, MO serving the Joplin Municipal Airport at or near Joplin, MO as an intermediate point. From Forbes Industrial Air Park southerly over U.S. Hwy No. 75 to KS Hwy No. 96; then east over KS Hwy No. 96 to U.S. Hwy No. 160; then east over U.S. Hwy No. 160 to KS Hwy No. 57; then east over KS Hwy No. 57 to MO State Hwy No. 171; then southeasterly over MO State Hwy No. 171 to Joplin Municipal Airport; then east over MO State Hwy No. 71 to U.S. Interstate Hwy No. 44; then easterly over U.S. Interstate Hwy No. 44 to Springfield Municipal Airport and return over the same route. From Forbes Industrial airport at or near Topeka, KS north over U.S. Hwy No. 75 to U.S. Interstate Hwy No. 70; then east over U.S. Interstate Hwy No. 70 to U.S. Interstate Hwy No. 635; then north over U.S. Interstate Hwy No. 635 to U.S. Interstate Hwy No. 29 to Kansas City International Airport at or near Kansas City MO, then southerly over U.S. Hwy No. 71 to MO State Hwy No. 7; then southeasterly over MO State Hwy No. 7 to MO State Hwy No. 13; then southerly over MO State Hwy No. 13 to U.S. Interstate Hwy No. 44; then westerly over U.S. Interstate Hwy No. 44 to Springfield Municipal Airport at or near Springfield, MO and return over the same route, as an alternate route for the operating convenience of the carrier only. Serving no intermediate points except as above indicated, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Air Cargo Charters, Inc., Forbes Industrial Air Park, Topeka, KS. Send protests to: Thomas P. O'Hara, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 147 Federal

Building and U.S. courthouse, 444 Southeast Quincy, Topeka, KS 66683.

No. MC 144307TA, filed February 10, 1978. Applicant: RIVER BUS LINES, INC., P.O. Box 8622, Jackson, MS 39204. Applicant's representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Authority sought to operate as a *common carrier*, by motor vehicle, (1) over irregular routes, transporting: *Passengers and their baggage and express and newspapers* in the same vehicle with passengers between Memphis, TN, and Helena, AR, serving all intermediate points: From Memphis, TN, via I-40 and/or U.S. Hwy 70 to Lehi, AR, then via U.S. Hwy 79 to Marianna, AR, then via AR Hwy 1 to junction U.S. Hwy 49, then over U.S. Hwy 49 to Helena, AR; (2) over irregular routes, transporting: *Passengers and their baggage* in one-way and round-trip charter operations from points on the routes described in (1) above to all points in the U.S. including AK but excluding HI and return. Applicant intends to interline with other carriers at Memphis, TN, Helena, AR, and all intermediate points, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper(s): There are approximately six (6) statements of support attached to the application which may be examined at the field office named below. Send protests to: Alan C. Tarrant, District Supervisor, Interstate Commerce Commission, Room 212, 145 East Amite Building, Jackson, MS 39201.

No. MC 144331 (Sub-No. 1TA), filed February 16, 1978. Applicant: EDWARD F. MADEIRA, INC., 514 Island Street, Hamburg, PA 19526. Applicant's representative: William F. King, Suite 400, Overlook Building, 6121 Lincolnia Road, Alexandria, VA 22312. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Foundry sand additive, foundry core compounds, and foundry sand*, in bulk, in tank, hopper or dump trailers, and in bags, drums or pallet boxes, from the plantsite and warehouse facilities of International Mineral & Chemical Corp., Foundry Division at or near Wadsworth, OH, to points in CT, DE, DC, MD, MA, NJ, NY, PA, RI, VA, and WV, under a continuing contract or contracts with IMC Foundry Products, for 180 days. Supporting shipper(s): IMC Foundry Products, 17350 Ryan Rd., Detroit, MI 48212. Send protests to: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadephia, PA 19106.

No. MC 144371TA, filed February 28, 1978. Applicant: PEERLESS WIRE GOODS COMPANY, INC., 2702 Ferry Street, Lafayette, IN 47902. Applicant's representative: Mrs. Donna Frederick, 2702 Ferry Street, Lafayette, IN 47902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Metal stamping, porcelain*, from Frankfort, IN, to points in MI, KY, IL, IN, TN, MO, and IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of authority. Supporting shipper(s): Ingram-Richardson Company, State Road 28 West, P.O. Box 577, Frankfort, IN 46041. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

By the Commission.

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

[FR Doc. 78-7746 Filed 3-22-78; 8:45 am]

[7035-01]

[Notice No. 36TA]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

March 14, 1978.

The following are notices of filing of applications for temporary authority under Section 210a(a) of the Interstate Commerce Act provided for under the provisions of 49 CFR 1131.3. These rules provide that an original and six (6) copies of protests to an application may be filed with the field official named in the Federal Register publication no later than the 15th calendar day after the date the notice of the filing of the application is published in the Federal Register. One copy of the protest must be served on the applicant, or its authorized representative, if any, and the protestant must certify that such service has been made. The protest must identify the operating authority upon which it is predicated, specifying the "MC" docket and "Sub" number and quoting the particular portion of authority upon which it relies. Also, the protestant shall specify the service it can and will provide and the amount and type of equipment it will make available for use in connection with the service contemplated by the TA application. The weight accorded a protest shall be governed by the completeness and pertinence of the protestant's information.

Except as otherwise specifically noted, each applicant states that there will be no significant effect on the quality of the human environment resulting from approval of its application.

A copy of the application is on file, and can be examined at the Office of the Secretary, Interstate Commerce Commission, Washington, D.C., and also in the ICC Field Office to which protests are to be transmitted.

Motor Carriers of Property

No. MC 217 (Sub-No. 20TA), filed February 21, 1978. Applicant: POINT TRANSFER, INC., 5075 Navarre Road SW., P.O. Box 1441, Station C, Canton, OH 44708. Applicant's representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Iron and steel articles*, from the facilities of The Timken Co., Canton and Wooster, OH, to points in IN, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: The Timken Co., Canton, OH 44706. Send protests to: Frank L. Calvary, District Supervisor, Interstate Commerce Commission, 220 Federal Building, and United States Courthouse, 85 Marconi Boulevard, Columbus, OH 43215.

No. MC 531 (Sub-No. 356TA), filed March 2, 1978. Applicant: YOUNGER BROTHERS, INC., 4904 Griggs Road, P.O. Box 14048, Houston, TX 77021. Applicant's representative: Wray E. Hughes (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Wine*, in bulk, in tank vehicles, from Delano, CA, to Alexandria, Baton Rouge and Church Point, LA, for 180 days. Supporting shipper: Delano Growers, Route 1, P.O. Box 283, Delano, CA 93215. Send protests to: District Supervisor, John F. Mensing, Interstate Commerce Commission, 515 Rusk Avenue, 8610 Federal Building, Houston, TX 77002.

No. MC 8535 (Sub-No. 60TA), filed February 21, 1978. Applicant: GEORGE TRANSFER & RIGGING COMPANY, INC., P.O. Box 500, Interstate 83 at Route 439, Parkton, MD 21120. Applicant's representative: Charles J. McLaughlin (same as above). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Roofing and building materials, and materials used in the installation and application of such commodities* (except commodities in bulk), from Franklin, OH to points in IL, IN, MI and TN. (2) *Materials, equipment and supplies used in the manufacture, installation or application of roofing or building materials* (except commodities in bulk), from points in IL, IN, MI, and TN to Franklin, OH for 180 days. Supporting shipper: Robert A. Cromk, Transportation Supervisor, Georgia-Pacific Corp. 1062 Lancaster Avenue, Rosemont, PA 19010. Send protests to: William L. Hughes, Dis-

trict Supervisor, Interstate Commerce Commission, 814-B Federal Building, Baltimore, MD 21201.

No. MC 14215 (Sub-No. 12TA), filed February 21, 1978. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Applicant's representative: John L. Alden, 1396 West Fifth Avenue, Columbus, OH 43212. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime and limestone products*, in dump vehicles, from Huron, OH to Weirton, WV for 180 days. Supporting shipper: Weirton Steel, Division of National Steel Corp., Weirton, WV 26062. Send protests to: J. A. Niggemyer, District Supervisor, Interstate Commerce Commission, 416 Old Post Office Building, Wheeling, WV 26003.

No. MC 50935 (Sub-No. 14TA), filed February 22, 1978. Applicant: WOLVERINE TRUCKING CO., 949 Ladd Road, Walled Lake, MI 48088. Applicant's representative: William B. Elmer, 21635 East Nine Mile Road, St. Clair Shores, MI 48080. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages and related advertising materials* from the plantsite of the G. Heileman Brewing Co., Inc., at LaCrosse, WI; Newport, KY; and Evansville, IN, to Detroit, MI and points within its commercial zone; and empty malt beverage containers, pallets and rejected shipments of malt beverages from Detroit, MI and points in its commercial zone to the plantsite of the G. Heileman Brewing Co., Inc., at LaCrosse, WI; Newport, KY; and Evansville, IN for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: There are approximately (4) statements of support attached to the application which may be examined at the Field Office named below. Send protests to: Timothy S. Quinn, District Supervisor, Interstate Commerce Commission, Bureau of Operations, 604 Federal Building and U.S. Courthouse, 231 West Lafayette Boulevard, Detroit, MI 48226.

No. MC 68100 (Sub-No. 19TA), filed February 21, 1978. Applicant: D. P. BONHAM TRANSFER, INC., P.O. Drawer G, Bartlesville, OK 74003. Applicant's representative: Larry E. Gregg, 641 Harrison Street, Topeka, KS 66603. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: Part (1) *Containers, roll-off frames and waste equipment and handling units, parts and supplies*, from the facilities of Scott and Hill Steel Corp., in Bartlesville, OK, to points in AR, CO, KS, LA, MO, NM, SC, TN and TX; and Part (2) *equipment, materials and supplies* used or useful in the manufacture, production and distribution of commodities listed in Part (1) above, from points in AL, CA, IN, TX and WI, to the facilities of Scott and Hill Steel Corp., in Bartlesville, OK for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Scott and Hill Steel Corp., P.O. Drawer 1235, 1750 West 14th Street, Bartlesville, OK 74003. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 NW 3rd, Oklahoma City, OK 73102.

No. MC 85934 (Sub-No. 75TA), filed March 2, 1978. Applicant: MICHIGAN TRANSPORTATION CO., 3601 Wyoming Avenue, Dearborn, MI 48120. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Expanded plastic products* (except in bulk) from the facilities of The Dow Chemical Co., at or near Midland, MI; Magnolia, AR; and Pevely, MO to points in the United States on and east of U.S. Hwy 85 for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Scott and Hill Steel Corp., P.O. Drawer 1235, 1750 West 14th Street, Bartlesville, OK 74003. Send protests to: Connie Stanley, Transportation Assistant, Room 240 Old Post Office and Court House Building, 215 NW. 3rd, Oklahoma City, OK 73102.

No. MC 104523 (Sub-No. 69TA), filed February 21, 1978. Applicant: HUSTON TRUCK LINE, INC., P.O. Box 87, 235 Maple Street, Friend, NE 68359. Applicant's representative: Michael J. Ogburn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Animal and poultry antibiotics*, from Omaha, NE, to Sigourney, IA, and points in its commercial zone, and Quincy, IL, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Al Lane, President, Lane Agri-Supply Co., Inc., Hwy 149 South, Sigourney, IA 52591. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, Lincoln, NE 68508.

No. MC 106674 (Sub-No. 291TA), filed March 2, 1978. Applicant: SCHILLI MOTOR LINES, INC., U.S. Hwy 24 West, P.O. Box 123, Remington, IN 47977. Applicant's representative: Jerry L. Johnston, (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Candy and confectionery products*, from the facilities of Peter Paul, Inc., at Frankfort, IN, to Kansas City and St. Louis, MO, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Peter Paul, Inc., Box 347, Frankfort, IN 46041. Send protests to: J. H. Gray, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 343 West Wayne Street, Suite 113, Fort Wayne, IN 46802.

No. MC 109124 (Sub-No. 40TA), filed February 21, 1978. Applicant: SENTLE TRUCKING CORP., P.O. Box 7850, Toledo, OH 43619. Applicant's representative: James M. Burtch, 100 East Broad Street, Suite 1800, Columbus, OH 43215. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Lime*, except in bulk, from the facilities of the United States Gypsum Co., at or near Genoa, OH, to points in NJ, PA, and MD, for 180 days. Supporting shipper: United States Gypsum Co., 101 South Wacker Drive, Chicago, IL 60606. Send protest to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 114273 (Sub-No. 353TA), filed March 2, 1978. Applicant: CRST, INC., P.O. Box 68, Cedar Rapids, IA 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: *Hides, pelts, and skins* from the plantsite of Hide Co. at or near Maquoketa, IA, to points in the States of IL, MI, OH, WV, PA, MD, VA, NY, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Hide Co., P.O. Box 1288, Jacobson Drive, South Maquoketa, IA 52060. Send protests to: Herbert W. Allen, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 518 Federal Building, Des Moines, IA 50309.

No. MC 115311 (Sub-No. 266TA), filed February 22, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, 1200 Atlanta Gas Light Tower, 235 Peachtree Street NE., Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Malt beverages and related advertising matter*, from Eden, NC, to points in AL, FL, GA, KY, LA, MD, MS, NJ, SC, TN, TX, VA, WV, and DC; (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of malt beverages, and *returned empty malt beverage containers* (except commodities in bulk), from

points in AL, FL, GA, KY, LA, MD, MS, NJ, SC, TN, TX, VA, WV, and DC, to Eden, NC; (3) *malt beverages and related advertising matter, materials, and supplies* (except commodities in bulk) used in the manufacture, sale, and distribution of malt beverages, between Miller Brewing Co. plants located at Eden, NC; Fulton, NY; Milwaukee, WI, and Fort Worth, TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI 53208. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 115311 (Sub-No. 267TA), filed February 22, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: Paul M. Daniell, 1600 First Federal Building, Atlanta, GA 30301. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1) *Wallboard; particleboard; composition board; lumber* (treated or untreated); *insulation; piling, posts and poles* (treated or intreated); *and construction materials* (except in bulk), from the facilities of Temple Industries, Inc., at or near Diboll, TX, and Pineland, TX, to points in the States of TX, OK, KS, MO, IL, IN, OH, WV, VA, MD, NC, SC, KY, TN, FL, GA, AL, MS, AR, LA, and DC; (2) *materials and supplies* (except commodities in bulk) used in the manufacture, production, sale, and distribution of commodities in (1) above, from points in the States of TX, OK, KS, MO, IL, IN, OH, WV, VA, MD, NC, SC, KY, TN, FL, GA, AL, MS, AR, LA, and DC, to the facilities of Temple Industries, Inc., at or near Diboll, TX, and Pineland, TX, for 180 days. Supporting shipper: Temple Industries, Inc., P.O. Drawer N, Diboll, TX 75941. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 115311 (Sub-No. 268TA), filed February 22, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Applicant's representative: K. Edward Wolcott, Suite 1200, Atlanta Gas Light Tower, 235 Peachtree Street, Atlanta, GA 30303. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Plasterboard joint compound* from facilities of United States Gypsum Co., to Chamblee, GA, to points in KY, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: United States Gypsum Co., 53 Perimeter Center East, Atlanta, GA 30346. Send protests to: Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street NW., Room 300, Atlanta, GA 30309.

No. MC 111401 (Sub-No. 513TA), filed March 2, 1978. Applicant: GROENDYKE TRANSPORT, INC., 2510 Rock Island Boulevard, P.O. Box 632, Enid, OK 73701. Applicant's representative: Victor R. Comstock (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flour*, in bulk, in tank vehicles, from Kansas City, KS, to North Sioux City, SD, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Cereal Food Processors, Inc., Suite 218, 4901 Main Street, Kansas City, MO 64112. Send protests to: Connie Stanley, Transportation Assistant, Room 240, Old Post Office and Courthouse Building, 215 Northwest 3rd, Oklahoma City, OK 73102.

No. MC 117686 (Sub-No. 207TA), filed March 2, 1978. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Boulevard, P.O. Box 417, Sioux City, IA 51102. Applicant's representative: George L. Hirschbach (same address as applicant). Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, from Charleston, SC, to points and places in IL, IA, KS, MN, MO, ND, SD, NE, and WI, for 180 days. Supporting shippers: Peter Comtabad, Director of Inland Transportation, Chiquita Brands, Inc., 95 Chestnut Ridge Road, Montvale, NJ 07654; Ben E. Klein, Senior Vice President—Marketing, Del Monte Banaba Co., 1201 Brickell Avenue, Miami, FL 33101. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 118537 (Sub-No. 6TA), filed March 3, 1978. Applicant: MARX TRUCK LINE, INC., 220 Lewis Street, Sioux City, IA 51102. Applicant's representative: Robert A. Wichser, P.O. Box 417, 5000 South Lewis Boulevard, Sioux City, IA 51102. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Beer*, from Omaha, NE to Sioux City, IA, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Lloyd Messer, President, Messer Distribution Co., 900 Clark Street, Sioux City, IA. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 124117 (Sub-No. 27TA), filed February 22, 1978. Applicant: EARL FREEMAN, d.b.a. Mid-Tenn Express, P.O. Box 101, Eagleville, TN 37060. Applicant's representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: (1)*Malt beverages and related advertising materials*, from Eden, NC, to points in the States of AL, GA, KY, and TN; (2) *materials, supplies, and equipment used in the manufacture, sale, and distribution of malt beverages, and returned empty malt beverage containers* (except commodities in bulk), from points in the States of AL, GA, KY, and TN, to Eden, NC, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Miller Brewing Co., 3939 West Highland Boulevard, Milwaukee, WI 33208. Send protests to: Mr. Joe J. Tate, District Supervisor, Bureau of Operations, Interstate Commerce Commission, Suite A-422, U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

No. MC 124160 (Sub-No. 16TA), filed February 23, 1978. Applicant: SAVAGE BROTHERS, INC., 585 South 500 East, American Fork, UT 84003. Applicant's representative: Lon Rodney Kump, 333 East Fourth South, Salt Lake City, UT 84111. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Soda ash*, in bulk, from points in Sweetwater County, WY, to KS, for 180 days. Supporting shipper: Stauffer Chemical Co. P.O. Box 513, Green River, WY 82935 (Marj Moffitt, Supervisor of Transportation). Send protests to: District Supervisor Lyle D. Helfer, Interstate Commerce Commission, Bureau of Operations, 5301 Federal Building, 125 South State Street, Salt Lake City, UT 84138.

No. MC 124896 (Sub-No. 49TA), filed March 2, 1978. Applicant: WILLIAMSON TRUCK LINES, INC., Corner Thorne and Ralston Streets, P.O. Box 3485, Wilson, NC 27893. Applicant's representative: Jack H. Blanshan, Suite 200, 205 West Touhy Street, Park Ridge, IL 60068. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Bananas*, for Del Monte Banana Co. and Chiquita Brands, from Charleston, SC, to the States of IA, KS, MN, MO, NE, NC, ND, SD, VA, and WI, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shippers: Del Monte Banana Co., P.O. Box

011940, Miami, FL 33101. Send protests to: Mr. Archie W. Andrews, District Supervisor, Interstate Commerce Commission, 624 Federal Building, 310 New Bern Avenue, P.O. Box 26896, Raleigh, NC 27611.

No. MC 133219 (Sub-No. 21TA), filed February 21, 1978. Applicant: NEBRASKA BULK TRANSPORTS, INC., P.O. Box 215, Bennet, NE 68317. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Degummed soybean oil*, in bulk, in tank vehicles, from Wichita, KS, to Port of Catoosa, OK. Restricted to commodities having a subsequent movement by water, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: James W. Thelman, Traffic Manager, Cargill, Inc., P.O. Box 2696, Wichita, KS 67201. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 134131 (Sub-No. 6TA), filed February 22, 1978. Applicant: R&S TRANSIT, INC., 1323 West Locust, Office No. 20, Springfield, MO 65803. 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: (1) *Agricultural or implement parts*, from Bakersfield, CA to points in AL, AR, FL, GA, IL, KY, LA, MS, MO, NC, SC, TN, and TX, and (2) *commodities* otherwise exempt under sec. 203(b)(6) of the Interstate Commerce Act when moving in the same vehicle with agricultural or implement parts, from points in AZ and CA to points in AL, AR, FL, GA, IL, KY, LA, MS, MO, NC, SC, TN, and TX, for 180 days. Supporting shipper: Spindle Specialty Co., Inc., 405 East 19th Street, Bakersfield, CA 93305. Send protests to: Mr. John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106.

No. MC 134755 (Sub-No. 133TA), filed: February 22, 1978. CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO. Applicant's representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Authority sought to operate as a *common carrier*, by motor vehicles, over irregular routes, transporting: (1) *Foodstuffs*, (2) *pet foods*, (3) *pet supplies and materials* (except in bulk), (4) *cleaning compounds*, and (5) *commodities* the transportation of which are exempt from economic regulations under section 203(b)(6) of the Interstate Commerce Act when transported in same vehicle and at the same time with any of the commodities in 1, 2, 3, and 4, from the plantsite and warehouse facilities of R. T. French at or near Springfield and Carthage, MO. to points in NM, TX, LA, and MS. Send protests to: Mr. John V. Barry, District Supervisor, Interstate Commerce Commission, 600 Federal Building, 911 Walnut Street, Kansas City, MO 64106. Supporting shipper: The R. T. French Co., One Mustard Street, Rochester, NY 14609.

No. MC 135283 (Sub-No. 29TA), filed February 22, 1978. Applicant: GRAND ISLAND MOVING & STORAGE CO., INC., P.O. Box 2122, 432 South Stuhr Road, Grand Island, NE 68801. Applicant's representative: Gailyn L. Larsen, P.O. Box 81849, Lincoln, NE 68501. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Malt beverages*, from Milwaukee, WI, to Fremont, NE, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Robert P. Kelly, General Manager, Saeger & Co., Inc., Box 444, Fremont, NE 68025. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, 100 Centennial Mall North, Lincoln, NE 68508.

No. MC 136086 (Sub-No. 5TA), filed February 21, 1978. Applicant: GUILEY TRUCKING, INC., 8615 Pecan Avenue, Fontana, CA 92335. Applicant's representative: Milton W. Flack, 4311 Wilshire Boulevard, Suite 300, Los Angeles, CA 90010. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Steel roofing, siding, and floor decking*, (a) from the facilities of Verco Manufacturing, Inc., located at Phoenix, AZ, to points in WY, OR, and WA, (b) from the facilities of Verco Manufacturing, Inc., located at Fontana, CA, to points in TX, CO, and NM, (c) from the facilities of Verco Manufacturing, Inc., located at Everett, WA, to points in AZ, UT, WY, OR, CA, TX, CO, NM, and UT; (2) *coiled sheet steel*, (a) from points in CA, TX, and WA, to the facilities of Verco Manufacturing, Inc., located at Everett, WA, and Fontana, CA, (b) from points in TX, and WA, to the facilities of Verco Manufacturing, Inc., located at Phoenix, AZ. Under a continuing contract, or contracts, in (1) and (2) above, with Verco Manufacturing, Inc., of Phoenix, AZ, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Verco Manufacturing, Inc., 4340 North 42d Avenue, Phoenix, AZ 85019. Send protests to: Walter W. Strakosch, District Supervisor, Interstate Commerce Commission, Room 1321, Federal Building. 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 138054 (Sub-No. 24TA), filed February 21, 1978. Applicant: CONDOR CONTRACT CARRIERS, INC., 656 Wooster Street, Lodi, OH 44254. Applicant's representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Garbage disposal units;* (2) *waste compactor units;* and (3) parts and accessories for such commodities (except commodities in bulk, in tank vehicles, and commodities which by reason of size or weight require the use of special equipment), from Racine, WI, to points in AZ. Restriction: Restricted to a transportation service to be performed under a continuing contract, or contracts, with Emerson Electric Co. on behalf of its In-Sink-Erator Division, for 180 days. Supporting shipper: Emerson Electric Co., 8100 West Florissant, St. Louis, MO 63136. Send protests to: James Johnson, District Supervisor, Interstate Commerce Commission, 731 Federal Building, 1240 East Ninth Street, Cleveland, OH 44199.

No. MC 140464 (Sub-No. 4TA), filed February 22, 1978. Applicant: DX TRUCKING, INC., 5660 Southwyck Boulevard, Toledo, OH 43614. Applicant's representative: Michael M. Briley, Attorney-at-Law, 300 Madison Avenue, 12th Floor, Toledo, OH 43604. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Flat glass*, from the facilities of Guardian Industries Corp., located at or near Carleton, MI, to points in IL, IN, IA, KY, MD, MA, MN, MO, NJ, NY, NC, OH, PA, TN, VA, WI, and DC, and, return of materials, equipment, and supplies used in the manufacture and distribution of glass, for 180 days. Restricted against the transportation of commodities in bulk. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: Guardian Industries Corp., Carleton, MI. Send protests to: Keith D. Warner, District Supervisor, Bureau of Operations, Interstate Commerce Commission, 313 Federal Office Building, 234 Summit Street, Toledo, OH 43604.

No. MC 140829 (Sub-No. 80TA), filed February 22, 1978. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Applicant's representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Meat, meat products, meat byproducts, and articles distributed by meat packinghouses* as described in section A of Appendix I to the report in Descriptions in Motor Carrier Cases, 61 MCC 209 and 766,

from the facilities of Peter Eckrich & Sons, Inc., at or near Allen Township, MI to points in the States of AR, IL, KS, MO, OK, and TX, for 180 days. Applicant has also filed an underlying ETA seeking up to 90 days of operating authority. Supporting shipper: H. W. Roberts, Manager of Transportation, Peter Eckrich & Sons, Inc., P.O. Box 388, Fort Wayne, IN 46081. Send protests to: Carroll Russell, District Supervisor, Interstate Commerce Commission, Suite 620, 110 North 14th Street, Omaha, NE 68102.

No. MC 144295 (Sub-No. 1TA), filed February 21, 1978. Applicant: D. S. RUSSELL TRUCKING, INC., 3521 Virginia Beach Boulevard, Norfolk, VA 23502. Applicant's representative: Eric Meierhoefer, Suite 712, 1511 K Street NW., Washington, DC 20005. Authority sought to operate as a *common carrier*, by motor vehicle, over irregular routes, transporting: *Processed peanuts in shells*, from Franklin, VA, to points in CA, for 180 days. Supporting shipper: Sachs Nut Co., P.O. Box 209, Franklin, VA 23851. Send protests to: District Supervisor, Paul D. Collins, Bureau of Operations, Room 10-502, Federal Building, 400 North 8th Street, Richmond, VA 23240.

No. MC 144353TA, filed February 21, 1978. Applicant: CLARISA LUCERO CAMACHO, d.b.a., LUCERO'S TRUCKING, Box 5555, 231 Paulin Avenue, Calexico, CA 92231. Applicant's representative: Clarisa Lucero Camacho, Box 5555, Paulin Avenue and Lidie No. 77, Mexicali B.C. Mex., Calexico, CA 92231. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Wheel rims and centers, and shop supplies* having movement to and from Mexico, between Calexico, CA, to Harbor City, CA, under a continuing contract or contracts with Appliance Industries, for 180 days. Supporting shipper: Appliance Industries, 23920 South Vermont Avenue, Harbor City, CA 90710. Send protests to: Edward P. Henry, Interstate Commerce Commission, Room 1321, Federal Building, 300 North Los Angeles Street, Los Angeles, CA 90012.

No. MC 144354TA, filed Febraury 21, 1978. Applicant: MINDEN CARRIERS, INC., P.O. Box 70, Minden, NE 68959. Applicant's representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Meats, meat products, and meat byproducts, and articles distributed by meat packinghouses*, as described in section 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 Minden Beef Co. at or near Minden, NE, to New York City, NY, and its commercial zone and Chicago, IL, and its commerical zone. Restriction: Restricted to a transportation service to be performed under a continuing contract or contracts, with Minden Beef Co. of Minden, NE for 180 days. Supporting shipper: William E. Mahar, Manager, Minden Beef Co., P.O. Box 70, Minden, NE 68959. Send protests to: Max H. Johnston, District Supervisor, 285 Federal Building and Courthouse, Lincoln, NE 68508.

By the Commission.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-7747; Filed 3-20-78; 8:45 am]

[1505-01]

[Docket No. AB-12 (Sub. No. 40)]

SOUTHERN PACIFIC TRANSPORTATION CO.

Abandonment Between Sacramento and Hood in Sacramento County, CA

Correction

In FR Doc. 78-6846 appearing at page 10464 in the issue of Monday, March 13, 1978, the docket number in the heading should be corrected to read as set forth above.

[7035-01]

[Notice No. 6]

MOTOR CARRIER BOARD TRANSFER PROCEEDINGS

The following publications include motor carrier, water carrier, broker, and freight forwarder transfer applications filed under section 212(b), 206(a), 211, 312(b), and 410(g) of the Interstate Commerce Act.

Each application (except as otherwise specifically noted) contains a statement by applicants that there will be no significant effect on the quality of the human environment resulting from approval of the application.

Protests against approval of the application, which may include a request for oral hearing, must be filed with the Commission on or before April 24, 1978. Failure seasonably to file a protest will be construed as a waiver of opposition and participation in the proceeding. A protest must be served upon applicants' representative(s), or applicants (if no such representative is named), and the protestant must certify that such service has been made.

Unless otherwise specified, the signed original and six copies of the protest shall be filed with the Commission. All protests must specify with particularity the factual basis, and the section of the Act, or the applicable rule governing the proposed transfer which protestant believes would preclude approval of the application. If the protest contains a request for oral hearing, the request shall be supported by an explanation as to why the evidence sought to be presented cannot reasonably be submitted through the use of affidavits.

The operating rights set forth below are in synopses form, but are deemed sufficient to place interested persons on notice of the proposed transfer.

No. MC-F-C77497, filed January 6, 1978. Transferee: NEWBURGH VAN & TRANSFER CORP., 615 Union Avenue, New Windsor, NY 12550. Transferor: Newburgh Moving & Storage, Inc., 615 Union Avenue, New Windsor, NY 12550. Applicants' representative: Neil D. Breslin, Attorney at Law, 99 Washington Avenue, Suite 1111, Albany, NY 12210. Authority sought for purchase by transferee of the operating rights of transferor, as set forth in certificate No. MC6870, issued June 6, 1969, as follows: *Lime*, from Ashley Falls, Grangers, Great Barrington, Lee, and West Stockbridge, MA, and Canaan and Falls Village, to Millbrook, NY, and points within 30 miles of Millbrook; *fertilizer*, from Carteret, NJ, to Millbrook, NY, and points within 30 miles of Millbrook; *fruit*, between Millbrook, NY, and points within 30 miles of Millbrook, on the one hand, and, on the other, Newark, NJ, and points within 10 miles of Newark; *livestock*, between Millbrook, NY, and points within 30 miles of Millbrook, on the one hand, and, on the other, Jersey City, NJ, and points within 10 miles of Jersey City; *household goods*, between Millbrook, NY, and points within 30 miles of Millbrook, on the one hand, and, on the other, points on NY, MA, CT, NJ, and PA; *household goods*, as defined by the Commission, between Millbrook, NY, and points within 30 miles of Millbrook, on the one hand, and, on the other, points in VT, NH, and ME; *anthracite coal*, from Hazelton, Pottsville, and Scranton, PA, and points within 20 miles thereof, to points in the townships of Clinton, Stanford, and Washington, Dutchess County, NY. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under section 210a(b).

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-7748 Filed 3-22-78; 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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[6351-01]

1

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11 a.m., March 24, 1978.

PLACE: 8th Floor Conference Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Market surveillance matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-624-78 Filed 3-21-78; 11:17 am]

[6351-1]

2

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 10 a.m., March 28, 1978.

PLACE: 5th Floor Hearing Room, 2033 K Street NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED: Proposed revisions to the Minimum Financial Regulations.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-625-78 Filed 3-21-78; 11:17 am]

[6351-01]

3

COMMODITY FUTURES TRADING COMMISSION.

TIME AND DATE: 11:30 a.m., March 28, 1978.

PLACE: 5th Floor Hearing Room, 2033 K Street NW., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Enforcement matters.

CONTACT PERSON FOR MORE INFORMATION:

Jane Stuckey, 254-6314.

[S-626-78 Filed 3-21-78; 11:17 am]

[6740-02]

4

MARCH 21, 1978.

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: March 22, 1978, following the regular meeting.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Pending on-the-record proceeding.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone 202-275-4166.

KENNETH F. PLUMB,
Secretary.

[S-627-78 Filed 3-21-78; 11:17 am]

[6750-01]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Tuesday, March 28, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Tuesday, March 28, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission Building.

CONTACT PERSON FOR MORE INFORMATION: Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-631-78 Filed 3-21-78; 2:11 pm]

[6750-01]

6

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, March 29, 1978.

PLACE: Room 432, Federal Trade Commission Building, 6th Street and Pennsylvania Avenue NW., Washington, D.C. 20580

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission has not yet scheduled any matters for discussion at this meeting. If no item is placed on the agenda by 10 a.m., on Wednesday, March 29, 1978, the meeting will automatically be cancelled. Any item that is placed on the agenda before that time will be announced in accordance with the Additional Information procedures posted with Commission Meeting Notices outside Room 130 of the Federal Trade Commission.

CONTACT PERSON FOR MORE INFORMATION:

Wilbur T. Weaver, Office of Public Information, 202-523-3830. Recorded Message: 202-523-3806.

[S-630-78 Filed 3-21-78; 2:11 pm]

[4910-58]

7

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 9:30 a.m., Thursday, March 30, 1978 [NM-78-16].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue, SW., Washington, D.C. 20594.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. *Aircraft Accident Report.*—Continental Air Lines, Inc., Boeing 727-224, N32745, Tucson, Arizona, June 3, 1977.
2. *Discussion.*—Proposed Special Study "Human Error" in Air Carrier Accidents and Incidents.
3. *Recommendation.*—To the Federal Aviation Administration re Human Factors studies involving helicopter crew station and cyclic grip designs.
4. *Discussion.*—Proposed Criteria and Procedures for Implementing Joint NTSB-

Coast Guard Accident Investigation Procedures.I10CONTACT PERSON FOR MORE INFORMATION:

Sharon Flemming, 202-472-6022.

[S-634-78 Filed 3-21-78; 3:37 pm]

[7590-01]

8

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Monday, March 27, 1978.

PLACE: Commissioners' Conference Room, 1717 H St. NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

2 P.M.

1. Discussion of Proposed Rule Implementing US/IAEA Safeguards Agreements and Subsidiary Arrangements to the US/IAEA Agreements (approximately 1½ hours)—(Public meeting).
2. Discussion of Houston L. & P. February 22, 1978 Motion for Commission to Order Procedure re South Texas Antitrust (approximately one-half hour)—(Public meeting).

CONTACT PERSON FOR MORE INFORMATION:

Walter Magee, 202-634-1410.

WALTER MAGEE,
Office of the Secretary.

MARCH 20, 1978.

[S-628-78 Filed 3-21-78; 11:17 am]

[7910-01]

9

THE RENEGOTIATION BOARD.

DATE AND TIME: Monday, March 20, 1978, 2:30 p.m.

PLACE: Conference Room, 4th Floor, 2000 M St., NW., Washington, DC. 20446.

STATUS: Matter 1 is closed to public observation. Matter 2 is open to public observation.

MATTERS TO BE CONSIDERED:

1. Congressional Inquiry.
2. Personnel.

CONTACT PERSON FOR MORE INFORMATION:

Kelvin H. Dickinson, Assistant General Counsel-Secretary, 2000 M Street NW., Washington, D.C. 20446, 202-254-8277.

Dated: March 20, 1978.

GOODWIN CHASE,
Chairman.

[S-632-78 Filed 3-21-78; 2:25 pm]

[8010-01]

10

SECURITIES AND EXCHANGE COMMISSION.

DATE AND TIME: March 20, 1978, 10 a.m.

PLACE: Room 825, 500 North Capitol Street, Washington, DC.

STATUS: Closed meeting.

MATTERS TO BE CONSIDERED: The Commission will hold a closed meeting on Monday, March 20, 1978, at 10 a.m. to consider the following item:

Discussion of litigation matter.

The General Counsel of the Commission, or his designee, has certified that the item to be considered at the closed meeting may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Pollack determined that Commission business required consideration of this matter and that no earlier notice thereof was possible.

MARCH 20, 1978.

[S-623-78 Filed 3-21-78; 9:05 am]

[8010-01]

11

SECURITIES AND EXCHANGE COMMISSION.

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94-409, that the Securities and Exchange Commission will hold the following meetings during the week of March 27, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Monday, March 27, 1978, at 2:30 p.m. and on Tuesday, March 28, 1978, following the open meeting at 9 a.m. and the open meeting at 2:30 p.m. Open meetings will be held on Tuesday, March 28, 1978, at 9 a.m. and at 2:30 p.m.

The Commissioners, their legal assistants, the Secretary of the Commission and recording secretaries will attend the closed meetings. Certain staff members who are responsible for the calendared matters may be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, the items to be considered at the closed meetings may be so considered pursuant to one or more of the exemptions set forth in 5 U.S.C. 552b(c)(4)(8)(9)(A) and (10) and 17 CFR 200.402(a)(8)(9)(i) and (10).

Commissioners Loomis, Evans, and Pollack determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Monday, March 27, 1978, at 2:30 p.m., will be:

Formal orders of investigation.
Referral of investigative files to Federal, State or Self-regulatory authorities.
Settlement of administrative proceedings of an enforcement nature.
Freedom of Information Act Appeal.
Regulatory matter bearing enforcement implications.
Other litigation matters.

The subject matter of the closed meeting scheduled for Tuesday, March 29, 1978, immediately following the open meeting at 9 a.m., will be:

Institution of injunctive action.
Settlement of injunctive action.
Settlement of administrative proceeding of an enforcement nature.
Subpoena enforcement action.

The subject matter of the closed meeting scheduled for Tuesday, March 28, 1978, immediately following the open meeting at 2:30 p.m., will be:

Post-oral augument discussion.

The subject matter of the open meeting scheduled for Tuesday, March 28, 1978, at 9 a.m., will be:

1. Re-entry application of A. Frank Sidoti to become associated with a registered broker-dealer, as a registered representative with adequate supervision.
2. Re-entry application of Robert E. Abrams to become associated with a registered broker-dealer, as a registered representative with adequate supervision.
3. Requests for a hearing by the Investment Co. Institute and the Dreyfus Corp. on an application of the First National Bank of Chicago and the Midwest Association of Credit Unions for an order exempting the Bank's Common Trust Fund H from all provisions of the Investment Company Act of 1940.
4. Application filed by Weiss, Peck & Greer for an exemption from the provision of Section 205 of the Investment Advisers Act of 1940 to the extent necessary to allow the company to participate in the organization of a new venture capital enterprise, and to share in compensation paid by that enterprise based on a percentage of the capital gains formula.
5. Proposed adoption of Rule 148 under the Securities Act of 1933, which would establish standards for the resale of certain bankruptcy-related securities, and the proposed adoption of certain amendments to forms required to be filed under the Securities Exchange Act of 1934 related to Rule 148.
6. Proposed transmittal of a letter from the General Counsel, in response to a request from the Staff Counsel of the Senate Committee on Governmental Affairs, which would set forth recommendations with respect to legislation concerning the Commission's litigation authority.

The subject matter of the open meeting scheduled for Tuesday, March 28, 1978, at 2:30 p.m., will be:

Oral argument in the matter of an appeal of a decision by the National Association of

Securities Dealers, Inc. concerning Gulf Investment Bankers, Inc., Thomas D. Sullivan and William D. Lainhart.

FOR FURTHER INFORMATION CONTACT:

Ted Bloch at 202-376-7158.

MARCH 21, 1978.

[S-633-78 Filed 3-21-78; 3:09 pm]

[8240-01]

12

UNITED STATES RAILWAY ASSOCIATION.

TIME AND DATE: 9 a.m., March 30,1978.

PLACE: Board Room, Room 2200, Trans Point Building, 2100 Second Street SW., Washington, D.C.

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 BY THE BOARD OF DIRECTORS:

Portions closed to the public (9 a.m.):

1. Consideration of internal personnel matters.
2. Review of Delaware and Hudson Railway Company proprietary and financial information for monitoring and investment purposes.
3. Review of Conrail proprietary and financial information for monitoring and investment purposes.
4. Review of Missouri-Kansas-Texas Railroad Company proprietary and financial information for monitoring and investment purposes.
5. Litigation Report.

