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NOTE: As of August 14, 1978, Community Services Administration (CSA) documents are being assigned to the Monday/Thursday schedule.

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Title 3—The President

PROCLAMATION 4628

Knoxville International Energy Exposition of 1982

By the President of the United States of America

A Proclamation

In May 1982, a six-month International Energy Exposition will open in Knoxville, Tennessee, inviting the nations of the world to think anew of man's relationship with the pervasive force of energy which fundamentally shapes the choices people have as to the endurance and enjoyment of life itself. This exposition, whose theme is "Energy Turns the World," will provide a splendid setting in which to explore new technologies to conserve energy, to harness the long-lasting and most renewable sources, and to carry on the search for new sources of energy.

Because of the opportunities which the Exposition offers for a deeper understanding of energy issues and for the stimulation of trade and cultural exchange, this Administration is moving to extend the fullest possible recognition to this event in accordance with Public Law 91-269. On April 26, 1977, I advised the Secretaries of State and Commerce that the Exposition warrants Federal recognition as provided by statute. On April 27, 1977, upon request of the United States, the Bureau of International Expositions officially registered the event as a Special Category exposition by unanimous vote.

Also, in accordance with law, I shall appoint a United States Commissioner General to exercise the responsibility of the United States Government for fulfillment of the Convention of November 22, 1928, Relating to International Expositions, as modified, and to invite the several States of the Union to participate.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, in further recognition of this International Energy Exposition, do hereby authorize and direct the Secretary of State to invite, on my behalf, such foreign countries as he may consider appropriate to participate in this event.

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

Jimmy Carter

[FR Doc. 78-34588 Filed 12-8-78; 9:58 am]

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-M]

Title 7—Agriculture

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

PART 999—SPECIALTY CROPS—IMPORT REGULATION

Amendment of Raisin Import Regulation

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule makes conforming changes in provisions which currently require the port of arrival where inspected be included in USDA inspection certificates. It also changes the recommendation that advance inspection arrangements should be made with the USDA inspector nearest the port of arrival to avoid delay. These changes recognize a change made in the raisin import regulation (November 10, 1972; 37 FR 23819) which deleted the requirements that raisins offered for importation be inspected or reconditioned at the port of arrival, thus permitting these procedures to be performed at the port of arrival or the port of entry. Also, minor wording changes are made to recognize an agency name change from the U.S. Bureau of Customs to the U.S. Customs Service (May 18, 1973; 38 FR 13037), and the recent addition of Monukka raisins to the U.S. Grade Standards (December 1, 1978; 43 FR 51753).

EFFECTIVE DATE: December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, (202) 447-6393.

SUPPLEMENTARY INFORMATION: The raisin import regulation (7 CFR 999.300; 43 FR 47971) is effective pursuant to the requirements of section 8e (7 U.S.C. 608e-1) of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), hereinafter referred to as the "act".

Section 999.300(c)(2)(i) of the import regulation pertains to the inspection place information to be included on the USDA inspection certificate and § 999.300(c)(3) pertains to advance inspection arrangements. Prior to the November 10, 1972, change, all raisins offered for importation were required to be inspected for quality by the USDA, or reconditioned, at the port of arrival. Because some shipments of foreign raisins arrive at ports in the United States which do not have inspection or reconditioning facilities, the import regulation was changed so importers could move raisins from the port of arrival under U.S. Customs Service bond to ports having such facilities. However, §§ 999.300(c)(2)(i) and 999.300(c)(3) were not changed in 1972 to cover the situations when raisins are inspected at a place other than the port of arrival.

Based on the foregoing, and all other relevant information, it is hereby found that the amendment of §§ 999.300(c)(2)(i) and 999.300(c)(3), and the minor changes to recognize the agency name change, and the recent addition of Monukka raisins to the U.S. Grade Standards, as hereinafter set forth, will tend to effectuate section 8e of the act.

It is further found that it is impractical, unnecessary, and contrary to the public interest to give preliminary notice and engage in public rulemaking procedure, and that good cause exists for not postponing the effective time of this action until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that: (1) This action imposes no restrictions on the importation of raisins; and (2) importers of raisins require no advance preparation to comply therewith because the changes are merely conforming in nature. Therefore, § 999.300 is amended as follows:

§ 999.300 [Amended]

1. The agency name "U.S. Bureau of Customs" is changed to "U.S. Customs Service" in subparagraph (7) of § 999.300(a).

2. The agency name "Bureau of Customs" is changed to "Customs Service", in the second sentence of subparagraph (2) of § 999.300(e), and in the certification statement in Raisin Form No. 1 in paragraph (e)(2)(i) of § 999.300.

3. Section 999.300(b)(1) is amended by adding the words "and Monukka Raisins" after the words "With respect to Thompson Seedless Raisins," the provisions of paragraph (b)(5) are deleted, and paragraph (b)(6) is renumbered (b)(5).

4. Paragraph (c)(2)(i) of § 999.300 is revised to read: "(i) The date and place of inspection;"

5. The last sentence of subparagraph (3) of § 999.300(c) is revised to read: "To avoid delay in scheduling the inspection the applicant should make advance arrangements with the USDA inspection office."

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

Dated: December 6, 1978.

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

[FR Doc. 78-34418 Filed 12-8-78; 8:45 am]

[6690-01—M]

Title 12—Banks and Banking

CHAPTER IV—EXPORT-IMPORT BANK OF THE UNITED STATES

PART 405—PRIVACY ACT RULES

Change in Officer Responsibility

AGENCY: Export-Import Bank of the United States (Eximbank).

ACTION: Amendment to regulations.

SUMMARY: The regulations governing the privacy of records pertaining to individuals under the Privacy Act of 1974 (the Act) (12 CFR Part 405) are being amended to reflect changes in officer responsibility for matters arising under the Act.

EFFECTIVE DATE: January 1, 1979.

FOR FURTHER INFORMATION CONTACT:

Warren W. Glick, General Counsel, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Washington, D.C. 20571, 202-566-8334.

SUPPLEMENTARY INFORMATION: The regulations currently designate an Executive Vice President as the officer to whom appeals shall be made of

adverse determinations in the case of requests for access to or disclosure of records and the correction of records pertaining to individuals; such person is also designated as the officer before whom certain hearings are to be held and who is to render decisions in certain cases where no hearing is requested.

These amendments concern only changes in officer responsibility and are not substantive. Therefore, notice of proposed amendments, opportunity for public comment and delay in effective date are not deemed necessary.

Accordingly, 12 CFR Part 405 is amended as follows:

§ 405.3 [Amended]

In § 405.3(c) delete the words "an Executive Vice President" and replace with the words "the General Counsel".

§ 405.4 [Amended]

In § 405.4 (d) and (e) delete the words "an Executive Vice President" where they appear and replace with the words "the President and Chairman or his designee".

In § 405.4(d) delete the words "Chairman of Eximbank" and replace with the words "President and Chairman".

FRANCIS P. COLLINS,
Vice President,
Administration.

DECEMBER 5, 1978.

[FR Doc. 78-34399 Filed 12-8-78; 8:45 am]

[4910-13-M]

Title 14—Aeronautics and Space

CHAPTER I—FEDERAL AVIATION ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. 78-NW-23-AD; Amdt. 39-3366]

PART 39—AIRWORTHINESS DIRECTIVES

Boeing Model 747 Series Airplane

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This airworthiness directive requires inspection for cracks, retorquing, and replacement of the trailing edge flap track forward fuse bolts on Boeing Model 747 series airplanes. The AD is required because failures of these bolts have resulted in failures in the forward attachment of the flap track to the wing and could lead to loss of the wing flap.

DATES: Effective Date December 22, 1978.

ADDRESS: Boeing service bulletins specified in this directive may be obtained upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

FOR FURTHER INFORMATION CONTACT:

Iven Connally, Engineering and Manufacturing Branch, FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108, telephone (206) 767-2516.

SUPPLEMENTARY INFORMATION: Broken fuse bolts have been discovered on several airplanes with total landings ranging from 2800 to 8800, at the No. 8 flap track. Analysis of some of the broken bolts indicates that the failure was caused by cyclic loading, combined with tensile stresses induced by nut torque. These bolt failures have led to failure of the forward attachment of the flap track to the wing, and could lead to loss of the wing flap. Since this condition is likely to exist or develop in other 747 airplanes, an airworthiness directive is being issued to require replacement of the flap track fuse bolts at flap tracks 1 and 8 and retorque bolts at flap track Nos. 2, 3, 6, and 7.

Since a situation exists that requires immediate adoption of this regulation it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than thirty days.

ADOPTION OF THE AMENDMENT

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

BOEING: Applies to Model 747 series airplanes certificated in all categories, listed in Boeing Service Bulletin 747-57-2177. The effectivity is divided into four groups, listed in the service bulletin, to define different schedules for bolt replacement and inspection. To prevent fuse bolt failures, accomplish the following.

A. Within 100 landings after the effective date of this AD, replace forward fuse bolts on flap tracks No. 1 and No. 8 in accordance with Boeing Service Bulletin 747-57-2177 on Group I airplanes with 4,000 or more landings, on Group II airplanes with 6,000 or more landings, on Group III airplanes with 1500 or more landings, and on Group IV airplanes 2500 or more landings.

B. Bolt replacement may be deferred up to 600 additional landings on Group I and II airplanes and up to 500 additional landings on Group III and IV airplanes, provided that the bolts are visually inspected at the thresholds listed in Paragraph A above, and reinspected at intervals not to exceed 150 landings on Group I and II airplanes, and 125 landings on Group III and IV airplanes. Bolts found broken must be replaced in accordance with Boeing Service Bulletin 747-57-2177 prior to further flight. After bolt replacement, inspection reverts to normal.

C. Within 1,000 landings after the effective date of this AD, or upon the accumulation of 4,000 landings for Group I airplanes, 6,000 landings for Group II airplanes, 1,500 landings for Group III airplanes, 2,500 landings, for Group IV airplanes, whichever occurs later, reduce the preload of the forward fuse bolts for flap track Nos. 2, 3, 6, and 7 in accordance with Boeing Service Bulletin 747-57-2177.

D. For purposes of complying with this AD, subject to acceptance by the assigned FAA Maintenance Inspector, the number of landings may be determined by dividing each airplane's hours time-in-service by the operator's fleet average from takeoff to landing for the airplane type.

E. Upon request of the operator, an FAA Maintenance Inspector, subject to prior approval by the Chief, Engineering and Manufacturing Branch, FAA Northwest Region, may adjust the inspection interval if the request contains substantiating data to justify the increase for that operator.

The manufacturer's specification and procedures identified and described in this directive are 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 Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124. These documents may also be examined at FAA Northwest Region, 9010 East Marginal Way South, Seattle, Washington 98108.

This amendment becomes effective December 22, 1978.

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

NOTE.—The FAA has determined that this document involves a regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1973.)

Issued in Seattle, Washington, on December 1, 1978.

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

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

[FR Doc. 78-34400 Filed 12-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-24-AD; Amdt. 39-3365]

PART 39—AIRWORTHINESS DIRECTIVES

Brackett Aircraft Specialities, Inc.

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD) which requires inspection and removal of aluminum engine inlet air filter retainer and replacement with a steel screen on aircraft modified by Brackett Aircraft Specialities' engine inlet air filter installed in accordance with Supplemental Type Certificate (STC) SA71GL. This AD is needed to prevent failure of the aluminum retainer which could allow parts to go into the engine, causing a power loss.

DATE: Effective December 15, 1978.

Initial Compliance—Within 25 hours time in service after effective date of this AD.

FOR FURTHER INFORMATION CONTACT:

Kyle L. Olsen, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: Brackett Aircraft Specialties, Inc., holder of Supplemental Type Certificate (STC) SA71GL, has reported failures of the diamond mesh aluminum air filter retainer which has allowed particles to go into the carburetor throat, resulting in partial or complete loss of engine power. Also, cracks have been found in the weld areas where the retainer is welded onto the frame. The retainer is the part that holds the filter element from going into the engine. There are five different air filter models installed by STC SA 71GL, on various Cessna, Grumman American, Mooney, Piper, and Varga (Shinn) aircraft.

Since this condition is likely to exist or develop on other aircraft modified by STC SA71GL, an airworthiness directive is being issued which will require within 25 hours time in service an inspection of the aluminum air filter retainer, and reinspections at 100 hours time in service and replacement with a steel screen gasket at 525 hours time in service.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impracticable and good cause exists for making this amendment effective in less than 30 days.

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.

BRACKETT AIRCRAFT SPECIALTIES, INC.: Applies to Brackett Aircraft Specialities engine inlet air filter installed in accordance with STC SA71GL on various Cessna, Grumman, American, Mooney, Piper, and Varga (Shinn) aircraft.

Compliance required as indicated unless already accomplished.

To prevent possible failure of the aluminum air filter retainer screen with resultant slippage of the screen particles and filter element into the carburetor throat, resulting in partial or complete loss of power, accomplish the following:

(a) On Cessna Model 120, 140, 140A, 150, 150A, 150B, 150C, 150D, 150E, 150F, 150G, 150H, 150J, 150K, 150L, 150M, A150L, and A150M, Piper Model PA-20, PA-20 "115," and PA-20 "135;" Varga (Shinn) Model 2150A aircraft equipped with Brackett Specialties Company air filter model No. BA-4106 assembly, remove, inspect and replace the diamond mesh aluminum retainer with steel screen Part No. BA-4109 in accordance with paragraphs (f) and (g).

(b) On Grumman Model AA-1, AA-1A, AA-1B, AA-5 aircraft equipped with Brackett Aircraft Specialities Company air filter model No. BA-4210 assembly, remove, inspect and replace the diamond mesh aluminum retainer with the steel screen Part No. BA-4109 in accordance with paragraphs (f) and (g).

(c) On Cessna Model 170, 170A, 170B, 172, 172A, 172B, 172C, 172D, 172E, 172F, 172G, 172H, 172I, 172K, 172L, 172M, and Mooney M18C aircraft equipped with Brackett Aircraft Specialities Company air filter model No. BA-5110 assembly, remove, inspect and replace the diamond mesh aluminum retainer with a steel screen Part No. BA-5101 in accordance with paragraphs (f) and (g).

(d) On Mooney M20, M20A, M20B, M20C, M20D, and M20G aircraft equipped with Brackett Aircraft Specialities Company air filter model No. BA-6110 assembly, remove, inspect and replace the diamond mesh aluminum retainer with a steel screen Part No. BA-5101 in accordance with paragraphs (f) and (g).

(e) On Cessna Model 180C, 180D, 180E, 180F, 180G, 180H, 180J, 180K, 182B, 182C, 182D, 182E, 182F, 182G, 182H, 182J, 182K, 182L, 182M, 182N, 182P, 182Q, 185, 185A, 185B, 185C, 185D, 185E, and A185F aircraft equipped with Brackett Aircraft Specialities Company air filter model No. BA-8110 assembly, remove, inspect and replace the diamond mesh aluminum retainer with a steel screen Part No. BA-8109 in accordance with paragraphs (f) and (g).

(f) Within the next 25 hours time in service after the effective date of this AD, visually inspect the diamond mesh aluminum retainer for cracks or failed areas, paying particular attention to the welded points.

(1) If cracks or failed areas are found, before further flight replace the aluminum retainer with a steel screen gasket assembly.

(2) If cracks or failed areas are not found, either:

(i) within 100 hours time in service after the initial inspection and thereafter at 100 hours time in service from the last inspection, inspect the aluminum retainer in accordance with this pararaph, or

(ii) replace the aluminum retainer with a steel screen gasket assembly.

NOTE.—Brackett Aircraft Specialities Company Service Bulletin No. 2 effective date August 21, 1978, pertains to this subject.

(g) Within the next 525 hours time in service after the effective date of this AD, replace the aluminum retainer with the steel screen gasket assembly.

(h) After the aluminum retainer is replaced with the steel screen gasket, no further inspections are required by this AD.

(i) The inspections required by paragraphs (f) and (g) need not be accomplished if the original aircraft manufacturer's air filter assemblies are reinstalled in accordance with the aircraft manufacturer's instructions.

(j) Equivalent inspection procedures and modifications may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

(k) Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections required by this AD.

This amendment becomes effective December 15, 1978.

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

Issued in Los Angeles, Calif., on November 29, 1978.

FRANK HAPPY,
Acting Director,
FAA Western Region.

[FR Doc. 78-34415 Filed 12-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-21-AD; Amdt. 39-3363]

PART 39—AIRWORTHINESS DIRECTIVES

The Deutsch Co., Metal Components Division

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: On October 27, 1978, a priority mail emergency airworthiness directive (AD) was issued and made effective upon receipt to all known U.S. owners of Deutsch Company Hoses, Part Nos. 94B0100004F0160 and 94F0100004F0166. This publication is to provide general public notice of the AD which requires removal and replacement of the subject hoses manufactured in a time period including the fourth quarter of 1977 and the first quarter of 1978.

DATES: Effective January 15, 1979, for all persons except those to whom it was made effective by priority message dated October 27, 1978.

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

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009, telephone: 213-536-6351.

SUPPLEMENTARY INFORMATION:

There has been a reported failure of capability to extend the landing gear of an aircraft which was attributed to hydraulic line blockage caused by particles of rubber in a Deutsch hose assembly.

The condition contributing to the hose blockage consists of contamination which is believed to be limited to two specific hose assemblies which were manufactured in the last quarter of 1977 and the first quarter of 1978. This AD requires removal and replacement of these suspect hose assemblies.

This AD includes certain changes of a non-substantive nature from the priority mail AD dated October 27, 1978. Specifically, one of the hose assembly identifications specified in the emergency airworthiness directive was in error and has been corrected in this version. However, the hose assembly in question was accurately identified in the emergency airworthiness directive using a second identification number.

Additionally, this publication of the emergency airworthiness directive contains an augmented list of affected aircraft. Since the list as originally published was represented to be partial only, the augmentation of this list does not impose an additional burden.

Since it was found and immediate corrective action was required, notice and public procedure thereon were impracticable and contrary to the public interest, a good cause existed for making the airworthiness directive effective immediately as to all known U.S. owners of Deutsch Company hose assemblies, Part Nos. 94B0100004-F0160 and 94F0100004F0166 upon receipt of priority letter dated October 27, 1978. These conditions still exist and the airworthiness directive is hereby published in the FEDERAL REGISTER as an amendment to Section 39.13 of Part 39 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective as to all persons.

ADOPTION OF THE AMENDMENT

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

THE DEUTSCH COMPANY, Metal Components Division.

Applies to P/N 94B0100004F0160 and 94F0100004F0166 hose assemblies marked with identification 4Q77 or 1Q78 which may be installed on various aircraft but which are known to be installed on Piper Models PA-23-250, PA-28R-180, PA-28R-200, PA-28R-201, PA-28R-201T, PA-31, PA-31-300, PA-31-325, PA-31-350, PA-31P, PA-31-TI, PA-31-T, PA-34-200T, and PA-44-180 aircraft.

NOTE 1.—Hose P/N and manufacturing date codes (e.g. 4Q77 and 1Q78) are shown on a metal tag attached to the hose assemblies.

a) Deutsch P/N 94B0100004F0160 is Piper P/N 17766-27, TSO C-53a Type A.

b) Deutsch Part No. 94F0100004F0166 is Piper P/N 63901-41, TSO C-53a Type C.

Compliance required as indicated, unless already accomplished.

To prevent an unsafe condition in the various aircraft systems in which these hoses may be installed, accomplish the following:

A. Within the next ten hours time in service after the effective date of this (AD), inspect to determine if hose assembly P/N 94B0100004F0160 or 94F0100004F0166 with manufacturing date 4Q77 or 1Q78 is installed.

B. If the hose assemblies as in A above are not installed no further action is required by this (AD).

C. If the hose assemblies in A above are installed, prior to further flight,

(1) Remove and replace hose assemblies.

(2) Check system for contamination. Purge system if evidence of contamination is found.

NOTE 2.—Piper Service Bulletin No. 611 refers to purging procedures for Piper Models PA-28, -34, and -44. Piper Service Bulletin No. 629 refers to purging procedures for Piper Models PA-31 and PA-23.

NOTE 3.—The following is a list of Piper Model, Serial Nos. and hose application which are believed to have suspect hoses installed. Possible hose application is not limited to this list.

Model	Serial Number	Application	Qty. of hoses
PA-23-250, Aztec F	27-7854007 thru 27-7954018	Pressure nose gear cylinder up and pressure anti-retract valve	2
PA-28R-180	Possible Retrofit	NLG actuating cylinder	2
		Fuel pressure at injector	1
PA-28R-200	Possible Retrofit	NLG actuating cylinder	2
		Fuel pressure at injector	1
PA-28R-201	78-37105 thru 78-37317	NLG actuating cylinder	2
PA-28R-201T	78-03154 thru 78-03372	NLG actuating cylinder	2
		Manifold pressure at left hand rear of engine	1
PA-31	31-1 thru 31-7812122 and 31-5001 thru 31-7852166.	Main landing gear actuating cylinders	2
PA-31-300	Possible Retrofit	Main landing gear actuating cylinders	2
PA-31-325, Navaho C/H	31-7812016 thru 31-7912004	Main land gear actuating cylinders	2
PA-31-350 & PA-31-P	Possible Retrofit	Main landing gear actuating cylinders	2
PA-31TI, Cheyenne I	31T-7804001 thru 31T-7904006	Main land gear actuating cylinders	2
PA-31T, Cheyenne, Cheyenne II.	31T-77200069 thru 31T-7920012	Main land gear actuating cylinders	2
PA-34-200T	78-70100 thru 78-70474	Fuel drains	4
PA-44-180	79-95001 thru 79-95127	Engine oil pressure line at filter	2

D. Special flight permits may be issued in accordance with FARs 21.197 and 21.199 to operate aircraft to a base for the accomplishment of the inspection required by paragraph A of this AD.

E. Equivalent inspections and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

F. Upon submission of substantiating data, through an FAA Aviation Safety Inspector, the Chief, Aircraft Engineering Division, FAA Western Region may adjust the compliance time for hose replacement.

This amendment becomes effective January 15, 1979, for all persons except those to whom it was made effective by priority message dated October 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 14 CFR 11.89.)

Issued in Los Angeles, California on November 29, 1978.