Portions open to the public (11:30 a.m.):

6. Approval of minutes of the March 14, 1978 Board of Directors meeting.
7. Report on Conrail Monitoring.
8. Consideration of advances to D&H.
9. Consideration of selection of USRA's nominees to serve on Conrail Board.
10. Contract Actions (extensions and approvals).
11. Review of the Status of the USRA Administrative Budget for 1978.

Portions closed to the public (1:30 p.m.):

Unfinished Business.

CONTACT PERSON FOR MORE INFORMATION:

Alex Bilanow, 202-426-4250.

[S-629-78 Filed 2-21-78; 11:35 am]

federal register

THURSDAY, MARCH 23, 1978
PART II



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

■

APPEALS FROM FLOOD ELEVATION DETERMINATION AND JUDICIAL REVIEW

Proposed Base Flood Elevation Determinations for Various Communities

[4210-01]

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Federal Insurance Administration

[24 CFR Part 1917]

[Docket No. FI-3552]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for Chelan County, Wash.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Chelan County, Wash. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 56245 on October 21, 1977, and in the Wenatchee World published on September 20, 1977, and September 21, 1977, and hence sepersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed flood elevations are available for review at the Chelan County Courthouse, Wenatchee, Wash. Send comments to: Mr. James Young, Chairman of the Board of County Commissioners, Chelan County Courthouse, Wenatchee, Wash. 98801.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Chelan County, Wash., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Squilchuck Creek..	Burlington Northern RR. yard.	637
	Burlington Northern RR..	650
	Malaga Rd.....	661
	Wenatchee Ave. ...	682
Wenatchee River ..	Burlington Northern RR. (downstream).	629
	Irrigation siphon, downstream.	630
	Sleep Hollow Rd..	657
	Main St., downstream.	697
	Old Monitor Rd. ..	717
	Cottage Ave.	761
	Division St.....	771
	Goodwin Rd.....	806
	U.S. Routes 2 and 97, 15.1 mi above confluence with Columbia River.	885
	Main St.— Dryden, upstream.	924
	U.S. Routes 2 and 97, 17.44 mi above confluence with Columbia River.	945
	At irrigation diversion dam.	979
	Confluence of Perhastin Creek.	980
	Main St., 20.5 mi above confluence with Columbia River.	1,027
	Irrigation siphon, 23.49 mi above confluence with Columbia River.	1,065
	U.S. Route 2, 24.71 mi above confluence with Columbia River.	1,097
	Icicle Rd.	1,117
	Burlington Northern RR., 41.89 mi above confluence with Columbia River.	1,763
	River Rd., 46.2 mi above confluence with Columbia River.	1,820
	State Route 209, 46.2 mi above confluence with Columbia River.	1,823
	Confluence with Chiwawa River.	1,855
	State Route 207 ...	1,877
Wenatchee River ..	Confluence with Lake Wenatchee.	1,879
Mission Creek.....	Confluence with the Wenatchee River.	778
	Cashmere maintenance yard.	781
	Burlington Northern RR.	786
	Sunset Ave	787
	Angier Ave	800
	Pioneer Ave.....	811
	Private drive, 0.97 mi above confluence with Wenatchee River.	838
	Mission Creek Rd., 1.02 mi above confluence with Wenatchee River.	842
	Mission Creek, 4.33 mi above confluence with Wenatchee River.	1,103
	Private drive, 4.82 mi above confluence with Wenatchee River.	1,130
Peshastin Creek	Saunders Rd	1,011
	U.S. Routes 2 and 97.	1,034
	Private road.....	1,096
	County Rd 2997 ...	1,132
	Driveway	1,289
	U.S. Route 97, upstream.	1,385
Icicle Creek	East Leavenworth Rd.	1,122
	Icicle Island Club.	1,254
Chumstick Creek ..	Confluence with Wenatchee River.	1,082
	Burlington Northern RR, downstream.	1,108
	Culvert at North Rd.	1,121
	Mottler Rd, downstream.	1,135
	Mottler Rd, upstream.	1,141
	Driveway, 0.82 mi above confluence with Wenatchee River.	1,151
	Eagle Creek Rd	1,228
	State Route 209, 4.45 mi above confluence with Wenatchee River.	1,342
	State Route 209, 4.97 mi above confluence with Wenatchee River.	1,367
	Sunitsch Canyon Rd., 6.58 mi above confluence with Wenatchee River.	1,452
	Irrigation diversion.	1,473
	Burlington Northern RR, 7.56 mi above confluence with Wenatchee River.	1,521

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
	State Route 209, 8.9 mi above confluence with Wenatchee River.	1,601
Chiwawa River	Confluence with Wenatchee River.	1,855
	County Rd. 22	1,927
Entiat River	U.S. Route 97	712
	Private road, 6,650 ft above confluence with Columbia River.	745
	Entiat River Rd., 15,250 ft above confluence with Columbia River.	820
	Entiat River Rd., 21,500 ft above confluence with Columbia River.	888
	Old Highway	892
	Fish Hatchery Rd	991
	Hatchery dam	1,046
	Footbridge	1,204
	Confluence with Mad River.	1,248
	Mad River Rd.	1,248
	Private road, 98,450 ft above confluence with Columbia River.	1,572
Mad River	Confluence with Entiat River.	1,248
	Lumber Mill Rd	1,265
Stehekin River	Confluence with Lake Chelan.	1,100
	Bridge	1,187

Source of flooding	Location	Depth of flooding (in feet)
Canyon No. 1	South Western Ave.	1
	Poplar Ave	1
	Canyon Rd	2
Canyon No. 2	South Western Ave.	2
	Kenaston Dr	2
	1,500 ft upstream from Kenaston Dr.	3
Dry Gulch	Circle St	1

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7000 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4004]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of North Huntingdon, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of North Huntingdon, Westmoreland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the North Huntingdon Municipal Building, 11279 Center Highway, North Huntingdon, Pa. Send comments to: Mr. James C. Lillie, President of the Board of Commissioners of North Huntingdon, 11279 Center Highway, North Huntingdon, Pa. 15642.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of North Huntingdon, Westmoreland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Brush Creek	Downstream corporate limit.	785
	Mahaffey Dr	790
	ConRail	793
	State Route 993, downstream.	798
	State Route 993, 1st upstream.	811
	State Route 993, 2d upstream.	816
	State Route 993, 3d upstream.	824
	ConRail	827
	Beyerly Rd	832
	ConRail, downstream.	837
	ConRail, upstream.	840
	Footbridge	850
	State Route 993, 4th upstream.	857
	State Route 993, 5th upstream.	875
	State Route 993, 6th upstream.	878
	Water St	880
	ConRail	888
	East St	888
	ConRail, downstream.	891
	ConRail, upstream.	893
	Confluence with tributary 3.	895
	McCavett Rd	904
	Pennsylvania Turnpike.	906
	Upstream corporate limits.	917
Youghiogheny River.	Downstream corporate limits.	958
	Upstream corporate limits.	959
Tinkers Run	Center Highway	916
	Route 30	923
	ConRail	932
	Confluence with Tinkers Run tributary.	950
	Laurel Ave	966
	Access ramp	978
Tributary No. 3	Confluence of Brush Creek.	895
Tributary No. 4	Corporate limits	973
	Route 30	990
	Earth fill	990
	Route 30	1,012
	Township Rd	1,020
Long Run	Corporate limits	911

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Lincoln Way, approximately 250 ft downstream of Five Pines Rd.	926
	Lincoln Way at Five Pines Rd.	943
	Private drive off Lincoln Way.	949
	Private drive off Parkhill Rd.	954
	Park Hill Rd	956
	Confluence with Long Run tributary.	992
	Wainright Dr	997
	Roth Dr	1,003
	Abrams Dr	1,011
	Station Rd	1,028

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7001 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4005]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Lawrence Park, Erie County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Lawrence Park, Erie County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the second floor of the Township Fire Hall, 4102 Main Street, Erie, Pa. Send comments to: Mr. Raymond DePlatchett, President of the Board of Commissioners of Lawrence Park, 864 Silliman Avenue, Erie, Pa. 16511.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Lawrence Park, Erie County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance of existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Four Mile Run	Confluence with Lake Erie.	577
	Private drive, 2,600 ft downstream of East Lake Rd.	594
	Private drive, 2,000 ft downstream of East Lake Rd.	598
	Upstream of East Lake Rd.	630
	Footbridge, 700 ft downstream of footbridge.	643
	Main St	654
	Footbridge, 1,500 ft upstream of Main St.	669
	East Erie Commercial RR.	672
	Upstream of ConRail tracks.	681
McDaniel Run	Confluence with Lake Erie.	577
	Corporate limits	617
	Franklin Ave	665
	Inlet to culvert, 800 ft upstream of Franklin Ave.	673
	ConRail	676
Lake Erie	Shoreline within community.	577

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7002 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4020]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Harrison, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Harrison, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Munici-

pal Building, Municipal Drive, Natrona Heights, Pa. Send comments to: Honorable John Virag. Jr., Mayor of Harrison, Municipal Drive, Natrona Heights, Pa. 15065.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Harrison, Allegheny County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
Allegheny River	Sycamore St. (extended).	758
	Chestnut St. (extended).	759
	Lock and dam No. 4.	763
	Upstream end of Jack's Island.	764
	Sportsman Park Dr. (extended).	766
	Upstream corporate limit.	769
Bull Creek	Downstream corporate limit.	757
	Upstream corporate limit.	760
Little Bull Creek	Pleasantville Rd. crossing.	727
	Kentucky St. (extended).	768
	Parkway Ave. (extended).	887
	Meadow St. (extended).	894

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7003 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4019]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Wilkens, Allegheny County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Wilkens, Allegheny County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Wilkens Municipal Building, 110 Peffer Road, Turtle Creek, Pa. 15145. Send comments to: Mr. Wilmer K. Baldwin, Manager of the township of Wilkens, 110 Peffer Road, Turtle Creek, Pa. 15145.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Wilkens, Allegheny County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Thompson Run	Downstream corporate limits.	754
	Jones St	757
	Union RR., western most bridge.	766
	Union RR., eastern.	769
	Buena Visto Dr	787
	Newton Rd	808
	William Penn Highway, Route 22.	828
	Union RR., downstream.	829
	Union RR., upstream.	836
	Upstream corporate limits.	838
Chalfant Run	Larimer Ave	790
	Baker ST	808
	Rodi Rd	856
	U.S. Route 22	857
Sawmill Run	Downstream corporate limits.	789
	Ivy St	832
	Moss St	840
	Private road, 2,200 ft upstream of Moss St.	895
	Private road, near Lucinda Rd.	931
	Buelah Rd	981

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7004 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4018]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Borough of Gordon, Schuykill County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Gordon, Schuykill County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Gordon Municipal Building, Plane and Otto Streets, Gordon, Pa. Send comments to: Hon. George Moore, Mayor of Gordon, 615 McKnight Street, Gordon, Pa. 17936.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Gordon, Schuykill County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Mahanoy Creek	ConRail bridge	793
	Confluence of Little Mahanoy Creek.	799
	Upstream corporate limit.	814
Little Mahanoy Creek.	Legislative Route 53086.	811
	Footbridge	817
Rattling Run	Confluence with Little Mahanoy Creek.	817
	Beginning of culvert under Biddle St.	851
	Charles St	868
	Footbridge	872

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7005 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4017]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Franklin, Venango County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Franklin, Venango County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, 430 13th Street, Franklin, Pa. Send comments to: The Honorable Guy Mammolittle, Mayor of Franklin, City Hall, 430 13th Street, Franklin, Pa. 16323.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Franklin, Venango County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevation for selected locations are:

Source of flooding	Location	Elevation in feet above mean sea level
Allegheny River....	Downstream corporate limits (extended).	973
	4th St. (extended)	974
	U.S. Route 322 Bridge.	976
	Upstream corporate limits (extended).	978
French Creek.....	Route 8 and U.S. Route 62 Bridge.	978
	12th St. (extended).	982
	U.S. Route 322 Bridge.	985
	Corporate limits (2 mi above mouth).	994
	Upstream corporate limits (extended).	1,006

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7006 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4016]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Buckingham, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Township of Buckington, Bucks County Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the bulletin board in the lobby of the Township Office, 4613 York Road, Buckingham, Pa. Send comments to: Mr. L. H. Point, Township Manager of Buckingham, 4613 York Road, Buckingham, Pa. 18912.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Township of Buckingham, Bucks County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neshaminy Creek.	Downstream corporate limits.	140
	Dark Hollow Rd...	151
	Mill Rd.....	174
Mill Creek	Forest Grove Rd..	181
	Smith Rd.....	186
	New Hope Rd.....	193
	Lower Mountain Rd.	207
	Upper Mountain Rd.	211
Watson Creek	Confluence with Mill Creek.	214
	Pa. Route 263	231
	Mill Rd.....	259
Watson Creek	Spring Valley Rd.	266
	U.S. Route 202.....	278
	Mill Rd.....	281
Lahaska Creek.....	Confluence with Mill Creek.	214
	Pa. Route 413	220
	Quarry Rd.....	227
	Bycot Rd	235
	U.S. Route 202 and Pennsylvania Route 263.	254
Tributary No. 1 to Lahaska Creek.	Confluence with Lahaska Creek.	221
	U.S. Route 202 and Pennsylvania Route 263.	232
Tributary No. 2 to Lahaska Creek.	Confluence with Lahaska Creek.	233
	Bycot Rd	235
	U.S. Route 202 and Pennsylvania Route 263.	239
Robin Run.....	Corporate Limits (downstream).	172
	Smith Rd.....	183
	Dark Hollow Rd...	215
	Creamery Rd.....	253
	Lower Mountain Rd.	273
Pidcock Creek.....	Street Rd.....	140
	Lahaska Rd.....	165

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7007 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4015]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Borough of Dalton, Lackawanna County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of Dalton, Lackawanna County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being

already in effect in order to qualify or remain qualified for participation in the national flood insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Dalton Community Library, Dalton, Pa. Send comments to: Mr. John Phillips, Council President of Dalton, Weatherby Street, Dalton, Pa.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of Dalton, Lackawanna County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
South branch of Tunkhannock Creek tributary.	Maple St	922
	Main St	976
	Upstream side of Turnpike Rd.	985
Branch I	North Turnpike Rd.	975
	Willow St	983
	Lilly Lake Rd	1,004
	Cemetary Rd	1,067
	Armstrong Rd	1,078

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7008 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4014]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Middletown, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Middletown, Bucks County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the counter in the Township Office Building, 700 New Rodgers Road, Levittown, Pa. Send comments to: Mr. James Dillon, Township Manager of Middletown, 700 New Rodgers Road, Levittown, Pa. 19056.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Middletown, Bucks County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance of existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Neshaminy Creek	Township corporate limits.	23
	Upstream Hulmeville corporate limits.	35
	U.S. Route 1	48
	ConRail	51
	Brownsville Rd	60
	ConRail	64
	Langhorne corporate limits (downstream).	69
	Langhorne corporate limits (upstream).	71
	Bridgeton Pike	73
	ConRail (Reading RR.).	86
Mill Creek	Township corporate limits (downstream).	49
	Frosty Hollow Rd	63
	Forsythia Cross	70
	Trenton Rd	77
	New Rodgers Rd	84
	I-95	86
	U.S. Route 1	91
	Flower Mill Rd	103
	Old Lincoln Highway.	126
	Bristol Pike	146
Queen Anne Creek.	Township corporate limits (downstream).	48

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Queen Anne Creek.	Township corporate limits (upstream).	58

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7009 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4013]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Bristol, Bucks County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Bristol, Bucks County Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Township Hall, 2501 Oxford Valley Road, Levittown, Pa. Send comments to: Mr. M. Michael Markl, Township Manager of Bristol, 2501 Oxford Valley Road, Levittown, Pa. 19057.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Bristol, Bucks County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures requires by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by the other Federal, State, or regional entities. These proposed elevations will aslo be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Delaware River	Downstream corporate limits.	11
	Burlington-Bristol Bridge.	11
	Borough of Bristol corporate limits (upstream and downstream).	11
	Delaware Memorial Bridge.	11
Neshaminy Creek	Downstream corporate limits.	11
	Confluence with Croydon tributary.	11
	State Rd	12
	Confluence with Croydon Run.	12
	ConRail Bridge	13
	Bristol Pike	14
	I-95 (north and south).	16
	Newportville Rd	19
	Pennsylvania Turnpike.	22
Croydon tributary	Confluence with Neshaminy Creek.	11
Croydon Run	Confluence with Neshaminy Creek.	12
	Main Ave. and 4th St.	13
	Princess Ave	14
	Cedar Rd. and Sycamore Ave.	18
	Magnolia Ave	19
	ConRail Bridge	28
	Bristol Pike	28
	Dorset Ave	28
	Delores Lane	28
	Karen Ave	28
	Janet Ave	28
	Beacon St	28
	Franklin St	28
	Newport Rd	28
	Dixon Ave	28
	Steele Ave	32
	Pennsylvania Route 413.	34
Queen Anne Creek at Newportville.	Confluence with Neshaminy Creek.	18
	Riverside Ave	18
	Newportville Rd	19
	Nichol St	34
	Maple St	37
	Groveland Ave	39
Otter Run (Mill Creek).	Confluence with Delaware River.	11
	Maple Beach Rd	11
	Downstream corporate limits (borough of Bristol).	14
	Pond St	19
	Otter St	19
	Upstream corporate limits (borough of Bristol).	19
	ConRail Bridge	19
	Bristol Pike	21
	Bath Rd	23
Mill Creek	Magnolia Rd	25
	Pennsylvania Turnpike.	27
	Oxford Valley Rd	31
	Footbridge	44
	Newportville Rd	46
Black Ditch Creek	Confluence with Mill Creek.	29
	Green Lane	29
	Edgley Rd	30
	Mill Creek Rd	30
	Overbrook Lane	30
	Oak Tree Pass	31
	Footbridge	31
	Holly Pass	31
Queen Anne Creek.	Confluence with Mill Creek.	46
	Oxford Valley Rd	46
	Newportville-Fausington Rd.	48
	Downstream Middletown Township corporate limits.	48
	Upstream Middletown Township corporate limits.	58
	Edgley Rd	58
	Wistar Rd	65
	Corporate limits	66
Martins Creek tributary Nol. 1.	Entire reach	32

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7010 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-2662]

NATIONAL FLOOD INSURANCE PROGRAM

Revision of Proposed Flood Elevation Determinations for Bandera County, Tex.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Bandera County, Tex. Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 42 FR 8313 on February 9, 1977, and in the Bandera Bulletin published on January 21, 1977 and January 28, 1977, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base elevations are available for review at the Courthouse, Main Street, Bandera, Tex. Send comments to: Honorable W. O. Hatfield, Jr., Judge of Bandera County, P.O. Box 877, Bandera, Tex. 78003.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in Bandera County, Tex., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Medina Lake	Entire shoreline	1,080
Medina River	State Route 173	1,221
	1st St	1,228
	Mayan Ranch Rd., upstream side.	1,240
	Western corporate limits of the city of Bandera.	1,244

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

Issued: January 13, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7011 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4012]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for, City of Payson, Utah County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Payson, Utah County, Utah. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 20 East Utah Avenue, Payson, Utah. Send comments to: Mr. John Hendrickson, City Administrator, City of Payson, City Hall, 20 East Utah Avenue, Payson, Utah 84651.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Payson, Utah, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Peteetneet Creek	300 South St	4,692
	500 South St	4,716
	600 South St	4,733
	700 South St	4,746

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	800 South St.....	4,758

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7012 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4011]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Provo, Utah County, Utah

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Provo, Utah County, Utah. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Provo City Center, 351 West Center Street, Provo, Utah. Send comments to: Mr. Alfred S. Mickelsen, Zoning Enforcement Officer, City of Provo, P.O. Box 799, Provo, Utah 84601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Provo, Utah, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by the other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Provo River.....	West Center St.....	4,495
	Geneva Rd.....	4,519
	I-15*.....	4,527
	900 North St.....	4,565
	Columbia La.....	4,585
	Brigham Young University Parkway*.	4,612
	3700 North St.....	4,693

*Upstream side.

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7013 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4010]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Manassas Park, Prince William County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Manassas Park, Prince William County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the City Clerk, 103 Manassas Drive, Manassas Park, Va. Send comments to: Ms. Wilda Ferguson, 103 Manassas Drive, Manassas Park, Va. 22110.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Manassas Park, Prince William County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary to Bull Run.	Blooms Dr., upstream.	244
	Manassas Dr	268
Tributary No. 1 to Flat Branch.	Downstream corporate limits.	1
	Manassas Dr., downstream.	66
		184
	Manassas Dr., upstream.	189
	6,500 ft upstream of mouth of Tributary.	209
	Upstream corporate limits.	232
Tributary A to Flat Branch	Denver Dr., downstream.	185
Tributary No. 1.	Denver Dr., upstream.	191
	Courtney Dr., upstream.	204

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7014 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4009]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Pulaski County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Pulaski County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the County Administration Building, 3 Street, Pulaski, Va. Send comments to Mr. Robert McNichols, County Administrator of Pulaski County, 3 Street, Pulaski, Va. 24301.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Pulaski County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Peak Creek	State Route 99	1,888
	Pulaski corporate limits.	1,899
Pond Lick branch	State Route 674	1,957
	Service road, 570 ft upstream of State Route 674.	1,964
Track fork	State Route 674	1,956
	State Route 640, 1,325 ft upstream of State Route 674.	1,961
	State Route 640, 5,700 ft upstream of State Route 674.	1,986
	State Route 640, 6,600 ft upstream of State Route 674.	1,990
Tributary A	Confluence of Pond Lick branch.	1,957
	Confluence of tributary B.	1,981
Tributary B	Confluence with tributary A.	1,981

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7015 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4008]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Richmond, Independent City, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Richmond, independent city, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the

second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Clerk's Office, City Hall, 900 East Broad Street, Richmond, Va. Send comments to: Honorable Henry L. Marsh, III, Mayor of Richmond, Room 201, City Hall, 900 East Broad Street, Richmond, Va. 23219.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Richmond, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mean sea level
James River	Chesterfield county line.	28
	Confluence with Broad Rock Creek.	33
	I-95	36
	Mayos Bridge	37
	9th Street Bridge.	39
	Browns Island Dam.	46
	Robert E. Lee Bridge.	50
	Hollywood Dam	64
	Boulevard Bridge.	88
	Powhite Freeway.	101
	Waterworks Dam, north bank.	116
	Williams Island Dam.	120
	Hugenot Bridge	126
	At Stony Point Creek.	131
	Boshers Dam	135
	Pittaway Creek	138
Grindall Creek	Walmsley Blvd	58
	Castlewood Rd	62
	1st crossing of Seaboard Coast Line RR.	81
	2d crossing of Seaboard Coast Line RR.	103
Pocosham Creek	Mouth	134
	Walmsley Blvd	143
	1,000 ft upstream of Walmsley Blvd.	149
	2,000 ft downstream of Hull St.	156
	Hull St	180
	Whitehead Rd	186
Broad Rock Creek	Mouth	33
	Richmond Petersburg Turnpike.	33
	Seaboard Coast Line RR.	43
	9th St	44
	Crouse St	52
	Lynhaven Ave	60
	Berwyn St	65
	Columbia St	68
	A.C.L. RR	112
	5,000 ft upstream from the A.C.L. RR.	143
Goodes Creek	Mouth	44
	Bellmeade Ave	59
Stony Run	Mouth	50
	50 ft downstream of East Richmond Rd.	53
	Upstream of East Richmond Rd.	62
	Stony Run Parkway.	73
	Henrico County line.	77
Powhite Creek	Mouth	101
	Forest Hill exit	116
	Southern Ry	120
	Powhite Freeway.	131
Rattlesnake Creek	Mouth	123
	Riverside Dr.	123
	Dam upstream of Riverside Dr.	132
	Cherokee Rd	146
	Weyburn Rd	154
	Chippenham Parkway.	166
Stony Point Creek	Mouth	131
	Dam upstream of Cherokee Rd.	131
	0.5 mi upstream from mouth.	151
Cherokee Creek	Mouth	135
	Cherokee Rd and Cherokee Dam.	146
	Apache Rd	159
	Cedar Grove Rd	160
	Garden Rd	177
Pittaway Creek	Mouth	138
	Cherokee Rd	142
	Wainfleet Dr	161
	Dam, 4,800 ft upstream of Wainfleet Rd.	222

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7016 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4007]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Haysi, Dickenson County, Va.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Haysi, Dickenson County, Va. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidene of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, Main Street, Haysi, Va. Send comments to: Honorable Arvil Kilgore, P.O. Box X, Haysi, Va. 24256.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Haysi, Dickenson County, Va., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to

the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Russell Prater Creek.	Upstream corporate limits.	1,322
	Private bridge, 4,675 ft upstream of mouth.	1,306
	Private bridge, 4,225 ft upstream of mouth.	1,303
	Private bridge, 3,950 ft upstream of mouth.	1,297
	Private bridge, 2,100 ft upstream of mouth.	1,279
	Routes 80 and 83..	1,266
	Confluence with Russell Fork.	1,266
McClure River.....	Upstream corporate limits.	1,273
	Route 725	1,265
	Clinchfield RR	1,265
	Confluence with Russell Fork.	1,264
Russell Fork.....	Upstream corporate limits.	1,271
	Route 83	1,269
	Clinchfield RR	1,266
	Confluence of the Russell Prater Creek.	1,266
	Confluence of the McClure River.	1,264
	Route 63	1,264

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7017 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3986]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Butte-Silver Bow, Mont.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Butte-Silver Bow, Mont. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Butte-Silver Bow Courthouse, Butte-Silver Bow, Mont. Send comments to: Mr. Mario Micone, Chief Executive, Butte-Silver Bow, Butte-Silver Bow Courthouse, Butte-Silver Bow, Mont. 59701.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Butte-Silver Bow, Mont., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance of existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Silver Bow Creek ..	Fairmont Rd. [1]	5,088
	Fairmont Rd. [2]	5,090
	Depot Rd	5,375
	Civic Center Rd....	5,473
Gregson Creek.....	Butte, Anaconda & Pacific RR.	5,115
	County road to Fairmont Hot Springs [1].	5,127
	County road to Fairmont Hot Springs [2].	5,130
	Golf cart bridge, furthest upstream crossing.	5,202
Blacktail Creek.....	Lexington Ave	5,447
	Elizabeth Warren Ave.	5,478
	U.S. Highway 10...	5,610
Grove Gulch Creek.	I-90	5,442
	Montana Ave. [2]	5,473
	Farm access road .	5,706
Sand Creek.....	Evans Ave.....	5,455
	Lowell Ave. [1].....	5,493
	Lowell Ave. [2].....	5,497
	Chicago, Milwaukee, St. Paul & Pacific RR bridge [1].	5,539
	Chicago, Milwaukee, St. Paul & Pacific RR bridge [2].	5,540
Basin Creek.....	I-90 and 15	5,460
	Elizabeth Warren Ave. [1].	5,476
	Elizabeth Warren Ave. [2].	5,478
	U.S. 10 [1].....	5,529
	U.S. 10 [2].....	5,531
	Chicago, Milwaukee, St. Paul & Pacific RR.	5,623
Reese Canyon.....	Sheridan.....	5,497
	Continental Dr.....	5,519
	Interstate 15	5,602
Tramway Gulch....	Burlington Northern RR.	5,610
Brookside Canyon.	Burlington St	5,514
	I-90	5,591
	Frontage Rd	5,599
Mode-S Canyon.....	County road.....	5,502
	Continental Dr.....	5,536
	I-90	5,557
Big Hole River.....	County road [1].....	5,166
	County road [2].....	5,167

[1] Downstream side.
[2] Upstream side.

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7018 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3987]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of York, York County, Nebr.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of York, York County, Nebr. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the City Hall, York, Nebr. Send comments to: The Honorable Leroy Vineyard, Mayor, City of York, City Hall, York, Nebr. 68467.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of York, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Beaver Creek	At county road, 5.2 miles downstream of Blackburn Ave.	1,569
	At county road, 3.5 miles downstream of Blackburn Ave.	1,578
	Blackburn Ave	1,589
	U.S. Highway 81	1,592
	Academy Ave	1,596
	2.0 mi upstream of Academy Ave.	1,601
	At County Rd, 4.1 miles upstream of Academy Ave.	1,614
Tributary A	At Confluence with Beaver Creek.	1,579
	Nobes Rd	1,605
	4th St	1,615
	8th St	1,624
Tributary B	At Confluence with Beaver Creek.	1,594
	8th St	1,605
	10th St	1,607
	12th St	1,616
	Burlington Northern RR (downstream face).	1,623
Tributary C	At Confluence with Beaver Creek.	1,599
	4th St	1,600
	0.3 mile upstream of 4th St.	1,600
	At County Rd, 0.8 mile upstream of 4th St.	1,621
	Burlington Northern RR (downstream face).	1,628

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

Issued: January 13, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7019 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3988]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Township of Washington, Mercer County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the township of Washington, Mercer County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Washington Township Municipal Building, Robbinsville, N.J. Send comments to: Mayor Chester G. Salamandra, Municipal Building, Robbinsville, N.J. 08691

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the township of Washington, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Tributary A	U.S. Route 526 [1]	81
	do.	71
Big Bear Brook	U.S. Routes 130 and 33.	102
	Hankins Rd	96
Miry Run	Sharon Rd	92
	ConRail RR. [1]	91
	do. [2]	87
	Robbinsville-Edinburg Rd.	80
	Pond Rd	74
	Line Rd. [1]	68
	do. [2]	67
New Sharon Branch.	Old York Rd	97
	Sharon Rd. [1]	90
	do. [2]	89
Assunpink Creek	Old York Rd	90
	Winsor Rd	89
	New Jersey Turnpike [1].	89
	do. [2]	88
	Main St	77
	ConRail RR	76

[1] Upstream.
[2] Downstream.

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

Issued: November 29, 1977

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7020 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3989]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Borough of West Caldwell, Essex County, N.J.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the borough of West Caldwell, Essex County, N.J. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Borough Hall, 30 Clinton Road, West Caldwell, N.J. Send comments to: Mayor Robert Rubino, Borough Hall, 30 Clinton Road, West Caldwell, N.J. 07006.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the borough of West Caldwell, N.J., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Passaic River	Corporate limits (downstream crossing).	173
	Corporate limits (upstream crossing).	174
Pine Brook	Passaic Ave [1]	199
	Orton Rd [2]	210
	do [1]	218
Green Brook	Fairfield Ave	181
	Natalie Dr	202
	Central Ave	260
Kane Brook	Natalie Rd. [1]	202
	Taylor Rd. [1]	227
	Oates Rd	254
	Stonybrook Rd. [2]	290
	do [1]	295
	Central Ave	311

[1] Upstream side.
[2] Downstream side.

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7021 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3990]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Manlius, Onondaga County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Manlius, Onondaga County, N.Y. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Manlius Village Clerk's Office, 102 Washington Street, Manlius, N.Y. 13104. Send comments to: Hon. Keith M. Morgan, Mayor of Manlius, 102 Washington Street, Manlius, N.Y. 13104.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Manlius, Onondaga, County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Limestone Creek ...	Yeaworth Rd. (extended).	501
	Confluence of Ledyard Canal.	518
	Pleasant St. (extended).	551
	State Route 173 ...	562
	Upstream corporate limits.	578
West Branch Limestone Creek.	State Route 173 ...	550
	Ravenswood Lane (extended).	554
	Most upstream corporate limit.	579
Sweet Rd. tributary.	Carriage House East Rd., downstream crossing.	562
	Glencliff Rd.....	576
	Glencliff Rd., (extended) upstream location.	601
	Upstream corporate limit.	635

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7022 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3991]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Carlton, Orleans County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the town of Carlton, Orleans County, N.Y. These base (100-year) flood elevations are basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Town Hall, R.D. No. 4, Albion, N.Y. Send comments to: Mr. Clayton Plummer, Chairman of the Board of Supervisors of Carlton, Town Hall, R.D. No. 4, Albion, N.Y. 14411.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the town of Carlton, Orleans County, N.Y., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Ontario (wave runup).	Yates-Carlton Town Line Rd.	251
	Harris Rd. (extended).	251
	Hard Rd. (extended).	251
	Wilson Rd. (extended).	252
	Archibald Rd. (extended).	251
	Point Breeze Rd. (extended).	251
	Mouth of Oak Orchard Creek.	249
	Sawyer Rd. (extended).	251
	Kent Rd. (extended).	251
	Transit Rd. (extended).	251
Johnson Creek	Confluence with Lake Ontario.	249
	Lake Shore Rd	252
	Route 18	258
	Dirt road	262
	Harris Rd	264
	Town Line Rd	269
Oak Orchard Creek.	Confluence with Lake Ontario.	249
	Lake Ontario State Parkway.	250
	Marsh Creek Rd	251
	Route 18	252
	Eagle Harbor-Waterport Rd.	332
Marsh Creek	Confluence with Oak Orchard Creek.	252
	Confluence with Beardsley Creek.	257
	Sawyer Rd	275
	Bills Rd	288
	Kent Rd., 4,700 ft upstream of Bills Rd.	307
	East Kent Rd., 700 ft downstream of New York Route 18.	313
	Route 18	316
	East Kent Rd., 2,100 ft upstream of New York Route 18.	323
	ConRail	336
	Ford St	338
	East Kent Rd., 2,550 ft upstream of Ford St.	339
	East Kent Rd., 2,000 ft downstram of Baker Rd.	349
	Baker Rd	352
	Kent Rd., 1,700 ft upstream of Baker Rd.	365
	Farm Dr	369
	Corporate limits, upstream.	374
Otter Creek	Confluence with Oak Orchard Creek.	334
	Hanlon Rd	335
	Eagle Harbor-Waterport Rd.	338

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7023 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3992]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Mamaroneck, Westchester County, N.Y.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Mamaroneck, Westchester County, New York. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Bulletin Board in the Town Clerk's Office, 740 West Boston Post Road, Mamaroneck, New York 40543. Send comments to: Mr. Joseph Vandernoot, Town Supervisor of Mamaroneck, 740 West Boston Post Road, Mamaroneck, N.Y. 40543.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Mamaroneck, Westchester County, New York in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance of existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Sheldrake River	New York Thruway.	32
	Lakeside Dr	36
	Hickory Grove Dr	59
	Fernwood Rd	60
	Lansdowne Rd	62
	Briarcliff Rd	72
	Forest Ave	74
	Rockland Ave	77
	Driveway at 5,300 ft above corporate limits.	80
	Bonnie Briar Lane.	81
East Branch of Sheldrake River.	East Brookside Dr.	62
	Driveway at 560 ft above confluence with Sheldrake River.	69
	Rockland Ave	71
	Hilltop Rd	77
	York Rd	93
	Winding Brook Rd.	96
	Fenimore Rd	102

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

Issued: January 10, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7024 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3993]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Town of Spencer, Rowan County, N.C.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Spencer, Rowan County, North Carolina. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Town Hall, Spencer, North Carolina. Send comments to: Mrs. Hilda Palmer, Town Manager, Town of Spencer, P.O. Box 245, Spencer, N.C. 28159.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the Town of Spencer, North Carolina, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Rowan Avenue Park Stream.	Charles St. *	642
	Whitehead Ave *	663
	North Rowan Ave *.	674
	North Salisbury Ave.	690
Lomax Creek	Corporate limits	641
Walton Branch	Oakwood Dr *	673
	Whitehead Ave *	686
	Yadkin Ave *	709
3d St. Creek	Grant St *	656
	Jordan Rd *	671
Rocky Branch	South Spencer Ave.	651
	South Carolina Ave *.	668
	South Rowan Ave *.	690
Southern Railroad Branch.	Newton St *	689
	North Salisbury Ave *.	705
6th St. Branch	7th St *	655
	South Baldwin St *.	672
	South Hudson St *.	675
	South Spencer Ave *.	690
Spring Hill Branch.	South Spencer Ave *.	651
	South Rowan Ave *.	690
Grants Creek	7th St. Extension.	641

* Upstream side.

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7025 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3994]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Bexley, Franklin County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Bexley, Franklin County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 2242 East Main Street, Bexley, Ohio. Send comments to: Mayor David Madison, City Hall, 2242 East Main Street, Bexley, Ohio 43209.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Bexley, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change

any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Alum Creek	Penn Central and Baltimore & Ohio RR.	757
	Clifton Ave.	755
	U.S. Route 40 (Broad St.).	753
	U.S. Route 33 (Main St.).	750
	Livingston Ave.	748

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7026 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3995]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Wilmington, Clinton County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Wilmington, Clinton County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Office of the Service Director , City Hall, 56 West Locust Street, Wilmington, Ohio. Send comments to: Hon. Rober Moyer, Mayor of Wilmington, City Hall, 56 West Locust Street, Wilmington, Ohio 45177.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581, or toll-free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Wilmington, Clinton, County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by the Federal, State, or regional entities. These proposed elevations are will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lytle Creek	Downstream corporate limit.	967
	South Nelson Ave	975
	Penn Central RR (ConRail).	980
	Trusedell St	994
	South Street Bridge.	1,003
	B & O RR (Chessie System).	1,008
	Private Rd. (0.14 miles downstream of branch No. 4).	1,020
Lytle Creek branch No. 2.	Confluence with Lytle Creek.	991
	Penn Central RR (ConRail) culvert.	993
	South Mulberry St.	1,002
	South Walnut St.	1,010
	Grant St	1,014
	South Wall St. culvert.	1,021
	East Locust St	1,023
	Cincinnati Milacron Driveway.	1,035
Lytle Creek branch No. 3.	Confluence with Lytle Creek.	988
	West Main St.	994
	West Locust St	997
	Clinton St.	1,010
	Nunn Ave. culvert	1,019
	Earth dam	1,028
Lytle Creek branch No. 5.	Corporate limit downstream.	975
	State Route 73	1,000

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

Issued: January 13, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7027 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3996]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Village of Pandora, Putnam County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the village of Pandora, Putnam County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to

either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Village Hall, Main and Jefferson Streets, Pandora, Ohio. Send comments to: Mayor Paul Stall, Village Hall, Main and Jefferson Streets, Pandora, Ohio 45877.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the village of Pandora, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Riley Creek	Madison Ave	767
	Akron, Canton, & Youngstown RR.	762
Riley Creek	State Rd. 12 (Washington St.).	759

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

Issued: January 16, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7028 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4003]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for Ottawa County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in Ottawa County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the bulletin board in the County Office, County Commissioner's Office, Port Clinton, Ohio. Send comments to: Ms. Helen Jean Rosker, President of Ottawa County Commissioners, Ottawa County Courthouse, Commissioner's Office, Port Clinton, Ohio 43452.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for Ottawa County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Dry Creek	Confluence with Cedar Creek.	594
	Fostoria Rd	599
Cedar Creek	Curtis Rd	588
	Billman Rd	594
	Fostoria Rd	598
Ayers Creek	Confluence with Crane Creek.	597
	Billman Rd	598
	Fostoria Rd	602
Crane Creek	Norfolk & Western RR.	593
	State Route 579	597
	Walbridge East Rd.	602
	Billman Rd	605
	Fostoria Rd	610
Little Crane Creek	Confluence with Crane Creek.	608
	State Route 51	610
	Martin Rd	615
	Fostoria Rd	616
Crane Creek tributary.	Confluence with Crane Creek.	599
	Billman Rd	601
South branch Turtle Creek.	ConRail	596
	Genoa Rd	603
	Reiman Rd	608
	State route 51	611
South branch Turtle Creek tributary.	Confluence with south branch Turtle Creek.	597
	Genoa Rd	606
	Hellwig Rd	608
	State Route 51	616
Toussaint Creek	Lickert Harbor Rd.	581

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Toussaint Creek	State Route 590	585
	Stange Rd	587
	Graytown Rd	590
	Elliston Trowbridge Rd.	593
	State Route 163	600
	Fulkert Rd	602
	Martin Williston Rd.	608
Toussaint Creek tributary.	Confluence with Toussaint Creek.	600
	Deno Rd	604
	State Route 51	606
	Opfer Lentz Rd	609
	ConRail	615
	Martin-Williston Rd.	618
Portage River	State Route 19	579
	State Route 590	587
	ConRail	599
	Ohio Turnpike	604
Little Portage River.	Muddy Creek North Rd.	578
	Woodrick Rd	582
	State Route 19	586
	N & W RR	588
Indian Creek	Portage River Rd.	592
	Harris Salem Rd	593
	Slemmer Rd	597
	State Route 590	604
Nine Mile Creek	Portage River Rd.	592
	Harris Salem Rd	594
	Schneider Rd	597

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

Issued: January 17, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7029 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4002]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Vermillion, Erie and Lorain County, Ohio

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Vermillion, Erie and Lorain County, Ohio. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at Vermillion City Service Center, 5335 Devon Drive, Vermillion, Ohio. Send comments to: Honorable Arthur R. Crow, Jr., Mayor of Vermillion, P.O. Box 317, Vermillion, Ohio 44089.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Vermillion, Erie and Lorain County, Ohio, in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Lake Erie	Entire shoreline	577
Edson Creek	Mouth	577
	Liberty Ave., upstream side.	583
	Norfolk & Western RR., downstream side.	597
	Haber Rd	605
Vermillion River	Mouth	577
	Norfolk & Western RR.	583
	State Route 2, downstream side.	592
	Upstream corporate limits.	599

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

Issued: January 13, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7030 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4001]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Canyonville, Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Canyonville, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, 124 South Main Street, Canyonville,

Oreg. Send comments to: Mayor David Hill, City Hall, 124 South Main Street, Canyonville, Oreg. 97417.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Canyonville, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirement on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (base-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
School Creek	Canyon Ave	737
	Main Ave	744
	Interstate Highway 5.	767
	Leland Ave	780
	Hill Dr	814
Canyon Creek	Hamlin Dr	715
	Harrison St	726
	First St	731
	Main Ave	746

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

Issued: January 13, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7031 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-4000]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Glendale, Douglas County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the City of Glendale, Douglas County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Fall, Glendale, Oreg. Send comments to: Mayor Martin Brooks, P.O. Box 361, Glendale, Oreg. 97442.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Glendale, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Cow Creek	Southern Pacific RR. Spur Bridge.	1394
	Reuben Rd	1395
	Confluence with Windy Creek.	1397

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

Issued: January 13, 1978.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7032 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3999]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Island City, Union County, Oreg.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed based (100-year) flood elevations listed below for selected locations in the City of Island City, Union County, Oreg. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt

or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

DATES: The period for comment will be ninety (90 days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at City Hall, Island City, Oreg. Send comments to: Mayor Lester Masterton, Route 3, Box 4114, La Grande, Oreg. 97850.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410, 202-755-5581 or toll free line 800-424-8872.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the City of Island City, Oreg., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90—448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of Flooding	Location	Elevation in feet, national geodetic vertical datum
Grande Ronde River.	Union Pacific RR. Bridge.	2726
	Highway 82 Bridge.	2727
	Upstream Corporate Limits.	2733

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

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7033 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3998]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Greensburg, Westmoreland County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Greensburg, Westmoreland County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Greensburg City Hall, 416 South Main Street, Greensburg, Pa. 15601. Send comments to: Mr. William R. Rathgeb, Director of Planning of Greensburg, Greensburg City Hall, 416 South Main Street, Greensburg, Pa. 15601.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Greensburg, Westmoreland County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the national Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Jack's Run	Mount Pleasant St.	1,002
	Coulter St.	1,002
	Brewery St.	1,004
	Laird St.	1,004
	East Pittsburgh St.	1,009
	Corporate limits at 34.17 mi mark.	1,009
	Corporate limits at 35.21 mi mark.	1,017
	Private foot bridge.	1,018
	Confluence of tributary No. 5.	1,018
	Corporate limits at 36.80 mi mark.	1,018
Zeller's Run	West Newton St.	1,030
	U.S. Highway 30 by-pass and West Newton Street Off Ramp.	1,037
	Upstream U.S. Highway 30 bypass and West Newton St. on ramp.	1,041
	Shearer St.	1,044
	Adams St.	1,049
	Corporate limits at 7.72 mi mark.	1,068

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
	Ludwig St	1,073
	Corporate limits at 8.44 mi mark.	1,074
Tributary No. 5	Confluence of Jack's Run.	1,018
	U.S. Highway 119.	1,018
	Union Cemetery Rd.	1,018
	Private foot bridge.	1,018
	Sheffield Dr	1,026
	Corporate limits at 2.62 mi mark.	1,027
	Pennsylvania Route 819.	1,065
	Prestwick Dr	1,069
	Limit of detailed study at 8.08 mi mark.	1,108

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

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7034 Filed 3-22-78; 8:45 am]

[4210-01]

[24 CFR Part 1917]

[Docket No. FI-3997]

NATIONAL FLOOD INSURANCE PROGRAM

Proposed Flood Elevation Determinations for City of Sharon, Mercer County, Pa.