FRANK HAPPY,
Acting Director,
FAA Western Region.

[FR Doc. 78-34417 Filed 12-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-CE-16-AD; Amdt. 39-3362]

PART 39—AIRWORTHINESS DIRECTIVES

Gates Learjet 35/36 Series Airplanes

AGENCY: Federal Aviation Administration (FAA) DOT.

ACTION: Final rule.

SUMMARY: This Amendment adopts a new Airworthiness Directive (AD), applicable to Gates Learjet 35/36 series airplanes, which requires repetitive inspections of the cabin upper door locking mechanism and places a 3,000-hour life limit on one component in that mechanism until Door Modification Kit AMK78-2 is installed. This action will help insure correct flight crew analysis in the event of an illuminated door open warning light on these airplanes and will eliminate the unsafe conditions that can exist when a certain bolt in the door locking mechanism fails during the door closing operation.

EFFECTIVE DATE: December 14, 1978.

COMPLIANCE: Required as indicated in the body of the AD.

ADDRESSES: Gates Learjet 35/36/35A/36A Maintenance Manual revisions having temporary revision numbers 5-52, 5-54 and 5-55 applicable to this AD may be obtained from Gates Learjet Corporation, Mid-Continent Airport, P.O. Box 7707, Wichita, Kansas 67277, Telephone Number (316) 722-5640. A copy of this service information cited above is contained in the Rules Docket, Room 916, 800 Independence Avenue, S.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

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

SUPPLEMENTARY INFORMATION: On September 11, 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 Gates Learjet 35/36 series airplanes (43 FR 40233-40237). The proposal would require repetitive inspections of the cabin upper door locking mechanism and places a 3,000-hour life limit on one component in that mechanism until Door Modification Kit AMK78-2 is installed.

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

AD 77-19-02 was issued following an incident on a Gates Learjet Model 23 airplane which involved an unwanted opening of the cabin entrance upper door during takeoff. This incident occurred because a bolt common to the upper door locking pins actuating mechanism and the inside locking handle had failed in fatigue. Friction between the handle and its shaft, after bolt failure, allowed what appeared to be satisfactory operation of the door pins with the door open. However, slippage of the door handle on its shaft when the door was closed prevented the locking pins from being driven all the way into the locked position, thereby allowing the door to open as a result of vibration, external air loads or cabin pressurization loads.

The AD being issued at this time is necessary because the design for 36-inch wide cabin doors on Gates Learjet 35/36 series airplanes is identical to the design of doors on Gates Learjet 24 and 25 series airplanes.

Since the condition described herein is likely to exist or develop in other aircraft of the same type design, an AD is being issued as proposed in the Notice, applicable to certain Gates Learjet 35 and 36 series airplanes requiring repetitive inspections of the cabin upper door locking mechanism and places a 3,000-hour life limit on one component in that mechanism until Door Modification Kit AMK78-2 is installed.

ADOPTION OF THE AMENDMENT

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

GATES LEARJET: Applies to those Model 35 (Serial Numbers 35-001 through 35-167) and 36 (Serial Numbers 36-001 through 36-038) airplanes, certificated in all categories, which have a 36-inch wide (as opposed to 24-inch wide) cabin door.

COMPLIANCE: Required as indicated in accordance with Compliance Table I set forth in this AD, unless already accomplished.

To assure proper locking of the cabin upper door when the inside handle is in the locked position and to prevent possible unwanted door openings that may occur, accomplish the following at the time intervals noted in Table I of this AD:

[4910-13-C]

TABLE I

COMPLIANCE TIMES

Airplane Total Time In Service (Hours)	INSPECTION TIMES			
	Paragraph "A" Bolt Inspection & Replacement		Paragraph "B" Locking Mechanism Inspection	
	Initial Inspection/ Replacement	Interval for Repetitive Inspections/ Replacement	Initial Inspection	Interval for Repetitive Inspections
0 - 2,999	Prior to or upon the accumulation of 3,075 hours' time-in-service	Each 3,000 hours' time-in-service thereafter	In accordance with asterisk(*) paragraph below or upon accumulation of 6,075 hours' time-in-service, whichever occurs first	In accordance with asterisk(*) paragraph below or upon accumulation of each 6,000 hours' time-in-service after initial inspection
3,000 - 5,999	Within 75 hours' time-in-service after the effective date of this AD	Each 3,000 hours' time-in-service thereafter	In accordance with asterisk(*) paragraph below or upon accumulation of 6,075 hours' time-in-service, whichever occurs first	In accordance with asterisk(*) paragraph below or upon accumulation of each 6,000 hours' time-in-service after initial inspection
6,000 - up	Within 75 hours' time-in-service after the effective date of this AD	Each 3,000 hours' time-in-service thereafter	Within 75 hours' time-in-service after the effective date of this AD	In accordance with asterisk(*) paragraph below or upon accumulation of each 6,000 hours' time-in-service after initial inspection

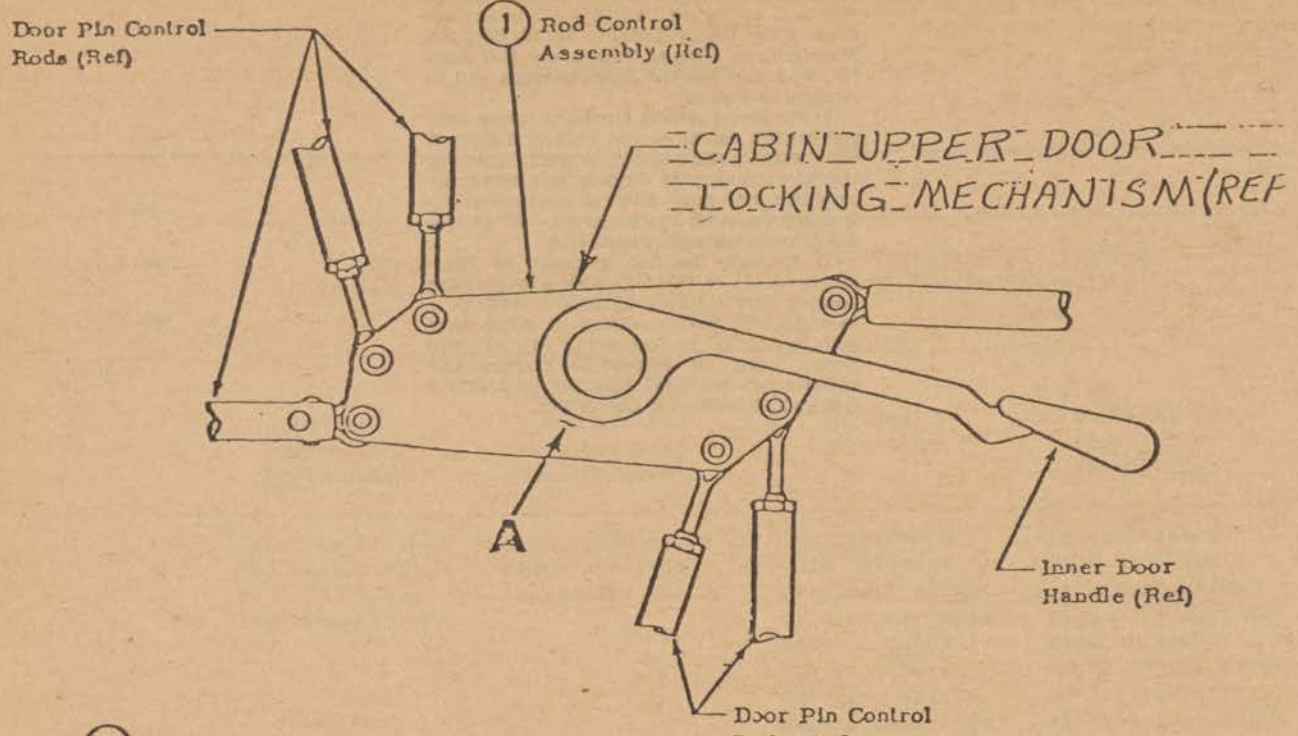
* The door locking mechanism inspection must be accomplished any time the bolt inspection required by Paragraph "A" of this AD reveals a cracked, bent, broken or worn bolt.

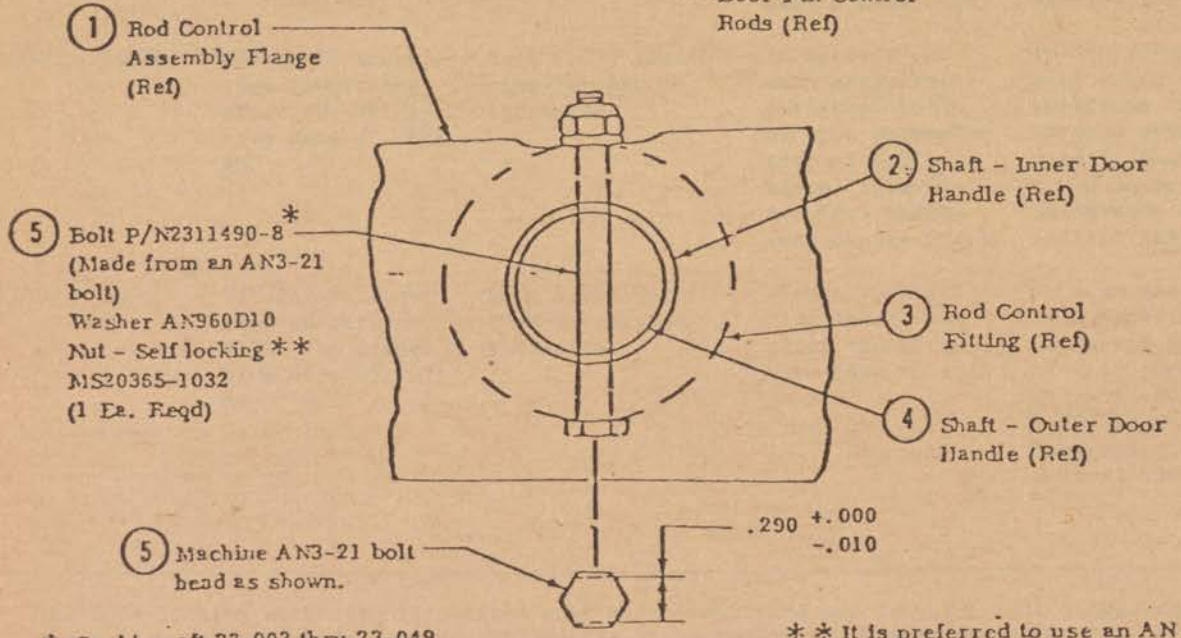
(A) Inspect and replace, at the time intervals noted in Table I above, the bolt identified as 5 in Figure I of this AD in accordance with Gates Learjet 35/36/35A/36A Maintenance Manual Temporary Revisions No. 5-52 and 5-55 or later revisions and as summarized below:

(1) Remove the bolt from the upper door rod control assembly and visually inspect it for cracks, breaks, bends, or wear. If any of the aforementioned defects are found, accomplish the door locking mechanism inspection required by Paragraph "B" of this AD prior to the next flight; and

(2) Replace the bolt removed in Paragraph (A)(1) of this AD with a new Gates Learjet Part Number 2311490-8 Bolt, or a new AN3-21 Bolt modified in accordance with Detail "A" in Figure I of this AD, and secure using an AN960D10 Washer and either a new MS20365-1032 Nut or AN310-3 Nut and MS24665-132 Cotter Pin.

[4910-13-C]





* On Aircraft 23-003 thru 23-049 not modified by SK23-114, replace existing pin with this bolt.

** It is preferred to use an AN 310-3 castellated nut and a MS24665-132 cotter pin in the place of the self locking nut.

Detail A

FIGURE 1

(B) Inspect, at the time intervals noted in Table I above, the cabin door locking mechanism in accordance with Gates Learjet 35/36/35A/36A Maintenance Manual Temporary Revision No. 5-54 or later revisions, and as summarized below:

(1) Drill out rivets and remove cabin upper door inner panel.

(2) Remove and inspect door locking mechanism for wear and defects in accordance with Learjet Service Manual Inspection Requirements. The maximum allowable diameter (measured in any direction) of the hole in which the 5 bolt is installed is .201 inches. Replace any excessively worn or defective parts prior to the next flight.

(3) Reinstall door locking mechanism and using rivets, reinstall the inner panel.

(4) Check door locking mechanism for free movement with no binding thru entire operating travel. Correct any binding prior to the next flight.

(5) Energize door warning system and check its operation for proper functioning.

(C) Submit a written report on any cracked, broken, bent or worn 5 (See Figure I of this AD) bolts discovered during inspections required by this AD to the FAA via a letter to FAA, Chief, Engineering and Manufacturing Branch (ACE-210), 601 East 12th Street, Kansas City, Missouri 64106 or an FAA M or D report (FAA Form 8330-2). The report must include airplane model, serial number, airplane total time-in-service, bolt or pin total time-in-service and statements describing the condition of the bolt and the hole including dimensions of the hole determined in accordance with Paragraph (B)2) of this AD. (Reporting approved by the Office of Management and Budget under OMB No. 04-R0174).

(D) The actions made mandatory by Paragraphs A, B and C of this AD are no longer required when Gates Learjet Door Modification Kit AMK78-2 is installed.

(E) Airplanes may be flown in accordance with FAR 21.197 to a base where this AD can be accomplished.

(F) 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 December 14, 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 FAA has determined that this document involves a proposed regulation which is not considered to be significant under the procedures and criteria prescribed by Executive Order 12044 and as implemented by interim Department of Transportation guidelines (43 FR 9582; March 8, 1978).

Issued in Kansas City, Missouri on November 29, 1978.

JOHN E. SHAW,
Acting Director,
Central Region.

[FR Doc. 78-34401 Filed 12-8-78; 8:45 am]

[4910-13-M]

[Docket No. 78-WE-22-AD; Amdt. 39-3364]

PART 39—AIRWORTHINESS DIRECTIVES

Hughes 269A, TH-55A, 269A-1, 269B and 269C

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: Premature fatigue cracks have been discovered in transmission input pinion assemblies in the main drive system of the Hughes helicopters listed. Crack propagation, if not detected, could continue and result in a loss of power transmission to the main and tail rotors. The AD is being issued to detect these cracks and require the installation of a serviceable assembly.

DATES: Effective December 18, 1978. Initial compliance—Required within 50 or 100 hours time in service after the effective date of this AD as prescribed in the body of the AD.

ADDRESSES: The applicable service information may be obtained from: Hughes Helicopters, Division of Summa Corporation, Centinela and Teale Streets, Culver City, California 90230.

Also, a copy of the service information may be reviewed at, or a copy obtained from: Rules Docket in Room 916, FAA, 800 Independence Avenue, S.W., Washington, D.C. 20591, or Rules Docket in Room 6W14, FAA Western Region, 15000 Aviation Boulevard, Hawthorne, California 90261.

FOR FURTHER INFORMATION CONTACT:

Jerry Presba, Executive Secretary, Airworthiness Directive Review Board, Federal Aviation Administration, Western Region, P.O. Box 92007, World Way Postal Center, Los Angeles, California 90009. Telephone: (213) 536-6351.

SUPPLEMENTARY INFORMATION: High residual tension stresses have been found on critical areas of several production lots of input pinions which could result in failure and loss of propulsion power to both main and tail rotors.

The manufacturer has issued Hughes Service Information Notice No. N-151.2, dated November 7, 1978, which provides for magnetic particle inspections of the transmission input pinion assembly, P/N269A5103-9. The AD incorporates a portion of the service information notice for the purpose of accomplishing the AD. Although not part of the AD, the agency recommends that the related inspection actions described in the service information notice be performed simultaneously with those inspections required by the AD.

The phrase "or later FAA approved revisions" has not been included in the citation of the service information notice. A note has been added indicating that the cited version of the notice of the service information notice is the only version acceptable for demonstrating compliance with the AD.

Since it was found that immediate corrective action is required, notice and public procedure thereon impracticable and contrary to the public interest and good cause exists for making the airworthiness directive effective in less than 30 days.

ADOPTION OF THE AMENDMENT

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

HUGHES HELICOPTERS. Applies to Hughes Model 269A, TH-55A, 269A-1, 269B and 269C helicopters equipped with part number 269A5103-9 pinion assemblies, Hughes Tool Company, Serial Nos. 001 through 5101, certificated in all categories.

Compliance required as indicated, unless already accomplished.

To detect and prevent fatigue crack propagation that could cause failure of the main transmission input pinion assembly, accomplish the following:

(a) Within the next 50 hours additional time in service or 60 calendar days, whichever occurs first after the effective date of this AD, perform a magnetic particle inspection of all input pinions Part No. 269A5103-9, serial nos. listed in Table A, for cracks in accordance with the instructions of paragraph (d), Hughes Service Information Notice N-151.2, dated November 7, 1978. Reinspect these input pinions in accordance with paragraph (d) of the S.I.N. between 450 and 500 total hours time in service, if, at the time of the initial inspection, the assembly had less than 250 hours total time in service.

TABLE A

269A5103-9 Pinion Assembly Serial Nos. Affected by paragraph (a):

164783	254498
164784	254500
164786	254501
164787	254502
164789	254504
164790	254506
164791	254508
164792	254509
164794	254510
164795	254511
164796	254512
164798	254513
164800	254514
164801	254515
164802	254516
164803	254517
164805	254518
164806	254519
164807	254520
164809	254521
164811	254522
164813	254524
164814	254525
164815	254526
164816	254527
164817	254528
164818	254529
164819	254532
	254533
	254534
	254535
	254536
	254537

(b) Within 100 hours additional time in service after the effective date of this AD, perform a magnetic particle inspection of all other input pinions, Part No. 26985103-9, for cracks, in accordance with the instructions of paragraph (d), Hughes Service Information Notice N-151.2, dated November 7, 1978.

(c) Prior to the installation of pinion assembly Part No. 269A5103-9 on any helicopter listed in this AD inspect per paragraph (d) of Hughes Service Infromation Notice No. N-151.2. Pinion assemblies of serial numbers listed in table A of paragraph (a) of this AD, which have less than 250 hours total time in service at time of inspection, must be reinspected per paragraph (d) of the above referenced S.I.N. after accumulating a total of 450 hours time in service and before accumulating 500 hours total time in service.

(d) Any assembly exhibiting crack indications as a result of those inspections performed in paragraphs (a), (b) and (c), above, must be removed from service and marked in a conspicuous manner to prevent inadvertent return to service.

NOTE 1: The agency recommends that all unserviceable pinion assemblies be returned to Hughes Helicopters Warranty and Repair Department. Reference: Paragraph d.2, Hughes Service Information Notice No. N-151.2.

NOTE 2: Hughes Service Information Notice N-151.2, dated November 7, 1978, is the only version of the notice suitable for compliance with this AD.

(e) Equivalent inspection procedures and repairs may be used when approved by the Chief, Aircraft Engineering Division, FAA Western Region.

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

This amendment becomes effective December 18, 1978.

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

Issued in Los Angeles, California on November 29, 1978.

FRANK HAPPY,
Acting Director,
FAA Western Region.

[FR Doc. 78-34416 Filed 12-8-78; 8:45 am]

[4910-22-M]

Title 23—Highways

CHAPTER I—FEDERAL HIGHWAY ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

SUBCHAPTER B—PAYMENT PROCEDURES

[FHWA Docket No. 78-26]

PART 140—REIMBURSEMENT

Reimbursement Vouchers

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document prescribes the procedures to be followed by the States in claiming reimbursable costs incurred for work performed under the provisions of Title 23, United States Code.

DATES: Comments must be received on or before March 12, 1979.

Effective date: December 13, 1978.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-26, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Howard Bander, Finance Division, Office of Fiscal Services, 202-426-0575; Lee Burstyn, Office of the Chief Counsel, 202-426-0790.

SUPPLEMENTARY INFORMATION: This regulation supersedes Policy and Procedure Memorandum (PPM) 30-6 and codifies material contained in the Federal-Aid Highway Program Manual (FHPM) volume 1, chapter 4, section 6.[1] This document prescribes procedures to be followed by the States in claiming reimbursable costs incurred for work performed under the provision of Title 23, United States Code. This regulation simplifies the reimbursement process by eliminating excess language and updating procedures. This regulation does not contain significant additions to previous reimbursement requirements nor substantial cost effects.

Because there are no major substantive changes or additions from existing requirements, notice and comment are determined to be unnecessary. However, anyone wishing to submit written comments related to this regulation is advised to submit them to FHWA Docket No. 78-26. These comments may be considered as a request for rule revision, if necessary, and will be utilized in processing future amendments to this regulation.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

In consideration of the foregoing and under the authority of 23 U.S.C. 120, 121, and 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), Chapter I of Title 23, Code of Federal Regulations, Part 140 is amended by adding Subpart A to read as follows:

PART 140—REIMBURSEMENT

Subpart A—Reimbursement Vouchers

Sec.
140.101 Purpose.
140.103 Submission of claims for reimbursement.
140.105 Progress vouchers.
140.107 Final vouchers.
140.109 Reclaims.
140.111 Retention of records.

AUTHORITY: 23 U.S.C. 120, 121, 315; 49 CFR 1.48(b).

Subpart A—Reimbursement Vouchers

§ 140.101 Purpose.

The purpose of this regulation is to prescribe billing procedures to be followed by State Highway Agencies (SHA) in claiming reimbursable costs incurred for work performed under the provisions of Title 23, United States Code.

§ 140.103 Submission of claims for reimbursement.

All claims by a SHA for the Federal share of project costs are to be made, as appropriate, on forms PR-20,[2] "Voucher for Work Performed under Provisions of the Federal-Aid and Federal Highway Acts, as amended," or FHWA-1447,[2] "Voucher for Payment under Certification Acceptance." These vouchers commonly referred to as "progress vouchers" or "final vouchers," are submitted to the Feder-

[1] The Federal-Aid Highway Program Manual (FHPM) is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

[2] These forms are available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

al Highway Administration (FHWA) Division Administrator for reimbursement.

§ 140.105 Progress vouchers.

A progress voucher represents a claim for costs incurred in a specific period during the progress of a project. In preparing a progress voucher, all eligible costs shall be included, provided that a recorded liability exists or a cash disbursement has been made.

§ 140.107 Final vouchers.