AGENCY: Federal Insurance Administration, HUD.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the city of Sharon, Mercer County, Pa. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the national flood insurance program (NFIP).

DATE: The period for comment will be ninety (90) days following the second publication of this proposed rule in a newspaper of local circulation in the above-named community.

ADDRESSES: Maps and other information showing the detailed outlines of the flood-prone areas and the proposed base (100-year) flood elevations are available for review at the Sharon Building, 50 Chestnut Street, Sharon, Pa. 16146. Send comments to: Honorable Harold E. Bell, Mayor of Sharon, Sharon City Building, 50 Chestnut Street, Sharon, Pa. 16146.

FOR FURTHER INFORMATION CONTACT:

Mr. Richard Krimm, Assistant Administrator, Office of Flood Insurance, 202-755-5581 or toll free line 800-424-8872, Room 5270, 451 Seventh Street SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the proposed determinations of base (100-year) flood elevations for the city of Sharon, Mercer County, Pa., in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448)), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a).

These elevations, together with the flood plain management measures required by § 1910.3 of the program regulations, are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time enact stricter requirements on its own, or pursuant to policies established by other Federal, State, or regional entities. These proposed elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, above mmean sea level
Pine Run	Service St	984
	Spencer St	980
	Wengler St	965
	Stambaugh Ave	957
	South Sharpsville Ave.	864
	South Dock St	861
Shenango River	Upstream corporate limit.	861
	Low dam and waterworks.	855
	Silver St	851
	Budd St	849
	Downstream corporate limit.	847

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

Issued: November 29, 1977.

PATRICIA ROBERTS HARRIS,
Secretary.

[FR Doc. 78-7035 Filed 3-22-78; 8:45 am]

federal register

THURSDAY, MARCH 23, 1978
PART III



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

SECOND CLASS OCEAN OPERATORS

[4910-14]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[46 CFR Parts 157, 186 and 187]

[CGD 77-176]

SECOND-CLASS OCEAN OPERATOR

AGENCY: Coast Guard, DOT.

ACTION: Proposed rule.

SUMMARY: The Coast Guard is proposing to issue regulations governing second-class ocean operators. The small passenger vessel industry has experienced a shortage of ocean operators. These regulations would provide that a person licensed as an operator of mechanically propelled vessels on waters other than ocean or coastwise may operate small inspected passenger vessels on ocean routes if a fully qualified ocean operator is on board to supervise and assist as necessary.

DATES: Comments must be received on or before: May 8, 1978.

ADDRESSES: Comments should be submitted to Commandant (G-CMC/81), (CGD 77-176), U.S. Coast Guard, Washington, DC. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, DC. 20590.

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, DC. 20590, 202-426-1477.

SUPPLEMENTARY INFORMATION: Interested persons are invited to participate in this rulemaking by submitting written views, data, or arguments. Each person submitting a comment should include his name and address, identify this notice (CGD 77-176) and the specific section of the proposal to which his comment applies, and give the reason for his comment. All comments received before the expiration of the comment period will be considered before final action is taken on this proposal. No public hearing is planned but one may be held at a time and place to be set in a later notice in the FEDERAL REGISTER if requested in writing by an interested person raising a genuine issue and desiring to comment orally at a public hearing.

DRAFTING INFORMATION

The principal persons involved in drafting this proposal are: Commander Keith Pensom, Project Manager, Office of Merchant Marine Safety, and Lieutenant Edward J. Gill, Jr., Project Attorney, Office of the Chief Counsel.

DISCUSSION OF THE PROPOSED REGULATIONS

A shortage of ocean operators has existed over the past several years. The present small passenger regulations provide for only one license for service on ocean routes primarily because when the regulations were developed, the need for more than one ocean operator for each vessel, in most cases, did not exist. Today, small passenger vessels operate on longer voyages, thereby requiring at least two licensed individuals to be on board. It is felt that on vessels required to have two ocean operators on board, one of the operators may be an individual with lesser qualifications than a fully licensed ocean operator with no adverse impact on vessel, crew, or passenger safety.

In consideration of the foregoing, it is proposed that Parts 157, 186, and 187 of Title 46 of the Code of Federal Regulations be amended as follows:

PART 157—MANNING REQUIREMENTS

§ 157.30-30 [Amended]

1. In Table 157.30-30(d) by adding the following immediately after the first item in each column:

Type licensed	Route described on license	Capacity and routes permitted
Operator endorsed as second-class ocean operator.	Not applicable	Can serve as one of the required ocean operators on vessels requiring more than one ocean operator, if a holder of an ocean operator license is on board the vessel. May operate on any route.

* * * * * *

PART 186—MANNING

2. By adding a new § 186.05-1(e) to read as follows:

§ 186.05-1 Manning requirements.

* * * * *

(e) The holder of a license as operator of mechanically propelled vessels on waters other than ocean or coastwise which is endorsed as second-class ocean operator may serve as one of the required ocean operators when more than one ocean operator is required if a holder of an ocean operator license is on board the vessel.

3. By adding a new § 186.10-1(b-1) to read as follows:

§ 186.10-1 Licenses required

(b-1) A license as operator of mechanically propelled vessels on waters other than ocean or coastwise which is endorsed as second-class ocean operator authorizes the holder to operate, within the tonnage restriction of the endorsement, mechanically propelled ocean vessels on any route if a holder of a license as ocean operator of mechanically propelled ocean vessels is on board the vessel.

* * * * *

4. In Table 186.10-1(d) by adding the following immediately after the first item in each column:

Type license held	Route described on license	Capacity and routes permitted
Operator endorsed as second-class ocean operator.	Not applicable	Can serve as one of the required ocean operators on vessels requiring more than one ocean operator, if a holder of an ocean operator license is on board the vessel. May operate on any route.

PART 187—LICENSING

5. In § 187.25-5, by deleting the word "or" after the text in paragraphs (a)(1) and (a)(2), by adding the word "or" after the text in paragraph (a)(3), and by adding a new § 187.25-5(a)(4) to read as follows:

§ 187.25-5 Service requirements, mechanically propelled vessels.

(a) * * *

(4) One year's service as second-class ocean operator on board mechanically propelled ocean vessels.

* * * * *

6. By adding a new § 187.25-30 to read as follows:

§ 187.25-30 Examination for endorsement as second-class ocean operator.

(a) The holder of a license as operator of mechanically propelled vessels on waters other than oceans or coastwise applying for an endorsement as second-class ocean operator must successfully complete an examination on the International Rules of the Road.

(b) An applicant for an original license as operator of mechanically propelled vessels on waters other than ocean or coastwise endorsed as second-class ocean operator must successfully complete the examination in § 187.20-10 of this Part and an examination on the International Rules of the Road.

(R.S. 4463, as amended (46 U.S.C. 222); Sec. 3, 70 Stat. 152 (46 U.S.C. 390b); Pub. L. 92-75, sec. 12(e), 85 Stat. 217 (46 U.S.C. 1461(e); Sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)(1)); 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: March 13, 1978.

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

[FR Doc. 78-7347 Filed 2-22-78; 8:45 am]

federal register

THURSDAY, MARCH 23, 1978
PART IV



DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

■

COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVES

Interim Rule

[4210-01]

Title 24—Housing and Urban Development

CHAPTER V—OFFICE OF THE ASSISTANT SECRETARY FOR COMMUNITY PLANNING AND DEVELOPMENT, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. R-78-514]

PART 571—COMMUNITY DEVELOPMENT BLOCK GRANTS FOR INDIAN TRIBES AND ALASKA NATIVES

Interim Rule

AGENCY: Department of Housing and Urban Development.

ACTION: Interim rule.

SUMMARY: This new Part 571 applies the Community Development Block Grant Program to eligible Indian Tribes, including Alaska Natives. This part is necessary because the 1977 amendments to the Block Grant Program contain special provisions for Indian Tribes. These regulations are intended to make the Block Grant Program flexible and responsive to the special needs and legal circumstances of Indian Tribes.

DATE: Effective Date: March 23, 1978.

Comments will be considered in preparing the final rule. Comments are due on or before: May 22, 1978.

ADDRESS: Send comments to Rules Docket Clerk, Office of the General Counsel, Room 5218, 451 7th Street, S.W., Washington, D.C. 20410.

FOR FURTHER INFORMATION CONTACT:

John Simmons, Deputy Director, Office of Policy Planning, Office of Community Planning and Development, 202-755-5890.

SUPPLEMENTARY INFORMATION:

General

The provisions in these regulations were developed in extensive consultation with Tribal chairmen and representatives before the actual language of the regulations was drafted. Almost every aspect of the regulations, therefore, responds to the concerns of Tribal leaders both for content and approach.

Many of the requirements of this Part are closely modeled after existing regulations and are not as Indian-specific as desired by the Tribal leaders and representatives of HUD field office staff. The Tribes and HUD agreed that to try to develop Indian regulations for Fiscal Year 1978 that fully met all of the concerns of Indian applicants and HUD staff would require extensive research and would seriously delay the publication of Indian regulations.

Accordingly, these regulations (1) do not make extensive departures from the existing program; (2) are intended to apply, for the most part, only during 1978 and 1979: The Department intends to establish consultation procedures made up of Tribal and Regional or Field office representatives to help develop new regulations for Fiscal Year 1979.

In the development of these regulations, a primary consideration was that Tribal concerns and capacities be adequately and realistically addressed. These regulations are a self-contained separate Part instead of a section of Subpart E of Part 570 cross-referenced to the other sections of Part 570. This was done for two reasons. The Part 570 Community Development Block Grant regulations are based almost entirely on urban and municipal assumptions that are not relevant to reservation Indian situations. For example, the concept of "neighborhood" is foreign to the typical Indian situation of widely dispersed settlement patterns. In addition, it is desirable to avoid any adverse effect that any subsequent revisions to the Part 570 regulations would have on the Indian Community Development Block Grant Program.

In terms of format and organization, these regulations are designed to be the single policy and procedural guide to program administration at the local level. References to other regulations have been kept to the minimum feasible. Where practical, the Office of Management & Budget Circular requirements are spelled out instead of being referenced; references to other sections of these regulations are followed by brief parenthetical explanations of the section referenced. In terms of content, these regulations contain provisions that respond to problems encountered by HUD and Indian applicants during the last three years.

These regulations require oral and written consultation with eligible applicants, to the extent feasible, prior to making substantive program or policy decisions. These consultation provisions are included in order to ensure that the program is both flexible and responsive to the variety of special needs of Indian Tribes.

The Secretary has determined that this rule, which sets forth requirements for participation of Indian Tribes and Alaska Natives in the Community Development Block Grant Program, is urgently needed because participation by these tribes and natives will not otherwise be possible in Fiscal Year 1978. Therefore, it is impracticable and contrary to the public interest to provide for public comment before this Part is adopted, and good cause exists to make the rule effective upon publication. Interested persons are, however, invited to participate in the making of the final rule. Comments, suggestions, and relevant information should refer to the above docket number and should be filed with the Rules Docket Clerk, Office of the General Counsel, Room 5218, 451 Seventh Street, SW., Washington, D.C. 20410. All comments will be carefully considered before adoption of the final rule. Copies of the comments submitted will be available during business hours at the above address for public inspection and copying.

The following is not a section-by-section analysis of these regulations. Rather it highlights some of the major deviations from current non-Indian requirements and explains why certain provisions were included.

Objectives

Section 571.2 includes existing statutory objectives and adds new objectives that are specific to Indian applicants such as incentives for capacity building and more consistent patterns of development.

Types of Grants

This part contains provisions for basic grants and comprehensive single- or multi-year grants. Comprehensive single- or multi-year grants will be provided to about 10 Indian applicants on a demonstration basis. The intent in approving such grants for only a few Tribes is to see if this program approach helps to achieve the objectives established for Indian participation in the Community Development Block Grant Program. Accordingly, a low ceiling (20 percent) of the funds allocated to each Region each year to be used for comprehensive single- or multi-year grants has been established unless waived by the Secretary.

The provisions for basic grants to Tribes are similar to the single-purpose grant provisions of the Small Cities Program. The only changes are that basic grant recipients may also carry out several activities relating to different purposes. This is consistent with current practice and is in keeping with the policy of restricting the number of comprehensive single- or multi-year program participants.

Definitions

The definitions in § 570.3 of 24 CFR Part 570 are incorporated in these regulations and a few Indian-specific definitions are added. Most of the additional definitions are identical to those contained in the regulations for the Indian Self-Determination and Education Assistance Act. The definition of "Eligible Indian Population" affects funding distribution directly and rating systems indirectly. The Indian

Self-Determination and Education Assistance Act population statistics are the preferred source for allocating funds. The Tribes' urban populations are excluded from the population figures used for allocation of funds. This approach equitably addresses the issues raised by non-land-based Tribes in Oklahoma and elsewhere.

The Act defines eligible applicants as those Indian Tribes that are eligible to receive assistance under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221). The other provisions § 571.4 have been included either at the direct request of affected Tribes or to respond to known special situations. If a tribe is eligible under both Part 570 and Part 571, the Department prefers that the Tribe apply under Part 570; but in no case may it apply under both.

Tribes with boundaries overlapping several States or located in metropolitan and nonmetropolitan counties requested the explicit inclusion of a provision making it clear that such Tribes are considered single applicants.

The mention of applications submitted on behalf of Indian Tribes ineligible to receive funds under this part for funds provided under Subpart F of Part 570 is included so that these groups are aware that they may still benefit from financial assistance provided under Title I of the Housing and Community Development Act of 1974, as amended, even though they are not eligible to apply for funds provided under this part.

Allocation of Funds

Section 571.101 of the regulations provides for an early target allocation of funds for succeeding fiscal years to allow for comprehensive grants requiring multi-year assistance. This takes into account administrative considerations involved in providing multi-year assistance from the Secretary's Fund. The regional allocation procedure in § 571.101 is based on the concepts of previous program participation, inequities, and formula funding. Fifty percent of the funds available will be allocated to regions based on the ratio of the previous Community Development Block Grant funding to, or for Indians in each region to the total of all previous Community Development Block Grant funding to or for all Indians.

Fifty percent of funds available will be allocated to regions based on the percentage of the total eligible Indian population that resides in each region.

For 1978 only, the foregoing percentages will each be reduced by 2½ percent which will be allocated to Region VI prior to allocating the rest of the funds in order to address the particular needs of Indian Tribes in Oklahoma not served under the previous method of allocating discretionary grant assistance to Indians.

The selection of population as the only demographic distribution factor was based on the fact that only population statistics are available for all eligible Tribes. Definitions of substandard housing and poverty levels used by other agencies are very different from those used by HUD and in any event are not generally available for all eligible Indian applicants. The applicants and HUD believe that available population statistics probably treat all Tribes equally unfairly and could, therefore, be construed to be equitable.

It is expected that this allocation procedure will apply only for fiscal year 1978, that a new system will be developed for subsequent years which will more closely resemble the original block grant formula, that population will always be a distribution factor, and that any permanent distribution system will be established in consultation with eligible applicants.

Special suballocation provisions for Oklahoma and Alaska have been included in § 571.102 to allow for an extraordinary delegation of funds and authority to the affected area offices prior to providing assistance directly to applicants.

Allocations for certain regions will be consolidated because of the relatively small number of Tribes and the meaninglessly small regional allocations that would result if funds were to be distributed to each region separately. Consolidation substantially increases the amount of funds for which any one Tribe located in one of these Regions can compete. Either Regions I-IV, or Regions I-V, will be consolidated.

Section 571.103 includes a provision for recapture of funds by Regional or Field offices from the Tribes. The provision has been included to respond to problems regarding funds utilization that have been encountered in the past.

Eligible Activities

Section 105 of the Act applies to grants made from the Secretary's Fund. The differences between the eligibility requirements set forth in Subpart C of Part 570 and those contained in Subpart C of this part are relatively minor and seek primarily to eliminate the urban orientation of the terminology of Subpart C of Part 570.

General Application Provisions

Section 571.300 provides reasonable standards for data provided by Tribes in support of pre-applications and full applications. The inadequacy of data for Indian Tribes is widely recognized. Applications require submission of substantial amounts of data, most of which will be provided by applicants. Provisions for independent verification and validity of data have been included in order to avoid the inequities that could result from the submission of self-interested information.

Pre-Application Requirements

Tribal resolutions assuring compliance with citizen participation will be accepted as constituting certifications so provision has been made for resolutions in this section.

The scope and content of pre-applications are similar to those proposed for single-purpose grants to small cities (42 FR 8476-8490, March 1, 1978). No housing assistance status report will be required of Tribes at the pre-application stage. Tribes are almost entirely dependent on HUD-assisted housing, so most such data is available within the Department.

The threshold factor included in § 571.302 is similar to that contained in the regulations for the Small Cities Program. Adequate progress in carrying out previously funded activities rather than requiring substantial completion has been included as the threshold factor. Many Tribes have experienced difficulty in getting activities underway because of lack of staff and lack of experience with HUD programs.

The criteria for selection included in § 571.303 are similar in intent to the proposed regulations for single-purpose grants under the Small Cities Program but are designed to better fit the special circumstances of Indian Tribes.

No weights or values of criteria have been included. Each Regional or Field Office, in consultation with eligible applicants in its jurisdictions, will develop its own rating system that must incorporate the nine proposed criteria. This approach has been adopted in order to take into account the differences in needs and capacities of the Tribes in the various regions. These regulations provide broad policies and standards that all rating systems must take into consideration. For example, balancing the needs of smaller Tribes for substantial grants against the magnitude of the needs of larger Tribes is required, but the manner in which this balance is to be achieved is left up to each HUD administering office.

Full Application Requirements

The community development planning and program requirements of § 571.305 follow closely the submission requirements proposed for single-purpose grants. Some of the requirements, such as cost breakdowns, are more specifically described and the needs assessment requirement is divided into separate general needs assessment and specific needs identification sections. These variations have been

included to provide more precise guidance for Indian applicants.

The Indian Housing Assistance Plan requires somewhat different information from that requested of cities. The number of HUD-assisted substandard units is required in order to project the potential demand for housing modernization funds. Similarly, the separate identification of total numbers of units that can only be repaired on an interim basis will give Tribes and HUD better data on replacement unit needs and better control of interim rehabilitation expenditures.

Prescribed rehabilitation standards for HUD-assisted units have been included in order to adapt the block grant approach to the requirements of the HUD Indian Housing Regulations. An independent inspection requirement for all rehabilitation projects has been added to insure that adequate standards have been met.

The assurance/certification requirements have been adapted to the 1977 amendments to the Act and to accommodate special Indian situations. Citizen participation can be accomplished using traditional Tribal means instead of public hearings. Compliance with Title II of Pub. L. 90-284 (25 U.S.C. 1301) (often referred to as the Indian Civil Rights Act) is required instead of compliance with Title VI of the Civil Rights Act of 1964, Title VIII of the Civil Rights Act of 1968 and Section 109 of Title I of the Housing and Community Development Act of 1974, as amended. Compliance with Indian preference requirements similar to Section 7(b) of the Indian Self-Determination and Education Assistance Act has been added. The Davis-Bacon reference in the assurance form (HUD Form 7015.2) required as part of fiscal year 1977 Community Development Block Grant applications has been relaxed to allow for the new waiver provision.

HUD Review and Approval of Applications

The provisions of § 571.306 are substantially the same as those set forth in the regulations for the Small Cities Program with respect to HUD review and approval of applications.

Comprehensive Program Requirements

Subpart E of these regulations is modeled after the proposed Small Cities Program requirements of the Community Development Block Grant Program with some significant adaptations.

The Indian Comprehensive Grant Program will be a demonstration program. Accordingly, participation will be by invitation only. Application and performance requirements are also considerably more stringent than for the Basic Grant Program.

Unless waived by the Secretary to meet special situations, no more than 20 percent of any Region's allocation of funds may be used for Comprehensive Grants in order to insure that adequate funds for the Basic Grant Program are available.

The threshold factors for the Comprehensive Grant Program set forth in § 571.402 are required in addition to those established for the Basic Grant Program. The additional threshold factors are all measures of capacity. Superior past performance is required to improve the chances of the demonstration being successful. Commitment of continuing staff capability is required because of high staff turnover rates in Indian communities.

Experience in carrying out other Federal programs is required of a recipient of a grant for an Indian Comprehensive Program as a measure of administrative capacity. Requiring an existing plan that is currently being implemented avoids a fragmented program and provides an incentive for implementing comprehensive plans.

The selection criteria contained in § 571.403 are required in addition to those for the Basic Grant Program. The requirement for superior past performance as a comparative factor among comprehensive program applicants has been included to make sure that the most able applicants will be selected.

The application requirements in § 571.405 are similar to those proposed for the Basic Grant Program, except that a more detailed presentation of the applicant's comprehensive community development strategy will be required. A delineated housing strategy will also be required.

Grant Administration

With a few exceptions, the regulations in Part 570 applicable to the administration of entitlement and general purpose discretionary funds have been reproduced in Subpart F. The exceptions and the reasons for deviation from the regular program requirements are explained below.

Where the requirements are similar, reference has been made to the applicable sections of the regulations issued by the Department of Interior for the administration of grant funds provided under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) found at 25 CFR Part 270. This is in keeping with the policy of designing these regulations for the administrative convenience of the grantee.

Section 571.507 sets forth the requirements for the use of tribal work forces (force account construction). The formulation of regulations covering this construction method recognizes needs of HUD field staff as well as Tribal representatives to have well-defined policy in this area. This construction method is favored by many Tribes because of its positive effects on Tribal income (a higher percentage of construction dollars remain in the community) and on the construction skill levels of Tribal members.

Procurement and Contracting Standards

Rather than referencing Attachment O of OMB Circular A-102 in § 571.508, these standards have been set forth in detail in the regulations. This was done because: (1) The Secretary has been given the authority to waive the labor standard requirements of Section 110 of the Act, (2) the regulations will impose Indian Preference provisions on Tribal contracting and procurement, and (3) procurement requirements are used frequently by local staff in administering their Community Development Block Grant programs.

Bonding and Insurance Requirements

The standard requirements have been relaxed somewhat in § 571.510 in order to allow for the acceptability of other forms of security than performance and payment bonds and to give HUD the flexibility to approve a grantee accepting less than 100 percent performance and payment security from a contractor. These requirements are similar to those provided in the HUD Indian Housing Regulations (24 CFR 805.203(c)).

Other Program Requirements

Substantial changes from previous requirements are made in Subpart G which differ from requirements set forth in Part 570 for non-Indian block grant recipients.

Nondiscrimination

The Secretary has been given the authority to waive the applicability of Section 109 of the Act to activities and programs funded under this part. Section 571.600 provides that the Secretary will exercise this authority in all instances. Therefore, reference to Section 109 was deleted from the regulations. In its place, recipients are required to comply with the nondiscrimination requirements of Title II of Pub. L. 90-284 (25 U.S.C. 1301) in their administration of programs funded under this part.

Relocation and Acquisition

The provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (40 U.S.C. 4601) apply to recipients of funds under this part only in those instances where the recipients are State agencies. Given the fact that only a small minority of potential recipients are State agencies, relocation and ac-

quisition requirements have been presented in § 571.601 for recipients not covered by the Uniform Act. These requirements provide for equitable and just treatment of displacees and for the protection of the interest of the Federal Government, property owners and grantees in real property acquisition activities.

ENVIRONMENT

The regulations set forth in 24 CFR Part 58 are applicable to activities funded under this part. The Department contemplated providing waiver authority in recognition of the fact that most Indian communities are rural in character and the 100-acre threshold requirements for water and sewer facilities in such undeveloped areas would not have as great an environmental impact as in developed areas. The waiver was not included because 24 CFR Part 58 is currently being revised by the Department and the need for a waiver is no longer apparent.

LABOR STANDARDS

Section 571.604 has been written to reflect the fact that the Secretary has the authority to waive the applicability of Section 110 of the Act. It has been determined that this authority would be executed on a case-by-case basis.

All other requirements set forth in Subpart G of 24 CFR Part 570 apply to grants made under this part.

PROGRAM MANAGEMENT

There are only a few substantive differences in Subpart H as compared with the requirements set forth in Subpart J of 24 CFR Part 570 of the non-Indian Community Development Block Grant Regulations.

The format has been revised so that the requirements and responsibilities of both HUD and the recipient are more clearly presented.

Performance Report requirements have been formulated to provide for a narrative report format rather than the forms now required of recipients.

The corrective actions, remedial actions, and other remedies for noncompliance as set forth in 24 CFR Part 570 have been included in these regulations.

SPECIAL INFORMATION

Findings of inapplicability with respect to Environmental Impact have been prepared in accordance with HUD Handbook 1390.1. In addition, a Finding of Inapplicability with respect to Economic Impact has also been prepared in accordance with Executive Order 11821. Copies of the findings are available for inspection and copying in the Office of the Rules Docket Clerk at the above address.

Accordingly, a new part of Title 24 of the Code of Federal Regulations, Part 571, is adopted to read as follows:

Subpart A—General Provisions

Sec.
571.1 Applicability and scope.
571.2 Program objectives.
571.3 Definitions.
571.4 Eligible applicants.
571.5 Consultations with eligible applicants.
571.6 Waivers.

Subpart B—Allocation of Funds

571.100 General policies.
571.101 Allocation of funds to regional or field offices.
571.102 Subregional allocation procedures.
571.103 Recapture of funds.
571.104 Reallocation of funds.

Subpart C—Eligible Activities

571.200 General policies.
571.201 Basic eligible activities.
571.202 Eligible rehabilitation and preservation activities.
571.203 Eligible economic development activities.
571.204 Eligible activities by private nonprofit entities, neighborhood-based nonprofit organizations, local development corporations, or small business investment companies.
571.205 Eligible planning, urban environmental design, environmental studies and administrative costs.
571.206 Ineligible activities.

Subpart D—Application Procedures and Selection Criteria for Basic Grants

571.300 General policies.
571.301 Pre-applications.
571.302 Threshold factors.
571.303 Criteria for selection and rating process.
571.304 Letter to proceed and advance of funds.
571.305 Application requirements.
571.306 HUD review and approval of applications.
571.307 Program amendments.
571.308 Imminent threats to public health and safety.

Subpart E—Application Procedures and Selection Criteria for Comprehensive Grants

571.400 General policies.
571.401 Pre-applications.
571.402 Threshold factors.
571.403 Criteria for selection and rating process.
571.404 Letter to proceed and advance of funds.
571.405 Application requirements.
571.406 HUD review and approval of applications.
571.407 Program amendments.

Subpart F—Grant Administration

571.500 Designation of public agency.
571.501 Grant agreement and conditions.
571.502 Method of payment.
571.503 Release of funds.
571.504 Standards for grantee financial management systems.
571.505 Program income.
571.506 Force account construction.
571.507 Indian preference requirements.
571.508 Procurement and contracting standards.
571.509 Bonding and insurance requirements.
571.510 Audit.
571.511 Retention of records.
571.512 Grant close-out procedures.

Subpart G—Other Program Requirements

571.600 Nondiscrimination.
571.601 Relocation and acquisition.
571.602 Environment.
571.603 Labor standards.
571.604 Architectural Barriers Act of 1968.
571.605 Activities for which other Federal funds must be sought.
571.606 Hatch Act.
571.607 National flood insurance program.
571.608 Clean Air Act and Federal Water Pollution Control Act.
571.609 Activities conducted by nonprofit entities, SBICs, and local development corporations [Reserved].
571.610 Lead-Based Paint Poisoning Prevention Act.
571.611 Property rehabilitation standards [Reserved].

Subpart H—Program Management

571.700 General policies.
571.701 Property management standards.
571.702 Reports to be submitted by recipients.
571.703 Records to be maintained by recipients.
571.704 Secretarial review of recipient's performance.
571.705 Performance standards.
571.706 Corrective and remedial action.
571.707 Other remedies for non-compliance.

AUTHORITY: Title I, Housing and Community Development Act of 1974 (42 U.S.C. 5301 et. seq.); Title I, Housing and Community Development Act of 1977 (42 U.S.C. 5301 et seq.); and sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

Subpart A—General Provisions

§ 571.1 Applicability and scope.

The policies and procedures described in this part apply only to Community Development Block Grants to eligible Indian Tribes. This part defines eligible applicants, the allocation of funds, eligible activities, application procedures and selection criteria, grant administration, other program requirements, and program management. These regulations shall be reviewed annually in consultation with Indian Tribes and amended where necessary.

§ 571.2 Program objectives.

(a) The primary objective of the Indian Community Development Block Grant Program is the development of viable Indian communities, including decent housing, a suitable living environment and expanding economic opportunities, principally for persons of low and moderate income. Consistent with this primary objective, the Federal assistance provided in this part is for the support of community development activities which are directed toward the following specific objectives:

(1) The elimination of blight, the prevention of blighting influences and the deterioration of property and community facilities of importance to the welfare of the community, principally persons of low and moderate income.

(2) The elimination of conditions which are detrimental to health, safety, and public welfare, through code enforcement, demolition, interim rehabilitation assistance, and related activities.

(3) The conservation and expansion of the Nation's housing stock in order to provide a decent home and a suitable living environment for all persons, but principally for those of low and moderate income.

(4) The expansion and improvement of the quantity and quality of community services, principally for persons of low and moderate income, which are essential for sound community development and for the development of viable Indian Tribes.

(5) A more rational utilization of land and other natural resources and the better arrangement of residential, commercial, industrial, recreational, and other needed activity centers.

(6) The restoration and preservation of properties of special value for historic, architectural or esthetic reasons.

(b) It is also the purpose of this part to further the development of a national Indian policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a consistent system of Federal aid which:

(1) Encourages community development activities consistent with comprehensive local and areawide development planning; and fosters these activities in a coordinated and mutually supportive manner.

(2) Furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family.

(3) Promotes more rational patterns of community and economic development for Indian Tribes.

(4) Provides incentives for Indian Tribes to improve their capacity in planning for and carrying out housing, community, and economic development activities.

(5) Allows Indian Tribes to take advantage of their physical and cultural resources to achieve the objectives of self-determination; by

(i) Making this part flexible and responsive to the special problems and circumstances of Indian Tribes consistent with responsible management and use of Federal funds;

(ii) Adapting activity eligibility requirements to the special needs of Indian Tribes.

(iii) Providing for the maximum participation by eligible applicants in advising HUD regarding the development of national and regional policies under this part pursuant to Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450).

(iv) Providing comprehensive, multi-year assistance on a demonstration basis to selected Tribes.

(6) It is intended under this part that the Federal assistance made available not be utilized to reduce the amount of local financial support for community development activities below the level of such support prior to the availability of such assistance.

§ 571.3 Definitions.

(a) "Act" means Title I of the Housing and Community Development Act of 1974 (42 U.S.C. 5301 et seq.).

(b) "Basic Grant" means a grant provided pursuant to the provisions of this part to eligible Indian applicants for the purpose of carrying out one or more activities set forth in an approved Community Development Program.

(c) "BIA" means the Bureau of Indian Affairs.

(d) "Chief executive officer" means the elected official or legally-designated official who has the prime responsibility for the conduct of the affairs of an Indian Tribe. Examples are the chairperson, chief, governor or president (as the case may be) of an Indian Tribe.

(e) "Comprehensive Grant" means a grant provided pursuant to the provisions of this part to eligible Indian Applicants for the purpose of carrying out a Comprehensive Community Development Program comprised of two or more activities requiring single or multi-year assistance that bear a relationship to each other; are either in terms of support or necessity, carried out in a coordinated manner and have a substantial beneficial impact in meeting one or more community development needs of the applicant.

(f) "Community Development Program" means the program formulated by the applicant in its application to HUD as described in Subparts D and E of this part, which:

(1) Includes the activities to be undertaken to meet its community development needs and objectives identified in its summary community development plan, together with the estimated costs and general location of such activities;

(2) Indicates resources other than those provided under this part which are expected to be made available toward meeting its identified needs and objectives; and

(3) Takes into account appropriate environmental factors.

(g) "Consultation" means any procedure of oral or written communication that provides adequate opportunity for eligible Indian applicants to advise HUD in formulating national or regional program policies or procedures that relate to Indian Tribes and Alaska Natives.

(h) "Eligible Indian Population" means the most recent population statistics used for determining the amounts of grants provided under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221). If a Tribe is eligible to receive assistance under both these acts, the population used to determine the grant amount under the Indian Self-Determination Act (25 U.S.C. 450) shall apply to this part unless a Tribe can demonstrate that a substantially greater population is used to determine the level of assistance provided under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221), in which case the higher figure will be used.

(i) "Extent of housing overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled and published by the U.S. Bureau of the Census for 1970.

(j) "Extent of poverty" means the number of persons whose incomes are below the poverty level based on data compiled and published by the United States Bureau of the Census for 1970 and the latest reports of the Office of Management and Budget. For the purposes of this part, the Secretary has determined that it is neither feasible nor appropriate to make adjustments at this time in the computations of "extent of poverty" for regional or area variations in income and cost of living.

(k) "HUD" means the Department of Housing and Urban Development.

(l) "Identified service area" means:

(i) A geographic location within the jurisdiction of a Tribe (but not the entire jurisdiction) designated in comprehensive plans, ordinances or other local documents described in the Community Development Program as a service area.

(ii) The BIA service area including residents of areas outside the geographical jurisdiction of the Tribe.

(iii) The entire area under the jurisdiction of a Tribe which is under 10,000 population.

(m) "Indian-owned firms" means any commercial, industrial or other economic enterprise that is at least 51 percent owned by Indians.

(n) "Indian regulations" means the policies and procedures in this part which apply only to eligible Indian Tribal applicants.

(o) "Indian Tribe" means any Indian Tribe, band, group, or nation, including Alaskan Indians, Aleuts, and Eskimos, and any Alaskan Native Village of the United States, which is considered an eligible recipient under the

Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) or under the State and Local Fiscal Assistance Act of 1972 (31 U.S.C. 1221).

(p) "Low- and moderate-income families" or "lower-income families" means families whose incomes do not exceed eighty percent (80%) of the median family income of the metropolitan area, or in the case of families residing in nonmetropolitan areas, of all nonmetropolitan areas of the State. (In determining the income eligibility of individual low- and moderate-income or lower-income families to receive assistance through direct benefit activities under the block grant program, applicants may use the applicable income units published by HUD for lower-income housing assistance under Section 8 of the United States Housing Act of 1937, (42 U.S.C. 1437f)).

(q) "Low- and moderate-income persons" or "lower-income persons" means members of families whose incomes are within the income limits of lower-income families as defined in § 571.3(p). This term may, where appropriate, also include unrelated individuals, as defined by the U.S. Census Bureau, whose incomes do not exceed 80 percent of the median income of all unrelated individuals residing in the metropolitan area, or in the case of unrelated individuals residing in nonmetropolitan areas, of all nonmetropolitan areas of the State.

(r) "Low-income persons" means members of families whose incomes do not exceed 50 percent of the median family income of the metropolitan area, or in the case of families residing in nonmetropolitan areas, of all nonmetropolitan areas of the State. This may, where appropriate, also include unrelated individuals, as defined by the U.S. Census Bureau, whose incomes do not exceed 50 percent of the median income of all unrelated individuals residing in the metropolitan area, or in the case of unrelated individuals residing in nonmetropolitan areas, of all nonmetropolitan areas of the State.

(s) "Metropolitan area" means a standard metropolitan statistical area, as established by the Office of Management and Budget.

(t) "Regions" means the regional or field offices of HUD as they are currently defined for Indian Tribes. HUD Regions I-IV or I-V (the Eastern seaboard) shall be considered as a single region for purposes of funding and program administration.

(u) "Secretary" means the Secretary of the Department of Housing and Urban Development.

(v) "State" means any State of the United States, and instrumentality thereof approved by the Governor, and the commonwealth of Puerto Rico.

(w) "Tribal Government," "Tribal Governing Body," "Tribal Council" means the recognized governing body of an Indian Tribe.

(x) "Tribal Resolution" means the formal manner in which the Tribal government expresses its legislative will in accordance with its organic documents. In the absence of such organic documents, a written expression adopted pursuant to Tribal practices will be acceptable.

§ 571.4 Eligible applicants.

(a) The Secretary shall consider eligible Indian Tribes as single applicants regardless of the boundaries of the jurisdictions (counties or States) in which the Indian community is located.

(b) Only Indian Tribes, as defined in these regulations under § 571.3(o) may apply for funds provided under this part. Eligible applicants may contract or otherwise agree with States, cities, counties or Regional Corporations as in the case of Alaska to prepare applications and help implement assisted activities on their behalf. HUD shall make grants only to the eligible applicant.

(c) States, cities, counties, or Alaskan Native Regional Corporations may not be applicants for funds provided under this part. States, cities, or counties may apply on behalf of ineligible Indian groups under the provisions of Subpart F of 24 CFR Part 570. Regulations set forth in this part do not apply to such applications.

§ 571.5 Consultations with eligible applicants.

(a) HUD will, to the maximum extent feasible, afford adequate time and opportunity for consultation, as defined in this part to eligible Indian applicants prior to initiating major changes in program policies or undertaking any activities set forth in paragraph (b) of this section. The consultation process is advisory in nature, and HUD is not bound to accept the comments offered as a result of consultation.

(b) Consultation with as many eligible applicants as possible pursuant to paragraph (a) of this section will apply to the following actions:

(1) The consolidation of Indian functions in certain Regions for purposes of providing assistance under this part and the designation of the office or offices of HUD that will have administrative responsibility for the Indian Community Development Block Grant program pursuant to this Part.

(2) The development of annual rating and ranking policies and procedures by regional or field offices with the delegated authority to administer funds provided under this part. For fiscal year 1978, such consultation shall not take place any later than 45 days from the publication of these regulations. For subsequent years, consultation regarding the review and rating system shall occur no later than 60 days after the amounts of funds to be made available that year for the annual program are made known, excluding amounts committed to applicants under Subpart E of this part.

(3) The sub-regional allocation of funds in Region VI and X.

(4) The establishment of policies and procedures concerning Comprehensive Grants by regional or field offices with delegated authority to adminster funds provided under this part.

(5) The development of regulations and allocation procedures for fiscal year 1979.

(6) The amount, if any, of funds to be set aside for funding planning activities pursuant to §§ 571.100(a)(6) and 571.303(a)(4).

§ 571.6 Waivers.

The Secretary may waive any requirement of this part not required by law whenever it is determined that undue hardship will result from applying the requirement and would adversely affect the purposes of the Act.

Subpart B—Allocation of Funds

§ 571.100 General policies.

(a) *General.* This section describes the types of grants that may be provided under this part, the policies and procedures for allocating the Indian portion of the Secretary's Discretionary Fund to the Regions, with general policies for subregional allocation; recapture and reallocation of funds; and other policies for funds distribution.

(1) The Secretary shall establish an annual allocation of funds to be made available to regions under this part on a timely basis.

(2) The Secretary shall establish early funding allocations for succeeding fiscal years to permit applicants to participate in the Comprehensive Indian Community Development Grant Program. All amounts so established shall be subject to appropriations and allocations.

(3) Regions VI and X may suballocate funds for Oklahoma Tribes and Alaska Natives to Field Offices.

(4) Funds for eligible applicants in Regions I-IV or I-V will be allocated to one or more Regional or Field Offices designated by the Secretary.

(5) The Secretary will annually review and develop procedures for the allocation of funds for use in the subsequent program year.

(6) Regional or Field Offices may, from within the total amount of funds under this part allocated to their offices, set aside or otherwise earmark a reasonable amount of such funds specifically for eligible planning activities pursuant to § 571.205 and as provided for in § 571.303(c).

(b) *Types of Grants.* To achieve these purposes and recognizing that

the needs and capabilities of eligible Indian applicants vary widely, two general types of grants will be provided under this part: Comprehensive Single- or Multi-Year Indian Community Development Grants (hereinafter referred to as the "Comprehensive Grant Program") and Basic Indian Community Development Grants (hereinafter referred to as the "Basic Grant Program").

(1) *Basic Indian Community Development Grants.* Grants will be made to assist one or more single-purpose activities that are essentially unrelated but meet a variety of basic community development needs of Indian Tribes. A Basic Grant may be provided for planning purposes pursuant to § 571.303(c).

(2) *Comprehensive Single- or Multi-Year Indian Community Development Grants.* Grants will be made available on a demonstration basis to eligible Indian applicants for comprehensive single- or multi-year community development programs designed to address multiple programs or purposes in a coordinated manner. Funds may be provided in increments of up to three years. Commitments for additional years' funding will be made only under special circumstnces to certain applicants and will be subject both to the availability of funds and the applicant's past performance in carrying out activities and programs funded under the Community Development Block Grant Program pursuant to 24 CFR Part 570 or 24 CFR Part 571.

(3) Grant amounts under both programs shall take into account the population of the applicant; the needs of the applicant as measured by substandard housing and poverty conditions; the activities for which funds are sought; and the proven ability of the applicant to carry out the program proposed.

(4) Unless specifically approved by the Secretary, no Region may commit more than twenty percent (20%) of its available funds to the Comprehensive Grant Program in order to ensure that adequate funds are available for Basic Grant Program applicants.

§ 571.101 Allocation of funds to regional and field offices.

The following provisions apply to the allocation of funds to Regional and Field Offices:

(a) Forty-seven and one-half percent (47.5%) of funds available under this part will be allocated among all regions according to the percentage of the total eligible Indian population that resides in each region.

(b) Forty-seven and one-half percent (47.5%) of funds available under this part shall be allocated to each region according to the ratio of previous Community Development Block Grant funding to and for Indians in that region to the total of all previous Community Development Block funding to or for all Indians.

(c) In order to address the particular needs of Indian Tribes in Oklahoma not served under the previous method of allocating discretionary grant assistance to Indians, prior to allocation under the above formula, five percent (5%) of funds available under this part shall be allocated to Region VI. In fiscal years other than 1978, funds shall be allocated pursuant to paragraphs (a) and (b) of this section, except that the percentage cited shall be fifty percent (50%) in both paragraphs.

§ 571.102 Subregional allocation procedures.

Funds allocated pursuant to § 571.101 may be suballocated within Regions VI and X for purposes of funding eligible applicants in Oklahoma and Alaska by State or other appropriate geographical designation before funding applicants directly, provided that such sub-regional allocation uses population percentage and previous program participation as its principal criteria.

§ 571.103 Recapture of funds.

The Secretary, in order to ensure maximum utilization of funds, may include conditions in the grant agreement providing that all or part of the funds for an approved activity or activities may be recaptured at the discretion of the Regional or Field Office for any of the following reasons:

(a) The recipient and the Regional or Field Office agree that the approved activity is no longer feasible;

(b) The funding level approved is substantially greater than that which is needed to carry out the approved activity and there is no other activity which is as highly rated for which funds could be reprogrammed;

(c) The recipient has not commenced the approved activity within a reasonable period of time (a reasonable period of time depends upon the nature of the project and will be made specific in the condition of the grant agreement.)

§ 571.104 Reallocation of funds.

The following policies and procedures apply to the reallocation of funds by Regions:

(a) As a general rule, recaptured funds will be reallocated either for activities that were not included in an approved grant because of limited funds or to the next highest rated project of an unfunded applicant that could be undertaken with the amount of recaptured funds available.

(b) Funds allocated to regions, under this section, that are not used within the fiscal year of allocation will remain available in those regions for distribution in the next fiscal year, provided that the appropriation has not lapsed.

(c) Funds suballocated within regions as provided for in § 751.102 may be recaptured and reallocated by a Field Office only after approval of the Regional office.

Subpart C—Eligible Activities

§ 571.200 General policies.

(a) *Policy.* The general policy with regard to eligible activities is that grant assistance may be used only for activities which comply with the requirements of this part.

(b) *Determinations of Eligibility.* This subpart sets forth the variety of eligible activities that may be undertaken with assistance under this part to meet community development and housing needs and priorities principally for low- and moderate-income persons or for the prevention or elimination of slums and blight. The listing of certain eligible types of activities in this subpart does not by itself, however, render specific activities, proposed to be conducted by individual applicants, eligible for assistance under this part. There are other requirements that must also be met to qualify a specific activity for assistance. An activity may be assisted only in those instances where it complies with all other applicable requirements of this part and the basic statutory objectives of the block grant program and applicable state and local law. Further, there must be compliance with all applicable environmental review and clearance procedures set forth in 24 CFR Part 58.

(c) *Model cities activities.* Notwithstanding anything to the contrary in this subpart, any ongoing model cities activity being carried out in a model cities program shall be eligible for funding under this part from that portion of the hold-harmless amount attributable to such model cities program until the applicant has received five years of funding for such activities. For the purpose of this paragraph the term "ongoing activity" means any model cities activity underway as of January 1, 1975, that was approved and funded by HUD on or before June 30, 1974. Upon expiration of the eligibility of activities under this paragraph, applicants should refer to the other requirements of this subpart which must be satisfied in order for block grant assistance to continue to be provided for model cities activities.

(d) *Special policies governing facilities.* The following special policies apply to:

(1) *Facilities containing both eligible and ineligible uses.* Where a facility, otherwise eligible for assistance under the block grant program is to be provided as a part of a multiple-use

building and/or facility that also contains otherwise ineligible uses, the portion of the costs attributed to the eligible facility may be assisted with block grant funds where:

(i) The facility, which is otherwise eligible and proposed for assistance, will occupy a designated and discrete area within the larger facility; and

(ii) The applicant can determine the costs attributable to the facility proposed for assistance as separate and distinct from the overall costs of the multiple-use building and/or facility. For example, a senior center, which is to occupy space within a building that is otherwise used for the conduct of general governmental business, may be assisted when it exclusively occupies a separate and designated area within the building (i.e., the senior center does not "float" to different locations within the building that happen to be available on a less than permanent basis) and the applicant can determine the cost associated with providing the senior center as distinct from those costs associated with all remaining ineligible portions of the building.

(2) *Facilities located on school property.* Any facility eligible for assistance pursuant to § 571.201(c), which is designed primarily for a public purpose other than education is not considered to be a school or educational facility where although it is to be located on a site controlled by a school district, school board or similar body responsible for public education, the facility will only be used by any adjacent school or educational facility on an incidental basis. In order to determine whether the facility is to be used on an incidental basis, the applicant shall at a minimum demonstrate that:

(i) After school hours and on weekends, the facility shall be available for use by the general public to the same extent as similar facilities operating within the applicant's jurisdiction; and

(ii) During school hours, the facility is not used for school purposes for more than four hours each day.

(e) *Consultant Activities.* Applicants may employ consultants to provide professional assistance in program planning, application preparation, and professional guidance relating to program execution. The use of consultants is governed by the following provisions:

(1) *Program Requirements* including the requirements of this Part, Federal Management Circular 74-4, OMB Circular A-102, and applicable Federal, State, and local laws;

(2) *Written Agreements* shall be executed between the parties which detail the responsibilities, standards, and fees;

(3) *Compensation for Consultants.* Persons employed as a consultant or by a firm providing consultant services shall receive no more than a reasonable rate of compensation for personal services which, on a daily basis, may not exceed the maximum daily rate of compensation for a GS-18 as established by Federal law; and

(4) *Adjustments resulting from audits or monitoring reviews.* The rates of compensation for personal services and payments under lump sum contracts may be adjusted where audits or monitoring reviews indicate that the rates of compensation were not reasonable or exceeded the maximum daily rate for a GS-18, or the actual time required to provide the consultant service was significantly less than the estimate upon which the lump sum amount was based.

§ 571.201 Basic eligible activities.

Grant assistance may be used for the following activities:

(a) *Acquisition.* Acquisition in whole or in part by a public agency, by purchase, lease, donation or otherwise, of real property (including air rights, water rights, rights-of-way, easements, and other interests therein) which is:

(1) Blighted, deteriorated, deteriorating, undeveloped or inappropriately developed from the standpoint of sound community development and growth, as determined by the recipient pursuant to State and local laws;

(2) Appropriate for rehabilitation or conservation activities;

(3) Appropriate for the preservation or restoration of historic sites, the beautification of land, the conservation of open spaces, natural resources and scenic areas, the provision of recreational opportunities or the guidance of community development;

(4) To be used for the provision of public works, facilities and improvements eligible for assistance under this subpart; or

(5) To be used for other public purposes, including the conversion of land to other uses where necessary or appropriate to the community development program. For example, an applicant may purchase land to be used for the development of housing for low- and moderate-income persons.

(b) *Disposition.* Disposition, through sale, lease, donation, or otherwise, of any real property acquired with block grant funds or its retention for public purposes, provided that the proceeds from any such disposition shall be program income subject to the requirements set forth in § 571.505.

(c) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of certain publicly owned facilities and improvements. This may include the execution of architectural design features, and similar treatments intended to enhance the esthetic quality of facilities and improvements receiving block grant assistance, such as decorative pavements, railings, sculpture, pools of water and fountains, and other works of art. Public facilities and improvements eligible for assistance under this paragraph include;

(1) *Senior Centers.* But excluding any facility whose primary function is to provide residential accommodations or care on a 24-hour day basis (such as a group home).

(2) *Parks, playgrounds and other recreational facilities* which are designed for participation, but not spectator facilities such as stadiums.

(3) *Centers for the handicapped.* The term "center for the handicapped" means any single or multipurpose facility which seeks to assist persons with physical, mental, developmental and/or emotional impairments to become more functional members of the community by providing programs or services which may include, but are not limited to recreation, education, health care, social development, independent living, physical or vocational rehabilitation; but excluding any facility whose primary function is to provide residential care on a 24-hour a day basis (such as a group home or halfway house). For example, a sheltered workshop would be a single purpose center for the handicapped, and a facility providing several services for the handicapped would be a multipurpose center for the handicapped, both of which are eligible for assistance.

(4) *Tribal facilities.* Such facilities may be of either a single purpose or multipurpose nature and be designed to provide health, social, recreational or similar community services primarily for residents of an identified service area.

(d) *Solid waste disposal facilities,* which are defined as those physical parts of solid waste management systems commencing at and including the site or sites at which publicly or privately owned collection vehicles discharge municipal solid wastes, through the point of ultimate disposal including necessary site improvements and conveying systems, including appropriate fixed and movable equipment, including vehicular containers used after the first stage of disposal at transfer stations, but not including the final collections.

(1) Such facilities or equipment must be located in identified service areas.

(2) Equipment and appurtenances used in the initial collection of solid wastes are not included among those solid waste disposal facilities eligible for assistance under this part.

(e) *Fire protection facilities and equipment.* Such facilities and equipment must be located in or serve identified service areas.

(1) Fire protection facilities are defined as the land and necessary im-

provements thereto which are necessary for properly housing and storing fire protection equipment and personnel by a fire organization, but not including fire fighting schools and their appurtenances.

(2) Fire protection equipment is defined as appropriate equipment and apparatus which a fire protection organization requires to protect property and maintain the safety and welfare of the public, including emergency medical aid, from the dangers of fire.

(f) *Parking facilities.* Such facilities must be located in or serve identified service areas.

(g) *Public Utilities,* other than water and sewer, which include:

(1) Facilities necessary for distribution or collection of the utility (but not production or generation, such as electrical generation plants);

(2) Buildings and improvements that are an integral part of the utility and are of such a nature that the utility will not function without them; and

(3) The placing underground of existing or new distribution or collection facilities. Further information regarding the eligibility of assistance to privately owned utilities is set forth in § 571.201(1).

(h) *Street improvements.* Streets, street lights, traffic signals, signs, street furniture, trees, bridges, culverts, causeways, curbs, gutters, sidewalks, and other normal appurtenances to streets and structures facilitating the passage on, or usage of, streets, but excluding expressways and other limited access ways and their appurtenances.

(i) *Water and sewer facilities,* including storm sewers, except for sewage treatment works and interceptor sewers which are described as in § 571.206(a)(6). The term "storm sewers" means sewers or other conduits, open or closed, or their appurtenances which collect, transport and dispose of storm waters, surface water, street wash, other wash and ground water or drainage into an existing water course, but excluding domestic waste water and commercial and industrial wastes.

(j) *Foundations and platforms for air rights sites.*

(k) *Pedestrian malls and walkways.*

(l) *Flood and drainage facilities.* In cases where assistance for such facilities has been determined to be unavailable under other Federal laws or programs pursuant to the provisions of § 571.607. The term "flood and drainage facilities" means those undertakings designed to influence or affect the flow in a natural water course (such as a river, stream, lake, estuary, bay, ocean or intermittent stream) and excludes storm sewers.

(m) *Other public facilities and improvements,* not listed in this paragraph, except those described in §§ 571.207(a)(1) and (f), which are necessary and appropriate to the implementation of the applicant's strategy for housing or revitalization of the identified service area.

(1) The applicant shall provide HUD with a description of the proposed facility or improvement and the relationship to applicant's strategy for housing of the identified service area.

(2) Among the factors HUD will take into account in authorizing assistance under this paragraph are the amount of benefit to low- and moderate-income persons, the degree of impact on the identified needs of the applicant, and the availability of other Federal funds for the activity.

(n) *Clearance activity.* Clearance, demolition and removal of buildings and improvements, including movement of structures to other sites. Demolition of HUD assisted housing units may be undertaken only with the prior approval of HUD.

(o) *Public services.* Provision of public services (including labor, supplies and materials) which are directed toward improving tribal services and facilities, including those concerned with employment, crime prevention, child care, health, drug abuse, education, welfare, or recreational needs, and which are directed toward coordinating public and private development programs. Such services may be provided by State or local government, quasi-public, private or nonprofit agencies including, but not limited to, HUD approved counselling agencies selected by the applicant for funds provided under this part. In order to be eligible for block grant assistance, public services must meet each of following criteria:

(1) Public services are to be provided for residents in identified service areas in which block grant-assisted physical development activities are being carried out in a coordinated manner. Such public services may be supported with block grant funds during the period in which block grant assisted physical development activities are being carried out in a concentrated manner, and may be continued for no more than three years after the completion of such physical development activities. For the purpose of this paragraph:

(i) Physical development activities include only those described in § 571.201(a) through (d), (f) through (h), (j) and (k), and § 571.202 through § 571.203.

(ii) The phrase "concentrated manner" shall mean that the block grant-assisted physical development activities are being carried out within an area in a coordinated manner to serve a common objective or purpose pursuant to a locally developed plan or strategy in identified service areas with a comprehensive, physical development program for the improvement, conservation or preservation of the identified service area.

(2) Such services must be directed toward meeting the needs of residents of such areas. Block grant assistance may incidentally be provided for such services only for those who are not residents of an identified service area.

(3) A public service must be either (i) a new service, or (ii) a quantifiable increase in the level of a service above that which has been provided by or in behalf of the applicant from local revenue sources or State funds received by the applicant in the 12 calendar months prior to submission of the block grant application. (An exception to this requirement with regard to State-funded services may be made if HUD determines that the decrease in the level of a service was the result of events not within the control of the applicant.)

(4) Federal assistance in providing or securing such public services must have been applied for and denied or not made available pursuant to the provisions of § 571.605.

(5) Public services must be determined by the applicant to be necessary or appropriate to support the physical development activities to be carried out within the identified service areas. For example, the provision of job training for area residents working on neighborhood revitalization projects would be appropriate to support a concentration of block grant assisted physical development activities being carried out in the area. (i) The specific determination of support for each proposed public service is not required to be included in the application, but the applicant must briefly describe the relationship of the public service to the physical development activities (ii) HUD will accept the applicant's determination that a public service is necessary and appropriate to support the physical development activities unless there is substantial evidence to the contrary, in which case additional information or assurances may be requested from the applicant prior to a determination of eligibility.

(p) *Interim assistance.* Interim assistance to alleviate harmful conditions where immediate public action is determined by the applicant to be necessary.

(1) The following activities may be undertaken as a prelude to more comprehensive treatment in identified service areas where activities included in the Community Development Program are to be carried out in order to hold the area from further deterioration during the interim period:

(i) The repair of streets, sidewalks, parks, playgrounds, publicly owned utilities and public buildings;

(ii) The improvement of private properties to the extent necessary to

eliminate immediate danger to public health, safety or welfare;

(iii) The establishment of temporary public playgrounds on vacant land; and

(iv) The execution of special garbage, trash, and debris removal, including neighborhood clean up campaigns, but not the regular curbside collection of garbage or trash in an area.

(2) The following activities may be undertaken to the extent necessary to alleviate emergency conditions threatening the public health and safety in areas where the chief executive officer of the applicant determines that an imminent threat to the public health and safety exists requiring immediate resolution of emergency conditions:

(i) The improvement of private properties;

(ii) The repair of streets, sidewalks, utilities, and other public facilities and improvements; and

(iii) The removal of trash and debris, unsafe structures, clearance of streets including snow removal, and other similar activities. The chief executive officer, or his designee, shall notify the appropriate HUD Field Office within several days of determining that a situation exists which poses an imminent threat to the public health and safety and that block grant funds will be used to alleviate the emergency conditions.

(q) *Payment of the non-Federal share* required in connection with a Federal grant-in-aid program undertaken as part of the block grant activities: *Provided,* That such payment shall be limited to activities otherwise eligible under this subpart.

(r) *Urban renewal completion.* Payment of the cost of completing an urban renewal project funded under Title I of the Housing Act of 1949 as amended.

(s) *Relocation.* Relocation payments and assistance for individuals, families, businesses, nonprofit organizations, and farm operations displaced by activities assisted under this part.

(t) *Loss of rental income.* Payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocation of individuals and families displaced by program activities assisted under this Part.

(u) *Removal of architectural barriers.* Special projects directed to the removal of material and architectural barriers which restrict the mobility and accessibility of elderly or handicapped persons to publicly owned and privately owned buildings, facilities, and improvements. Further information regarding the removal of architectural barriers is available in publication ANSI A117.1-1961 (R. 1971) of the American National Standards Institute, Inc.

(v) *Privately owned utilities.* Acquisition, construction, reconstruction, rehabilitation, or installation of distribution facilities and lines of privately owned utilities where necessary and appropriate to implement the applicant's strategy for neighborhood revitalization or housing. Activities may include the placing underground of new or existing distribution facilities.

(1) The applicant shall provide HUD with a description of the proposed activity and the relationship to the applicant's strategy for neighborhood revitalization or housing.

(2) Among the factors HUD will take into account in authorizing such activities are:

(i) The degree of benefit to low- and moderate-income persons;

(ii) The degree of impact on the identified needs of the applicant; and

(iii) The availability of other Federal funds for the activity.

§ 571.202 Eligible rehabilitation and preservation activities.

Grant assistance may be used for the following activities for the rehabilitation of buildings and improvements:

(a) *Rehabilitation of Public residential structures.* Rehabilitation of publicly owned or acquired properties for use in the provision of housing including:

(1) Permanent housing units, both single family and multifamily, for rental or sale; and

(2) Residential facilities, including group homes, halfway houses, and emergency shelter. For example a group home for the handicapped or a temporary shelter for battered women may be provided through acquisition and rehabilitation of properties for those purposes.

(b) *Public housing modernization.* Modernization and modernization planning of publicly-owned low-income housing (excluding, the new construction of office facilities for such public housing). (N. B. Block grant funds may also be provided by an applicant to a public housing agency to be used for otherwise eligible activities, e.g., public services such as security and day care meeting the requirements of § 571.201(o) and planning and policy-planning-management activities under § 571.205 related to public housing improvements.)

(c) *Rehabilitation of private properties.* Block grant assistance may be used for the rehabilitation of privately owned properties. Assistance may consist of:

(1) *Acquisition for the purpose of rehabilitation.* Block grant funds may be used to assist private entities, including those organized for profit and on a not-for-profit basis to acquire, for the purpose of rehabilitation, and rehabilitate properties for use or resale in the provision of housing which, upon completion of rehabilitation, at a minimum will meet the Section 8 Existing Housing Quality Standards set forth in 24 CFR 882.109, including:

(i) Permanent housing units, both single family and multifamily, for rental or sale; and

(ii) Residential facilities, including group homes, halfway houses, and emergency shelters;

(2) *Rehabilitation financing.* Block grant funds may be used to finance the rehabilitation of privately owned residential, non-residential (excluding industrial properties), and mixed use properties either within identified service areas where activities included in the Community Development Program are being carried out or on a spot basis throughout the jurisdiction of the applicant for low- and moderate-income persons. Block grant funds may be used directly to finance rehabilitation, including settlement costs, through the direct use of block grant funds in the provision of assistance such as grants, loans, loan guarantees and interest supplements, for:

(i) Costs of rehabilitation of properties, including, repair directed toward cure of an accumulation of items of deferred maintenance, replacement of principal fixtures and components of existing structures, and renovation through alteration, additions to, or enhancement of existing structures, which may be undertaken singly, or in combination;

(ii) Refinancing existing indebtedness secured by a property being rehabilitated if such refinancing is necessary or appropriate to the execution of a Community Development Program;

(iii) Measures to increase the efficient use of energy in structures through such means as installation of storm windows and doors, siding, wall and attic insulation, and conversion, modification or replacement of heating and cooling equipment, including the use of solar energy equipment;

(iv) Financing of costs associated with the connection of residential structures to water distribution lines or local sewer collection lines; or

(v) Costs of initial homeowner warranty premiums for rehabilitation carried out with block grant assistance.

(3) *Materials.* Block grant funds may be used to provide materials, including tools, for use in the rehabilitation of properties either by the property owner or tenant, or where arrangements have been made for the provision of labor, such as through a CETA grant.

(d) *Temporary relocation assistance.* Block grant funds may be used for temporary relocation payments and assistance to individuals, families, businesses, non-profit organizations, and farm operations displaced temporarily by rehabilitation activities assisted under this Part.

(e) *Code enforcement.* Code enforcement in identified service areas where activities included in the Community Development Program are being carried out, which are deteriorating or deteriorated in which such enforcement together with public improvements, and services to be provided may be expected to arrest the decline of the area.

(f) *Historic preservation.* Rehabilitation, preservation, restoration and acquistion of historic properties, either publicly or private owned, which are those sites or structures that are either listed in or eligible to be listed in the National Register of Historic Places, listed in a State or local Inventory of Historic Places, or designated as a State or local land mark or historic district by appropriate law or ordinance. Publicly owned historic properties may be assisted, including those properties which are othewise ineligible for assistance under this subpart. However, eligibility is limited only to those costs necessary for rehabilitation, preservation or restoration of the property and not for conversion or expansion of the property for any ineligible use. For example, a city museum serving low- and moderate-income persons, and listed in the National Register may be restored, but the addition of a new wing on the museum could not normally be assisted, unless it were otherwise eligible for assistance pursuant to § 571.203(b).

§ 571.203 Eligible economic development activities.

Grant assistance may be provided for the following development activities which are not otherwise eligible for block grant assistance, which are directed toward the alleviation of physical and economic distress, through stimulation of private investment, community revitalization, and expansion of economic opportunities for low- and moderate-income persons and which are necessary and appropriate to implement the applicant's strategy for economic development. The applicant shall provide HUD with a description of the activity, and of the relationship to the applicant's strategy for economic development. In authorizing activities, HUD will take into account the amount of long-term employment to be generated by the activity accessible to low- and moderate-income persons, the necessity of the activity to stimulate private investment, the degree of impact on the economic conditions of the applicant, and the availability of other Federal funds.

(a) *Acquisition.* Acquisition of real property for economic development purposes.

(b) *Public facilities and improvements.* Acquisition, construction, reconstruction, rehabilitation, or installation of public facilities and improvements not otherwise eligible for assistance, except buildings and facilities for the general conduct of government which are excluded by § 571.207(a)(1). For example, in an area with an unemployment rate in excess of the national rate, a manpower training center which is designed to prepare for the work force low- and moderate-income persons who are unemployed may be assisted where it is determined by the applicant that such a facility is necessary and appropriate to support its economic development strategy.

(c) *Commercial and industrial facilities.* Acquisition, construction, reconstruction, rehabilitation, or installation of:

(1) Commercial or industrial buildings and structures, including: (i) Purchase of equipment and fixtures which are part of the real estate, but not personal property; and (ii) energy conservation improvements designed to encourage the efficient use of energy resources, (including renewable energy resources or alternative energy resources);

(2) Commercial or industrial real property improvements, (including railroad spurs or similar extensions).

§ 571.204 Eligible activities by private non-profit entities, neighborhood-based non-profit organizations, local development corporations, or small business investment companies.

(a) *General.* Grant assistance may be used by applicants to provide block grant funds for activities designed to implement the applicant's strategies for economic development and neighborhood revitalization set forth in this section to be carried out by a private nonprofit entity, a neighborhood-based non-profit organization, local development corporation, or Small Business Investment Company (SBIC).

(1) *Applicant responsibilities.* Applicants are nonetheless responsible for ensuring that block grant funds are utilized by such entities in manner consistent with the requirements of this part and other applicable Federal, State, or local law. Applicants will also be responsible for the carrying out of applicable environmental review and clearance responsibilities.

(2) *Eligible entities.* Entities eligible to receive block grant funds under this section are:

(i) A private non-profit entity which is any organization, corporation, or association duly organized to promote and undertake community development activities on a not-for-profit basis;

(ii) A tribal-based non-profit organization which is an association or corporation, duly organized to promote and undertake community development activities on a not-for-profit basis within an identified service area. An organization is considered to be tribal-based if the majority of either its membership, clientele, or governing body are residents of the identified service area.

(iii) A Small Business Investment Company (SBIC) which is an entity organized pursuant to section 301(d) of the Small Business Investment Act of 1958 (15 U.S.C. 681(d)) including those which are profitmaking; and

(iv) A local development corporation which is an entity organized pursuant to title VII of the Headstart, Economic Opportunity, and Community Partnership Act of 1974 (42 U.S.C. 298); an entity eligible for assistance under section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696); a State development entity eligible for assistance under section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695); or other similar entity incorporated pursuant to Federal, State, or local law.

(b) *Activities eligible under §§ 571.201-571.203, and § 571.205 and § 571.206.* Grant assistance may be provided by an applicant to be utilized by private nonprofit entities, neighborhood-based non-profit organizations, SBIC's, or local development corporations for activities otherwise eligible for block grant assistance pursuant to §§ 571.201-571.203, § 571.205, and § 571.206. Where such entities use block grant funds to acquire title to facilities, including those described in § 571.201(c) or § 571.203(b), they shall be operated so as to be open for use by the general public during all normal hours of operation. Reasonable fees may be charged for the use of facilities acquired by such entities, but charges, such as excessive membership fees, which will have the effect of precluding low- and moderate-income persons from using the facilities are not permitted.

(c) *Community economic development or revitalization activities.* Grant assistance may be provided by an applicant to be used by neighborhood-based non-profit organizations, SBIC's, or local development corporations, but not private non-profit entities as defined in § 571.204(a)(2)(i) for community or economic development revitalization activities which are not otherwise eligible for assistance under this subpart and which are determined by the applicant to be necessary or appropriate to the accomplishment of its community development program. Such activities may include the provision of block grant assistance for use by tribal-based non-profit organizations, SBIC, or local development corporations for:

(1) Assistance through grants, loans, guarantees, interest supplements, or technical assistance to new or existing small businesses, minority businesses, and tribal non-profit businesses for: (i)

Working capital or operational funds; and (ii) capital for land, structures, property improvements, and fixtures:

(2) Capitalization of a SBIC or local development corporation required to qualify for assistance under other Federal programs;

(3) Assistance to minority contractors to obtain performance bonding; or

(4) Other activities, excluding those described as ineligible for block grant assistance in §§ 571.207(a)(1) and (e), appropriate for community economic development or neighborhood revitalization. Where an applicant proposes to fund such entities to undertake activities pursuant to this paragraph, the applicant shall: (i) Provide HUD with a complete description of the proposed activity; (ii) provide HUD with a description of the relationship of the proposed activity to the applicant's strategy for neighborhood revitalization or economic development; and (iii) receive specific authorization from HUD to undertake the activity.

§ 571.205 Eligible planning and urban environmental design costs.

Grant assistance may be used for the following planning, design and environmental costs:

(a) *Development of a Comprehensive Community Development Plan.* For the purpose of this section, the term "Comprehensive Community Development Plan" means a statement or statements (in words, maps, illustrations, or other methods of communication) which identify the present conditions, needs, and major problems of the applicant's jurisdiction relating to the specific objectives of the community development program as set forth in § 571.2(a) and set forth objectives, policies, and standards to guide the development and implementation of such community development program. Activities necessary to develop a Comprehensive Community Development Plan may include:

(1) Data gathering and studies necessary for the development of the plan or its components, including the production of base mapping and aerial photography in coordination with the U.S. Geological Survey, and gathering information from citizens, but excluding the gathering of detailed data and preparing of analyses necessary for the engineering and design of facilities or activities ineligible for block grant assistance pursuant to § 571.207;

(2) Development of statements of objectives, policies, and standards regarding proposed or foreseeable changes in the present conditions or problems affecting the applicant's jurisdiction that are to be addressed by the community development program;

(3) Development of a 3-year Community Development Plan which identifies the community development, housing, and economic conditions and needs, demonstrates a comprehensive strategy for meeting those needs and specifies both short- and long-term objectives to guide the applicant's community development program;

(4) Related planning and urban environmental design activities including the preparation of communitywide plans for land use, housing, open space, recreation, utilities, historic preservation, including surveys of historic properties, economic development, neighborhood preservation, removal of architectural barriers to the elderly and handicapped, and environmental assessment;

(5) Collection of detailed data, preparation of analyses, engineering, and design of facilities eligible for assistance which can be constructed with block grant funds; and

(6) Development of codes, ordinances, and regulations necessary for the implementation of the plan.

(b) *Development of a policy-planning-management capacity so that the applicant may.* (1) Set long-term and short-term objectives related to the community development and housing needs of its jurisdiction;

(2) Devise programs and activities to meet these goals and objectives;

(3) Establish an environmental design administrative capacity to use a systematic, interdisciplinary approach to the integrated use of natural and social sciences and environmental design arts in planning and decisionmaking;

(4) Evaluate the progress of such programs and activities and the extent to which the goals and objectives have been accomplished; and

(5) Carry out the management, coordination, and monitoring of the activities and programs that are a part of the applicant's community development program.

(c) *Comprehensive planning activities.* In addition to planning activities otherwise eligible for assistance under this section, assistance may be also provided for comprehensive planning activities eligible for assistance under the section 701 planning assistance program pursuant to 24 CFR part 600: *Provided,* That such additional planning activities are necessary or appropriate to meeting the needs and objectives of the applicants' community development program. The applicant shall submit a description of the activities to HUD. Among the factors HUD will take into account in authoring activities will be the impact of the activity on the needs and objectives identified by the applicant, and the availability of other Federal funds.

§ 571.206 Reasonable administrative costs.

Payment of reasonable administrative costs and carrying charges related to the planning and execution of community development activities financed, in whole or in part, with funds provided under this part and housing activities covered in the applicant's Housing Assistance Plan (HAP). Costs incurred in carrying out the program, whether charged to the program on a direct or an indirect basis, must be in conformance with the requirements of Federal Management Circular (FMC) 74-4, "Cost Principles Applicable to Grants and Contracts with State and Local Governments". All items of cost listed in Attachment B, Section C of that Circular (except Item 6, prearrangement costs, which are eligible only to the extent authorized) are allowable without prior approval to the extent they constitute reasonable costs and are otherwise eligible under this subpart.

(a) *Eligible program administration costs.* Reasonable administrative costs and staff expenses include necessary expenditures for the following:

(1) Salaries, wages and related costs of the applicant's staff and the staff of local public agencies engaged in carrying out the program;

(2) Travel costs incurred for official business in carrying out the program;

(3) Administrative services performed under third-party contracts or agreements, including such services as general legal services, accounting services and audit services;

(4) Other costs for goods and services required for administration of the program, including such goods and services as rental and maintenance of office space, insurance, utilities, office supplies and rental or purchase of office equipment;

(5) Costs associated with the administration of individual program activities; and

(6) Reasonable administrative costs relating to the provision of rehabilitation loans under Section 312 of the Housing Act of 1964, as amended, and, where appropriate, administration of an urban homesteading program pursuant to Section 810 of the Housing and Community Development Act of 1974, as amended, in accordance with the Community Development Program or housing assistance plan.

(b) The provision of information and other resources to residents and citizen organizations participating in the planning, implementation or assessment of activities being carried out with block grant funds. This may include assistance to tribal organizations in identified service areas conducting training or other activities designed to increase the capability of low- and moderate-income persons to be involved effectively in the development and planning and design of a community development program consistent with the applicable citizen participation requirements set forth in this Part.

(c) Provision of fair housing counseling services and other activities de-

signed to further fair housing and the housing objective of promoting greater choice of housing opportunities and avoiding undue concentrations of assisted persons in areas containing a high proportion of lower-income persons. For example, activities may involve informing tribal members including the handicapped, of housing opportunities in non-reservation residential areas and providing information about such areas, and assisting tribal members including the handicapped, through provision of escort services to brokers offices in non-reservation residential areas.

(d) Provision of assistance to facilitate performance and payment bonding necessary for contractors carrying out activities assisted with block grant funds including, payment of bond premiums in behalf of contractors.

(e) *Property management.* Reasonable costs of managing properties acquired with block grant funds.

(f) Applications for Federal programs, including the block grant program and UDAG program, may be prepared with block grant funds where necessary and appropriate to implement the applicant's comprehensive strategy for community development.

(g) Activities to facilitate the implementation of a housing assistance plan for necessary expenses, prior to construction, in planning and obtaining financing for the new construction or substantial rehabilitation of housing for lower-income persons. Activities may include:

(1) The costs of conducting preliminary surveys and analyses of market needs;

(2) Site and utility plans, narrative descriptions of the proposed construction, preliminary cost estimates, urban design documentation and "sketch drawings", but excluding architectural, engineering and other details ordinarily required for construction purposes, such as structural, electrical, plumbing and mechanical details;

(3) Reasonable costs associated with development of applications for mortgage and insured loan commitments, including commitment fees, and of applications and proposals under the Section 8 housing assistance payments program pursuant to 24 CFR Parts 880-883; and

(4) Fees associated with processing of applications for mortgage and insured loan commitments under programs including those administered by HUD, Farmers Home Administration (FmHA), Federal National Mortgage Association (FNMA), and the Government National Mortgage Association (GNMA).

The new construction or direct financing of new construction of housing is not eligible for assistance under this Part.

(h) *Environmental studies.* The reasonable costs of environmental studies, including historic preservation clearances, necessary to comply with 24 CFR Part 58, including project specific environmental assessments and clearances for activities eligible for assistance under this part.

§ 571.207 Ineligible activities.

The following is a list of activities which are ineligible for block grant assistance under most circumstances and which serves as a general guide regarding ineligible activities. There are several authorities set forth in Subpart C of this part which would permit activities cited in this section to be undertaken with block grant funds. When an activity used as an example in this section meets the requirements for eligibility pursuant to Subpart C of this part, such an activity may be assisted with block grant funds even though it is used as an example of an eligible activity. The list of examples of ineligible activities is merely illustrative and does not constitute a list of all ineligible activities:

(a) *Public works, facilities and site or other improvements.* The general rule is that public works, facilities and site or other improvements are ineligible to be acquired, constructed, reconstructed, rehabilitated or installed unless they are eligible pursuant to § 571.201(c) or § 571.203(b), or were previously eligible under any of the programs consolidated by the Act (except the public facilities loan program, the model cities program, and as an urban renewal local grant-in-aid eligible under Section 110(d)(3) of Housing Act of 1949). Activities undertaken to make facilities and improvements otherwise ineligible for development with block grant assistance accessible to the elderly and handicapped through removal of architectural barriers, or for the purposes of historic preservation pursuant to §§571.201(u) and 571.202(f), respectively, are eligible for assistance with block grant funds and are not precluded by this section. Where acquisition of real property includes an existing improvement which is to be utilized in the provision of an ineligible public facility, the portion of the acquisition cost attributable to such improvement, as well as the cost of any rehabilitation or conversion undertaken to adapt or make the property suitable for such use, shall be ineligible. Examples include the following:

(1) Buildings and facilities for the general conduct of government cannot be provided with block grant assistance, such as city halls and other headquarters of government where the governing body of the recipient meets regularly and which are predominantly used for municipal purposes, court houses, police stations and other municipal office buildings;

(2) Other facilities and improvement, which cannot be provided with block grant funds unless they are determined by HUD to be necessary and appropriate to the implementation of an applicant's strategy for community development and housing include:

(i) Facilities used for exhibitions, spectator events and cultural purposes, including stadium, sports arenas, auditoriums, concert halls, cultural and art centers, convention centers and exhibition halls, museums, central libraries, and similar facilities. For the purpose of this pargraph, libraries (including central libraries in units of general local government under 25,000 population where the criteria set forth in § 571.201(c)(4) are satisfied), cultural art and museum facilities which meet the requirements for neighborhood facilities set forth in § 571.201(c)(4) are considered neighborhood facilities and are, therefore, eligible for assistance.