(a) A final voucher represents the final claim, submitted by an SHA to FHWA for a single completed and FHWA-accepted project, in which all project costs incurred and the amount of Federal reimbursements paid are summarized. Each SHA shall promptly submit its final claim for a project following the project completion.

(b) A summary of project costs, classified by work type, shall accompany the final voucher.

(c) Costs for planning and research projects shall be summarized by the individual phases of work.

§ 140.109 Reclaims.

The State highway agency may appeal any disallowed costs to the Division Administrator within a reasonable time, not to exceed 9 months.

§ 140.111 Retention of records.

Recordkeeping requirements will be as prescribed in 23 CFR Part 17, "Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies."

Issued on: November 29, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-34501 Filed 12-8-78; 8:45 am]

[4910-22-M]

[FHWA Docket No. 78-27]

PART 140—REIMBURSEMENT

Construction Engineering Costs

AGENCY: Federal Highway Administration, DOT.

ACTION: Final rule.

SUMMARY: This document sets forth policies and procedures for claiming reimbursement for construction engineering costs, approving a State's request for increase in the limitation from 10 percent to 15 percent on certain cost reimbursements, and describing types of projects on which limitations are applicable.

DATES: Comments must be received on or before March 12, 1979.

Effective date: December 13, 1978.

ADDRESS: Submit comments, preferably in triplicate, to FHWA Docket No. 78-27, Federal Highway Administration, Room 4205, HCC-10, 400 Seventh Street, SW., Washington, D.C. 20590. All comments and suggestions received will be available for examination at the above address between 7:45 a.m. and 4:15 p.m. ET, Monday through Friday.

FOR FURTHER INFORMATION CONTACT:

Howard Bander, Finance Division, Office of Fiscal Services, 202-426-0575; Lee J. Burstyn, Office of the Chief Counsel, 202-426-0786.

SUPPLEMENTARY INFORMATION: This regulation implements Section 118 of the Federal-Aid Highway Act of 1976 which amended Section 121(d) of Title 23, United States Code, by allowing any project financed with Interstate funds to be eligible for the 15 percent ceiling for construction engineering costs if determined necessary by the Secretary. Previously, the ceiling for Interstate projects was 10 percent. The limitation is now applicable on "any project financed with Federal-aid highway funds," instead of "any project financed with Federal-aid primary, secondary or urban funds."

This document codifies material contained in volume 1, chapter 4, section 2, subsection 6 of the Federal-Aid Highway Program Manual.*

This regulation does not contain significant additions to previous requirements, nor substantial cost effects; therefore, notice and comment are unnecessary. However, anyone wishing to submit written comments related to this regulation is advised to submit them to FHWA Docket No. 78-27. These comments may be considered as a request for rule revision, if necessary, and will be utilized in processing future amendments to this regulation.

NOTE.—The Federal Highway Administration has determined that this document does not contain a significant proposal according to the criteria established by the Department of Transportation pursuant to Executive Order 12044.

In consideration of the foregoing and under the authority of 23 U.S.C. 121(d) and 315, and the delegation of authority by the Secretary of Transportation at 49 CFR 1.48(b), Chapter I of Title 23, Code of Federal Regulations, Part 140 is amended by adding Subpart B to read as follows:

PART 140—REIMBURSEMENT

Subpart B—Construction Engineering Costs

Sec.
140.201 Purpose.
140.203 Definitions.
140.205 Increase in the per centum of limitation.
140.207 Categories of funds subject to application of limitation.

AUTHORITY: 23 U.S.C. §§ 121(d), 315; 49 CFR 1.48(b).

Subpart B—Construction Engineering Costs

§ 140.201 Purpose.

The purpose of this regulation is to prescribe policies and procedures to claim reimbursement for eligible construction engineering costs, and to request and approve an increase in the statutory limitation from 10 per centum to 15 per centum of construction costs.

§ 140.203 Definitions.

(a) "Construction cost"—the actual net cost of building a project, exclusive of costs of preliminary engineering, construction engineering and rights-of-way.

(b) "Construction engineering costs"—the costs related to construction engineering as that term is defined in 23 CFR 140.703(b).

(c) "Limitation on reimbursement of construction engineering costs"—either 10 per centum or 15 per centum of construction cost as provided.

§ 140.205 Increase in the per centum of limitation.

(a) A State highway agency (SHA) which is limited by law to 10 per centum of construction costs may request authorization to increase the limitation to 15 per centum. The request may be for a specific type, for combinations of types, or for all types of projects set forth in § 140.207 of this regulation.

(b) The request shall be directed to the Federal Highway Administration Division Administrator and shall include cost data to demonstrate that actual eligible costs have exceeded the 10 per centum limitation on either:

(1) A sufficient number of projects on a Statewide basis within the past twelve months; or

(2) A sufficient number of projects located in a specific area or areas (i.e., urban) that are affected by abnormal circumstances peculiar to the SHA, such as geography, topography, urban density, climate, etc.

(c) Approvals granted prior to the issuance of this regulation will remain in effect.

§ 140.207 Categories of funds subject to application of limitation.

Projects financed under the following categories of funds have been determined to be subject to the limitation imposed by 23 U.S.C. § 121(d):

*The Federal-Aid Highway Program Manual (FHPM) is available for inspection and copying as prescribed in 49 CFR 7, Appendix D.

(a) Bicycle transportation and pedestrian walkways,
(b) Consolidated primary,
(c) Interstate,
(d) Interstate resurfacing,
(e) Landscaping and litter removal,
(f) Landscaping and scenic enhancement,
(g) Metropolitan planning funds,
(h) Primary,
(i) Priority primary,
(j) Rural highway public transportation demonstration program,
(k) Rural primary,
(l) Rural secondary,
(m) Secondary,
(n) Special bridge replacement,
(o) Urban,
(p) Urban extensions,
(q) Urban system, and
(r) Urban high density traffic program.

Issued on: November 29, 1978.

KARL S. BOWERS,
Federal Highway Administrator.

[FR Doc. 78-34500 Filed 12-8-78; 8:45 am]

[1505-01-M]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY

SUBCHAPTER H—INTERNAL REVENUE PRACTICE

PART 601—STATEMENT OF PROCEDURAL RULES

Miscellaneous Amendments Relating to Reorganization of the Internal Revenue Service

Correction

In FR Doc. 78-32157 appearing at page 53029 in the issue for Wednesday, November 15, 1978, in the middle column of page 53029, in the amendments for § 601.105, the first paragraph should have read as follows:

Paragraph 1. Section 601.105 is amended as follows:

1. Paragraph (a) is amended by deleting the word "audit" wherever it appears and inserting in lieu thereof the word "examination" and by deleting the phrase "Audit Divisions" wherever it appears and inserting in lieu thereof the phrase "Examination Division".

* * * * *

[3810-70-M]

Title 32—National Defense

CHAPTER I—OFFICE OF THE SECRETARY OF DEFENSE

[DOD Directive 5000.37]

PART 207—ACQUISITION AND DISTRIBUTION OF COMMERCIAL PRODUCTS (ADCP)

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule is issued in compliance with the provisions of the Office of Federal Procurement Policy on the Acquisition and Distribution of Commercial Products (ADCP). It provides for increased reliance on commercial, off-the-shelf, products to meet DOD needs. The Defense Acquisition Regulations (DAR) (formerly ASPR) and other DOD issuances are now being revised to reflect the ADCP policy implementation.

EFFECTIVE DATE: September 29, 1978.

ADDRESS: Office of the Under Secretary of Defense for Research and Engineering (Acquisition Policy) (Standardization and Support), Room 2A318, the Pentagon, Washington, D.C. 20301.

FOR FURTHER INFORMATION CONTACT:

Colonel Justin A. Holmes, U.S. Army, Telephone: 695-7915 or 695-7916.

Accordingly, Chapter I of 32 CFR is amended by adding a new Part 207, reading as follows:

Sec.
207.1 Purpose.
207.2 Applicability and scope.
207.3 Definitions.
207.4 Objectives.
207.5 Policy.
207.6 Responsibilities.

AUTHORITY: Pub. L. 93-4000, sec. 6.

§ 207.1 Purpose.

This part establishes the policies and responsibilities for the acquisition and distribution of commercial products (ADCP) within the Department of Defense.

§ 207.2 Applicability and Scope.

(a) The provisions of this part apply to the Office of the Secretary of Defense, the Military Departments and the Defense Agencies (hereafter referred to as "DOD Components").

(b) The policies for ADCP expressed in this part apply to requirements for all end items, weapons, equipment, components or material for which commercial products are used or can be used, including principal and secondary items.

§ 270.3 Definitions.

(a) *Commercial, Off-The-Shelf (OTS), Products* (also referred to as "commercial products"). Products in regular production sold in substantial quantities to the general public and/or industry at established market or catalog prices.

(b) *Established Commercial Market Acceptability.* Commercial market acceptability is an evaluation of the product offered, performed for the purpose of determining a prospective contractor's ability to provide a commercial product that will conform to the Government's need. To be market acceptable, a product must be marketed in substantial quantities to the general public. To be substantial, sales to the general public must predominate over sales to the Government. If the commercial products were previously defined by a Government specification, offers of products which were acceptable under the Government specification may be considered under solicitations requiring a product to have established commercial market acceptability.

(c) *Principal Item.* End items and replacement assemblies of such importance that the Military Departments require centralized individual item management throughout the supply system, to include depot level, base level, and items in the hands of the using units. Specifically included are items, where in the judgment of the DOD Component, there is a need for centralized inventory control, computation of requirements, acquisition, direction of distribution, and availability of the principal assets owned by that DOD Component.

(d) *Secondary Items.* End items, replacement assemblies, parts and consumables, other than principal items.

§ 207.4 Objectives.

The objectives of this part are to:

(a) Acquire commercial, off-the-shelf, products when such products will adequately serve the Government's requirements provided such products have an established market acceptability.

(b) Encourage, recognize the evaluate technological innovations in commercial items that are applicable to Defense needs.

(c) Optimize research, engineering, acquisition and support costs and enhance the opportunity for life cycle cost saving.

(d) Eliminate unnecessary Government specifications for commercial products and/or adopt non-Government specifications and standards

where feasible. When Government specifications are used, tailor their application, where possible, to reflect the best commercial practices in form, fit, function or performance.

(e) Implement acquisition procedures designed to optimize the Government's advantage while minimizing the administrative burden to the contractor and Government.

(f) Validate feasible commercial item logistics support alternatives ensuring the least costly, acceptable life cycle support plan is chosen.

(g) Foster competitive industrial sources for acquisition, distribution and support of Government requirements for items managed by the Department of Defense.

§ 207.5 Policy.

In accordance with the Office of Federal Procurement Policy (OFPP) Memorandum, "Procurement and Supply of Commercial Products," May 24, 1976, as implemented by OFPP Memoranda, "Incremental Implementation of Policy on Procurement and Supply of Commercial Products—Planning and Analysis Phase," December 6, 1976, and "Implementation of Policy on Acquisition and Distribution of Commercial Products (ADCP)," December 27, 1977, DOD Components shall:

(a) Purchase commercial, off-the-shelf, products when such products will adequately serve the Government's requirement, provided such products have an established commercial market acceptability, and

(b) Use commercial distribution channels in supplying commercial products to users when it is economically advantageous to do so and the impact on military readiness is acceptable.