(ii) Schools and educational facilities (including elementary, secondary, college, and university facilities). For the purpose of this paragraph—a neighborhood facility, senior center or center for the handicapped in which classes in practical and vocational activities (such as first aid, homemaking, crafts, independent living, etc.) are among the services provided is not considered as a school or educational facility.

(iii) Airports, subways, trolley lines, bus or other transit terminals, or stations, and other transportation facilities (excluding railroad spurs assisted pursuant to § 571.203(c).

(iv) Hospitals, nursing homes and other medical facilities, For the purpose of this paragraph, a neighborhood facility, senior center, center for the handicapped, which provide general health services is not considered to be a medical facility.

(v) Treatment works for sewage or industrial wastes of a liquid nature consisting of the various devices used in the treatment of sewage and commercial and industrial wastes of a liquid nature, including the necessary interceptor sewers, outfall sewers, actual treatment facilities, pumping stations, power and other equipment, and their appurtenances. The term "interceptor sewer" means a line which has as its primary purpose the diversion or transmission of sewage from a collection system to a treatment facility, and applies to the following:

(A) In those situations where raw or inadequately treated sewage is being discharged from an existing public sewer, those sewer lines, whether gravity or force and any pumping stations or other appurtenances thereto which are necessary to prevent or eliminate the discharge into any waterway of raw or inadequately treated sewage from an existing point or points of discharge in a public system are not eligi-

ble. This includes any necessary pumping stations, force mains or other appurtenances thereto; and

(B) In all other situations, the line or lines which divert the flow to the treatment facility from the point of natural discharge of a collection system, were no treatment to be provided, including any necessary pumping stations, force mains or other appurtenances are not eligible.

(b) *Purchase of equipment.* The purchase of equipment with block grant funds is generally ineligible.

(1) *Construction equipment.* The purchase of construction equipment is ineligible, but compensation for the use of such equipment through leasing, depreciation or use allowances pursuant to Attachment B of OMB Circular A-102 for an otherwise eligible activity is an eligible use of block grant funds. An exception is the purchase of construction equipment which is used as a part of a solid waste disposal facility which is eligible for block grant assistance pursuant to § 571.201(d), such as a bulldozer used at a sanitary landfill.

(2) *Furnishings and personal property.* The purchase of equipment, fixtures, motor vehicles, or furnishings or other personalty not an integral structural fixture is ineligible, except when necessary for use by a recipient or its subgrantees in the administration of its Community Development Program pursuant to § 571.206, or as a part of a public service pursuant to § 571.201(o).

(c) *Operating and maintenance expenses.* The general rule is that any expense associated with operating, maintaining or repairing public facilities and works or any expense associated with providing public services not assisted with block grant funds is ineligible for assistance. However, operating and maintenance expenses associated with providing public services or interim assistance otherwise eligible for assistance under this part may be assisted. For example, the cost of a public service being operated with block grant funds in a neighborhood facility may include reasonable expenses associated with operating the public service within the facility, including costs of rent, utilities and maintenance. Examples of activities which are not eligible for block grant assistance are:

(1) Maintenance and repair of streets, parks, playgrounds, water and sewer facilities, neighborhood facilities, senior centers, centers for the handicapped, parking and similar public facilities. Examples of maintenance and repair activities for which block grant funds may not be used include the filling of pot holes in streets, repairing of cracks in sidewalks, the mowing of recreational areas, and the replacement of expended street light bulbs.

(2) Payment of salaries for staff, utility costs and similar expenses necessary for the operation of public works and facilities; and

(3) Expenses associated with provision of any public service which is not eligible for assistance pursuant to § 571.201(o).

(d) *General government expenses.* Expenses required to carry out the regular responsibilities of the unit of general local government are not eligible for assistance under this part. Examples include all ordinary general government expenditures not related to the Community Development Program and not related to activities eligible under this subpart.

(e) *Political activities.* No expenditure may be made for the use of equipment or premises for political purposes, sponsoring or conducting candidates' meeting, engaging in voter registration activity or voter transportation activity or other partisan political activities.

(f) *New housing construction.* Assistance may not be used for the construction of new permanent residential structures or any program to subsidize or finance such new construction, except as provided under the last resort housing provisions set forth in 24 CFR Part 43, or pursuant to § 571.204(c)(4). For the purpose of this paragraph, activities in support of the development of low- or moderate-income housing in accordance with an approved Housing Assistance Plan including clearance site assemblage, provision of site and provision of public improvements and certain housing preconstruction costs set forth in § 571.206(d)(7), are not considered as programs to subsidize or finance new residential construction.

(g) *Income payments.* The general rule is that assistance shall not be used for income payments for housing or other purpose. Examples of ineligible income payments include the following: Payments for income maintenance, housing allowances, down payments and mortgage subsidies.

Subpart D—Application Procedures and Selection Criteria for Basic Grants

§ 571.300 General policies.

(a) *Preapplications* are required for assistance provided under this part. Full applications for assistance shall be submitted only upon invitation by HUD. HUD shall invite full applications based upon the rating system pursuant to §§ 571.302 and 571.303 or based on imminent threat to health and safety pursuant to § 571.308. The following provisions apply both to preapplications and full applications.

(b) *Data.* Applicants may submit data that are unpublished and not generally available in order to meet the requirements of this section if the applicant can demonstrate that generally available, published data are substantially inaccurate or incomplete. The applicant must demonstrate to the satisfaction of HUD that the data submitted meet all of the following requirements:

(1) The data provided have been collected systematically;

(2) The data are, to the greatest extent possible, independently verifiable.

(3) The data differentiate between reservation and BIA service area population.

(c) *Review of Applications.* Preapplications and full applications for grants under this section will be reviewed by HUD according to the following:

(1) The preapplication and full application have been received or are postmarked by the date established by the Secretary, or as required in an invitation to submit a full application.

(2) The preapplication and full application are substantially complete as required in this Subpart.

(3) Timing of Review. While the Secretary is not bound by the statute to act on an application within a prescribed period of time, every effort will be made to review all preapplications within 45 days and all full applications within 75 days of their receipt.

(d) *A-95 Requirements.* (1) Indian Tribes are not required to comply with the provisions of OMB Circular A-95. However, they are encouraged to submit preapplications and full applications to the State and areawide clearinghouses for review and comment.

(2) Where the Indian Tribal government has established a clearinghouse pursuant to OMB Circular A-95 and such clearinghouse has been duly recognized by OMB, any Tribal entity submitting a Basic Grant or Comprehensive Grant preapplication or full application shall submit it to the Tribal clearinghouse in accordance with the requirements of OMB Circular A-95 and HUD which are applicable to Indian Tribes.

(e) *Administrative Capacity.* For purposes of this part "administrative capacity" means that an applicant can demonstrate to HUD's satisfaction that it possesses, or can acquire, the managerial, technical, or administrative staff of capability to carry out the activities proposed for assistance under this part in a timely manner. HUD will judge an applicant's administrative capacity by such measures as the following:

(1) The number and kind of activities of similar magnitude and complexity that the applicant has successfully completed in the past with funds provided under this part or from other Federal, State, or local sources;

(2) The number and complexity of other activities currently being carried out by the applicant. If it is determined by HUD that such activities will have an adverse impact on the applicant's ability to carry out the activity or activities proposed for funding under this Part, the applicant must describe how it will acquire the additional staff or capability to carry out the activities proposed for funding under this part;

(3) The identification of staff currently or potentially in the employ of the applicant who have the qualifications to carry out the managerial, technical, or administrative tasks involved in carrying out activities funded under this part.

§ 571.301 Preapplications.

(a) *General.* Preapplications are required for grants provided under this part in order to provide HUD with sufficiently detailed project information to make accurate judgments and comparisons in determining which applicants will be invited to submit full applications and to save Indian Tribes the cost of preparing full applications which have no chance of being funded.

(1) Invitations to submit full applications will be made by comparing an applicant's substandard housing and poverty conditions and activities proposed with the criteria for selection and with similar conditions and activities of other applicants.

(2) Each HUD Regional or Field Office responsible for administering programs under this part shall annually establish a review and rating system that is based on all Threshold Factors and Criteria for Selection set forth in § 571.302 and § 571.303 to evaluate comparatively the preapplications from applicants within its jurisdiction. Copies of the review and rating system may be obtained from the appropriate Regional or Field Office at that time.

(3) HUD will establish the deadlines for submission of preapplications for funds under this part each fiscal year by publication of notice in the FEDERAL REGISTER.

(b) *Scope of Preapplication.* A preapplication may include any number of eligible activities. Preapplications will include activities that can be completed within a reasonable period of time, generally not more than two years. The amount of funds applied for, together with other resources that may be available, should be enough to complete the proposed activities. While a recipient remains eligible to receive funds provided under this part in subsequent years, an applicant should not assume that additional funds will be available to expand or complete activities. However, recipients selected to participate in the multi-year Comprehensive Program pursuant to Subpart E of this part may assume subsequent year's funding, subject to the availability of funds.

(c) *Submission Requirements.* Preapplications shall be submitted on HUD forms to the designated HUD Field Office and shall consist of the following:

(1) Standard Form 424 as prescribed by OMB Circular A-102;

(2) A program narrative statement which consists of the following:

(i) Information, including the demographic data of the quality described above in § 571.300(b), which addresses the criteria for selection described below in § 571.303(b),

(ii) A description of the activities proposed, their scope and magnitude, their costs (including administrative and project planning costs), as precisely estimated as possible,

(iii) A brief description of how the activities will address the applicant's community development needs.

(3) For applicants previously funded under this part or Part 570, a narrative report describing the status of activities previously funded under this part or under Part 570 and, if necessary, explaining the reasons for lack of progress in completing such activities,

(4) For first time-applicants, a narrative which includes the information required by § 571.302(d),

(5) A map showing the location of proposed activities, if appropriate or necessary to describe the activities or how they relate to the applicant's community development needs and program, and

(6) Assurance, in the form of a Tribal Resolution, that adequate citizen participation, as required in this part (§ 571.305), has taken place.

§ 571.302 Threshold factors.

In order for a preapplication to be considered for inclusion in the rating process pursuant to § 571.303, HUD must determine that:

(a) The applicant is eligible as provided in § 571.4;

(b) The activity or activities are eligible for assistance as provided in Subpart C of this part;

(c) Adequate progress has been made by applicants previously funded under the Community Development Block Grant Program pursuant to 24 CFR Part 570 or to 24 CFR Part 571 toward implementing and completing assisted activities, and the applicant demonstrates the administrative capacity to continue to carry out assisted activities. In no event will HUD's determinations regarding the administrative capacity of a previously funded applicant be based solely on some minimum percentage of achievement for any factor. Determination of administrative capacity for first-time applicants will be based on a demonstration of the capacity, or definite plans to establish the capacity, to carry out the proposed program and to control and account for the funds requested. The submission of a description of the applicant's previous experience in carrying out activities proposed for assistance under this part with other Federal, State and local funds or the submission of a description of the applicant's plans to hire or contract for the managerial, technical and administrative capabilities required to carry out the proposed activity shall provide the information for the determination to be made by HUD.

(d) The applicant has taken or will take steps toward the provision of new or better housing for low or moderate income members of the Tribe or Native Alaskan Village; or has taken steps within its control to remove impediments to the provision of such housing. For previously funded applicants, positive steps must have been taken toward meeting the housing goals contained in the most recently approved Housing Assistance Plan.

§ 571.303 Criteria for selection and rating process.

(a) *General Policies.* The following policies shall govern all review and rating systems.

(1) All rating systems shall recognize in some appropriate manner the needs of smaller applicants without ignoring the magnitude of the needs of the larger applicants. This balance may be achieved by a competition in which applicants of similar size compete with each other.

(2) All review and rating systems must be principally numerical in character with points being awarded according to the relative weights of the selection factors established in consultation with applicants.

(3) All review and rating systems shall provide for the wide diversity of values among different eligible activities in order to insure that the system does not result in only one or two kinds of projects being funded.

(4) All rating systems shall recognize in some appropriate manner the need for carrying out planning activities eligible pursuant to § 571.205 so that Tribes seeking such assistance shall not be penalized. This may be achieved by holding a separate competition in which applicants compete with each other for funds specifically set aside for planning activities pursuant to § 571.100(a)(6). Requests for planning assistance included in applications for comprehensive multi-year assistance under Subpart E of this part shall be included in any planning competition and be funded out of any funds set aside for planning purposes.

(b) *Criteria for Selection.* Preapplications which meet the threshold requirements established in § 571.302 will be rated competitively in accordance with ratings that take into account the following criteria:

(1) The degree of impact of the proposed activity on the provision of basic community facilities and services. For example, a water system for a reservation or area that is without water at all has a greater impact than improving an existing, if deficient, system.

(2) The relative need of the applicant. Relative need will be measured by the extent of poverty and substandard housing conditions as represented by both the numbers and percentages of families and individuals living under these conditions.

(3) The importance of the project to the provision of more or better housing for low- or moderate-income families and individuals.

(4) The degree of benefit of the proposed activity or activities as measured by the number and percentage of low- and moderate-income families or persons to be served.

(5) The degree to which the proposed activity or activities, substantially or entirely, meets a community development need.

(6) The degree to which the proposed activity will alleviate or remove a serious threat to health or safety.

(7) The priority placed on the proposed activity by the applicant. Applicants applying for more than one activity must indicate the relative priority of the proposed activities.

(8) The direct impact of the proposed activity or activities on the economic development of the applicant's community. Such impact shall be measured by factors such as increased job opportunities for community residents, capital formation and other economic benefits to be derived.

(9) The extent to which other resources will either be generated by or be used in coordination with the proposed project as evidenced by a firm financial commitment from these sources.

(c) *Selection Criteria for Planning Activities.* Regional or Field Offices that elect to hold separate competitions for eligible planning assistance with funds provided under § 571.100(a)(6) shall develop planning, rating and ranking systems that reflect the following priorities:

(1) Priority consideration will be given to planning proposals that will directly benefit the applicant's ability to provide new or better housing. Such planning activities could include, for example, topographical mapping to identify suitable sites for new housing; or development of Tribal housing site selection policies and procedures.

(2) Priority consideration will be given to planning proposals that have the objective of coordinating all funding sources that will or can be brought to bear on carrying out the applicant's community or economic development plan or to develop and implement a comprehensive community development plan.

(3) The relative priority of the following high priority planning objectives may be determined by the funding office but shall reflect in all cases:

(i) Management and capacity building; and

(ii) Development of three-year community development plans.

(d) *Notification to Applicants.* HUD will promptly notify preapplicants whether or not they are invited to submit full applications.

(1) The notification to applicants not invited to submit a full application will include the numerical rating of the applicant's preapplication and such other information as is appropriate to fully explain why a full application is not being invited.

(2) Invitations to submit full applications shall contain the following:

(i) A list of the activity or activities and the specific amount or amounts that may be applied for.

(ii) If a choice arises among equally highly rated activities, the activity or activities to be applied for will be established by the applicant in writing prior to the submission of the full application.

(iii) Any conditions for acceptance of a full application shall be specified pursuant to subdivision (viii) of this subparagraph.

(iv) The final date for submission of full applications shall be specified.

(v) The invitation may be for fewer projects and less money than the applicant requested in its preapplication. In determining the amount and the project to be invited, the Secretary may take into account the level of demand, the nature of the activity or activities proposed, and the administrative capacity of the applicant to complete the activities in a timely manner.

(vi) HUD may require the submission of information at the time of full application regarding an applicant's plans for administering the Block Grant Program in cases when there is substantial evidence that an applicant might lack the administrative capacity to carry out proposed activities.

(vii) The Secretary may invite more full applications than she can approve in order to have "backup" applications available in case other invited applications are disapproved or not submitted.

(viii) The Secretary may also condition an invitation for a full application from a previously funded applicant in a case where HUD has substantial evidence of poor past performance as measured by adverse financial or management audit findings outstanding at the time of the invitation to submit a full application. The reason for the condition shall be clearly explained and the actions necessary for acceptance and review of the full application clearly described.

(e) *Performance Reports.* Upon completion of activities funded under this part or Part 570 or upon submission of a subsequent application for funds under this Part, whichever is earlier, applicants are required to submit a performance report as described in § 571.702.

§ 571.304 Letter to proceed.

In response to a request, the Secretary may allow applicants invited to submit a full application to incur costs for planning and preparation of a full application. Letters to proceed will be issued only in cases of demonstrated need. Under a letter to proceed, applicants expend their own funds for which they may be reimbursed if the application is approved. Only the costs of actual application preparation may be reimbursed. In no event shall an applicant be reimbursed for fees based on a percentage of the grant received. Costs incurred for preparation of a preapplication or prior to the issuance of a letter to proceed will not be reimbursed.

§ 571.305 Application requirements.

Full applications will be accepted only as invited by HUD. Addition or substitution of an activity or activities different from those invited or proposed in the preapplication will be approved only if the addition or substitution will not lower HUD's rating of the preapplication. Full applications shall meet the requirements of this section.

(a) *Community Development Plan Summary.* This part of the application will consist of the following:

(1) *General Needs Assessment.* The application will contain a list and a brief description of the applicant's most pressing Community Development needs. Only those needs that the applicant plans to address during the next three years must be identified and described.

(2) *Specific Needs Identification.* The application will specifically identify and describe in detail the nature and magnitude of the needs that will be addressed during the current funding cycle with funds provided under this part.

(3) *Strategy.* The application should contain a description of the applicant's strategy for meeting the specific needs identified in subparagraph (2) of this paragraph including resources other than those provided for under this part.

(b) *Community Development Program.* The application should describe in detail the activities for which funds are being sought and the anticipated results. If other funds, in addition to the assistance requested under this part, are to be used to carry out these activities, the source of the other funds must be identified and evidence of firm commitment provided.

(c) *Cost Information.* The application should contain the following cost information:

(1) The total cost of each activity.

(2) The amount of block grant funds to be used for each activity.

(3) The amount of block grant funds needed for program administration and planning for each activity.

(4) The amount of other funds needed to carry out the project and what parts of the activities the other funds will pay for.

(d) *Housing Assistance Plan.* Applicants for assistance under this Part are required to submit a Housing Assistance Plan. The information provided in a Housing Assistance Plan should be quantified as much as possible and all data provided shall meet the standards set forth in § 571.301(b) unless the applicant can demonstrate that data which meet these requirements does not exist, in which case estimates may be used instead. Housing Assistance Plans shall include the following:

(1) A description of existing housing, (if possible, based on an accurate survey) broken down by tenure type, i.e., rental, owner-occupied, or mutual-help, and indicating whether HUD-assisted, BIA-assisted, FmHA-assisted, or other. This description shall, at a minimum, contain information regarding the numbers of standard and substandard units; numbers of units that can only be repaired on an interim basis and must be replaced within the next five years; and the number of units for which the applicant has received a firm financial commitment from HUD, BIA, IHS, and/or other Federal or State agencies, for new construction, rehabilitation, or interim repair.

(2) An assessment of the housing assistance needs of low- and moderate-income and handicapped families or individuals who are living in overcrowded units or in units that are otherwise substandard and the needs of those who are living within the BIA-defined service area of the applicant and have formally expressed a desire to move to the applicant's jurisdiction if adequate housing were available. This assessment shall indicate the numbers of dwelling units which must be provided by new construction or rehabilitation (excluding those for which there is a firm financial commitment as indicated under subparagraph (1) of this paragraph and the number which must be repaired on an interim basis). Supporting documentation and its sources shall be provided.

(3) Establishment of realistic 3-year goals for the housing assistance for low- and moderate-income and handicapped families and individuals as indicated under subparagraph (2) of this paragraph, taking into consideration and describing the impediments to providing the needed assistance, and specifying the number, by funding source, to be provided by new construction, rehabilitation, or interim repair. Units that can only be repaired on an interim basis shall not be included as standard units in estimating housing assistance goals because the long-term housing needs of families living in such units will not have been met by interim repairs.

(4) If readily available and appropriate to illustrate the applicant's housing assistance needs, a map showing the location of concentrations of substandard housing units occupied by low- and moderate-income families and the location of existing federally-assisted housing shall be included in the housing assistance plan submission.

(5) Housing Assistance Plans shall include a brief description of the applicant's strategy for providing housing assistance to low- and moderate-income and handicapped families or individuals within the applicant's jurisdiction in accordance with such advisory material as HUD will provide.

(6) Any rehabilitation or repair of units assisted under the HUD Indian Housing Program shall comply with standards no lower than the standards required by HUD and the Indian Housing Authority under the HUD assistance program applicable to those units. In cases other than interim rehabilitation as defined in subparagraph (1) of this paragraph, units rehabilitated with funds provided under this part must be for occupancy by low- and moderate-income households and meet the basic health and safety standards of local housing codes.

(7) Applicants proposing to rehabilitate any housing shall provide for frequent interim and final inspections by qualified, objective inspectors.

(e) *Certification.* An applicant is require to certify in a manner prescribed by HUD that:

(1) It possess the legal authority to apply for the grant and execute the proposed program.

(2) The Tribal Council has duly authorized the filing of the application, including all understandings and assurances contained in the application and directing and authorizing the person identified as the official representative of the applicant to act in connection with the application and to provide such additional information as may be required.

(3) Prior to submission of its application, the governing body of the applicant has:

(i) Prepared and followed a written citizen participation plan which provides Tribal citizens, especially those living in areas where activities are proposed or on-going, with adequate information concerning the amount of funds available for proposed community development and housing activities, the range of activities that may be assisted, the most highly rated activites under the approved rating system; other important program requirements and solicited their views and participation.

(ii) Has followed traditional Tribal means of citizen involvement that meet the standards required in Subpart H of this part as well as this subsection or held at least two adequately publicized meetings of the Tribal Council at a time and location convenient to Tribal citizens which provided an adequate opportunity to articulate needs, express preferences about proposed community development and housing activities, assist in the selection of priorities, and otherwise participate in the development of the application. (No part of this paragraph shall be construed to restrict the responsibility and authority of the applicant for the development of the application and the execution of its Basic Grant Program. Accordingly, the citizen participation requirements of this paragraph do not include concurrence by any person or group involved in citizen participation in making final determinations concerning the findings and contents of the application. The sole responsibility and authority to make such final determinations rests exclusively with the applicant.)

(4) The chief executive officer or other official of the applicant approved by HUD:

(i) Consents to assume the status of a responsible Federal official under the National Environmental Policy Act of 1969 insofar as the provisions of such Act apply to the applicant's proposed program pursuant to 24 CFR 571.602; and

(ii) Is authorized and consents on behalf of the applicant and him/her self to accept the jurisdiction of the Federal courts for the purpose of enforcement of his/her responsibilities as such an official. (Applicants for whom HUD has approved a claim of incapacity to accept the responsibilities of the Federal government for purposes of complying with the environmental review requirements of 24 CFR Part 58 pursuant to § 571.602 need not include the provisions of the paragraph in their resolutions/certifications.)

(5) The Program has been developed principally to benefit low- and moderate-income persons.

(6) It will comply with the regulations of FMC 74-4 and OMB Circular A-102 as they apply to applicants under this Part.

(7) It will administer and enforce the labor standards requirements prescribed by these regulations.

(8) It will comply with the requirements of Title II of Pub. L. 90-284 (25 U.S.C. 1301) (the Indian Civil Rights Act).

(9) It will comply with the Indian preference provisions required in § 571.507 of these regulations.

(10) It will establish written safeguards to prevent employees from using positions funded under this section for a purpose that is, or gives the appearance of being, motivated by private gain for themselves or their close family or business associates. Nothing in this certification should be construed as to limit employees from benefitting from program activities for which they would otherwise be eligible.

(11) It will give HUD and the Comptroller General access to and right to examine all books, records, papers or documents related to the grant for a period of no less than three years after project completion.

§ 571.306 HUD review and approval of applications.

(a) *Acceptance of Application.* HUD will accept applications for review:

(1) That are received by the date specified by the Secretary;

(2) That are substantially complete as required by these regulations unless some of the submission requirements have been waived.

(3) That do not request funds in an amount greater than the amount invited, unless a revised amount is acceptable to HUD.

(4) That satisfy any conditions established at the time of invitation to submit a full application.

(b) *Notification to Applicants.* The Secretary will notify an applicant in writing that its application has been approved, disapproved, partially approved, or conditionally approved. The Secretary will inform applicants in writing of the specific reasons for partial or conditional approval or disapproval.

(c) *Disapproval of a Full Application.* The Secretary may disapprove a full application funded under this section if:

(1) The applicant has substituted another activity or activities for which a full application was invited and the new activity or activities is ineligible or would receive a lower rating than the project invited after reviewing of the preapplication; or

(2) The applicant has failed to satisfy any conditions established in the invitation to submit a full application; or

(3) Other resources needed to complete the proposed activity are no longer available or will not become available within a reasonable period of time; or

(4) The activity can no longer be completed within the estimated costs or resources available to the applicant; or

(5) There is substantial evidence that the applicant lacks the administrative capacity to carry out the activity as proposed or in a timely manner; or

(6) Funding for the activities and assistance under this part is no longer needed; or

(7) The Secretary determines that the application does not comply with the requirements of this and other applicable sections of this part of other applicable law.

(d) *Applications Not Acted Upon.* Applications submitted in accordance with the provisions of § 571.303(d)(2)(vii) which HUD is unable to act on will be returned to the applicant with an explanation of the reasons for this action.

(e) *Conditional Approvals.* The Secretary may conditionally approve an application for assistance under this section. The total amount of a conditionally approved full application may be awarded to the applicant, but obligation and expenditure of funds for affected activities would be restricted. Conditional approvals will be made under the following circumstances as applicable:

(1) Applicable environmental review requirements have not been completed. With respect to an applicant for whom HUD has approved a claim for legal incapacity as described in 24 CFR Part 58 (the environmental review requirements), HUD will invite a full application for activity or activities included in the applicant's preapplications that receive ratings high enough to be funded. Full applications submitted under the circumstances cited above will be conditionally approved as provided for in § 571.307(f) until HUD completes the actions necessary to comply with the applicable environmental review and clearance requirements of 24 CFR Part 58.

(2) The requirements of § 571.606 regarding provisions of public services and flood or drainage facilities have not been met;

(3) There is substantial evidence that there has been or will be a lack of progress, non-compliance or non-conformance, with these regulations as described in § 571.705; or that the applicant lacks the administrative capacity to carry out the proposed activity as described in § 571.302(c); or there is substantial evidence that the proposed activity or activities may become infeasible or impractical to carry out as proposed, in which case the applicant will be given the opportunity to amend its program according to the policies established for the recapture of funds as provided for under § 571.103(a). In all cases of conditional approval, the actions necessary to remove the condition will be specified.

(4) Failure to satisfy the conditions may result in reduction of the grant amount or recapturing unexpended funds pursuant to the provisions of § 571.103.

§ 571.307 Program amendments.

(a) Amendments and other changes to the Community Development Program, Plan and Housing Assistance Plan require citizen participation prior to implementation. Formally announced Tribal Council meetings and the recertification requirements of paragraph (b) of this section apply only where prior HUD approval pursuant to § 571.307(c) is also required.

(b) At Submission of Full Application: HUD will accept for review and possible approval full applications that include activities different from those invited on the basis of a preapplication: *Provided,* That the activities submitted would receive an equal or higher rating and that the applicant certifies again to the citizen participation requirements of § 571.305(e).

(c) After Full Application Approval:

(1) Submission of an amended application and HUD approval of this amended application is required prior to implementation by a recipient of program amendments proposed after approval of a full application if:

(i) New activities are proposed; or

(ii) There is alteration to the scope and location of approved activities or intended beneficiaries resulting in a change in costs in excess of ten percent (10%) of the approved budget; or

(iii) The cumulative effect of a number of smaller changes adds up to an amount that exceeds ten percent of the approved budget; or funds remain after completion of all approved activities.

(2) In cases where new activities are proposed or existing activities are altered so as to require prior HUD approval pursuant to subparagraph (1)(ii) or (iii) of this paragraph, these activities will be rated in accordance with the rating system and selection criteria in effect at the time of receipt of the amendment. The rating of new activities shall be equal to or greater than the rating of the lowest rated activity approved during the most recent funding cycle.

§ 571.308 Imminent threat to health and safety.

The following criteria apply to requests for assistance under this section to alleviate an imminent threat to health and safety that requires immediate solution:

(a) The Secretary may waive the preapplication requirements of § 571.301, and invite a full application for funds under this section in response to a request for assistance to alleviate or remove an imminent threat to health or safety that requires immediate solution. The urgency and immediacy of the threat shall be independently verified prior to approval of a full application. Funds to alleviate imminent threats to health and safety may only be used to deal with threats

that are not of a recurring nature and which represent a unique and unusual circumstance.

(b) Funds to alleviate imminent threats may be granted only if the applicant can demonstrate to the stisfaction of HUD that other local or Federal sources cannot be made available to alleviate the threat.

(c) Prior to inviting full applications from other applicants, Regional or Field Offices may invite full applications to alleviate an imminent threat to health and safety: *Provided*, That the amount so invited does not exceed 15 percent of the funds allocated for an individual field office. Regional or Field Offices may hold up to 15 percent of the funds allocated under this Part for funding imminent threats.

(d) The only funds to be reserved for imminent threats to health or safety are those set aside by Regional or Field Offices. Once depleted, no further applications may be considered during the fiscal year.

(e) The Secretary may issue the applicant a letter to proceed to incur costs to alleviate imminent threats: *Provided*, That applicable environmental review requirements pursuant to § 571.602 have been met.

Subpart E—Application Procedures and Selection Criteria for Comprehensive Grants

§ 571.400 General policies.

(a) *Comprehensive Indian Community Development Demonstration Program.* In order to meet the objectives of this section, HUD may accept applications for assistance to carry out a comprehensive community development program as described below. Indian Tribes will receive this form of assistance on a limited, demonstration basis. Recipients of comprehensive program assistance will be selected by HUD according to the Threshold Requirements and Criteria for Selection established in this part. Preapplications and full applications are required for funding under this subpart.

(b) *Definition of Comprehensive Grant Programs.* A Comprehensive Grant Program is comprised of those community development activities requiring single- or multi-year assistance provided under this part and shall have the following characteristics:

(1) It shall consist of two or more activities that bear a relationship to each other, which either in terms of support of necessity are carried out in a coordinated manner; and

(2) The activities which are the components of this program will have a substantial beneficial impact in meeting one or more community development needs of the applicant.

(c) *Other factors to be considered.* (1) In determining whether or not a program is comprehensive and eligible for funding as such, HUD will take into consideration funds from other sources which are being used to treat similar problems in the same general area.

(2) For purposes of this section, administration and management are not considered activities. Planning can be considered a comprehensive program activity.

To the greatest extent feasible, comprehensive program activities shall be concentrated within a defined geographical area unless the applicant can demonstrate to the satisfaction of HUD that carrying out more widely dispersed activities is the only logical means to address the problem identified.

(d) Full applications for comprehensive programs will be accepted only upon the invitation of HUD.

(e) In order to ensure that adequate resources are available to fund Basic Grant applications, not more than twenty percent (20%) of the funds allocated to a Regional or Field Office will be used to fund Comprehensive Grant Programs in any fiscal year unless otherwise waived by the Secretary to meet special situations.

(f) Notwithstanding any of these provisions, consideration of an application for a Comprehensive Program Grant in no way commits HUD ultimately to funding such a proposal. Final funding determinations will be based solely on the information provided in the applications and on the amount of funds made available under this part and allocated to Regional or Field Offices.

(g) HUD may approve single- or multi-year comprehensive grants for fewer activities and less money than requested taking into consideration:

(1) The amount of funds available;

(2) The nature of the activities proposed;

(3) The relative need of the applicant and the potential impact of the comprehensive program when compared with other applications for comprehensive assistance.

§ 571.401 Preapplications.

(a) *General.* Preapplications are required for funding under this part. Applicants applying for Comprehensive Grants shall submit a preapplication that meets the requirements of § 571.301, together with a letter informing HUD that the preapplication should be considered for inclusion in the comprehensive grant program.

(b) *Preapplication for Comprehensive Grants* shall also:

(1) Address each of the Threshold Factors set forth in § 571.402 and the criteria for selection set forth in § 571.403.

(2) Explain specifically how the proposed activities relate to the comprehensive plan required under § 571.402(b)(6).

(3) List activities proposed for assistance under this part and their estimated costs indicating the activities or program of activities that have the highest local priority in order to allow HUD to select among local priorities should requests for assistance exceed funds available for comprehensive grants.

§ 571.402 Threshold factors.

(a) *General.* In order for preapplications to be considered for comprehensive program funding, applicants must meet the threshold factors set forth in this section in addition to those set forth in § 571.302. Applicants who meet all these requirements may, at the option of HUD, be invited to submit a full application for some or all of the activities proposed in a preapplication.

(b) In order to meet the requirements of this section, an applicant must:

(1) Have carried out a community development activity previously funded under this part or Part 570;

(2) Have demonstrated superior capacity in carrying out such previously funded activities as measured by the degree of completion of such approved activities in comparison with other recipients carrying out programs of similar complexity and grant size;

(3) Have successfully participated in a variety of activities funded under other Federal programs;

(4) Have currently available staff experienced in carrying out community development activities and demonstrate a commitment that staff of equal capacity will remain available for the duration of the comprehensive grant program;

(5) Have demonstrated substantial progress in providing housing assistance to low- and moderate-income families; and

(6) Demonstrate that there is currently in effect and under implementation an adopted comprehensive community or economic development plan that forms the basis for the proposed activities.

§ 571.403 Criteria for selection and rating process.

(a) Applicants deemed by HUD to meet the threshold factors set forth in §§ 571.302 and 571.402 will be rated according to the following criteria in addition to the criteria for selection of basic program grants set forth in § 571.301.

(b) The additional criteria applicable to this selection and the rating process for comprehensive grants are the following:

(1) The relative magnitude and degree of commitment of other local and Federal resources as compared

with similar resources pledged by other comprehensive program applicants.

(2) The superiority of performance in carrying out activities previously funded under this part or Part 570 compared with the performance of other applicants for comprehensive grants as measured by the number of outstanding adverse audit and monitoring findings.

(3) The need for comprehensive funding compared to other comprehensive program applicants measured by such factors as numbers of low- and moderate-income families living in substandard housing; or opportunities for substantial economic or community development impact that could not occur if the comprehensive program were not approved.

(c) *HUD Review of Preapplications.* The following procedures govern the rating of preapplications for comprehensive grants and the inviting of full applications.

(1) Preapplications for comprehensive grants will be rated and ranked separately from and prior to all other preapplications under this part.

(2) HUD will invite full applications from the Tribes seeking comprehensive grant assistance that receive the highest ratings and best meet the objectives of this subpart.

(3) Preapplications from applicants not invited to participate in the comprehensive program will automatically be rated and ranked in accordance with the procedures for the Basic Grant Program. Such applicants will be invited to submit full applications for specific project or projects included in their preapplications that receive ratings in the competitive range under § 571.303.

(4) Activities contained in Comprehensive Grant applications that are not included in invitations to submit full applications for Comprehensive Grants will not be considered for funding under the Basic Grant Program.

(e) *Notification to Applicants*—(1) *Applicants Invited to Submit Full Applications.* HUD shall notify applicants as to which of the activities proposed in the preapplication for the Comprehensive Program should be included in the full application and shall specify any conditions being placed on the acceptance of a full application pursuant to § 571.307.

(2) *Applicants Not Invited to Submit Full Applications.* HUD shall notify applicants that have not been selected to participate in the Comprehensive Program that their applications will not be considered for comprehensive single or multi-year assistance, specify the reasons for rejection, and inform such applicants that their applications will be considered for funding under the Basic Grant Program.

§ 571.404 Letter to proceed.

The provisions of § 571.304 apply to applications invited under this section.

§ 571.405 Full application requirements.

Full applications for Comprehensive Grants shall contain the following in a format prescribed by HUD:

(a) *Community Development Plan Summary.* This document shall consist of:

(1) *General Needs Assessment.* The application shall contain a list and a brief description of the applicant's most pressing community development needs. Only the needs that the applicant plans to address during the next three years must be identified.

(2) *Specific Needs Identification.* The application should be specifically describe in detail the nature and magnitude of the needs that will be addressed with funds requested under this subpart.

(3) *Community Development Objectives Identification.* The application should specifically identify and describe the objectives for meeting the needs identified in subparagraph (2) of this paragraph. The specific needs and objectives identified must be based on the comprehensive plan required pursuant to § 571.402(b)(6).

(b) *Comprehensive Strategy.* Applications for assistance under this subpart shall contain a general description of the applicant's comprehensive strategy for meeting the housing, community, and economic development needs identified under paragraph (a) of this section, including a description of the applicant's strategy for resource coordination. Strategy statement shall, at a minimum, consist of the following:

(1) A reference to the general needs assessment identifying the major needs to be addressed;

(2) A statement, in quantifiable terms where possible, of the objectives to be served by activities to be assisted under this subpart;

(3) A description of the types and sequence of actions and programs required to achieve the objectives, the coordination and timing of activities funded under this subpart with other local actions and program resources, opportunities for project linkages and leveraging of other resources;

(4) A list and description of the activities designed to meet those needs or objectives, their estimated costs, and proposed funding sources.

(c) *Comprehensive Schedule.* Applicants shall include a three-year schedule outlining generally the sequences in which the activities in all elements of the strategy will take place. This schedule is not intended to be a detailed implementation schedule but rather a brief chart or overall narrative showing which activities must be logically completed before others can be initiated. It would be logical, for example, in a comprehensive housing rehabilitation program, to install the water system and rehabilitate the houses before paving the roads.

(d) *Annual Activity Summary.* The application shall list the activities to be carried out during the current program year with funds provided under this section. The summary shall contain:

(1) The name of the project;

(2) Location and BIA-designated service area, if appropriate;

(3) Number of low- and moderate-income families or individuals to be served by the activity;

(4) Description of the kind and implementation sequence of activities comprising the project;

(5) Environmental review status;

(6) Cost summary by functional area; and

(7) Other funds to be provided.

(e) *Housing Assistance Plan.* Applicants for assistance under this Subpart are required to submit a Housing Assistance Plan which shall include or be supported by the following information. The information provided in or in support of a Housing Assistance Plan shall be quantified as much as possible and all data provided shall meet the standards set forth in § 571.305(d).

(1) The applicant shall provide a description of existing housing, based on an accurate survey, by tenure type, i.e., rental, owner-occupied, or mutual-held, and indicating whether HUD-assisted, BIA-assisted, FmHA-assisted, or other. This description shall, at a minimum, contain information regarding the numbers of standard and substandard units; numbers of units that can only be repaired on an interim basis and must be replaced within the next five years; and the number of units for which the applicant has received a firm financial commitment from HUD, BIA, IHS, and/or other Federal or State agencies, for new construction, rehabilitation, or interim repair.

(2) The applicant shall include an assessment of the housing assistance needs of low- and moderate-income and handicapped families or individuals who are living in overcrowded units or in units that are substandard and the needs of those who are living within the BIA defined service area of the applicant and have formally expressed a desire to move to the applicant's jurisdiction if adequate housing were available. This assessment shall indicate the numbers of dwelling units which must be provided by new construction or rehabilitation (excluding those for which there is a firm financial commitment indicated under subparagraph (1) of this paragraph, and the number which must be repaired on an interim basis). Supporting docu-

mentation and its sources shall be provided.

(3) The applicant shall establish realistic three-year goals for providing the housing assistance for low- and moderate-income families and individuals as indicated under subparagraph (2) of this paragraph, taking into consideration and describing the impediments to providing the needed assistance, and specifying the number, by funding source, to be provided by new construction, rehabilitation, or interim repair. Units that can only be repaired on an interim basis shall not be included as standard units in estimating housing assistance goals because the long-term housing needs of families living in such units will not have been met by interim repairs;

(4) In addition to the general housing strategy required under paragraph (b) of this section, applications must include a detailed description of the strategy for meeting three-year goals included in subparagraph (3) of this paragraph. This presentation shall include:

(i) A statement of the types of units to be provided;

(ii) The method and source of funding, if known;

(iii) An indication of the locations as specifically as possible of the proposed housing;

(iv) A description of how the locations will be coordinated with existing or proposed facilities (roads, water and sanitation, recreational, health, shopping, and educational facilities);

(v) Maps showing the locations of proposed housing and existing or proposed facilities as necessary or appropriate to explain the housing assistance strategy;

(vi) Proposed source of funding for any proposed facilities in subdivisions (iv) or (v) of this subparagraph.

Also, in addition to the information required in subdivisions (i) through (vi) of this subparagraph, it would be desirable for the Tribe to identify those forms of cooperation and assistance which the Tribal government itself or any of its agencies will provide, including funding or financial assistance when appropriate (for example, sites, clearance of land titles, repair or rehabilitation, allocation of roads money made available by BIA programs, and any other forms of cooperation which may be needed in accordance with the cooperation provisions of the Tribal ordinance establishing the Tribal housing authority).

(5) Documentation that the planning of the strategy included review of existing local, regional, and tribal plans, existing community development and governmental service systems;

(f) *Certifications.* The applications shall contain the certification required under § 571.305.

(g) *Annual Application Requirements.* Applicants applying for the second or third year of a comprehensive program need only submit the following:

(1) *Community Development Program Summary.* This shall describe the community development activities to be carried out with block grant funds during the program year. Such activities shall be generally consistent with the Community Development Needs and Conditions Summary submitted with the initial application. It shall include the following:

(i) Name of project or activity;

(ii) Location and service area;

(iii) Number of low- and moderate-income families or individuals who will be served by the activity;

(iv) Description of the kind or sequence of activities comprising the project;

(v) Environmental review status;

(vi) Cost summary by functional area.

(2) *Annual Housing Action Program.* This shall describe the actions to be taken during the program year to carry out the Housing Assistance Plan, in accordance with § 571.405(e).

(3) *Schedule.* Beginning and ending dates of all activities to be undertaken during the program year shall be indicated.

(4) *Certifications.* The applicant shall submit the certifications required under § 571.305 (certify its compliance with applicable statutory and other requirements in accordance with this part).

§ 571.406 HUD review and approval of applications.

The provisions of § 571.306 regarding HUD review and approval of applications apply to applications submitted pursuant to this subpart.

§ 571.407 Program amendments.

The provisions of § 571.307 regarding program amendments apply to grants made under this subpart.

Subpart F—Grant Administration

§ 571.500 Designation of public agency.

One or more Tribal departments or authorities may be designated by the chief executive officer of an Indian Tribe as the operating agency to undertake activities assisted under this part. The Indian Tribe itself, however, shall be the applicant. Designation of an operating agency does not relieve the Indian Tribe of its responsibility in assuring that the program will be administered in accordance with all HUD requirements, including these regulations.

§ 571.501 Grant agreement and conditions.

(a) Upon approval of the application submitted for funding, the Secretary will authorize the execution of a grant agreement. These regulations become part of the grant agreement.

(b) The Secretary may condition grant agreements for any of the reasons set forth in § 571.306(e).

§ 571.502 Method of payment.

(a) *Advance Payment.* Advance payments will be made either by Letter of Credit (the preferred method) or by U.S. Treasury checks to recipients pursuant to the following conditions:

(1) The recipient has demonstrated to the Secretary its willingness and ability to establish procedures that will ensure that requests for funds will be only in amounts necessary to meet the recipients' actual cash disbursement needs.

(2) The recipient's financial management system meets the standards established for grantee financial management systems as set forth in § 571.504.

(b) *Reimbursement by Treasury Check.* Recipients who do not meet the above conditions will receive grant payments by U.S. Treasury check on a reimbursement basis.

§ 571.503 Release of funds

(a) Recipients may spend funds for projects requiring environmental review pursuant to § 571.602 (Environmental Review Requirements) only after certification to HUD that the requirements of that section have been met and pursuant to this certification HUD has authorized the expenditure of funds for those projects. Certification to HUD shall consist of the submission to the HUD administering office of the form prescribed in 24 CFR Part 58.

(b) Recipients may spend funds for activities described in §§ 571.201(e) and 571.201(c)(13) only after notification to HUD that the requirements of § 571.605 (activities for which other Federal funds must be sought) have been met and, pursuant to this notification, HUD has authorized the recipient to spend funds for the affected activities. Notification to HUD shall consist of a letter from the chief executive officer of the Tribe containing the information required by § 571.605.

(c) If recipients receive funds through a Letter of Credit, the Letter of Credit, at the time of approval of the application, shall be in the amount of all grant funds approved in the application, including those portions for the projects subject to the environmental review requirements of § 571.602 and those projects subject to the requirements of §571.605 regarding activities for which other federal funds must be sought. However, the provisions and requirements of these two sections must be satisfied and HUD must authorize the recipient to spend funds for those projects before

the recipient may draw down and expend funds for the affected activities.

§ 571.504 Standards for grantee financial management systems.

Each recipient shall be required to maintain a financial management system which complies with standards for funds control and accounting prescribed in Attachment G of OMB Circular A-102 "Standards for Grantee Financial Management Systems". With the exception that HUD requires that accounting reports be accrual-based, these standards are the same as those set forth under the regulations for the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) found at 25 CFR 276.7.

§ 571.505 Program income.

(a) Indian Tribes shall be required to return to the Federal Government interest (except for interest described in paragraph (c) of this section) earned on grant funds pending their disbursement for program purposes in accordance with Attachment E of OMB Circular A-102. It is important to note that this differs from the provisions of the regulations for the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450) found at 25 CFR 276.6 (Program Income) under which Act such remittance is not required.

(b) Proceeds from the sale of personal property shall be handled in accordance with Attachment N of OMB Circular A-102, "Property Management Standards".

(c) All other program income earned during any period under which the recipient is assisted under this part shall be retained by the recipient and shall be used for activities with respect to which the unconditional obligation and utilization of funds made available under this part have been approved. Included in the category of other program income are proceeds from the disposition of real property, payments of principal and interest on rehabilitation loans and interest earned on revolving funds. Receipts derived from the operation of a public work or facility, the construction of which was assisted under this part (e.g., admission fees paid by persons using recreational facilities constructed with grant funds, and service fees paid by households using a water facility constructed with grant funds) do not constitute program income.

(d) Recipients shall record the receipt and expenditure of revenues related to the program (such as taxes, special assessments, levies, fines, etc.) as a part of the grant program transactions.

(e) The disposition of program income received subsequent to the closeout of a grant shall be governed by the provisions of § 571.512(c).

§ 571.506 Force account construction.

(a) The utilization of Tribal work forces for construction or renovation activities performed as part of the activities funded under this part shall be approved by HUD prior to the start of project implementation.

(b) In its request for an approval of force account construction or renovation, a grantee shall provide the following:

(1) Documentation to indicate that it has carried out or can carry out successfully a project of this size or magnitude;

(2) Documentation to indicate that it has obtained or can obtain adequate supervision for the workers to be utilized;

(3) Information showing that the workers to be utilized are listed on the Tribal payroll and are employed directly by an arm, department or other governmental instrumentality of the Tribe.

(c) Any and all excess funds derived from the force account construction or renovation activities shall accrue to the grantee and may be reprogrammed for other activities eligible under this part.

(d) Insurance coverage for force account workers and activities shall, where applicable, include workman's compensation, public liability, property damage, builder's risk and vehicular liability.

(e) The grantee shall specify and apply reasonable construction or renovation standards to work performed under the force account.

(f) The contracting and procurement standards set forth in § 571.508 do not apply to activities undertaken by force account, with the exception of material equipment and supply procurements for which those standards shall apply.

§ 571.507 Indian preference requirements.

(a) Activities funded under this part are subject to the following Indian Preferences requirements:

(1) Preference and opportunities for training and employment in connection with the administration of these activities shall be given to Indians and Alaska Natives;

(2) All prospective contractors shall be required to submit, as part of their bid submissions, a plan for the maximum utilization of Indian and Alaska Native workers;

(3) Preference in the award of contracts and subcontracts in connection with the administration of these activities shall be given to Indians and Alaskan Native organizations and economic enterprises. The grantee shall give preference to an Indian or Alaska Native-owned firm so long as the bid by this firm does not exceed the lowest bid submitted by more than 10 percent. All preferences shall be publicly announced in the bid announcements. Any contractor claiming Indian preference shall provide evidence, as required by the grantee to support its claim.

§ 571.508 Procurement and contracting standards.

The standards contained in this section are identical to OMB Procurement and contracting standards except for two additions: the Indian preference requirements and the Secretarial waiver of Davis-Bacon requirements. The standards do not relieve the grantee of the contractual responsibilities arising from its contracts. The grantee is the responsible authority, without recourse to HUD, regarding the settlement of all contractual and administrative issues arising from the procurements entered into in support of a grant. This includes, but is not limited to, disputes, claims, protests of award, source evaluation, or other matters of a contractual nature. Matters concerning violation of law are to be referred to such Tribal, Federal, or other authority as may have proper jurisdiction. Grantees may use their own procurement regulations provided that procurements made with HUD grant funds adhere to the standards set forth as follows:

(a) The grantee shall maintain a code or standard of conduct which shall govern the performance of its officers, employees, or agents in contracting with and expending HUD grant funds. The Grantee's officers, employees, or agents shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors. To the extent permissible by law, rules or regulations, such standards shall provide for penalties, sanctions, or other disciplinary actions to be applied for violations of such standards by either the grantee's officers, employees or agents or by contractors or their agents.

(b) All procurement transactions regardless of whether negotiated or advertised and without regard to dollar value shall be conducted in a manner so as to provide maximum open and free competition. The grantee should be alert to organizational conflicts of interest or noncompetitive practices among contractors which may restrict or eliminate competition or otherwise restrain trade.

(c) The grantee shall establish procurement procedures which provide for, as a minimum, the following requirements:

(1) Proposed procurement actions shall be reviewed by grantee officials to avoid purchasing unnecessary or duplicative items. Where appropriate, an analysis shall be made of lease and purchase alternatives to determine which would be the most economical, practical procurement.

(2) Invitations for bids or requests for proposals shall be based upon clear and accurate descriptions of the technical requirements for the materials, products, or services to be procured. Such descriptions shall not, in competitive procurements, contain features which unduly restrict competition. "Brand name or equal" description may be used as a means to define the performance or other salient requirements of a procurement, and when so used the specific features of the named brand which must be met by offerors should be clearly specified.

(3) Positive efforts shall be made by the grantee to utilize small business and minority business sources of supplies and services. Such efforts should allow these sources the maximum feasible opportunity to compete for contracts to be performed utilizing Federal grant funds.

(4) The type of procuring instruments used (i.e., fixed price contracts, cost reimbursable contracts, etc.) shall be appropriate for the particular procurement and for promoting the best interests of the grant program involved. The "cost-plus-a-percentage-of-cost" method of contracting shall not be used. Formal advertising, with adequate purchase description, sealed bids, and public openings shall be the required method of procurement unless negotiation pursuant to the provisions of the following paragraph is necessary to accomplish sound procurement. However, procurements of $10,000 or less need not be advertised unless otherwise required by local law or regulations. Where such advertised bids are obtained, the awards shall be made to the responsible bidder whose bid is responsive to the invitation and is most advantageous to the grantee, price, Indian preference, and other factors considered. (Factors such as discounts, transportation costs, and taxes may be considered in determining the lowest bid). Invitations for bids shall clearly set forth all requirements which the bidder must fulfill in order for his bid to be evaluated by the grantee. Any or all bids may be rejected when it is in the grantee's interest to do so, and such rejections are in accordance with applicable laws, rules and regulations. Procurements may be negotiated if it is impracticable and infeasible to use formal advertising. Generally procurements may be negotiated by the grantee if:

(i) The public exigency will not permit the delay incident to advertising;

(ii) The material or service to be procured is available from only one person or firm (all contemplated sole source procurements where the aggregate expenditure is expected to exceed $5,000 shall be referred to HUD for prior approval);

(iii) The aggregate amount involved does not exceed $10,000;

(iv) The contract is for personal or professional services, or for any service to be rendered by a university, college, or other educational institution;

(v) The material or services are to be procured and used outside the limits of the United States and its possessions;

(vi) No acceptable bids have been received after formal advertising;

(vii) The purchases are for highly perishable material or medical supplies, for material or services where the prices are established by law, for technical items or equipment requiring standardization and interchangeability of parts with existing equipment, for experimental, developmental or research work for supplies purchased for authorized resale and for technical or specialized supplies requiring substantial initial investment for manufacture;

(viii) Otherwise authorized by law, rules or regulations. Notwithstanding the existence of circumstances justifying negotiation, competition shall be obtained to the maximum extent practicable.

(d) Contracts shall be made only with responsible contractors who possess the potential ability to perform successfully under the terms and conditions of a proposed procurement. Consideration shall be given to such matters as contractor integrity, record of past performance, financial and technical resources, or accessibility to other necessary resources.

(1) Procurement records or files for purchase in amounts in excess of $10,000 shall provide at least the following pertinent information: Justification for the use of negotiation in lieu of advertising, contractor selection, and the basis for the cost or price negotiated.

(2) A system for contract administration shall be maintained to assure contractor conformance with terms, conditions, and specifications of the contract or order, and to assure adequate and timely follow-up of all purchases.

(e) The grantee shall include, in addition to provisions to define a sound and complete agreement, the following provisions in all contracts and subgrants:

(1) Contracts shall contain such contractual provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such remedial actions as appropriate.

(2) All contracts in excess of $10,000 shall contain suitable provisions for termination by the grantee including the manner by which they will be effected and the basis for settlement. In addition, such contracts shall describe conditions under which the contracts may be terminated because of circumstances beyond the control of the contractors.

(3) In all contracts for construction of facility improvements awarded in excess of $10,000, grantees shall observe the bonding requirements set forth in these regulations in § 571.509(j)(11).

(4) All construction contracts awarded by recipients and their contractors or subgrantees having a value of more than $10,000 shall contain a provision requiring compliance with Executive Order No. 11246, entitled "Equal Employment Opportunity", as amended by Executive Order No. 11375 and supplemented in Department of Labor Regulations (41 CFR Part 60). However, this Equal Opportunity provision shall apply only to the extent that it is not inconsistent with the Indian Preference requirements set forth in § 571.507.

(5) All contracts and subgrants shall contain provisions for compliance with the Copeland "Anti-Kick-Back" Act (18 U.S.C. 874) as supplemented in Department of Labor Regulations (29 CFR Part 3). This Act provides that each contractor or subgrantee shall be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public works, to give up any part of the compensation to which he is otherwise entitled. The grantee shall report all suspected or reported violations to the grantor agency.

(6) Unless waived by the Secretary, as provided in § 571.603(b) of these regulations, all construction contracts awarded by grantees and subgrantees in excess of $2,000 shall include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 276a to a-7) as supplemented by Department of Labor regulations (20 CFR Part 5). Contractors shall be required to pay wages to laborers and mechanics at a rate not less than the minimum wages specified in a wage determination made by the Secretary of Labor. In addition, contractors shall be required to pay wages not less often than once a week. The grantee shall place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation and the award of a contract shall be conditioned upon the acceptance of the wage determination. The grantee shall report all suspected or reported violations to HUD.

(f) Where applicable, all contracts awarded by grantees and subgrantees in excess of $2,000 for construction contracts and in excess of $2,500 for other contracts which involve the employment of mechanics or laborers shall include a provision for compliance with sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5). Under section 103 of the Contract Work Hours and Safety Standards Act, each

contractor is required to compute the wages of every mechanic and laborer on the basis of a standard work day of 8 hours and a standard work week of 40 hours. Work in excess of the standard work day or work week is permissible: *Provided,* That the worker is compensated at a rate of no less than 1½ times the basic rate for pay for all hours worked in excess of 8 hours in any calendar day or 40 hours in a work week. Section 107 of the Contract Work Hours and Safety Standards Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to his health and safety as determined under construction, safety, and health standards promulgated by the Secretary of Labor. These requirements do not apply to the purchase of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(g) All negotiated contracts (except those of $10,000 or less) awarded by grantees shall include a provision to the effect that the grantee, HUD, the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to all books, documents, papers, and records of the contractor which are directly pertinent to a specific grant program for the purpose of making audits, examinations, excerpts, and transcriptions for a period of no less than three years after project completion.

(h) Contracts and subgrants of amounts in excess of $100,000 shall contain a provision which requires the recipient to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act of 1970 (42 U.S.C. 1857 et seq.). Violations shall be reported to HUD and the regional office of the Environmental Protection Agency.

§ 571.509 Bonding and insurance requirements.

A Tribe receiving a grant under this section for an activity which requires contracting for construction or facility improvement shall follow its own requirements relating to bid guarantees, performance bonds, and payment bonds except for contracts exceeding $100,000. For contracts exceeding $100,000 the minimum requirements shall be:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" shall consist of a firm commitment such as a bid bond, certified check or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond or other security acceptable to HUD, such as a Letter of Credit or escrow, for an amount determined by HUD to be adequate for the protection of the interests of the federal government.

(c) A payment bond or other security acceptable to HUD, such as a Letter of Credit or escrow, for an amount determined by HUD to be adequate for the protection of the interests of the Federal government.

§ 571.510 Audit.

(a) The Secretary, the Comptroller General of the United States or any of their duly authorized representatives shall have access to all books, accounts, records, reports, files and other papers or property of recipients or their subgrantees and contractors pertaining to funds provided under this section for the purpose of making surveys, audits, examinations, excerpts, and transcripts.

(b) The recipient's financial management systems shall provide for audits to be made by the recipient or at his direction, in accordance with HUD Audit Guidelines contained in HUD Handbook IG 6505.2, "Audit Guide and Standards for Community Development Block Grant Recipients".

(c) Only a final audit of the grant funds provided will be necessary: *Provided,* That the program period does not extend beyond two years. Should the program period extend beyond two years, an audit will be required not less frequently than once every two years.

(d) HUD may waive the requirements for a final audit.

(e) The Secretary may undertake such further or additional audits as she finds necessary or appropriate.

§ 571.511 Retention of records.

Financial records, supporting documents, statistical records, the environmental review records required by 24 CFR Part 58 and all other records pertinent to the grant program shall be retained by the recipient for a period of three years from the date of the submission of the performance report except as follows:

(a) Records that are the subject of audit findings shall be retained for three years or until such audit findings have been resolved, whichever is later.

(b) Records for nonexpended property which was acquired with Federal grant funds shall be retained for three years after the final disposition.

§ 571.512 Grant close-out procedures.

(a) *Applicability.* The policies and procedures contained in this section apply to the closeout of grants made pursuant to this part. Grants made to Indian Tribes in Fiscal Years 1975, 1976 and 1977, pursuant to Subpart E of Part 570 (Discretionary Grants) shall be closed out in accordance with the policies and procedures set forth at 24 CFR 570.512.

(b) *Initiation of Closeout.* HUD will advise the recipient to initiate closeout procedures when HUD determines, in consultation with the recipient, that there are no impediments to closeout and that the following criteria have been met or will be shortly:

(1) All costs to be paid with grant funds have been incurred, with the exception of (i) closeout costs such as payment for the final audit; and (ii) any unsettled third-party claims against the recipient. Costs are incurred when goods and services are received and contract work is performed. With respect to activities (such as property rehabilitation) which are carried out by means of revolving loan accounts, loan guarantee accounts, or similar mechanisms, costs shall be considered as incurred at the time funds for such activities are drawn from the recipient's letter of credit and initially used for the purposes described in the approved Community Development Program.

(2) The recipient has submitted a grantee performance report. If a performance report was previously submitted with a subsequent grant application, as required by § 571.702, it shall be updated and resubmitted upon completion of the activities carried out with the discretionary grant.

(3) Other responsibilities of the recipient under the grant agreement, applicable law and regulations appear to have been carried out satisfactorily, or there is no further Federal interest in keeping the grant agreement open for the purpose of securing performance, such as a good faith effort by the recipient to achieve its housing assistance plan goals for the grant period. A final review of the recipient's compliance with the grant agreement, applicable law and regulations will be made during the final audit or HUD review in lieu of final audit pursuant to § 571.512(g).

(c) *Program Income.* Subject to the requirements of paragraphs (d) and (e) of this section, program income received subsequent to grant closeout may be treated by the recipient as miscellaneous revenue, the use of which is not governed by the provisions of this part: *Provided,* The recipient has no other grant program under this part which is active at the time the first grant is closed out. If the recipient has another such grant program, the program income received subsequent to the grant closeout shall be treated as program income of the active grant program.

(d) *Disposition of Tangible Personal Property.* The recipient shall account for any tangible personal property acquired with grant funds in accordance

with Attachment N of OMB Circular A-102, "Property Management Standards."

(e) *Disposition of Real Property.* Proceeds derived after the grant closeout from the disposition of real property acquired with grant funds shall be subject to the program income requirements of paragraph (c) of this section: *Provided,* That where such income may be treated as miscellaneous revenue pursuant to paragraph (c) of this section, it shall be used by the recipient for community development activities eligible under § 571.200 to further the general purposes and objectives of the Act. The use of income subject to this provision is not governed by any other requirements of this part.

(f) *Status of Housing Assistance Plan after Closeout.* After closeout of a grant, the housing assistance plan will remain in effect until one of the following occurs:

(1) The recipient submits, and HUD approves, a revised housing assistance plan.

(2) Three years elapse since the date of approval of the current housing assistance plan.

(g) *Audit.* Upon notification from HUD to initiate closeout procedures, the recipient shall arrange for a final audit to be made of its grant accounts and records in accordance with HUD Handbook IG 5605.2, "Audit Guide and Standards for Community Development Block Grant Recipients," § 571.510, and any other audit requirements of HUD hereafter in effect. HUD may determine that, due to the nature of the recipient's program or the relatively small amount of funds which have not been audited, a final audit is not required. In such instances, HUD will notify the recipient that HUD will perform the necessary reviews of documentation and activities to determine that claimed costs are valid program expenses and that the recipient has met its other responsibilities under the grant agreement.

(h) *Certificate of Completion and Final Cost.* Upon resolution of any findings of the final audit, or if the final audit is waived, after HUD has performed the review of documentation described in paragraph (g) of this section, the recipient shall prepare a certificate of completion and final cost, in a form prescribed by HUD, and submit it to the appropriate HUD Office.

(i) *Refund of Excess Grant Funds.* The Recipient shall refund to HUD any cash advanced in excess of the final grant amount, as shown on the certificate of completion approved by HUD.

(j) *Termination of Grant for Mutual Convenience.* Grant assistance provided under this Part may be cancelled, in whole or in part, by HUD or the recipient, prior to the completion of the approved community development program, when both parties agree that the continuation of the program is infeasible or would not produce beneficial results commensurate with the further expenditure of funds. HUD shall determine whether an environmental review of the cancellation is required, and if such review is required, shall perform it pursuant to HUD Handbook 1390.1 and/or specific guidelines issued by the Secretary. The two parties shall agree upon the termination conditions, including the effective date and, in the case of partial terminations, the portion to be terminated. The recipient shall not incur new obligations for the terminated portion after the effective date, and shall cancel as many outstanding obligations as possible. HUD shall allow full credit to the recipient for the noncancelable obligations properly incurred by the recipient in carrying out the program prior to termination. The closeout policies and procedures contained in this section shall apply in all such cases except where the total grant is cancelled in its entirety, in which event only the provisions of § 571.512(h) and (i) shall apply.

Subpart G—Other Program Requirements

§ 571.600 Nondiscrimination.

A recipient shall comply with the provisions of Title II of Pub. L. 90-284 (24 U.S.C. 1301—Commonly referred to as the Indian Civil Rights Act) in the administration of a program or activity funded in whole or part with funds made available under this part. For purposes of this section, "program or activity" is defined as any function conducted by an identifiable administrative unit of the recipient. "Funded in whole or part with funds made available under this Part" means that community development funds in any amount in the amount in the form of grants proceeds from HUD guaranteed loans have been transferred by the recipient to an identifiable administrative unit and disbursed in a program or activity.

§ 571.601 Relocation and acquisition

(a) *Relocation.* (1) Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (42 U.S.C. 4601), hereafter referred to as the Uniform Act, and HUD implementing regulations at 24 CFR Part 42 apply to the displacement of any family, individual, business, nonprofit organization, or farm operation that results from the acquisition of real property by a State agency (as that term is defined at 24 CFR 42.20(s)) and which occurs on or after the date of submission of the application requesting the Federal assistance under this Part which is granted for an activity in connection with which the acquisition has been or will be undertaken.

(2) With respect to other displacement causing activities that are assisted under this Part but which are not within the purview of the Uniform Act, the following policies shall apply:

(i) No occupant of a dwelling shall be required to move permanently from the dwelling, unless first given reasonable opportunity to relocate to a safe and habitable replacement dwelling at a monthly housing cost, including utilities, that does not exceed 25 percent of his gross income.

(ii) The recipient shall adopt a uniform written policy for providing relocation payments and other assistance to ensure that displaced families and individuals obtain a safe and habitable replacement dwelling and that all persons, including families, individuals, businesses, nonprofit organizations and farm operations, are reimbursed for all moving and related expenses, including utility hook-up and storage costs.

(iii) All families, individuals, businesses, nonprofit organizations, and farm operations to be displaced shall be provided advance information sufficient to enable them to fully understand the reason for their displacement and the relocation payments and other assistance to which they are entitled under these regulations.

(iv) In any case in which the occupant of a dwelling is required to relocate for a temporary period in order to permit rehabilitation or demolition, the temporary relocation shall not exceed 12 months in duration, a safe and habitable dwelling shall be available to the person for the period of the temporary relocation, and the recipient shall pay actual reasonable out-of-pocket expenses, including any moving costs or increase in monthly housing costs, incurred by the person in connection with the temporary relocation.

(b) *Real Property Acquisition.* (1) Title III of the Uniform Act and HUD implementing regulations at 24 CFR Part 42 apply to any acquisition of real property by a State agency (as that term is defined at 24 CFR 42.20(s)) that occurs on or after the date of the submission of the application requesting the Federal assistance under this part which is granted for an activity in connection with which the acquisition is undertaken. It does not matter whether or not the acquisition itself is federally assisted.

(2) With respect to acquisitions for activities assisted under this Part that are not within the purview of the Uniform Act, the following policies shall apply:

(i) Each property owner shall be given a written offer of the amount determined to be just compensation for the property. Just compensation shall be based upon one or more appraisals of the fair market value of the

property as prepared by a qualified appraiser. However, this provision shall not prevent a person from donating real property if, prior to the donation, he has been fully informed of his right to receive just compensation.

(ii) HUD may review any acquisition price established pursuant to subdivision (i) of this subparagraph prior to compensation being paid to the seller. In any case in which the acquisition price exceeds the fair market value of the property, a justification for the payment shall be included in the applicable case file.

§ 571.602 Environment.

(a) The recipient shall comply with the applicable provisions of 24 CFR Part 58.

(b) Whenever the provisions of § 571.607—National Flood Insurance Program—do not apply to recipients proposing development in flood prone areas, under this part, the evaluation of potential or existing flood hazards in the areas for which acquisition or construction activities funded under this section are proposed shall be a priority concern in any environmental assessment conducted by a recipient pursuant to the provisions of 24 CFR Part 58, E.O. 11988 (Flood Plain Management) and E.O. 11990 (Protection of Wetlands).

§ 571.603 Labor standards.

(a) Unless waived by the Secretary pursuant to the provisions of this section, or inapplicable pursuant to paragraph (c) of this section, all laborers and mechanics employed by contractors or subcontractors on construction work assisted under this part shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5), and shall receive overtime compensation in accordance with and subject to the provisions of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327-333), and the contractors and subconstractors shall comply with all regulations issued pursuant to these Acts and with other applicable Federal laws and regulations pertaining to labor standards. This section shall not apply to the rehabilitation of residential property designed for the use of seven or fewer families. The Secretary of Labor has, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Number 14 of 1950 (5 U.S.C. 133z-15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c).

(b) Labor Standards requirements as set forth in paragraph (a) of this section may be waived by the Secretary on a case-by-case basis. However, in no instance shall the wage paid be lower than the comparable wage paid on or near the reservation or Indian community as determined by the grantee. The criteria to be taken into consideration by HUD in evaluating a request for a waiver of the Labor Standards requirements set forth in paragraph (a) of this section shall include the following:

(1) The effect that a waiver would have upon increasing the participation of Indian-owned firms in the program; and

(2) The effect that a waiver would have upon increasing the probability that the grant funds provided would be sufficient to cover the construction costs of the project. Additional criteria may be developed by the HUD administering office. If such criteria are developed they must be provided to recipients of funds provided under this part prior to decision on a waiver being made and they shall not be so narrowly written so as to effectively eliminate waiver possibilities.

(c) Labor Standards requirements set forth in paragraph (a) of this section shall not apply to force account construction activities funded under this section.

§ 571.604 Architectural Barriers Act of 1968.

The Architectural Barriers Act of 1968, 42 U.S.C. 4151, is applicable to assistance under this part and requires that the design of any facility constructed with funds under this part comply with the "American Standard Specification for Making Buildings and Facilities Accessible, and Usable by, the Physically Handicapped," No. A-117-1971 as modified (41 CFR Parts 101-19, 603).

§ 571.605 Activities for which other Federal funds must be sought.

A recipient may use community development funds for the provision of public services as described in § 571.201(e) for activities (other than those previously approved under the Model Cities Program); or for flood or drainage facilities as described in § 571.201(c)(13): *Provided*, That:

(a) The recipient has applied or inquired in writing to the Federal agency or agencies, if any, which conduct a program or programs most likely to meet the needs for which community development funds are being considered.

(b) The recipient has received:

(1) A written statement of rejection from such Federal agency, if any;

(2) A written statement that funds cannot be made available for at least 90 days after the request; or

(3) No response from the Federal agency, if any, within a 90 day period from the date of application or inquiry; and

(c) The recipient has notified HUD of the results of the application or inquiry and has received authorization from HUD to incur costs for such activities.

§ 571.606 Hatch Act.

Neither the Community Development Program nor the funds provided therefor, nor the personnel employed in the administration of the program shall be in any way or to any extent be engaged in the conduct of political activities in contravention of Chapter 15 of Title 5, United States Code.

§ 571.607 National Flood Insurance Program.

The provisions of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001-4128 et seq.) and the regulations thereunder (24 CFR Ch. X, Subchapter B) apply to assistance under this part. Under that Act no Federal office or agency shall approve any financial assistance for acquisition or construction purposes as defined under section 3(a) of said Act, on and after July 1, 1975 (or one year after a community has been formally notified of its identification as a community containing an area of special flood hazard, whichever is later) for use in any area that has been identified by the Secretary of Housing and Urban Development as an area having special flood hazards, unless the community in which such area is situated is then participating in the National Flood Insurance Program. Notwithstanding the date of HUD approval of the recipients' application, funds approved under this part shall not be expended on or after July 1, 1975, or one year after a community has been formally notified, whichever is later, for acquisition or construction purposes in an area identified by the Secretary as having special flood hazards which is located in a community not in compliance with the requirements of the National Flood Insurance Program pursuant to section 201(d) of said Act. The use of any funds provided under this part for acquisition or construction purposes in identified special flood hazard areas shall be subject to the mandatory purchase of flood insurance requirements of section 102(a) of said Act.

§ 571.608 Clean Air Act and Federal Water Pollution Control Act.

The recipient must comply with the provisions of the Clean Air Act, as amended (42 U.S.C. 1857 et seq.), and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et seq.) and the regulations thereunder (40 CFR Part 14 and 40 CFR Part 61).

§ 571.609 Activities by non-profit entities, SBICs and local development corporations [Reserved]

§ 571.610 Lead-Based Paint Poisoning Prevention Act.

The recipient must comply with the Department's Lead-Based Paint Regulations (24 CFR Part 35) issued pursuant to the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4831 et seq.) requiring prohibition of the use of lead-based paint, whenever assistance under this part is used directly or indirectly by the recipient for constructing, rehabilitating, or modernizing residential structures; for eliminating immediate lead-based paint hazards in residential structures assisted under this part; or for notifying purchasers and tenants of residential structures constructed prior to 1950 and assisted under this part of the hazards of lead-based paint poisoning.

§ 571.611 Property rehabilitation standard [Reserved]

Subpart H—Program Management

§ 571.700 General policies.

(a) This section sets forth the following:

(1) The operational program requirements or standards against which the Secretary will evaluate the recipient's performance;

(2) The timing and basis of the Secretary's review of an applicant's or recipient's performance;

(3) The reports to be submitted to HUD and the records to be maintained by a recipient;

(4) The corrective and remedial actions available to the Secretary if program deficiencies or noncompliance are discovered.

(b) The objectives of the Secretary's review of a recipient's performance are to determine whether:

(1) The recipient has carried out the Indian Community Development Block Grant Program substantially as described in its approved application;

(2) The recipient has complied with the requirements of this part and other applicable laws and regulations;

(3) The recipient has an administrative capacity to carry out the approved Indian Community Development Block Grant Program in a timely manner.

§ 571.701 Property management standards.

(a) The standards governing the utilization and disposition of personal property acquired in whole or in part with funds provided under this Part by recipients are set forth in Attachment N, Paragraphs 2 and 4–6 of OMB Circular A–102.

(b) The standards governing the utilization of real property acquired by recipients with funds provided under this part are set forth in paragraphs 3 a and b of Attachment N of OMB Circular A–102. The standards governing the disposition of this real property are set forth in § 571.512(e) (Disposition of Real Property).

§ 571.702 Reports to be submitted by recipients.

(a) *General.* Recipients will submit such reports, including litigation, financial management, relocation and acquisition reports, as the Secretary may require.

(b) *Performance report.*—(1) *Submission.* Each recipient shall submit a narrative performance report upon the completion of the activities carried out under this part or upon submission of a subsequent grant application whichever comes earlier; except that a recipient of a multi-year Comprehensive Grant shall submit a performance report annually at the end of its program year. This report shall contain the following:

(i) Progress on approved projects and activities. The recipient shall indicate progress on each activity described in its approved application, each activity added by a HUD approved program amendment, and each activity added by a local program amendment;

(ii) Recipient assessment—the performance report must include the recipient's assessment of the effectiveness of the approved activities in meeting the objectives identified in the recipient's application.

(2) *Listing of environmental reviews.* The recipient shall indicate the nature and status of all environmental reviews required on projects or activities funded under this part.

(3) *Citizen participation.* The recipient shall indicate compliance with the standards set forth in § 571.705.

(4) *Housing assistance provided.* If applicable, the performance report should indicate the progress made in achieving housing assistance goals set forth in the recipient's most recently approved Housing Assistance Plan.

(c) *Status report.* As part of the preapplication submitted for funding, each applicant who has previously received funds under this part shall submit a narrative report describing the progress made on approved activities. This report shall be brief and shall indicate the nature of the degree of completion attained and any substantial deviation from the schedule for completion of the approved activities.

§ 571.703 Records to be maintained by recipient.

(a) *Financial management.* Recipients are to maintain records in accordance with OMB Circular A–102, Attachment G, which adequately identify the source and application of funds for grant-supported activities. These records shall contain information pertaining to grant awards and authorization, obligations, unobligated balances, assets, liabilities, outlays and income.

(b) *Citizen participation.* Recipients shall maintain records which will indicate the actions undertaken to comply with the citizen participation requirements set forth in § 571.305(b). These records shall include minutes of Tribal council meetings, a copy of the written citizen participation plan and other records indicating compliance with citizen participation requirements.

(c) *Other resources.* All recipients subject to the provisions of § 571.304(b) (Community Development Program) are required to set forth a community development program which includes activities to be undertaken to meet identified community development needs and objectives and to indicate resources other than funds provided under this part which are expected to be made available toward meeting identified needs and objectives. Records shall be maintained which indicate what amount of the resources identified in any previous application were actually provided for community development activities and for which activities they were used.

(d) *Relocation.* The recipient shall maintain a record for each person or organization displaced as part of an activity funded under this section. The records shall include information which indicates compliance with the standards set forth in § 571.601.

(e) *Acquisition.* The recipient shall maintain records which document the amount and basis for determination of the compensation paid for acquisitions funded under this part. The records shall include information which indicates compliance with the standards set forth in § 571.601.

(f) *Labor Standards.* If applicable, recipients shall maintain records regarding compliance of all contractors performing construction work using grant funds with the labor standards requirement set forth in § 571.603.

(g) *Unavailability of Other Federal Assistance.* Recipients using funds provided under this part for the provision of public services as described in § 571.201(e), or for the acquisition, construction, reconstruction, or installation of flood and drainage facilities as described in § 571.201(c)(13), shall maintain records of compliance with the procedures set forth in § 571.605 indicating that assistance for such facilities under other Federal laws or programs is unavailable.

(h) *Environment.* Recipients shall prepare and maintain environmental review records as specified in 24 CFR Part 58 and as the Secretary may otherwise require.

(i) *Equal Opportunity.* (1) The recipient shall maintain records which document its compliance with the pro-

visions of Title II of Pub. L. 90-284 (25 U.S.C. 13a), commonly referred to as the Indian Civil Rights Act, in the administration of a program or activity funded in whole or part with funds made available under this part.

(2) The recipient shall maintain records which documents its compliance with the Indian Preferences Requirements set forth in § 571.507 of these regulations.

§ 571.704 Secretarial review of recipient's performance.

(a) *General Policy.* The Secretary shall review the grantee's performance against the standards set forth in § 571.705 and on the basis of the documentation set forth below. The Secretary's review and determinations will serve as the basic assurance that grants are being used properly to achieve the objectives of this part.

(b) *Basis of Review.* In reviewing each recipient's performance, the Secretary will consider all available evidence which may include, but need not be limited to the following:

(1) The approved block grant application and any amendments thereto;

(2) Reports prepared by the recipient including the performance report described in § 571.702(b);

(3) Records maintained by the recipient pursuant to § 571.703;

(4) Results of HUD's monitoring of the recipient's performance, including field evaluation of the quality of the work performed;

(5) Audit reports;

(6) Records of drawdowns on the Letter of Credit;

(7) Records related to the provision of housing assistance; and

(8) Records of comments and complaints by citizens and organizations or litigation.

(c) *Timing of Review.* (1) The Secretary may, either while grant funded activities are being undertaken or after they are completed, review, monitor and evaluate the recipient's community development program.

(2) The Secretary will review a recipient's performance at least once prior to approval of a subsequent grant to the same recipient and, in the case of other recipients, prior to final close-out of the grant.

§ 571.705 Performance standards.

The following are the standards against which the Secretary may measure the performance of recipients in carrying out activities funded under this part.

(a) *Relocation.* With respect to displacement pursuant to § 571.601(a), the recipient has established operating procedures under which:

(1) All displaced persons, businesses, nonprofit organizations, and farm operations were provided sufficient information so that they fully understood the reason for their displacement and the payments and assistance to which they were entitled.

(2) All displaced families and individuals were provided assistance in obtaining replacement housing of acceptable quality.

(3) All displaced persons, businesses, nonprofit organizations and farm operations received all the relocation payments to which they were entitled pursuant to a written schedule of payments and they received them in a prompt manner.

(b) *Acquisition.* The real property acquisition policies of the recipient complied with the requirements set forth in § 571.601(b).

(c) *Equal Opportunity.* (1) The recipient has complied with the objectives of Title II of Pub. L. 90-284 (25 U.S.C. 1301) in its administration of activities funded in whole or part under this part.

(d) *Citizen Participation.* Prior to the submission of an application for funding, the grantee has complied with citizen participation requirements set forth in § 571.305(e)(3).

(e) *Substantial Progress.* During the review scheduled in accordance with these regulations, the Secretary will assess a recipient's performance to determine whether the recipient has made substantial progress in carrying out its approved program.

(1) *Community Development Program.* In the review of a recipient's progress in carrying out approved activities, such factors as the following will be taken into account:

(i) Expenditure of funds;

(ii) Obligation of funds;

(iii) Award of third party contracts; and

(iv) Other measures of progress including field evaluations of quality of work performed.

In measuring a recipient's progress, HUD will compare its progress with that of other recipients. No absolute standards will be established or enforced.

(2) *Housing Assistance Plan.* HUD will review a recipient's progress in achieving its stated housing assistance goals. In reviewing this progress HUD will consider the extent to which actions under the control of the recipient have been taken to achieve Housing Assistance Plan goals.

(f) *Conformance with Approved Program.* HUD will review a recipient's performance to determine whether the recipient conforms substantially to the community development program described in the approved application including any amendments to this program approved by HUD.

(1) This review may include whether any activities that were undertaken which were not included in the approved community development program are eligible under Subpart C of this part, conform to the certification under § 571.305, and are within amounts not requiring prior HUD approval pursuant to § 571.305.