§ 207.6 Responsibilities.

(a) The Under Secretary of Defense for Research and Engineering (USDR&E), or designee, is responsible for the implementation of the acquisition policy aspects of ADCP.

(b) The Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics) (ASD (MRA&L)) is responsible for implementing the logistics policy for ADCP.

(c) DOD Components will:

(1) Review applicable internal directives, regulations, and instructions, and revise them as necessary to comply with this Directive.

(2) Determine and designate those commercial off-the-shelf, principal and secondary items which may be acquired and/or supported under the policy contained in § 207.5.

MAURICE W. ROCHE,
Director, Correspondence and Directive, Washington Headquarters Services, Department of Defense.

DECEMBER 5, 1978.

[FR Doc. 78-34394 Filed 12-8-78; 8:45 am]

[3810-70-M]

SUBCHAPTER R—CHARTERS

[DOD Directive 5105.38]

PART 363—DEFENSE SECURITY ASSISTANCE AGENCY

AGENCY: Office of the Secretary of Defense.

ACTION: Final Rule—DOD Charter Directive 5105.38. [1]

SUMMARY: The Secretary of Defense has assigned functions and responsibilities to the Director, Defense Security Assistance Agency (DSAA), and has delegated specific authorities. This Directive serves as the instrument that authorizes the Director, DSAA, to carry out the charter.

EFFECTIVE DATE: August 10, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Arthur H. Ehlers, Director for Organizational & Management Planning, Office of the Deputy Assistant Secretary of Defense (Administration) Telephone 202-695-4278.

SUPPLEMENTARY INFORMATION: This information is submitted in compliance with the requirements of section 552(a)(1) of Title 5, United States Code, and Recommendation 76-2 of the Administration Conference of the United States.

Accordingly, a new Part 363 of Title 32, Chapter I, of the Code of Federal Regulations is established, reading as follows:

Sec.
363.1 Purpose.
363.2 Mission.
363.3 Organization and management.
363.4 Responsibilities and functions.
363.5 Authority.
363.6 Relationships.
363.7 Administration.

AUTHORITY: 10 U.S.C. CHAPTER 4.

§ 363.1 Purpose.

Pursuant to authority vested in the Secretary of Defense under the provisions of title 10, United States Code, this part establishes the Defense Security Assistance Agency (hereafter referred to as "DSAA") and defines responsibilities, functions, authorities and relationships of DSAA as outlined below.

§ 363.2 Mission.

DSAA shall direct, administer, and supervise the execution of security assistance programs. "Security assistance" as used in this Part, refers to the responsibilities of the Secretary of Defense under the Foreign Assistance Act of 1961, as amended, the Arms Export Control Act, as amended, related statutory authorities and Executive Orders and Directives relating to the administration of Military Assistance, International Military Education and Training, credit financing and Foreign Military Sales, DOD Directives 5132.3, 5100.27, and 5105.20. [1]

§ 363.3 Organization and management.

(a) DSAA is established as a separate agency of the Department of Defense under the direction, authority and control of the Assistant Secretary of Defense (International Security Affairs) (hereinafter referred to as "ASD(ISA)").

(b) DSAA shall consist of a Director and such subordinate organizational elements as are established by the Director within resources authorized by the Secretary of Defense.

(c) The Director, DSAA, may also serve as Deputy Assistant Secretary of Defense (Security Assistance) in the Office of the ASD(ISA).

§ 363.4 Responsibilities and functions.

(a) The *Director, DSAA*, shall:

(1) Organize, direct and manage the DSAA and all resources assigned to the DSAA.

(2) Direct, administer, and supervise, within the policies established by the ASD(ISA), Security Assistance planning and programs. The administration of sales programs may be delegated in whole or in part to the Military Departments, but such administration will be under the direction and supervision of the DSAA.

(3) Supervise formulation of detailed Security Assistance programs in accordance with approved guidance and policies.

(4) Coordinate the formulation and execution of Security Assistance programs with other governmental agencies under the guidance of the ASD(ISA).

(5) Review evaluations of Security Assistance program administration, including responsibility with respect to GAO and other audits.

(6) Conduct international logistics and sales negotiations with foreign

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

countries, as directed by the ASD(ISA) and in coordination with the Under Secretary of Defense for Research and Engineering and the Assistant Secretary of Defense (Manpower, Reserve Affairs and Logistics), as appropriate.

(7) Serve as DOD focal point for liaison with U.S. industry with respect to Security Assistance activities.

(8) Manage the credit financing program, including the conclusion of credit agreements and the issuance of guaranties.

(9) Develop and promulgate Security Assistance procedures (MASM) 5105.38-M.[2]

(10) Supervise and perform, as appropriate, accounting and reporting functions for Security Assistance programs.

(11) Develop and operate the data processing system and maintain the worldwide data base required by all levels of management for the Security Assistance program.

(12) Maintain liaison with Congress on Security Assistance legislation and related matters and provide support to the ASD(ISA) for the presentation of the annual Security Assistance program before the Congress.

(13) Provide data support for the annual Security Assistance budget for inclusion in the President's budget.

(14) Keep the Joint Chiefs of Staff and the Commanders of the Unified Commands fully informed of Security Assistance matters.

(15) Direct and supervise organization, functions, and staffing of DOD elements in foreign countries responsible for managing Security Assistance programs.

(16) Perform such other functions as assigned by the ASD(ISA).

(b) The *ASD(ISA)* shall:

(1) Establish DOD Security Assistance policies.

(2) Coordinate the activities of DOD components related to Security Assistance affairs.

(3) Serve as the principal DOD point of contact and spokesman regarding Security Assistance policy, representing the DOD with other governmental agencies with respect to such matters.

(c) The basic responsibilities and functions of other DOD components relating to Security Assistance remain as assigned in DOD directive 5132.3.[1]

§ 363.5 Authority.

The Director, DSAA, is specifically delegated authority to:

(a) Have free and unrestricted access to, and direct communication with, all elements of the Department of Defense and other executive departments and agencies as necessary. all ASD(ISA) and DSAA Security Assistance directives and communications to the Unified and Specified Commands, the Military Departments, and the Military Assistance Advisory Groups, which have military operational implications, shall be coordinated with the Joint Chiefs of Staff. Conversely, all Joint Chiefs of Staff directives and communications to the Unified and Specified commands or the Military Departments, which pertain to Security Assistance affairs, shall be coordinated with the ASD(ISA).

(b) Obtain such information, consistent with the policies and criteria of DOD Directive 5000.19,[1] advice, and assistance from other DOD components as may be necessary for the performance of assigned functions and responsibilities.

(c) Exercise the redelegation of authority previously established.

§ 363.6. Relationships.

(a) In the performance of his functions, the Director, DSAA shall:

(1) Maintain appropriate liaison with other DOD components for the exchange of information on programs in the field of assigned responsibilities.

(2) Make use of established facilities and services in the DOD or other governmental agencies wherever practicable to achieve maximum efficiency and economy.

(3) Conduct activities involving financial management, fiscal matters, accounting, budgeting, statistical reporting, and the international balance of payments, in accordance with policies and procedures established by the Assistant Secretary of Defense (Comptroller).

(b) The Military Department and other DOD components shall provide support, within their respective fields of responsibility to the Director, DSAA, to assist in carrying out assigned responsibilities and functions of DSAA.

§ 363.7 Administration.

(a) The Director, DSAA, shall be appointed by the Secretary of Defense.

(b) The appointment of other personnel to the Agency will be subject to the approval of the Director, DSAA, and the ASD(ISA).

(c) DSAA will be authorized such personnel, facilities, funds, and other administrative support as the Secretary of Defense deems necessary.

(d) The Military Departments will assign military personnel to DSAA in accordance with approved authorizations and procedures for assignment to joint duty.

MAURICE W. ROCHE,
Director, Correspondence and Directives, Washington Headquarters Services, Department of Defense.

DECEMBER 5, 1978.

[FR Doc. 78-34393 Filed 12-8-78; 8:45 am]

[2] Copies may be obtained, if needed, from the Defense Security Assistance Agency (Comptroller), Room 4B715, Pentagon, Washington, D.C. 20301. Telephone 202-697-2293.

[1] Copies may be obtained, if needed, from the U.S. Naval Publications and Forms Center, 5801 Tabor Avenue, Philadelphia, PA 19120. Attention: Code 301.

[4910-14-M]

Title 33—Navigation and Navigable Waters

CHAPTER I—COAST GUARD, DEPARTMENT OF TRANSPORTATION

[CCGD3-78-8-R]

PART 127—SECURITY ZONES

Establishment of Security Zone in Hudson River, New York, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Security Zone Regulations establishes a portion of the waters of the Hudson River in New York, N.Y., as a security zone. This security zone is established to safeguard the 30th Street Heliport and surrounding waters during the visit of the President of the United States to New York City. No vessel may enter or remain in a security zone without the permission of the Captain of the Port.

EFFECTIVE DATE: This amendment is effective on November 2, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain J. L. Fleishell, Captain of the Port, New York, Building 109, Governors Island, New York, N.Y. 10004, 212-668-7917.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication because the short time between scheduling of the event and its occurrence made such procedures impracticable. Local public notice has been given.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Junior Grade Ristaino, Project Manager, Captain of the Port, New York, N.Y.; and Commander J. L. Walker, Project Attorney, Legal Office, Third Coast Guard District, New York, N.Y.

In consideration of the foregoing, Part 127 of Title 33 of the Code of

Federal Regulations is amended by adding § 127.362 to read as follows:

§ 127.362 Hudson River, New York, N.Y.

The waters of the Hudson River, New York within 400 yards of the 30th Street Heliport are a security zone from 11 a.m., E.S.T., November 2, 1978 to 3 p.m., E.S.T., November 2, 1978.

(40 Stat. 220, as amended (50 U.S.C. 191), § 1, 63 Stat. 503 (14 U.S.C. 91), § 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, C.O. 10352, E.O. 11249; 3 CFR, 1949-1953 Comp. 356, 778, 873, 3 CFR, 1964-1965 Comp. 349, (33 CFR Part 6), (40 CFR 1.46(b).)

Dated: November 2, 1978.

J. L. FLEISHELL,
Captain, U.S. Coast Guard,
Captain of the Port, New York.

[FR Doc. 78-34521 Filed 12-8-78; 8:45 am]

[4910-14-M]

[CGD3-78-9-R]

PART 127—SECURITY ZONE

Establishment of Security Zone In Hudson River, New York, N.Y.

AGENCY: Coast Guard, DOT.

ACTION: Final rule.

SUMMARY: This amendment to the Coast Guard's Security Zone Regulations establishes a portion of the waters of the Hudson River in New York, N.Y. as a security zone. This security zone is established to safeguard the 30th Street Heliport and surrounding waters during the visit of the President of the United States to New York City. No vessel may enter or remain in a security zone without the permission of the Captain of the Port.

EFFECTIVE DATE: This Amendment is effective on December 5, 1978.

FOR FURTHER INFORMATION CONTACT:

Captain J. L. Fleishell, Captain of the Port, New York, Building 109, Governors Island, New York, N.Y. 10004, 212-668-7917.