(2) HUD's review of activities will not include new determinations of eligibility, except where there is substantial evidence challenging the basis for the original finding of eligibility.

(g) *Compliance.* HUD will review a recipient's performance to determine whether the program carried out complies with the requirements of the Act, this part, and all applicable laws and regulations.

(h) *Administrative Capacity.* HUD will review a recipient's performance to determine whether the recipient has an administrative capacity to carry out the approved community development program in a timely manner. The primary factors to be taken into consideration in this determination are those factors described in paragraphs (e), (f) and, (g) of this section.

§ 571.706 Corrective and remedial actions.

(a) *General.* One or more of the corrective or remedial actions set forth in this section and § 571.707 will be taken by the Secretary when she determines on the basis of review conducted in conformance with the provisions of § 571.705 that:

(1) The recipient has not carried out a community development program substantially as described in its application; or

(2) The community development program did not comply with the requirements of this section and other applicable laws and regulations; or

(3) The recipient does not have an administrative capacity to carry out the approved community development program in a timely manner.

In each instance, the action taken will be designed to first, prevent a continuance of the deficiency (lack of progress, nonconformance, noncompliance, lack of administrative capacity); second, to mitigate any adverse effects or consequences of the deficiency to the extent possible under the circumstances; and third, prevent a recurrence of the same or similar deficiencies.

(b) *Actions authorized.* The following is a listing of actions that HUD may take in response to review of a recipient's performance. Such actions may be taken either singly or in combination, as appropriate to the circumstances.

(1) Request the recipient to submit additional information:

(i) Concerning the administrative, planning, budgeting, management and evaluation functions to determine any reasons for lack of progress;

(ii) Explaining any actions being taken to correct or remove the causes for delay;

(iii) Documenting that activities undertaken were in conformance with the approved program or in compli-

ance with applicable laws or regulations; or

(iv) Demonstrating that the recipient has an administrative capacity to carry out the approved program in a timely manner.

(2) Request the recipient to submit progress schedules for completing approved activities.

(3) Issue a letter of warning that advises the recipient of the deficiency and puts the recipient on notice that more serious sanctions will be taken if the deficiency is not corrected or is repeated.

(4) Advise the recipient that a certification will no longer be acceptable and that additional information or assurances will be required.

(5) Advise the recipient to suspend, discontinue or not incur costs for the affected activity.

(6) Advise the recipient to reprogram funds from affected activities to other eligible activities: *Provided,* That such action shall not be taken in connection with any substantial violation of § 571.602 and 24 CFR Part 58.

(7) Advise the recipient to reimburse the recipient's program account or Letter of Credit in any amounts improperly expended.

(8) Change the method of payment from a Letter of Credit basis to a reimbursement basis.

(9) Condition the approval of any subsequent application either if there is substantial evidence of a lack of progress, nonconformance, noncompliance, or lack of a continuing capacity; or pursuant to § 571.103. In such cases, the reasons for the conditional approval and the actions necessary to remove the condition shall be specified, as provided in § 571.306(e)(4).

§ 571.707 Other remedies for noncompliance.

(a) *Secretarial referral to the Attorney General.* The Secretary may, if she has reason to believe that a recipient has failed to comply substantially with any provision of the Act, refer the matter to the Attorney General of the United States with a recommendation that an appropriate civil action be instituted. Upon such a referral the Attorney General may bring a civil action in any United States district court having venue thereof for such relief as may be appropriate, including an action to recover the amount of the assistance furnished under this Part which was not expended in accordance with it, or for mandatory or injunctive relief. The following regulations govern the procedure and practice requirements involving adjudications where the Secretary desires to take action requiring reasonable notice and opportunity for hearing. The regulations in this Part shall be liberally construed to secure just expeditions, and efficient determination of the issues presented. The Administrative Procedure Act (5 U.S.C. 551 et seq.) where applicable shall be a guide in any situation not provided for or controlled by this subpart but shall be liberally construed or relaxed when necessary.

(b) *Secretarial actions on payments.* If the Secretary finds a recipient has failed to comply substantially with any provision of this part, including the performance standards set forth in § 571.705, she may provide her finding of failure to comply is made after reasonable notice and opportunity for hearing:

(1) Terminate payments to the recipient; or

(2) Reduce payments to the recipient by an amount equal to the amount of such payments which were not expended in accordance with this part: or

(3) Limit the availability of payments to programs, projects or activities not affected by such failure to comply. *Provided, however,* That the Secretary may on due notice revoke the recipient's Letter of Credit in whole or in part at any time after the initial finding of failure to comply, pending such hearing and a final decision of the Department, to the extent the Secretary determines such action necessary to preclude the further expenditure of funds for activities affected by such failure to comply. The following regulations govern the procedures and practice requirements involving adjudications where the Secretary desires to take action requiring reasonable notice and opportunity for hearing. The regulations in this part shall be liberally construed to secure just, expeditious, determination of the issues presented. The Administrative Procedure Act (5 U.S.C. 551 et seq.) where applicable shall be a guide in any situation not provided for or controlled by this subpart, but shall be liberally construed or relaxed when necessary.

(c) Reasonable notice and opportunity for hearing.

(1) Whenever the Secretary has reason to believe that a recipient has failed to comply substantially with any section of the Act or of the provisions of this part, and that termination, reduction or limiting the availability of payments is required, she shall give reasonable notice and opportunity of hearing to such recipient prior to the invocation of any sanction under the Act.

(2) Except in proceedings involving willfulness or those in which the public interest requires otherwise, a proceeding under this part will not be instituted until such facts or conduct which may warrant such action have been called to the attention of the chief executive officer of the recipient in writing and he has been accorded an opportunity to demonstrate or achieve compliance with the requirements of the Act and of this part. If the recipient fails to meet the requirements of the Act and regulations within such reasonable time as may be specified by the Secretary, a proceeding shall be initiated. Such proceeding shall be instituted by the Secretary by a compliant which names the recipient as the respondent.

(3) A compliant shall give a plain and concise description of the allegations which constitute the basis for the proceeding. A complaint shall be deemed sufficient if it fairly informs the respondent of the charges against it so that it is able to prepare a defense to the charges. Notification shall be given in the complaint as to the place and time within which the respondent shall file its answer, which time shall be not less than 30 days from the date of service of the complaint. The complaint shall also contain notice that a decision by default will be rendered against the respondent in the event it fails to file its answer as required.

(4)(i) *Service of complaint.* The complaint or a true copy therefore may be served upon the respondent registered or by certified mail, return receipt requested; or it may be served in any manner which has been agreed to in writing by the respondent. Where the service is by certified mail, the return Postal Service receipt duly signed on behalf of the respondent shall be proof of service.

(ii) *Service of papers other than complaint.* Any paper other than the complaint may be served upon the respondent or upon its attorney of record by registered or certified mail, return receipt requested. Such mailing shall constitute complete service.

(iii) *Filing of papers.* Whenever the filing of a paper is required or permitted in connection with a proceeding under this part, and the place of filing is not specified in this subpart or by role or order of the administrative law judge, the paper shall be filed with the Secretary, Washington, D.C. 20410. All papers shall be filed in duplicate.

(iv) *Motions and Requests.* Motions and requests shall be filed with the designated administrative law judge, except that an application to extend the time for filing an answer shall be filed with the Secretary pursuant to § 571.707(c)(4)(iii).

(5)(i) *Filing.* The respondent's answer shall be filed in writing within the time specified in the complaint, unless on application the time is extended by the Secretary. The respondent's answer shall be filed in duplicate with the Secretary.

(ii) *Contents.* The answer shall contain a statement of facts which constitute the grounds of defense, and it shall specifically admit or deny each

allegation set forth in the complaint, except that the respondent shall not deny a material allegation in the complaint which it knows to be true, nor shall a respondent state that it is without sufficient information to form a belief when in fact it possesses such information. The respondent may also state affirmatively special matters of defense.

(iii) *Failure to deny or answer allegation in the complaint.* Every allegation in the complaint, which is not denied in the answer shall be deemed to be admitted and may be considered as proved, and no further evidence in respect of such allegation need be adduced at a hearing.

(iv) *Failure to file answer.* Failure to file an answer within the time prescribed in the complaint, except as the time for answer is extended under § 571.707(c)(5)(i), shall constitute an admission of the allegations of the complaint and a waiver of hearing, and the administrative law judge shall make his findings and decision by default without a hearing or further procedure.

(v) *Reply to answer.* No reply to the respondent's answer is required unless the administrative law judge so requests. Otherwise, the Secretary may file a reply in her discretion, but in any event within 10 days from her receipt of respondent's answer.

(vi) *Referral to administrative law judge.* Upon receipt of the answer by the Secretary or upon filing a reply if one is deemed necessary, or upon failure of the respondent to file an answer within the time prescribed in the complaint or as extended under § 571.707(c)(5)(i), the complaint (and answer, if one is filed) shall be referred to the administrative law judge. Where an answer has been filed, the administrative law judge shall set a time and place for hearing and shall serve notice thereof upon the parties at least 15 days in advance of the hearing date.

(6)(i) If it appears to the Secretary that the respondent in its answer falsely and in bad faith, denies a material allegation of fact in the complaint or states that it has no knowledge sufficient to form a belief, when in fact it does possess such information, or if it appears that the respondent has knowingly introduced false testimony during the proceedings, the Secretary may thereupon file supplemental charges against the respondent. Such supplemental charges may be tried with other charges in the case: *Provided,* The respondent is given due notice thereof and is afforded an opportunity to prepare its defense thereto.

(ii) In the case of variance between the allegations in a pleading and the evidence adduced in support of the pleading, the adminstrative law judge may order or authorize amendment of the pleading to conform to the evidence; provided, the party that would otherwise be prejudiced by the amendment is given reasonable opportunity to meet the allegation of the pleading as amended. The administrative law judge shall make findings on any issue presented by the pleadings as so amended.

(iii) A respondent may appear in person through its chief executive officer and must be respresented by counsel. Respondent's counsel may also appear as a witness in the proceeding. The Secretary shall be respresented by the General Counsel of HUD.

(d) *Administrative law judge; powers*—(1) *Appointment.* An administrative law judge, appointed as provided by Section 11 of the Administrative Procedure Act (5 U.S.C. 3105), shall conduct proceedings upon complaints filed under this Subpart.

(2) *Powers of administrative law judge.* Among other powers provided by law, the administrative law judge's authority, in connection with any proceeding under this subpart, shall include authority to:

(i) Administer oaths and affirmations;

(ii) Making ruling upon motions and requests. Prior to the close of the hearing no appeal shall lie from any such ruling except, at the discretion of the administrative law judge, in extraordinary circumstances;

(iii) Determine the time and place of hearing and regulate its course and conduct. In determining the place of hearing the administrative law judge may take into consideration the requests and convenience of the respondent or its counsel;

(iv) Adopt rules of procedure and modify the same from time to time as occasion requires for the orderly disposition of proceedings;

(v) Rule upon offers of proof, receive relevant evidence, and examine witnesses;

(vi) Take or authorize the taking of dispositions;

(vii) Receive and consider oral or written arguments on facts of law;

(viii) Hold or provide for the holding of conferences for the settlement or simplification of the issues by consent of the parties;

(ix) Perform such acts and take such measures as are necessary or appropriate to the efficient conduct of any proceeding; and

(x) Make initial findings and decision.

(e) *Hearings.* (1) In general: The administrative law judge shall preside at the hearing on a complaint. Testimony of witnesses shall be given under oath or affirmation. The hearing shall be stenographically recorded and transcribed. Hearings shall be conducted pursuant to section 7 of the Administrative Procedure Act (5 U.S.C. 556).

(2) Failure to appear. If, after proper service and notice, a respondent fails to appear at the hearings, it shall be deemed to have waived the right to a hearing and the administrative law judge shall make his findings and decision against the respondent by default.

(3) Waiver of hearing: A respondent may waive the hearing by informing the administrative law judge, in writing on or before the date set for hearing, that it desires to waive hearing. In such event the administrative law judge shall make his findings and decision based upon the pleadings before him. The decision shall plainly show that the respondent waived hearing.

(4) The administrative law judge shall prior to or at the beginning of the hearing require that the parties attempt to arrive at such stipulations as will eliminate the necessity of taking evidence with respect to allegations of facts concerning which there is no substantial dispute. The administrative law judge shall take similar action, where it appears appropriate, throughout the hearing and shall call and conduct any conferences which he deems advisable with a view to the simplification, clarification, and disposition of any of the issues involved.

(f) *Evidence.* (1) Any evidence which would be admissible under the rules of evidence governing proceedings in matters not involving trial by jury in the Courts of the United States, shall be admissible and controlling as far as possible. *Provided,* That, the administrative law judge may relax such rules in any hearing when in his judgment, such relaxation would not impair the rights of either party and would more speedily conclude the hearing, or would better serve the ends of justice. Evidence which is irrelevant, immaterial and unduly repetitious shall be excluded by the administrative law judge.

(2) *Depositions.* The deposition of any witness may be taken pursuant to § 571.707(g) and the deposition may be admitted.

(3) *Proof of documents.* Official documents, records and papers of a respondent shall be admissable as evidence without the production of the original: *Provided,* That such documents, records and papers are evidenced as the original by a copy attested to or identified by the chief executive officer of the respondent or the custodian of the document, and contain the seal of the respondent.

(4) *Exhibits.* If any document, record, paper, or other tangible or material thing is introduced in evidence as an exhibit, the administrative law judge may authorize the withdrawal of the exhibit subject to any conditions he deems proper. An original

document, paper, or record need not be introduced and a copy duly certified (pursuant to paragraph (b) of this section) shall be deemed sufficient.

(5) *Objections.* Except as requested by counsel or the administrative law judge, oral or written objections to evidence shall be in short form, stating the grounds of objection relied upon, and the record shall not include subsequent argument thereon, except as permitted by the administrative law judge. Rulings on such objections shall be a part of the record. No exception to the ruling is necessary to preserve the right of either party to the proceeding.

(g) *Depositions*—(1) *In general.* Depositions for use at a hearing may, with the written approval of the administrative law judge, be taken by either the Secretary or the respondent or their duly authorized representatives. Depositions may be taken upon oral or written interrogatories, upon not less than 15 days written notice to the other party, before any officer duly authorized to administer an oath for general purposes. Such written notice shall state the names of the witnesses and the time and place where the depositions are to be taken. The requirement of 15 days written notice may be waived by the parties in writing, and depositions may then be taken from the persons and at times and places mutually agreed to by the parties.

(3) *Written interrogatories.* When a deposition is taken upon written interrogatories, any cross-examination shall be upon written interrogatories. Copies of such written interrogatories shall be served upon the other party with the notice, and copies of any written cross-interrogatories shall be mailed by first-class mail or delivered to the opposing party at least 10 days before the date of taking the depositions, unless the parties mutually agree otherwise. A party upon whose behalf a deposition is taken must file with the administrative law judge and serve one copy upon the opposing party. Expenses in the reporting of depositions shall be borne by the party at whose instance the deposition is taken.

(h) *Stenographic record; oath of reporter; transcript*—(1) *In general.* A stenographic record shall be made of the testimony and proceedings, including stipulations and admissions of fact in all proceedings. Arguments of counsel may be heard on request. A transcript of the proceedings (and evidence) at the hearing shall be made in all cases.

(2) *Oath of reporter.* The reporter making the stenographic record shall subscribe an oath before the administrative law judge, to be filed in the record of the case, that he (or she) will truly and correctly report the oral testimony and proceedings at such hearing and accurately transcribe the same to the best of his (or her) ability.

(3) *Transcript.* Copies of the transcript may be obtained from the reporter at rates not to exceed the actual cost of duplication. Copies of exhibits introduced at the hearings or at the taking of depositions will be supplied to the parties upon the payment of a reasonable fee (31 U.S.C. 483(a)).

(i) *Proposed findings and conclusions.* Except in cases where a respondent has failed to appear to answer the complaint or has failed to appear at the hearings, or has waived the hearing, the administrative law judge, prior to making his initial decision, shall afford the parties a reasonable opportunity to submit proposed findings and conclusions and supporting reasons therefor.

(j) *Initial decision of the administrative law judge.* Within 30 days after the conclusion of a hearing, the administrative law judge shall make his initial decision. However, where proposed findings and conclusions are timely submitted by the parties, such decision shall be made within 30 days after receipt of the findings and conclusions. The initial decision shall include a statement of the findings of fact and the conclusions therefrom, as well as the reasons or basis therefor, upon all the material issues of fact, law or discretion preserved on the record, and may provide for one of the following orders:

(1) An order that the respondent's payments be terminated, or

(2) An order that the respondent's payments be reduced, or

(3) An order that the Secretary limit the availability of payments to activities not affected by respondent's failure to comply, or

(4) An order in favor of respondent.

After reaching his initial decision the administrative law judge shall certify to the complete record, together with a certified copy of his initial decision, to the Secretary. The Administrative law judge shall serve also a copy of the initial decision by certified mail to the chief executive officer of the respondent or to its attorney of record.

(k) *What constitutes record.* The transcript of testimony, pleadings and exhibits, all papers and requests filed in the proceeding together with all findings, decisions and orders, shall constitute the exclusive record in the matter.

(l) *Procedure on review of decision of administrative law judge*—(1) *Appeal to the Secretary.* Within 30 days from the date of the initial decision and order of the administrative law judge, the respondent may appeal to the Secretary and file his exceptions to the initial decision and his reasons therefor. The respondent shall transmit a copy of his appeal and reasons therefor to the HUD counsel who may, within 30 days from receipt of the respondent's appeal, file a reply brief in opposition to the appeal. A copy of the reply brief, if one is filed, shall be transmitted to the respondent or its counsel of record. Upon the filing of an appeal and a reply brief, if any, the Secretary shall make the final agency decision on the record of the administrative law judge submitted to her.

(2) *Absence of appeal.* In the absence of exceptions by the respondent within the time set forth in paragraph (l)(1) of this section or a review initiated by HUD counsel within 45 days after the initial decision, such initial decision of the administrative law judge shall constitute the final decision of the Department.

(m) *Decision of the Secretary.* On appeal from or review of the initial decision of the administrative law judge, the Secretary will make the final agency decision. In making her decision the Secretary will review the record or such portions thereof as may be cited by the parties to permit limiting of the issues. The Secretary may affirm, modify, or revoke the findings and initial decision of the administrative law judge. A copy of the Secretary's decision shall be transmitted immediately to the chief executive officer of the respondent or its counsel of record.

(n) *Publicity of proceedings*—(1) *In general.* A proceeding conducted under this subpart shall be open to the public and to elements of the news media provided that in the judgment of the administrative law judge, the presence of the media does not detract from the decorum and dignity of the proceeding.

(2) *Availability of record.* The record established in any proceeding conducted under this subpart shall be made available for inspection by the public as provided for and in accordance with regulations of the Department of HUD pursuant to 24 CFR Part 15.

(3) *Decisions of the administrative law judge.* The statement of findings and the initial decision of the administrative law judge in any proceedings, whether or not on appeal or review, shall be indexed and maintained by the Secretary and made available for inspection by the public at the public documents room of the Department. If practicable, the statement of findings and the decisions of the administrative law judge shall be published periodically by the Department and offered for sale through the Superintendent of Documents.

(4) Based on written advice from the Department of Justice that publicity of the proceedings or public release of the record pursuant to paragraph (n)(1), (2), and (3), of this section

would adversely affect criminal prosecution, the Secretary may deem the applicability of paragraph (n) (1), (2), and (3) stayed.

(o) *Judicial review.*

(1) Actions taken under administrative proceedings pursuant to this subpart shall be subject to judicial review pursuant to Section 111(c) of the Act. If a respondent desires to appeal a decision of the administrative law judge which has become final, or a final order of the Secretary for review of appeal, to the U.S. Court of Appeals, as provided by law, the Secretary, upon prior notification of the filing of the petition for review, shall have prepared in triplicate, a complete transcript of the record of the proceedings, and shall certify to the correctness of the record. The original certificate together with the original record shall then be filed with the Court of Appeals which has jurisdiction.

(2) Any recipient which receives the final agency decision of the termination, reduction or limitation of payments under this title may, within sixty days after receiving such notice, file with the United States Court of Appeals for the circuit in which such State is located, or in the United States Court of Appeals for the District of Columbia, a petition for review of the Secretary's action. The petitioner shall forthwith transmit copies of the petition to the Secretary and the Attorney General of the United States, who, shall represent the Secretary in the litigation.

(3) The Secretary shall file in the court the record of the proceeding on which she based her action, as provided in Section 2112 of Title 28, United States Code. No objection to the action of the Secretary shall be considered by the court unless such objection has been urged before the Secretary.

(4) The court shall have jurisdiction to affirm or modify the action of the Secretary or to set it aside in whole or in part. The findings of fact by the Secretary, if supported by substantial evidence on the record considered as a whole, shall be conclusive. The court may order additional evidence to be taken by the Secretary, and to be made part of the record. The Secretary may modify her findings of fact, or make new findings, by reason of the new evidence so taken and filed with the court, and she shall also file such modified or new findings, which findings with respect to questions of fact shall be conclusive if supported by substantial evidence on the record considered as a whole, and shall also file her recommendations, if any, for the modification or setting aside of her original action.

(5) Upon the filing of the record with the court, the jurisdiction of the court shall be exclusive and its judgment shall be final, except that such judgment shall be subject to review by the Supreme Court of the United States upon writ of certiorari or certification as provided in Section 1254 of Title 28, United States Code.

Issued at Washington, D.C., March 16, 1978.

ROBERT C. EMBRY, Jr.,
Assistant Secretary for Community Planning and Development.

[FR Doc. 78-7598 Filed 3-22-78; 8:45 am]

federal register

THURSDAY, MARCH 23, 1978
PART V



DEPARTMENT OF TRANSPORTATION

Coast Guard

■

PUGET SOUND

Vessel Traffic Management

[4910-14]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CGD 78-040]

PART 161—VESSEL TRAFFIC MANAGEMENT

Puget Sound

AGENCY: Coast Guard, Department of Transportation.

ACTION: Interim Navigation Rule.

SUMMARY: This interim rule prohibits entry of oil tankers in excess of 125,000 deadweight tons into the U.S. waters of Puget Sound east of Discovery Island Light and New Dungeness Light. On March 6, 1978, the U.S. Supreme Court declared a similar prohibition of the State of Washington to be unconstitutional. This interim rule is necessary pending preparation of additional Vessel Traffic Service (VTS) regulations in order to provide a continuing scheme for controlling vessel operation in Puget Sound and to avert reduction in environmental protection that could otherwise occur.

EFFECTIVE DATE: This rule is effective on March 14, 1978, and will remain in effect until September 9, 1978.

ADDRESS: Comments on these regulations may be submitted to Commandant (G-CMC/81), (CGD 78-040), U.S. Coast Guard, Washington, D.C. 20590. Comments will be available for examination at the Marine Safety Council (G-CMC/81), Room 8117, Department of Transportation, Nassif Building, 400 Seventh Street SW., Washington, D.C. 20590.

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: Persons wishing to comment on this rule may do so by submitting comments to the address listed above. Commenters should include their names and addresses, identify the docket number of this rule (CGD 78-040), and give reasons for their comments. Based upon comments received, the rule may be modified or supplemented. This rule is issued without prior opportunity for public comment on its contents. Immediate action is required in order to preserve the size limitations previously in effect in Puget Sound and to avert reduction in environmental protection that could otherwise occur while comprehensive Coast Guard rule making is in progress. Accordingly, a delay in publishing this rule would be contrary to the public interest.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Rear Admiral Sidney A. Wallace, Project Manager, Office of the Secretary, and William R. Register, Project Attorney, Office of the Chief Counsel, USCG.

BACKGROUND

1. I am issuing this rule as an interim measure under the authority of the Ports and Waterways Safety Act of 1972 (33 U.S.C. 1221-27). The rule is necessary to maintain the current de facto level of protection of the navigable waters of Puget Sound and adjacent waters in the State of Washington, and the resources therein, from environmental harm resulting from vessel or structure damage, destruction, or loss until the possible issuance of additional vessel traffic service regulations.

2. The United States Supreme Court on March 6, 1978, in the case of *Ray* v. *Atlantic Richfield Co.*, No. 76-930 declared unconstitutional several provisions of the State of Washington Tanker Law directed to preventing environmental damage by oil tankers in Puget Sound. Among the provisions struck down by the Court was one prohibiting oil tankers exceeding 125,000 deadweight tons from entering Puget Sound. While the litigation has been in progress, tanker operators refrained from using oil tankers exceeding 125,000 deadweight tons in Puget Sound. For reasons outlined hereafter, I believe it to be necessary to continue this practice on a temporary basis.

3. Although there are certain operating restrictions currently in effect for Rosario Strait because of navigational hazards peculiar to that area, the Coast Guard has not yet taken action to limit the size of vessels entering Puget Sound. The Coast Guard has been conducting studies necessary to determine the need for, and the substance of, possible additional vessel traffic service regulations. Under Title I of the Ports and Waterways Safety Act, the Secretary of Transportation and his delegees are required to consider the existence of state and local practices and customs in determining whether it is necessary or desirable to exercise authority under the Act. Until the Washington statute was declared unconstitutional, it was not necessary to exclude larger tankers under the authority of the Ports and Waterways Safety Act of 1972 while the Coast Guard review was pending.

4. The Coast Guard will now draw its studies to a tentative conclusion and initiate rulemaking action. An advance notice of proposed rulemaking will be published in the very near future, and opportunity for participation in the rule making will be provided to the public, including State and local governments, representatives of the marine industry, port and harbor authorities, environmental groups, and other interested parties. While rule making is in process, this 180-day emergency rule will continue, as a matter of Federal action, the similar restrictions of the State of Washington regarding oil tanker traffic in Puget Sound.

ACTION

Therefore, under the authority vested in me by 33 U.S.C. 1221 to control vessel traffic in areas I determine to be especially hazardous, I am issuing the following interim rule as an amendment to Part 161:

Subpart B—Vessel Traffic Services

APPENDIX A—PUGET SOUND INTERIM NAVIGATION RULE

(a) No person may operate or cause or authorize the operation of any oil tanker in excess of 125,000 deadweight tons bound for a port or place in the United States in waters of the United States lying east of a straight line extending from Discovery Island Light to New Dungeness Light and to all points in the Puget Sound area north and south of these lights.

(b) Nothing herein affects the exercise by the Commandant of the Coast Guard, the Coast Guard Thirteenth District Commander, the Coast Guard Captain of the Port, Seattle, or the Commanding Officer of the Puget Sound Vessel Traffic Service, in respect to oil tankers of less than 125,000 deadweight tons on Puget Sound, of the authority which has been delegated to them under the Ports and Waterways Safety Act of 1972.

(c) This rule is effective immediately and shall remain in effect until September 9, 1978.

(33 U.S.C. 1224.)

Dated: March 14, 1978.

BROCK ADAMS,
Secretary of Transportation.

[FR Doc. 78-7740 Filed 3-22-78; 8:45 am]

federal register

THURSDAY, MARCH 23, 1978
PART VI



DEPARTMENT OF THE INTERIOR

Bureau of Land Management

■

UTILIZATION OF GEOTHERMAL RESOURCES

[4310-84]

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[43 CFR Part 3250]

UTILIZATION OF GEOTHERMAL RESOURCES

AGENCY: Bureau of Land Management.

ACTION: Proposed rulemaking.

SUMMARY: This document will provide the basis for the utilization of geothermal resources for the generation of electricity by establishing a system for licensing electric power sites on geothermal resource leases.

DATE: Comments on the proposed rulemaking will be received until May 8, 1978.

ADDRESS: Comments should be sent to: Director (210), Bureau of Land Management, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert C. Bruce, 202-343-8735.

SUPPLEMENTARY INFORMATION: This proposed rulemaking will authorize the construction of power plants on lands under geothermal lease. Sections 3 and 24 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) authorize the Secretary of the Interior to lease these lands for development and utilization of geothermal steam and associated resources under such rules and regulations as he may deem appropriate to carry out the provisions of the act. Development has taken place on geothermal leases and has proceeded to the point that interest has been expressed in the utilization of the developed resource for the generation of electric power. This rulemaking will provide the needed procedure for the licensing of electric power sites on geothermal leases.

The principal author of this proposed rulemaking is Ms. Doris A. Koivula, Chief, Branch of Upland Mineral Leasing, Bureau of Land Management assisted by the staff of the Division of Mineral Resources and the Division of Legislation and Regulatory Management.

It is hereby determined that the publication of this proposed rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(c)) is required.

NOTE.—The Department of the Interior 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.

In accordance with the requirements of section 310 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) on rulemaking, interested parties may submit written comments, suggestions or objections to the proposed rulemaking to the Director (210), Bureau of Land Management, Washington, D.C. 20240.

Copies of comments, suggestions or objections made pursuant to this notice will be available for public inspection in the Division of Legislation and Regulatory Management, Bureau of Land Management, Room 5555, Interior Building, Washington, D.C., during regular business hours (7:45 a.m.-4:15 p.m.).

This amendment is proposed under the authority of the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025).

It is proposed to amend Chapter II of Title 43 of the Code of Federal Regulations by adding a new part 3250 as follows:

PART 3250—UTILIZATION OF GEOTHERMAL RESOURCES

Subpart 3250—Utilization of Geothermal Resources Through Licensing of Power Plant Sites

Sec.
3250.0-1 Purpose.
3250.0-2 [Reserved]
3250.0-3 Authority.
3250.0-4 [Reserved]
3250.0-5 Definitions.
3250.0-6 Policy.
3250.1 Applications.
3250.1-1 Requirements for application.
3250.1-2 Showing of Citizenship.
3250.2 Action on application.
3250.3 Environmental analysis.
3250.4 Actions not requiring a license.
3250.4-1 Research and demonstration projects.
3250.4-2 Individual well utilization.
3250.5 Action required on designated lands.
3250.5-1 Withdrawn or reserved lands.
3250.5-2 Lands under the jurisdiction of the Forest Service.
3250.5-3 Lands subject to section 24 of the Federal Power Act.
3250.5-4 Lands not subject to application.
3250.6 Licenses.
3250.6-1 Area covered by license.
3250.6-2 Term of license.
3250.6-3 Annual rental.
3250.7 Bonds.
3250.8 Assignments and transfers.
3250.9 Relinquishment, expiration, and cancellation.

AUTHORITY: Secs. 3 and 24, Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025).

Subpart 3250—Utilization of Geothermal Resources through Licensing of Power Plant Sites

§ 3250.0-1 Purpose.

The purpose of this subpart is to establish procedures for the utilization of Federal lands under geothermal lease by persons who have purchased or otherwise acquired the production of geothermal steam and geothermal resources for the purpose of generating electric power.

§ 3250.0-2 [Reserved.]

§ 3250.0-3 Authority.

These regulations are issued pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) which authorizes the Secretary of the Interior to prescribe rules and regulations for the development, utilization, and conservation of geothermal steam resources, protection of the public interest, prevention of waste, and protection of water quality and other environmental qualities. The right to use land under geothermal lease for the purpose of generating electric power may be exercised only in accordance with these regulations.

§ 3250.0-4 [Reserved.]

§ 3250.0-5 Definitions.

As used in this subpart, the term:

(a) "Licensee" means the individual, partnership, corporation, association, municipality or governmental unit which is authorized to use public lands for the construction of facilities and utilization of geothermal resources pursuant to this subpart.

(b) "Authorized officer" means any employee of the Bureau of Land Management who has been delegated the authority to perform the duties described in this subpart.

(c) "Proper BLM office" means the State office of the Bureau of Land Management having jurisdiction over the land subject to the geothermal lease.

(d) "Power plant site" means that tract of Federal land under geothermal lease authorized for use for a power plant including but not limited to substations, switch yards, waste disposal and storage facilities and appurtenant structures.

(e) "Joint Utilization Agreement" means the arrangement between the holder of a geothermal resource lease and a third party for utilization of geothermal steam and associated geothermal resources produced from a leasehold, for operation of power generating facilities.

(f) "Federal Geothermal Lease" means a lease issued under the Geothermal Steam Act of 1970 pursuant to the leasing regulations contained in Part 3200 of this Title.

(g) "Producible well" means a well capable of producing geothermal steam or geothermal resources in commerial quantities as defined in 30 CFR 270.2 (m) and (n).

§ 3250.0-6 Policy.

It is the policy of this Department to encourage the development and utili-

zation of geothermal resources leased under the Geothermal Steam Act of 1970 in an environmentally acceptable manner.

§ 3250.1 Applications.

§ 3250.1-1 Requirements for application.

Any lessee or any party to a joint utilization agreement or a sales contract where a producible well or wells have been completed who desires a license to use the surface of Federal lands under geothermal lease for construction of an electric generating plant, other than as provided in 30 CFR 270 and § 3250.4 of this subpart, shall file an application for such license with the authorized officer.

(a) An application for a license shall be filed in duplicate in the proper BLM office.

(b) Each application must be accompanied by a non-refundable fee of $50.

(c) No specific form is required.

(d) Each application shall include:

(1) A description of the land applied for by legal subdivision, section, township and range, or by approved protraction surveys, if applicable. If the lands have not been surveyed, the lands shall be described by metes and bounds, giving courses and distances between the successive angle points on the boundary of the tract and connected by courses and distances to an official corner of the public land surveys or a prominent readily identifiable geographic location. The approximate acreage involved shall be included as part of the description.

(2) A map or maps showing the boundaries of the site and the location and dimensions of buildings, cooling towers or ponds, waste disposal or storage sites, switch yards, roads, pipelines and all other structures or facilities to be used in connection with the utilization of the geothermal steam and associated geothermal resources, In addition, the authorized officer may require maps showing the general location of proposed facilities to be used in connection with the power plant site but outside the license area.

(3) A description of the proposed power plant, including the number and capacity of prime movers and generators proposed to be installed, initially and ultimately, together with similar pertinent information about any substations included in the facility. A prime mover is a machine (turbine) that converts a natural force into productive power. The application must show whether the proposed power plant is to be interconnected with other generating facilities owned by the applicant or others, and whether the power generated is to be sold to others or used by the applicant for its own commercial or industrial purposes.

(4) A copy of any joint utilization agreement or sales contract entered into with a Federal geothermal lessee or lessees and the applicant for the utilization of geothermal steam and associate geothermal resources.

(5) A statement showing the amount of merchantable timber, if any, to be cut, removed or destroyed in the construction of the proposed plant or facility, and a statement of agreement to deposit with the Bureau of Land Management, in advance of construction, the dollar amount as determined by the authorized officer to be the full stumpage value of the timber to be cut, removed or destroyed.

§ 3250.1-2 Showing of citizenship.

Licenses shall be issued only to citizens of the United States, associations of such citizens, corporations organized under the laws of the United States, any State or the District of Columbia or governmental units, including, without limitation, municipalities. Applicants shall make showings of citizenship as follows:

(a) Individuals shall furnish a statement of their citizenship.

(b) Associations of individuals, including a partnership, shall furnish a copy of the articles of association, if any. The application must be signed by each member of the association, and be accompanied by a statement of citizenship of each member.

(c) *Corporations.* (1) A private corporation shall furnish a copy of its charter or articles of incorporation, duly certified by the proper State official of the State where the corporation was organized, and a copy of the resolution or by-laws authorizing the proposed action.

(2) A corporation, other than a private corporation, including a municipality or governmental unit, shall file (i) a statement showing that it is authorized to construct and operate a plant for utilization of geothermal steam or associated geothermal resources; (ii) a statement that the officer executing the application is authorized to act on behalf of the applicant; and (iii) a copy of its governing body's resolution authorizing such action.

(3) When a corporation is operating in a State other than the State in which it was incorporated, it shall submit a certificate of the Secretary of State or other proper official of the State in which it is operating, asserting that the corporation has complied with the laws of that State governing foreign corporations to the extent required to entitle the corporation to operate in such State.

(4) If a corporation has previously filed with the Bureau of Land Management the papers required in this section, the requirements shall be held to be met if, in making a subsequent application, specific reference is made to such previous filing by date, place and case number.

§ 3250.2 Action on application.

(a) Where the authorized officer determines that an application is incomplete or not in conformity with the law or regulations, he shall notify the applicant of the deficiencies and provide an opportunity for correction of the deficiency.

(b) Where the authorized officer determines that terms and conditions are needed to protect the mineral, environmental, fish and wildlife, and historical and scenic or other resource values of the public lands covered by the application, he shall include them in the license and the licensee shall comply with them.

(c) A copy of any utility commission license or other Federal, State or local license or permit that is applicable to the proposed power plant must be furnished prior to commencement of any activity relating to plant construction.

§ 3250.3 Environmental analysis.

The authorized officer, with the assistance of the U.S. Geological Survey, shall make a technical examination/environmental analysis in connection with an application for a license filed under this subpart.

(a) The technical examination shall include an evaluation of the impacts of the operation covered by the license on other land uses, resources or land management programs on or adjacent to the area covered by the license in order to determine the appropriate terms and conditions to be incorporated in such license, as well as consultation with State and local jurisdictions as may be appropriate.

(b) The environmental analysis shall include an analysis of the impact of the proposed operations set forth in the application and a determination as to whether an environmental impact statement (EIS) is required.

§ 3250.4 Action not requiring a license.

§ 3250.4-1 Research and demonstration projects.

A research and demonstration (R. & D.) project sited on a Federal geothermal lease consisting of a power generating facility of not more than 20 MW's electrical capacity and with a maximum life of five years will not require a license under the regulations of this subpart. An R. & D. permit for a facility of 20MW's or less must be obtained from the Area Geothermal Supervisor under the provisions of 30 CFR Part 270. In the event a R. & D. project is proposed to be retained for commercial operation after the five-year period, a license must be obtained under this subpart. R. & D. permits granted under 30 CFR 270 shall conform to the provisions of § 3200.0-8 of this Title.

§ 3250.4-2 Individual well utilization.

A license shall not be required for the purpose of installing a temporary

facility for the utilization of an individual well at the well site for power generation or non-electrical heat utilization sited on a Federal geothermal lease. In order to install such facility, a permit shall be obtained from the Area Geothermal Supervisor, U.S. Geological Survey under the provisions of 30 CFR Part 270. Permits granted under 30 CFR Part 270 shall conform to the provisions of § 3200.0-8 of this Title.

§ 3250.5 Action required on designated lands.

§ 3250.5-1 Withdrawn or reserved lands.

(a) Where the land sought for a power plant site utilizing geothermal steam or associated geothermal resources is withdrawn or reserved for the use of a Federal agency other than Interior, the authorized officer shall consult with and obtain the consent of such other agency before the license is issued. The license shall include any terms and conditions required by the surface managing agency.

(b) Where the land sought for a power plant site utilizing geothermal resources is withdrawn or reserved for the use of an Interior agency, the authorized officer shall consult with such agency before the license is issued. The license shall include any terms and conditions deemed appropriate by the authorized officer.

§ 3250.5-2 Lands under the jurisdiction of the Forest Service.

Where the land sought for a power plant site utilizing geothermal steam or associated geothermal resources is within the boundaries of a national forest or any area withdrawn for inclusion within a national forest, the license shall include terms and conditions required by the Forest Service for protection of the national forest.

§ 3250.5-3 Land subject to section 24 of the Federal Power Act.

Where the land sought for a power plant site utilizing geothermal steam or associated geothermal resources is subject to the provisions of section 24 of the Federal Power Act, as amended (16 U.S.C. 818), the license shall be issued only with the consent of, and subject to, such terms and conditions as the Federal Energy Regulatory Commission, Department of Energy, may prescribe.

§ 3250.5-4 Lands not subject to application.

No license shall be issued for lands which:

(a) Have passed from Federal ownership except where geothermal resources in such lands are subject to a lease.

(b) Are not subject to lease for development of geothermal resources, including, but not limited to lands.

(1) Administered as part of the national park system,

(2) Within a national recreation system,

(3) Within a fish hatchery administered by the Secretary, wildlife refuge, wildlife range, wildlife management area or waterfowl production area, or acquired or reserved for the protection and conservation of fish and wildlife which are designated as rare and endangered species by the Secretary, or under active consideratin for inclusion in such categories as evidenced by the filing of an application for a withdrawal or a proposed withdrawal, or

(4) Held in trust or restricted status for an Indian tribe or individual, within or without the boundaries of an Indian reservation.

§ 3250.6 Licenses.

§ 3250.6-1 Area covered by license.

(a) The area approved for the proposed power plant shall be reasonably compact as determined by the authorized officer and shall be limited to as much of the surface of the lands applied for as the authorized officer determines necessary for the adequate utilization of the geothermal resources.