SUPPLEMENTARY INFORMATION: This amendment is issued without publication of a notice of proposed rule making and this amendment is effective in less than 30 days from the date of publication because the short time between scheduling of the event and its occurrence make such procedures impracticable. Local pulbic notice has been given.

DRAFTING INFORMATION

The principal persons involved in drafting this rule are: Lieutenant Junior Grade Ristaino, Project Manager, Captain of the Port, New York, N.Y., and Commander J. L. Walker, Project Attorney, Legal Office, Third Coast Guard District, New York, N.Y.

In consideration of the foregoing, Part 127 of Title 33 of the Code of Federal Regulations is amended by adding § 127.363 to read as follows:

§ 127.363 Hudson River, New York, N.Y.

The waters of the Hudson River, New York within 400 yards of the 30th Street Heliport are a security zone from 5 p.m., E.S.T., December 5, 1978 to 6:30 p.m. E.S.T., December 5, 1978, and from 10:30 p.m., E.S.T., December 5, 1978 to 1 a.m. E.S.T., December 6, 1978.

(40 Stat. 220, as amended (50 U.S.C. 191), § 1.63 Stat. 503 (14 U.S.C. 91), sec. 6(b)(1), 80 Stat. 937 (49 U.S.C. 1655(b)); E.O. 10173, E.O. 10277, E.O. 10352, E.O. 11249 3 CFR, 1949-1953 Comp. 356, 778, 873, 3 CFR, 1964-1965 Comp. 349, (33 CFR Part 6.217) (49 CFR 1.46(b).)

Dated: December 5, 1978.

J. L. FLEISHELL,
Captain, U.S. Coast Guard,
Captain of the Port, New York.

[FR Doc. 78-34520 Filed 12-8-78; 8:45 am]

[7630-01-M]

Title 36—Parks, Forests, and Public Property

CHAPTER IX—PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

PART 904—RELOCATION ASSISTANCE AND LAND ACQUISITION UNDER UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970

AGENCY: Pennsylvania Avenue Development Corporation.

ACTION: Final Rule.

SUMMARY: On May 26, 1978, the Pennsylvania Avenue Development Corporation published in the FEDERAL REGISTER (43 FR 22707) an interim rule setting forth the policies and procedures of the Corporation pursuant to The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. Interested parties were given an opportunity to submit comments by June 30, 1978. No comments were received. On September 20, 1978, the Board of Directors of the Corporation approved the interim rule for promulgation. The interim rule is hereby adopted with the changes (reflecting printing errors) as published on June 6, 1978, in the FEDERAL REGISTER (43 FR 24528). This final rule incorporates those changes.

DATE: Effective September 21, 1978.

FOR FURTHER INFORMATION CONTACT:

Mr. Clifford Brooks, Community Planner, Real Estate Staff, 202-566-0602, or Mr. Jerry Smedley, Chief of Real Estate Operations, 202-566-0602, Pennsylvania Avenue Development Corporation, 425 13th Street, NW., Washington, D.C. 20004.

Dated: December 1, 1978.

JOSEPH B. DANZANSKY,
Chairman.

Subpart A—General

Sec.
904.1 Purpose and policy.
904.2 Definitions.
904.3 Program administration.
904.4 Written notices.
904.5 Records.
904.6 Availability of housing.
904.7 Application and payment for relocation benefits.
904.8 Payments not to be considered income.
904.9 Outleasing.

Subpart B—Relocation Advisory Services

904.10 Scope.
904.11 Eligibility.
904.12 Minimum advisory services provided.
904.13 Refusal of assistance.
904.14 Coordination with other agencies.

Subpart C—Relocation Moving Payments

904.21 Scope.
904.22 Eligibility.
904.23 Actual reasonable moving expenses.
904.24 Exclusions.
904.25 Additional moving and related expenses: business or non-profit organizations.
904.26 Fixed payment in lieu of moving and related expenses: businesses and non-profit organizations.
904.27 Fixed payments in lieu of moving and related expenses: Individuals and families.

Subpart D—Replacement Housing Payments

904.40 Scope.
904.41 Eligibility.
904.42 Replacement housing payments: purchase.
904.43 Replacement housing payments: rental assistance.
904.44 Replacement housing payments: down payment assistance.
904.45 Combined payments.
904.46 Occupancy.
904.47 Inspection of replacement dwelling required.
904.48 Provisional payment pending condemnation.
904.49 Partial use of home for business.
904.50 Multiple occupants of a single dwelling.

904.51 Dwelling in multiple unit building.
904.52 Certificate of Eligibility pending purchase of replacement dwelling.

Subpart E—Review Procedure

904.70 Scope.
904.71 Request for review.
904.72 Time for filing request for review.
904.73 Review procedures.
904.74 Final determination.

Subpart F—Acquisition of Real Property

904.80 Scope.
904.81 Real property acquisition practices.
904.82 Statement of just compensation to owner.
904.83 Buildings, structures, and Improvements to be acquired.
904.84 Expenses incidental to transfer of title.
904.85 Litigation expenses.
904.36 Allowance for benefits prohibited.

AUTHORITY: Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, Pub. L. 91-646, 84 Stat. 1894 (42 U.S.C. 4601 et seq.); Pennsylvania Avenue Development Corporation Act of 1972, as amended, sec. 6(6), Pub. L. 92-578, 86 Stat. 1270 (40 U.S.C. 875(6)); sec. 8, Pub. L. 92-578, 86 Stat. 1273 (40 U.S.C. 877).

Subpart A—General

§ 904.1 Purpose and Policy

(a) This part provides the policy and procedures to be followed by the Pennsylvania Avenue Development Corporation (hereinafter referred to as the Corporation) or its agents for implementing the requirements of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (hereinafter referred to as the Act). These regulations are intended to establish equitable policies and procedures for acquiring real property and providing relocation services and payments so that persons displaced by the Corporation do not suffer disproportionate injuries as a result of activities designed for the benefit of the public as a whole.

(b) The Corporation to the greatest extent practicable will:

(1) Administer its development program so that when any person is displaced by the Corporation from his dwelling, a comparable replacement dwelling will be available.

(2) Make prompt and equitable relocation assistance payments to eligible displaced persons.

(3) Provide relocation assistance advisory services in a manner that assures eligible persons will receive assistance suitable to their needs.

(4) Provide review procedures that afford prompt and proper resolution of any grievance.

(5) Notify displaced persons promptly of the date they will be required to vacate, in order to provide maximum time to relocate.

(6) Make every effort to expeditiously acquire real property based upon payment of just compensation.

§ 904.2 Definitions.

The following definitions shall apply to this part:

(a) "Business" means any lawful activity other than a farm operation conducted primarily for the purchase, sale, lease, or rental of personal and real property, and for the manufacture, processing, or marketing of products, commodities, or any other personal property; or for the sale of services to the public; and includes activities of a nonprofit organization.

(b) "Comparable replacement dwelling" is one which is:

(1) Decent, safe, and sanitary, as defined in paragraph (c) of this section.

(2) Functionally equivalent and substantially the same as the dwelling being acquired with respect to: (i) number of rooms, (ii) area of living space, and (iii) type of construction, but not precluding new construction.

(3) In an area not generally less desirable than the dwelling being acquired with respect to: (i) public utilities, (ii) public and commercial facilities, and (iii) neighborhood conditions, including municipal services, and unreasonably adverse environmental factors.

(4) Reasonably accessible to the place of employment, or potential place of employment, of the head of the displaced family, or the displaced individual, as the case may be.

(5) Adequate in size to accommodate the needs of the displaced family or individual.

(6) Within the financial means of the displaced family or individual. A dwelling is within the financial means of an individual or family if, taking into account payments made under Subpart D, the monthly housing cost (including payments for mortgage, insurance, and property taxes) or rental cost is not more than: (i) 25 percent of the monthly gross income of the individual or family (including supplemental income payments received from public agencies); or (ii) the portion of the monthly gross income of the individual or family (including supplemental income payments received from public agencies), paid for rent or housing cost at the acquired dwelling, if the rent or housing cost was not excessive taking into consideration the cost of other needs of the family or individual.

(7) Open to all individuals regardless of race, color, religion, or national origin, in a manner consistent with the requirements of title VIII of the Civil Rights Act of 1968, as amended, and available to all individuals regardless of sex.

If replacement dwellings which meet the requirements in paragraph (b) (1) through (7) of this section are not available on the market, the Corporation may, after a proper finding of the need therefore, treat available dwellings which exceed those requirements as comparable replacement dwellings.

(c) "Decent, safe, and sanitary housing" means a dwelling which meets the following criteria:

(1) For housekeeping units, a decent, safe, and sanitary dwelling is one which:

(i) Conforms with all applicable provisions for existing structures that have been established under state or local building, plumbing, electrical, housing, and occupancy codes and similar ordinances or regulations.

(ii) Has a continuing and adequate supply of potable, safe water.

(iii) Has a kitchen or an area set aside for kitchen use which contains a sink in good working condition, connected to hot and cold water, an adequate sewage system, and a stove and refrigerator in good operating condition when required by local codes, ordinances, or customs. When these appliances are not required by local codes, ordinances, or customs, the kitchen area or area set aside for kitchen use shall have utility service connections and adequate space for installation of such appliances.

(iv) Has an adequate heating system in good working order which will maintain a minimum temperature of 68 degrees in the living area (excluding bedrooms) under local outdoor temperature conditions. A heating system will not be required in those geographical areas where it is not normally included in new housing.

(v) Has a bathroom, well lighted and ventilated; affording privacy to a person within it; containing a lavatory basin and bathtub or stall shower, properly connected to an adequate supply of hot and cold running water; having a flush toilet, properly connected to a sewage disposal system; and all in good working order.

(vi) Has an adequate and safe wiring system for lighting and other electrical services in each room.

(vii) Is structurally sound, weathertight, in good repair and adequately maintained.

(viii) Has a safe unobstructed means of egress leading to safe open space at ground level. Each unit in a multiple dwelling must have access either directly or through a common corridor to a means of egress leading to open space at ground level. In a multiple dwelling of three stories or more, the common corridor on each story must have at least two means of egress.

(ix) Has habitable sleeping, living, cooking, and dining floor space (exclusive of such enclosed spaces as closets,

pantries, bath or toilet rooms, service rooms, connecting corridors, laundries, unfurnished attics, foyers, storage spaces, cellars, utility rooms, or similar spaces) subdivided into adequately ventilated rooms sufficient to accommodate the occupants.

(2) For non-housekeeping units (rental of sleeping rooms), decent, safe and sanitary dwelling is one which includes the minimum requirements contained in paragraphs (c)(1)(i), (ii), (iv), (vi), (vii), and (viii) of this section, and has a lavatory; bath and flush toilet facilities providing privacy; and a door that can be locked if such facilities are separate from the sleeping room.

(3) In those instances in which a dwelling is located in an area where the local housing code does not meet all the standards listed in paragraphs (c) (1) and (2) of this section, the Corporation may approve the dwelling as acceptable, decent, safe, and sanitary housing if it meets the standards of the local code.

(4) Exceptions may be granted to decent, safe, and sanitary standards, but such exceptions shall be limited to items and circumstances that are beyond the reasonable control of the Corporation. Approved exceptions shall not affect the computation of the replacement housing payment. In case of extreme hardship or other extenuating circumstances, an exception to the decent, safe, and sanitary requirements of replacement housing may be permitted in a particular case, with the written concurrence of the Corporation.