(b) Prior to commencing any surface disturbing activities related to the construction of a power plant facility licensed under provisions of this chapter, a construction permit must be obtained from the Area Geothermal Supervisor. The application for such permit shall be filed in triplicate with the Supervisor, as provided under the regulations set forth in 30 CFR Part 270.

§ 3250.6-2 Term of license.

A license for an electrical power plant shall be granted for a primary term of 30 years and so long thereafter as said plant is being utilized for the generation of electrical power, whether or not the geothermal resource utilized by said plant comes from a Federal lease.

§ 3250.6-3 Annual rental.

Rental at a rate to be determined by the authorized officer shall be paid annually, but in no event shall said rental be less than $100 per acre. The first year's rental shall be paid to the authorized officer before issuance of the license and thereafter the annual rental shall be due and payable on or before the anniversary date of the license. The license shall provide that, beginning with the sixth year, the rental for the lands embraced in the license shall be reassessed at the discretion of the authorized officer upon notice to the licensee, but not more often than at five year intervals thereafter, except in extraordinary circumstances.

§ 3250.7 Bonds. Bonds shall be either corporate surety bonds or personal bonds.

(a) *Surety bond.* The licensee shall furnish and maintain a surety bond of not less than $100,000 conditioned upon compliance with all the terms and conditions of the license. The amount of the bond may be increased at any time that it is deemed proper by the authorized officer.

(b) *Personal bond.* In lieu of a surety bond, the licensee may submit a personal bond accompanied by cash in an amount equal to the dollar amount of the bond or negotiable securities of the United States having a market value at the time of the deposit of not less than the required dollar amount of the bond.

(c) *Obligations under bond.* The licensee shall comply with all the terms and conditions of the license under this subpart and shall be (1) liable for all damages to the lands or property of the United States caused by the licensee or his employees, or contractors or employees of such contractors, and (2) indemnify the United States against any liability for damages to life, person or property arising from the occupancy or use of the lands under license. Exception: Where a power plant license is granted under these regulations to a State or other governmental agency which has no legal power to assume such liability with respect to damages caused by it to lands or property, such agency will be responsible for repair of all such damages.

§ 3250.8 Assignments and transfers.

(a) Any proposed transfers in whole or in part of any right, title or interest in the plant or facility licensed under this subpart must be filed with the authorized officer. The application for transfer must be accompanied by the same showing of qualifications of the transferee as is required of the applicant under this subpart, and must be supported by a stipulation that the assignee will comply with and be bound by all the terms and conditions of the license. No transfer will be valid unless and until it is approved in writing by the authorized officer.

(b) An application for approval of an assignment or transfer made pursuant to this section shall be accompanied by a non-refundable fee of $50.

§ 3250.9 Relinquishment, expiration, or cancellation of license.

(a) A licensee may surrender a license by filing a written relinquishment, in triplicate, in the proper BLM office. The relinquishment shall include a statement as to whether the land covered by the license has been disturbed and, if so, whether it has been restored as prescribed by the terms and conditions of the license. The relinquishment will not be accept-

ed until the requirements for reclamation of the land have been met.

(b) Any license approved pursuant to this part shall be subject to cancellation for the violation of any provisions of this part or for the violation of the terms or conditions thereof. No license shall be deemed to be cancelled except on the issuance of a specific order of cancellation by the authorized officer from which an appeal may be taken.

(c) Upon the relinquishment, expiration, or cancellation of the license, the licensee shall, within such period as may be prescribed by the authorized officer, remove all structures, machinery, and other equipment from the land covered by the license. Any structures, machinery, or equipment allowed to remain on the land shall become the property of the United States on the expiration of the period allowed for removal of same. Removal of such property shall be at the licensee's expense.

(d) The licensee shall, for a period of not more than six months, maintain any property needed, as determined by the Area Geothermal Supervisor, for the protection of any wells from which production was being utilized by the licensee.

(e) Where land covered by a license has been disturbed, the licensee shall within one year following the relinquishment, expiration, or cancellation of a license issued under this subpart restore the land in accordance with the terms and conditions of the license. Additional time may be granted by the authorized officer upon a showing of good cause by the licensee. The bond required by § 3250.7 of this subpart shall not be released until the reclamation has been completed to the satisfaction of the authorized officer.

Dated: March 20, 1978.

GUY MARTIN,
Assistant Secretary of the Interior.

[FR Doc. 78-7764 Filed 3-22-78 8:45 am]

federal register

THURSDAY, MARCH 23, 1978
PART VII



DEPARTMENT OF THE INTERIOR

Office of the Secretary

■

YOUNG ADULT CONSERVATION CORPS (YACC)

Establishment of Grant Programs to States

[4310-10]

Title 43—Public Lands: Interior

SUBTITLE A—OFFICE OF THE SECRETARY, DEPARTMENT OF THE INTERIOR

PART 32—GRANTS TO STATES FOR ESTABLISHING YOUNG ADULT CONSERVATION CORPS (YACC) PROGRAM

AGENCY: Office of Youth Programs, Office of the Secretary, Department of the Interior.

ACTION: Final rules.

SUMMARY: The Department of the Interior issues regulations for grants to States for establishing Young Adult Conservation Corps (YACC) grant programs, as required by a recent amendment to the Comprehensive Employment and Training Act of 1973. This new program assists the States and other units of local government in providing employment and other benefits to youths who would not otherwise be currently productively employed.

DATES: Effective date—March 23, 1978. Comments due—On or before April 24, 1978.

ADDRESS: Comments may be submitted on or before April 24, 1978. Comments must be in writing and submitted to: Gov. H. Aker, Office of Youth Programs, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Doyle Hughes, Office of Youth Programs, U.S. Department of the Interior, Washington, D.C. 20240, 202-343-3865.

SUPPLEMENTARY INFORMATION: This rulemaking creates Part 32 of 43 CFR which consists of regulations which implement the Young Adult Conservation Corps (YACC) grant program for State Projects.

The YACC program is authorized by Title I of the Youth Employment and Demonstration Projects Act of 1977 (91 Stat. 627) which amends the Comprehensive Employment and Training Act (CETA) of 1973 (87 Stat. 839) by adding a new Title VIII. This new program assists the States and other units of local government in providing employment and other benefits to youths who would not otherwise be currently productively employed. The youths are engaged in a period of service during which they perform useful conservation work and assist in completing other projects of a public nature affecting both Federal and non-Federal public lands and waters, or projects limited to non-Federal public lands and waters.

These regulations were developed in consultation with the Department of Labor and are consistent with the overall program regulations published in 29 CFR, Parts 94 and 97b. The Department of Agriculture also will publish identical YACC State Grant program regulations which will appear in 36 CFR.

Because of the high percentage of unemployment among the youth of the nation, it is considered vital to move as rapidly as possible to implement the Young Adult Conservation Corps. To achieve this, the Department of the Interior finds that it is in the public interest to publish these regulations in final form (5 U.S.C. 553(b)(3)(B)). For the same reason, good cause exists for these rules to become effective immediately (5 U.S.C. 553(d)(3)). Eligible grantees should plan their programs and roles to comply with these rules.

Pursuant to the authority conveyed to the Secretary of the Interior by Interagency Agreement with the Secretary of Labor, this document sets forth the Federal regulations governing operation of the grant program component of the Young Adult Conservation Corps.

Accordingly, Title 43 of the Code of Federal Regulations is amended by adding the following new Part 32:

Sec.

32.1 Introduction.
32.2 Definitions.
32.3 Program purpose and objectives.
32.4 Program operation requirements.
32.5 Administrative requirements.
32.6 Request for grant.
32.7 Application format, instructions, and guidelines.
32.8 Program reporting requirements.
32.9 Consideration and criteria for awarding grants.

AUTHORITY: Pub. L. 95-93, sec. 806, 91 Stat. 630 (29 U.S.C. 801).

§ 32.1 Introduction.

(a) The Young Adult Conservation Corps (YACC) is authorized by Title I of the Youth Employment and Demonstration Projects Act of 1977 (Pub.L. 95-93), which amends the Comprehensive Employment and Training Act (CETA) of 1973 by adding a new Title VIII.

(b) The Young Adult Conservation Corps (YACC) is a year-round employment program for young men and women aged 16 through 23 inclusive. Financial assistance is available through grants-in-aid for employment and work to be performed on projects affecting both Federal and non-Federal public lands and waters or projects limited to non-Federal public lands and waters. YACC grants do not require matching.

(c) The YACC grant program is jointly managed by the Secretaries of the Interior and Agriculture under an interagency agreement with the Secretary of Labor.

(d) Thirty percent of the sums appropriated to carry out the YACC program for any fiscal year will be available for grants during such year. Grant funds will be allocated on the basis of the total youth population within each State. State YACC programs must consist of both residential and nonresidential projects. At least 25 percent of the State YACC program must be residential by September 30, 1978.

§ 32.2 Definitions.

The terms used in these regulations are defined as follows:

(a) *Act.* The Comprehensive Employment and Training Act of 1973, as amended.

(b) *YACC.* Young Adult Conservation Corps.

(c) *Secretaries.* The Secretaries of the Interior and Agriculture or their designated representatives. The YACC program is managed within Interior by the Office of Youth Programs, and within Agriculture, by the Forest Service.

(d) *State.* Any of the several States of the United States, District of Columbia, Commonwealth of Puerto Rico, Virgin Islands, Guam, American Samoa, and The Trust Territories of the Pacific Islands and the Northern Marianas.

(e) *Refugee/parolee.* An alien who is admitted into the United States under the Immigration and Nationality Act, and who is legally authorized to take permanent employment in the United States.

(f) *Enrollee.* An individual enrolled in the YACC grant program.

(g) *Grant.* Funding furnished by the Secretaries to a State pursuant to the Act in order to carry out the YACC program.

(h) *Grantee.* Any State recipient of a grant for the operation of a YACC program affecting both Federal and non-Federal public lands and waters, or projects limited to non-Federal public lands and waters as designated by the Governor in each State.

(i) *Subgrantee.* Any unit of general local government or any public agency or organization or any private nonprofit agency or organization which has been in existence at least 2 years which has successfully applied to a State for funds to operate a YACC project affecting both Federal and non-Federal public lands and waters within that State or projects limited to non-Federal public lands and waters.

(j) *Contractor.* Any public agency or organization, or any private non-profit agency or organization which has been in existence for at least 2 years and is under contract with the grantee or sub-grantee for the conduct of a YACC project affecting both Federal and non-Federal public lands or

waters, or projects limited to non-Federal public lands and waters.

(k) *State grant program.* The YACC program consisting of one or more projects operated by a State with Federal Funding.

(l) *Project.* A YACC residential camp operation or nonresidential project:

(1) *Residential camp.* A YACC facility established and maintained to provide 7 days-per-week, 24 hours-per-day residential support services for enrollees.

(2) *Nonresidential project.* A designated area from which daily work activities are assigned and to/from which nonresidential enrollees commute daily.

(m) *In consultation with.* Advance discussion shall occur on the matter under consideration.

(n) *Non-Federal public lands and waters.* Any lands or waters within the territorial limits of a State owned either in fee simple by a State or political subdivision thereof or over which a State or political subdivision thereof has, as determined by the Secretaries, sufficient long-term jurisidiction so that improvements made as the result of a grant will accrue primarily to the benefit of the public as a whole. Federally owned public lands and waters administered by a State or political subdivision thereof under agreements with a Department or Agency of the Federal Government are eligible under such definition if the Secretaries determine that the State or political subdivision thereof is entitled or is likely to retain administrative responsibility for an extended period of time sufficient to justify treatment as non-Federal public lands or waters.

(o) *Total youth population.* Number of youth in a State ages 16 through 23, consistent with the most current Bureau of Census estimate.

(p) *Labor.* United States Department of Labor.

(q) *Interior.* United States Department of the Interior.

(r) *Forest Service.* Agency within the United States Department of Agriculture.

§ 32.3 Program purpose and objectives.

It is the purpose of the Young Adult Conservation Corps to provide employment and other benefits to youths of both sexes from all social, economic and racial classifications who would not otherwise be currently productively employed. The youths will be employed for a period of service during which they engage in useful conservation work which would otherwise be accomplished if adequate funding were made available.

§ 32.4 Program operation requirements.

(a) The State agencies cooperating with Interior and Forest Service having natural resource management responsibilities should be involved in the planning and implementation of the program.

(b) Grantees shall be responsible for the management of each Corps camp and project, final selection of enrollees, determination of enrollee work assignments, training, discipline and termination, and camp operations in accordance with this part and guidelines issued by Interior and Forest Service.

(1) Grantees shall assure that YACC program activities will not result in the displacement of employed workers (including partial displacement such as reduction in the hours of non-overtime work or wages or employment benefits), or impair existing contracts for services, or result in the substitution of YACC funds for other funds in connection with work that would otherwise be performed, or substitute jobs assisted under YACC for existing Federally-assisted jobs, or result in the hiring of any youth when any other person is on layoff from the same or any substantially equivalent job.

(2) Grantees shall assure that the activities in which the YACC enrollees are employed will result in an increase in employment opportunities over those opportunities which would otherwise be available.

(3) In addition, Grantees shall see that YACC enrollees do not, at the same time, share common facilities or property with, or work with members of the Job Corps, under Title IV of the Act, except in emergency situations as outlined in paragraph (1)(4)(i) of this section.

(c) Enrollee eligibility: Membership in the Corps will be limited to youths between the ages of 16 to 23, inclusive who are unemployed at the time of application. Citizens, lawfully permanent residents of the United States, or lawfully admitted refugees, or parolees, may apply for enrollment. Applicants also must be capable of carrying out the work of the Corps for the estimated duration of their enrollment.

(d) Candidate recruitment and referral: (1) Interested youth may apply to their local Employment Service/Job Service for enrollment. State Employment Security Agencies (SESA) and their local Employment Service/Job Service (ES/JS) offices shall take applications for YACC from all interested youth and shall refer all candidates who self-certify that they meet eligibility requirements to Grantees for selection of those to be enrolled. Self-certification by applicants ages 16 through 18 who have left school shall include an assurance that they did not leave school for the purpose of enrolling in the Corps. Such referrals shall include all interested youth, including veterans, from both sexes, and all social, economic and racial classifications. Labor shall recruit candidates for YACC through the SESA and their local ES/JS offices, prime sponsors qualified under Section 102 of the Act, sponsors of Native-American programs qualified under Section 302 of the Act, sponsors of migrant and seasonal farmworkers programs under Section 303 of the Act, Interior and Agriculture and such other agencies and organizations as deemed appropriate by Labor. All candidates must be referred through the local ES/JS offices.

(2) An equitable proportion of candidates shall be referred from each State, based on the State's total youth population. For YACC program purposes, total youth population is the number of youth, 16 through 23, as determined on the basis of the best available data. Youth of both sexes and of all social, economic, and racial classifications shall be referred equitably.

(e) Enrollee selection: Grantees shall—(1) Notify ES offices when openings are available;

(2) Select enrollees for the Corps only from those candidates referred by Labor and, in selection and assignment, shall provide, to the extent feasible, for equitable participation for youth of both sexes and of all social, economic, and racial classifications, and for equitable participation of youth from each State;

(3) Notify selected applicants of the date, time and place to which they should report for work, and that enrollees must provide their own transportation to and from the project or camp;

(4) Require that enrollees complete physical examinations prior to official enrollment (expenses, if any, for the physical examination will be borne by the prospective enrollee);

(5) Require parental consent for those youth who have not reached the age of majority as defined by State law;

(6) Require enrollees to provide their own clothing, with the exception of certain safety equipment which will be furnished;

(7) Notify the referring ES/JS office as soon as possible but no later than 30 days after receipt of application, which applicants have been selected and have reported for employment and which have not been so selected.

Preference in enrollee selection shall be given to applicants in rural and urban areas having substantial unemployment rates equal to or in excess of 6.5 per centum as determined by the Department of Labor. Grantees shall comply with Section 808 of the Act, concerning antidiscrimination.

(f) Enrollment Duration: (1) Grantees shall assure that no individual is enrolled in the Corps for a total period of more than 12 months. Such period may be completed in up to three sepa-

rate enrollment periods so long as the youth meets the eligibility requirements at the time of each separate enrollment. An individual who attains age 24 while enrolled may remain in the program to complete the current period of enrollment.

(2) No youth shall be enrolled if he or she desires such enrollment only for the normal periods between school terms.

(g) Corpsmember activities. Grantees shall assure that work project activities on which YACC enrollees are employed are consistent with the Forest and Rangeland Renewable Resource Planning Act of 1974, as amended by the National Forest Management Act of 1976. Enrollees will be assigned to work projects which are designed to diminish the backlog of work in such fields as:

(1) Tree nursery operations, planting, pruning, thinning and other silvicultural measures;

(2) Wildlife habitat improvement and preservation;

(3) Range management improvements;

(4) Recreation development, rehabilitation and maintenance;

(5) Fish habitat and culture measures;

(6) Forest insect and disease prevention and control;

(7) Road and trail maintenance and improvements;

(8) General sanitation, cleanup, and maintenance and improvements;

(9) Erosion control and flood damage;

(10) Drought damage measures; and

(11) Other natural disaster damage measures.

(h) Project criteria. YACC projects will be operated on a residential and nonresidential basis. Each project location will be jointly approved by Interior and Forest Service through their Regional/Area Offices. To the maximum extent practicable, projects shall:

(1) Be labor-intensive;

(2) Be projects for which work plans exist or can be readily developed;

(3) Be able to be initiated promptly;

(4) Be productive with positive impacts on both the Enrollee as well as the Corps from the standpoint of work performed and benefit to participating youth;

(5) Provide work experience to participants in skill areas required for the projects;

(6) If a residential camp, to the maximum extent feasible, be located in areas where existing residential facilities are available. The use of existing but unoccupied or underutilized Federal, State, and local government facilities and equipment shall be maximized; such utilization is subject to the approval of the Federal agency, State or local government having administrative control thereof;

(7) If a non-residential project, be located within acceptable normal commuting distance from the geographic center of areas of substantial unemployment as designated by Labor;

(8) Be similar to activities of persons employed in seasonal and part-time work by Federal natural resource agencies.

(i) Cooperation with agencies and institutions: (1) Grantees shall, to the extent feasible, arrange for local linkages with educational systems, CETA and other employment and training programs, employment service offices, local apprenticeship sponsors and information centers, and employers, in order to arrange for the provision of available services to enrollees, both during non-work hours while enrolled, and after termination from YACC. Grantees shall establish procedures to ensure that enrollees are made aware of established linkages and related information and opportunities.

(2) Grantees shall notify appropriate local ES/JS offices regarding enrollee status, in advance of the end of the enrollment period or upon termination and shall, to the extent feasible, assist the enrollee in making contact with ES/JS or other organizations to enhance the possibilities for placement.

(3) Labor shall work with the Department of Health, Education, and Welfare to make suitable arrangements whereby academic credit may be awarded by educational institutions and agencies for competencies derived from work experience obtained through the YACC program. Labor shall also encourage Grantees, through Interior and Forest Service, to make necessary arrangements with local education agencies so that academic credit for such work experience may be granted.

(j) Enrollee wages and hours of work: (1) Grantees shall assure that enrollees in the State Grant Program are paid at the Federal minimum wage rate specified in section 6(a)(1) of the Fair Labor Standards Act of 1938, as amended. As an exception, Grantees shall provide for an additional cost-of-living adjustment for enrollees in the State of Alaska, not to exceed 25 percent of the Federal Wage Rate.

(2) Wages in the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, and the Northern Marianas shall be consistent with provisions of Federal, State, or local laws, otherwise applicable. Wages in the Trust Territory of the Pacific Islands shall be consistent with local law, except on Eniwetok and Kwajalein Atoll where section 6(a)(1) of the Fair Labor Standards Act applies.

(3) As an incentive, Grantees may authorize incremental increases, above the minimum wage, for a limited number of enrollees, to reflect additional responsibilities or competencies. For this purpose, two promotional categories may be established: (1) Enrollee Leader, and (2) Enrollee Assistant Leader. No more than 15 percent of the enrollment of any individual camp or project shall be given such increases. For each enrollee thus compensated, the wage increase shall be 50 percent for the enrollee leader and 15 percent for the enrollee assistant leader, of the applicable basic hourly minimum wage.

(4) Grantees shall reduce enrollee wages for each hour of unexcused absence.

(5) Enrollees assigned to residential camps may be required to assume responsibility for housekeeping and maintenance duties. Such duties shall not be considered compensable, unless scheduled during the regular work day, in which case enrollees shall be paid at the same rate as for regular work assignments.

(6) Enrollees may not be required to work more than 8 hours per day or 40 hours per week, except that Grantees may authorize overtime which shall not exceed 10 hours per week per enrollee, in which event they shall pay them at his or her regular rate.

(7) Enrollees assigned to residential camps shall be charged for daily food and lodging as follows: 75 cents per meal furnished and 75 cents per day lodging. Grantees shall arrange for payment of such charges by payroll deduction.

(8) Grantees shall establish a collection procedure for collecting payments made by program staff and visitors for meals, lodging, or other items requiring reimbursement. Amounts collected shall be treated as program income and shall be netted against total YACC program outlays by Grantees.

(9) Income taxes shall be withheld from enrollee wages pursuant to the Federal Internal Revenue Code of 1954 (26 U.S.C. 1 et seq.), and such State income tax laws as are applicable. Grantees shall provide each enrollee with the forms required to effect income tax deductions and withholding exemptions and shall assure that appropriate wage and tax statements are provided to enrollees.

(10) Interior and Forest Service shall assure that the payroll procedures for both the Federal and State programs are the same. State and local grantees shall utilize the payroll forms used by the Federal Government for payment of enrollees in accordance with the guidelines issued by Forest Service and Interior as appropriate.

(11) Grantees may utilize the payroll services of the Administrative Service Center (ASC), Bureau of Reclamation, P.O. Box 11568, Salt Lake City, Utah 84147 for enrollee pay at no direct cost to the Grantee. Grantees may elect to payroll the enrollees through their own payroll system if the payroll

system is consistent with regulations contained herein. Those Grantees electing to payroll enrollees through ASC will be furnished appropriate forms and instructions.

(k) Enrollee leave: (1) Grantees shall provide enrollees with paid annual leave at a rate of 4 hours for every full pay period which shall consist of 2 normal work weeks. Accrual shall commence at the beginning of the first full pay period after the day of official enrollment, and shall end on the date of official termination. Such leave may be accrued up to a maximum of 13 days for 52 weeks of uninterrupted enrollment: Enrollees may use accrued leave at any time, subject to approval by the Grantee, but shall use all accrued leave prior to each formal termination. Accrued leave may be used for such purposes as personal business and sick time. The date of formal termination shall be the final date upon which the youth is eligible to receive pay, whether this is a work day or an accrued but unused leave day. Compensation shall not be paid for unused accrued leave.

(2) Grantees may grant administrative leave with pay for enrollee participation in job search and employment development activities. Such leave with pay is to be counted as time in employment.

(3) Emergency or administrative leave, without pay may be granted at the discretion of the Grantee. Such leave without pay shall not be counted as time in employment.

(4) Grantees shall pay enrollees for all regular State holidays, if they are in a pay status for 8 hours on the workdays immediately preceding and following the holiday. Approved leave with pay shall count as time in employment for approved paid holidays. Such holidays shall not count as annual leave.

(l) Federal status of enrollees: Except as otherwise specifically provided in this subpart, YACC enrollees in the State Grant Program shall not be deemed Federal employees, and shall not be subject to the provisions of law relating to Federal employment including those regarding hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits. Enrollees in the State Grant Program shall be considered Federal employees for the following purposes:

(1) For purposes of Section 5911 of Title 5 of the United States Code, relating to allowances for living quarters, enrollees whose housing is provided by the Federal Government shall be deemed civil employees of the United States within the meaning of the term "employee" as defined in that Section, and provisions of that Section shall apply.

(2) For purposes of the Internal Revenue code of 1954 (26 U.S.C. 1 et seq.) and Title II of the Social Security Act (42 U.S.C. 401 et seq.), enrollees shall be deemed employees of the United States, and any service performed by a person as an enrollee shall be deemed to be performed in the employ of the United States.

(3) For purposes of Chapter 171 of Title 28 of the United States Code, relating to tort claims procedures, enrollees in the State Grant Program shall be deemed employees of the United States within the meaning of the term "employee of the Government" as defined in Section 2671 of Title 28, United States Code, and provisions of that Chapter shall apply.

(i) In the event an enrollee is alleged to be involved in the damage, loss or destruction of the property of others or of causing personal injury to or the death of other individual(s) while in the performance of duty, claims may be filed by the owner(s) of the property, the injured person(s) or by a duly authorized agent or legal representative of the claimant to the Grantee who shall collect all of the facts and submit the claim to the Regional/Area Offices, Interior and Forest Service for appropriate action.

(ii) Tort claims shall be made on Standard Form 95, Claim for Damage or Injury form or a similar document, supported by necessary justification.

(4) For purposes of Subchapter 1 of Chapter 81 of Title 5 of the United States Code, relating to compensation to Federal employees for work injuries, enrollees in the State Grant Program shall be deemed employees of the United States within the meaning of the term "employee" as defined in Section 8101 of Title 5, United States Code and provisions of that subchapter shall apply, except that the term "performance of duty" shall not include any act of an enrollee while absent without authorization from the enrollee's assigned post of duty, but shall include time spent participating in an activity (including an activity while on pass or during travel to or from such post of duty) authorized by or under the direction of YACC program staff.

(i) Residential enrollees are generally considered under Federal employees Compensation Act to be Federal employees from the time each begins Government authorized travel to the assigned YACC camp, to the time each completes Government authorized travel after termination from the program. Residential enrollees shall be generally considered in "performance of duty" at all times during any and all of their activities, 24 hours a day, 7 days a week, except when they are absent without authorization from their assigned post of duty. Whether a residential enrollee is in "performance of duty" shall be determined by the Office of Workers' Compensation Programs (OWCP).

(ii) Nonresidential enrollees, after official enrollment are generally considered, under Federal Employees Compensation Act (FECA), to be in "performance of duty" as Federal employees from the time they arrive daily at the designated area from which activities are assigned, until they leave such designated area or activity. Nonresidential enrollees are generally not covered by FECA while commuting between a designated area/authorized activity and their residence. Whether a nonresidential enrollee is in "performance of duty" shall be determined by OWCP.

(iii) Whenever an enrollee is injured, develops an occupation related illness, or dies while in the performance of duty, the Grantee shall immediately comply with the procedures set out in the Employment Standards Administration regulations of 20 CFR Chapter 1. The Grantee shall also see that a thorough investigation of the circumstances, and a medical evaluation are made, and shall see that required forms are submitted to the Regional/Area Offices, Interior and Forest Service, for appropriate action.

(iv) If an enrollee dies, the Grantee, in addition to making proper notifications, in accordance with procedures established by Interior and Forest Service shall:

(A) Notify the appropriate district office of Workers' Compensation Programs (OWCP) through the Regional/Area Office, Interior and Forest Service of the death and the circumstances surrounding it, and file appropriate forms with that office.

(B) Be responsible for assuring that the next of kin is informed of benefits which may be available from Federal Employees' Compensation;

(C) Consult the decedent's family as to the final disposition of the remains before any final action is taken in this regard; and

(D) If the next of kin refuses to accept the remains, arrange for burial at a site close to the camp/project and at a cost not to exceed the amount authorized in Section 8134(a) of the Federal Employees' Compensation Act (FECA).

(v) Safety and Health: (A) Grantees shall assure that enrollees are not required or permitted to work or receive services in buildings or surroundings or under condition which are unsanitary, hazardous, or lack proper ventilation. Such work or services shall be conducted or provided in accordance with the standards set forth in the regulations under the Occupational Safety and Health Act of 29 CFR Parts 1910, 1926, and 1960 subpart B.

(B) Grantees shall conduct safety and health inspections of every residential camp and work project area connected therewith, at least annually, consistent with the requirements of 29 CFR 1960.26(d).

(c) Grantees shall issue such items of protective and safety clothing and equipment to enrollees as are necessary and appropriate to insure a maximum of safety in field and construction activities, including, at a minimum, hard hats, gloves, and boots. Grantees shall also see that proper use of such clothing and equipment is taught to enrollees and enforced. Enrollees are expected to provide all other clothing.

(D) Grantees shall provide complete safety orientation to enrollees in all work situations to alert them to any hazards to which they may be exposed.

(vi) Residential living conditions; (A) Grantees shall provide for residential support facilities and services which ensure healthful and secure living conditions, 7 days a week, 24 hours a day.

(B) Grantees shall assure that all residential facilities are well maintained and shall comply with applicable Federal, State and local safety, health, and housing codes for multipurpose group residences. Adequate supervision and assistance are to be provided for the safety and welfare of the enrollees.

(vii) Enrollee Services: Grantees shall provide enrollees with such transportation related to camp and/or project operations, lodging, subsistence, medical treatment and other services, supplies, equipment and facilies as may be needed consistent with this part.

(viii) Enrollee Complaints: Grantees shall establish procedures for resolving enrollee complaints and issues which arise between the grantee and any enrollee regarding adverse action, civil rights, equal employment opportunity, enrollment, or upgrading from the time at which their referrals are received from ES/JS to the time of formal termination. Such procedure shall: (1) provide the enrollee with the opportunity for an informal conference, (2) provide prior notice of intended adverse action against the enrollee setting forth the grounds and permitting response, (3) provide an opportunity for a formal hearing, and if the enrollee is not satisfied, with an opportunity for an appeal and (4) provide an offer of assistance in preparation for hearings and appeals.

(ix) Emergency Disaster Work: (A) Grantees may utilize enrollees aged 18 years and over to perform work in emergency disaster situations. Enrollees may volunteer but may not be required to participate while natural disasters are occurring; enrollees may, however, be required to perform work on damage which has been caused by such disasters. The use of YACC enrollees in such activities must provide for qualified supervision and training for the enrollee. All such activity shall be conducted in accordance with regular Grantee policy: and procedures shall meet health, safety and work standards established by Labor in 29 CFR Parts 97B, 22, 23, 24, and 25.

(B) Such enrollees shall be used only to supplement compensated firefighters, and shall be paid at the rates set by the Grantee as established in pay plans for emergency firefighters, in accordance with established policies, procedures and practices.

(C) No YACC enrollee is required to work for a greater number of hours per day than other firefighters.

(D) Cost incurred in using YACC enrollees in emergency disaster situations shall be borne by the funds of the benefitting organizations whenever possible; however, YACC funds may be used to provide such assistance subject to the approval of the Secretaries.

(E) Grantees shall see that the work activity of enrollees under age 18 is in compliance with Hazardous Occupation Orders issued pursuant to the Fair Labor Standards Act (29 CFR 570.50 et seq.).

(F) All YACC work and services are to be conducted consistent with the requirement of the Occupational Health & Safety Act (29 CFR Parts 1910, 1926, and 1960 subpart B).

(x) Prohibited Activities: Grantees shall not permit YACC enrollees to participate in emergency relief in connection with labor stoppages, strikes, riots, or civil disturbances. Enrollees shall not participate in activities on private property except as incidental to emergency work provided for in subsection (i).

(xi) Transportation: Grantees shall assign selected enrollees to the residential camps nearest to their home as practicable; and to nonresidential projects within normal commuting distance from their homes. Daily transportation to and from home and work site for nonresidential enrollees may not be provided, except from established staging areas to work site and return to staging area. YACC will not pay the initial transportation from home to residential camp; however, residential YACC enrollees may be advanced a portion of their wages for the purpose of traveling to the camp upon a determination by the grantee that the youth is in need thereof. Grantees shall arrange for repayment of such advances by payroll deduction.

(xii) Project Identification: Buildings, campgrounds and other permanent projects shall be marked with appropriate signs identifying each project as built by or under construction by the YACC.

(xiii) Post Termination Assistance: Grantees shall notify appropriate local ES/JS offices regarding enrollee status, in advance of the end of the enrollment period or upon termination, and shall, to the extent feasible, assist the enrollee in making contact with ES/JS or other organizations to enhance the possibilities for placement.

§ 32.5 Administrative requirements.

(a) The Governor in each State shall designate the State agency having program administration responsibility as the recipient YACC grantee. The non-Federal component of YACC in each State will be carried out by the designated agency. Other State agencies, lower tier governmental organizations, units of local government, any public agency or organization or any private nonprofit agency or organization which has been in operation at least 2 years, may apply to the designated State agency for a YACC sub-grant or contract.

(b) At least 25 percent of the enrollees in each State YACC program must be residential by September 30, 1978. However, the Secretaries may waive this residential requirement where State funding allocations provide for minimum enrollment numbers. Cost per enrollee limitations imposed on Interior and Forest Service in the total program will also be applicable to Grantee programs; limitation information will be furnished through planning advice to Grantees.

(c) All grantee camp/project site selections/locations shall be approved by Interior and Forest Service through their Regional/Area Offices.

(d) Federal Management Circular (FMC) 74-4 and Office of Management and Budget Circular (OMB) A-102 (formerly FMC 74-7) are applicable to all grants, agreements, and contracts entered into under this part. Copies of these documents can be obtained through any of the several regional offices of the Secretaries.

(e) Grantees shall establish procedures to insure that operational directives, guidelines, controls, and records, including appropriate and sufficient enrollee records, are established, promulgated, and maintained, in accordance with established policies and procedures contained herein and consistent with the requirements in Attachment C to OMB Circular A-102.

(f) "Request for advance or reimbursement" as outlined in Attachment H to OMB Circular A-102 will be used to obtain advance funding or for reimbursement. Advances are limited to 30-day needs and may not be made before approval of the grant application.

(g) Execpt where specifically excluded in Circulars 74-4 and A-102, grantees shall impose the requirements of this part on all State and local government subgrantees and contractors. Grantees are responsible for administering their subgrants and contracts under these guidelines, and shall make a periodic review of all non-Federal YACC projects under its administrative control during each operating year.

§ 32.6 Request for grant.

(a) All States will be given an opportunity to participate in the program. Thirty percent of each appropriation will be allocated among the States on the basis of total youth population as defined in § 32.2(o) of this Part.

(b) States may apply for grants under the program in accordance with Attachment M of OMB Circular A-102. Forms and instructions may be obtained from either Forest Service or Interior Regional/Area locations throughout the country.

(c) The Grantee shall submit a consolidated application for all YACC projects included in its program.

(d) Allocated grant funds not needed by a State may be reallocated to another State at the discretion of the Secretaries. The Secretaries may choose to reallocate such funds to any one or several of the applicants in order to maximize employment. Section 32.9 of this part shall also apply to fund reallocation.

(e) The Secretaries have designated officials at their respective Regional/Area Offices to receive and approve State applications for YACC grants. These officials must jointly act on all applications and will furnish technical assistance and advice concerning all YACC program matters. The names and addresses of these designated Federal officials will be furnished to each State.

(f) The initial YACC State Grant Program year shall be from April 1, 1978, to March 31, 1979. Program years beginning in FY 79 will be consistent with the Federal fiscal year (October 1 to September 30).

§ 32.7 Application format, instructions and guidelines.

Grant Applications will be made using the Office of Management and Budget approved form entitled "Application for Federal Assistance" (short form)—Attachment M. Exhibit M-5 of OMB Circular A-102, Uniform Administrative Requirements for Grants-in-Aid to States and Local Governments. The application form consists of 4 parts. The application shall be prepared in accordance with Attachment M and the following supplemental criteria:

(a) Part III—Program Narrative Statement. Complete a consolidated description of all Grant projects summarizing all Grantee, Sub-grantees, and Contractor projects.

Complete a separate profile for each project location and each residential or nonresidential project which will include the following information:

Name of Grantee, Sub-grantee or Contractor for each project.

Type Project—Residential or Nonresidential.

The name of the Project Manager/Camp Director.

The project number—Number projects consecutively.

The name and address for the project.

The project location—Show county, nearest city or town, and State.

The land ownership class(es) benefiting from the program—State, county, municipal or other non-Federal public (identify).

The number of enrollees at full project capacity.

The planned start-up date.

The type of work enrollees will engage in—State the primary mission of the project, brief explanation of units of expected accomplishments and any hazards that might be encountered.

The Staff—Show official position titles, the tour of duty days and hours, and a brief description of the duties and/or responsibilities for all project staff.

Health and Safety—A statement as to the project's conformance to Health and Safety policies and procedures which are consistent with the standards set forth in the Secretaries' Regulations.

(b) Priority should be given to project proposals according to the following general work categories.

(1) Conservation projects which protect or expand the availability of natural resources and/or enhance the care and use thereof.

(2) Projects designed for general sanitation, clean-up maintenance and/or improvements.

§ 32.8 Program reporting requirements.

Grantees shall submit the following reports to the Secretaries quarterly within 15 days after the end of December, March, June, and September. In addition, a final report is required within 60 days from the end of each grant period. Forms for completing the reports will be supplied to the grantee at time of grant award. The required reports are:

(a) Quarterly Financial and Program Progress Reports: (1) *Financial Status.* Grantees shall submit a quarterly accrual basis "Financial Status Report" and a final report.

(2) *Enrollee Characteristics and Program Progress.* Based on the payroll data system, Administrative Service Center (ASC) provides a quarterly summary of enrollee characteristics and program progress to Forest Service, Departments of the Interior, and Labor within 15 days of the end of the quarter. For States not using the ASC, the same data is required to be submitted to the ASC. All States shall submit the required final report.

(b) "YACC Work Accomplishment" (YACC Form 5): The purpose of this form is to provide program data such as enrollee man-years worked and quantity of work accomplished as expressed in normal units of measure. Instructions regarding this report will accompany the form.

(c) The reporting requirements contained herein have been approved by the Office of Management and Budget in accordance with the Federal Reports Act of 1942.

§ 32.9 Consideration and criteria for awarding grants.

(a) The decision by the Secretaries' designated officials for award of YACC grants will consider the following:

(1) Amount of grant funds appropriated and available.

(2) The total youth population ages 16 to 23, inclusive, in each State in relation to the total for all States.

(3) The ability of State agencies to operate at the funding level provided in any given Federal fiscal year.

(4) The quality of each proposed project in terms of meeting program objectives as reflected in each application. After the initial grant year, actual performance of the Grantee in administering the YACC program in prior years will be considered.

(5) The cost to the Federal Government of the State program in relation to the quality and quantity of projects proposed.

(6) The following imposed limitations: (i) National average cost per enrollee, (ii) Percent in residential program.

(7) The capability and past performance by Grantees in meeting their responsibilities as required by FMC 74-4 and OMB Circular A-102.

(8) Project Location Approval. Each project location will be approved by Forest Service and Interior through their Regional/Area Offices.

(b) The demonstrated capability of the Grantee to establish and implement an effective mechanism to assure equal employment opportunity in staff hiring by the Grantee or any subgrantees will be considered prior to award. If the Grantee's performance is found to be so unsatisfactory or inadequate as to warrant denial, suspension, modification or termination, then appropriate action will be taken in accordance with the regulations implementing Title VI of the Civil Rights Act of 1964, 42 U.S.C. 2000d.

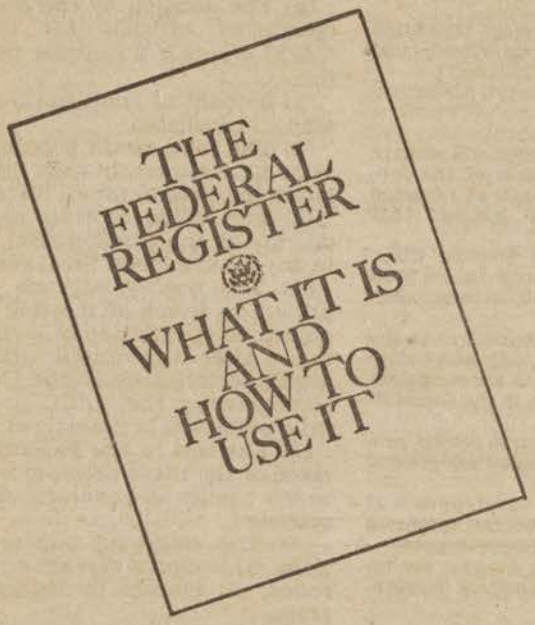
The Department of the Interior has determined that the publication of this rule is not a major Federal action significantly affecting the quality of the human environment and that a detailed statement pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)) is not required.

Dated: March 20, 1978.

LARRY MEIEROTTO,
Deputy Assistant Secretary, Policy, Budget, and Administration.

[FR Doc. 78-7844 Filed 3-22-78; 8:45 am]

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