(d) "Displaced person" means any person who moves from real property, or moves his personal property from real property, as a result of the Corporation's acquisition of such real property, in whole or in part; or a written order to vacate from the Corporation.

(e) "Dwelling" means the place of permanent or customary and usual abode of a person. It includes a single family building, a one-family unit in a multi-family building, a unit of a condominium or cooperative housing project, or any other residential unit.

(f) "Economic rent" means the amount of rent a residential displaced person would have to pay for a comparable dwelling unit in areas not less desirable than that of the dwelling unit to be acquired by the Corporation.

(g) "Family" means two or more individuals who live together in a dwelling and are related by blood, marriage, adoption, legal guardianship, or operation of law; or determined by the Corporation to be jointly eligible for benefits under this part.

(h) "Farm operation" means a lawful activity conducted solely or primarily for the production of one or more agricultural products or commodities, including timber, for sale or home use, and customarily producing such products or commodities in sufficient quantity to be capable of contributing materially to the operator's support.

(i) "Initiation of negotiations" means the day on which the Corporation makes the first personal contact with the property owner or his representative and furnishes him with a written offer to purchase the property, or the day on which a written offer is mailed to the property owner or his representative.

(j) "Mortage" means a lien commonly given to secure an advance on, or the unpaid purchase price of, real property under the laws of the state in which the real property is located, together with any credit instruments secured thereby.

(k) "Nonprofit organization" means a corporation, partnership, individual, or other public or private entity, engaged in a lawful activity on a nonprofit basis, necessitating fixtures, equipment, stock in trade, or other tangible property for the carrying on of the business, profession or instructional activity on the premises.

(l) "Owner" means a person(s):

(1) Owning, legally or equitably, the fee simple estate, a life estate, a 99 year lease or other proprietary interest in the property.

(2) The contract purchaser of any of the foregoing estates or interest, who has the right of occupancy under said contract.

(3) With a lease, at least 50 years to run from the date of the acquisition of the property.

(4) With an interest in a cooperative housing project, which includes the right to occupy a dwelling.

(5) Who has succeeded to any of the foregoing interests by devise, bequest, inheritance, or operation of law. For the purpose of these regulations, in the event of acquisition of ownership by any of the foregoing methods in this paragraph, the tenure of ownership, not occupancy, of the succeeding owner shall include the tenure of the preceding owner.

(m) "Person" includes a partnership, company, corporation, or association as well as an individual or family.

(n) "Peak business season" means that period of time between December 1 and January 1, inclusive, and 2 weeks prior to Easter day and Easter day, inclusive.

§ 904.3 Program administration.

In carrying out the relocation assistance program set forth in this part, the Corporation will have at least one employee whose primary responsibility is relocation assistance. The Corporation may also hire or contract with other persons or government agencies to assist in implementation of this program.

§ 904.4 Written notices.

Written notices, including the following, shall be served personally or sent by certified or registered first class mail, return receipt requested:

(a) *Notice of appraisal.* Prior to appraisal of property, the Corporation will notify each owner that the Corporation is having his property appraised. This notice shall state the name of the appraiser(s) and shall afford the owner or his representative the opportunity to accompany the appraiser(s) during inspection of the property.

(b) *Notice of initiation of negotiations.* The Corporation will notify each owner at the time of initiation of negotiations, and each tenant within 15 days of initiation of negotiations, of the following:

(1) The Corporation has made an offer to purchase the property;

(2) All tenants will be required to execute disclaimers or releases of leases;

(3) The occupants will be required to pay rent during the period of occupancy following acquisition;

(4) The Corporation's schedule for vacating the property;

(5) The name of the person to contact for relocation assistance;

(6) Information on the eligibility for relocation assistance and the types of assistance available generally;

(7) A written statement setting forth the optional types and amounts of replacement housing payments to which the individual displaced person may be entitled; and

(8) A copy of the relocation brochure.

(c) *Ninety-day notice.* The Corporation will notify all persons lawfully occupying real property acquired or to be acquired by the Corporation of the scheduled date for vacating the real property. The construction or development of the Corporation's project shall be scheduled so that to the extent practicable, no person lawfully occupying real property shall be notified or required to move without at least ninety days written notice of the Corporation's scheduled date for vacating the property. This notice is not an Order to Vacate and can be furnished at any time after the Corporation's Board of Directors has approved the acquisition of the property occupied by such individual. This notice may also be included in the notices provided for in paragraphs (b) and (d) of this section.

(d) *Order to vacate.* Following acquisition of real property or an interest therein requiring the displacement of lawful occupants, the Corporation will

serve or send the occupants an Order to Vacate as follows:

(1) When the effective date is the same or later than the date specified in the Ninety Day Notice provided for in paragraph (c) of this section, the order shall be furnished at least 30 days prior to the date the property must be vacated.

(2) When the effective date is earlier than the date specified in the Ninety Day Notice provided for in paragraph (c) of this section, or in the event no Ninety Day Notice preceded the Order to Vacate, the Order shall be furnished, to the extent practicable, at least 90 days prior to the date the property must be vacated.

(3) To the extent practicable, no Order to Vacate will require retail occupants to vacate during a peak business season.

(e) *Notice of right to review.* At the time the Corporation makes a determination regarding eligibility or benefits under this part, all persons shall be furnished a written notice of their right to have such determinations reviewed.

§ 904.5 Records.

(a) The Corporation will maintain separate records for each acquisition of real property and for each relocation of a displaced person suitable for enabling a fair determination of any claim or request for review and for determining just compensation in any eminent domain proceeding.

(b) Records maintained on individuals will be subject to the provisions of the Privacy Act of 1974 (Pub. L. 93-579, 88 Stat. 1896 (5 U.S.C. 522a)).

§ 904.6 Availability of housing.

(a) The Corporation shall assure, within a reasonable period of time prior to displacement of any person from a dwelling, that a comparable replacement dwelling is available. No person shall be required to move from his dwelling unless a comparable replacement dwelling is available to such person.

(b) In the event the Corporation cannot proceed to actual construction because comparable replacement sale or rental dwellings are not available and the Corporation determines that such dwellings cannot otherwise be made available, the Corporation may take such action as is necessary or appropriate to provide such dwellings by use of funds authorized for the Corporation's project. In doing so, the Corporation will be guided by criteria and procedures of the Secretary of Housing and Urban Development Appearing at 24 CFR Part 43, Subpart A.

§ 904.7 Application and payment for relocation benefits.

(a) A displaced person who is eligible for payments must submit an application in writing which:

(1) Is signed by, or on behalf of, the displaced person;

(2) Itemizes the expenses and benefits claimed;

(3) Includes such supporting receipts, invoices, and other documents that the Corporation may require; and

(4) Is submitted within 18 months of becoming eligible for payments for benefits under Subpart C and within 6 months of becoming eligible for payment under Subpart D.

(b) Payment shall be made as follows:

(1) If a displaced person, his mover, and the Corporation agree in writing, the displaced person may submit an unpaid bill for moving expenses for direct payment to the mover.

(2) In the case of a self-move by a displaced person who conducts a business, the amount of payment for actual reasonable moving expenses is negotiable but may not be more than the lower of two firm bids or estimates furnished to the Corporation unless the Corporation determines that a greater amount is justified. The displaced person may claim allowable removal and installation expenses in addition to self-move expenses.

(3) A displaced person may not be paid for his moving expenses in advance of the actual move unless the Corporation finds that a hardship would otherwise result.

(4) The Corporation shall make payment under Subpart D directly to the displaced homeowner or tenant, if he has purchased or rented and occupied a decent, safe, and sanitary dwelling. At the option of the displaced homeowner or tenant, the Corporation may make payment to the seller or lessor of the decent, safe and sanitary dwelling.

(5) The Corporation shall make a rental payment under § 904.43 in installments if requested by the displaced person.

(6) The Corporation shall not withhold all or any portion of payments provided for herein to cover claims or rentals owed to the Corporation unless the displaced person agrees in writing that the Corporation may withhold claims or rentals from payments.

§ 904.8 Payments not to be considered income.

Payments received by a displaced person under these regulations shall not be considered income for the purpose of:

(a) Internal Revenue Code of 1954, as amended; or

(b) Determining the eligibility or extent of eligibility for assistance under the Social Security Act or any other Federal law.

§ 904.9 Outleasing.

Persons who become occupants of Corporation property after acquisition of the property will not be eligible for benefits under this Part. The Corporation will obtain a waiver, specifically waiving the lessee's rights to claim any benefits under this Part, from any lessee to whom it leases if that person was not occupying the property at the time of its acquisition by the Corporation. The waiver will be obtained prior to execution of the outlease and will be incorporated in the outlease, where possible.

Subpart B—Relocation Advisory Services

§ 904.10 Scope.

This subpart prescribes the requirements for providing relocation assistance advisory services to eligible persons affected by the Corporation's acquisition of real property.

§ 904.11 Eligibility.

The Corporation shall offer relocation assistance advisory services to any "displaced person," and any person occupying property immediately adjacent to the real property acquired when PADC determines that such person is caused substantial economic injury because of the acquisition.

§ 904.12 Minimum advisory services provided.

(a) The Corporation shall carry out a relocation assistance advisory program so eligible persons will receive uniform and consistent services and payments regardless of race, color, or national origin pursuant to Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000a). The Corporation, as necessary or appropriate, will:

(1) Explain the services available, relocation payments and the eligibility requirements and assist in completing any applications or other forms required;

(2) Determine the need, if any, of eligible persons, for relocation assistance;

(3) Provide current and continuing information on the availability, prices and rentals of comparable decent, safe, and sanitary sale and rental housing, and of comparable commercial properties and locations;

(4) Assist eligible persons in obtaining and becoming established in replacement locations;

(5) Supply information concerning Federal and District of Columbia housing programs, disaster loan programs, and other Federal or District of Columbia programs offering assistance to eligible persons; and

(6) Provide other advisory services to eligible persons in order to minimize hardships in adjusting to their new location.

(b) Advisory services, to the extent practicable, shall be provided by personal contact. If such personal contact cannot be made, the Corporation shall document reasonable efforts made to achieve personal contact.

§ 904.13 Refusal of assistance.

A person may refuse relocation advisory services and still be eligible for payments. If a person refuses relocation advisory services, the Corporation shall obtain a statement from that person stating that relocation advisory services were offered and declined and that relocation benefits were explained.

§ 904.14 Coordination with other agencies.

All relocation advisory services performed by or on behalf of the Corporation shall be coordinated with the District of Columbia's central relocation programs. The Corporation will coordinate and, where appropriate, enter cooperative agreements with other agencies providing services useful to persons being relocated. Such agencies may include social welfare agencies, business development organizations, urban renewal agencies, redevelopment authorities, the U.S. Department of Housing and Urban Development, the Veterans' Administration and the Small Business Administration. The Corporation shall obtain information on available replacement properties and financial assistance from the local private real estate, banking and investment communities.

Subpart C—Relocation Moving Payments

§ 904.21 Scope.

This Subpart prescribes the requirements and procedures for the payment of moving and related expenses and other payments for persons displaced from real property or who move their personal property from real property as the result of acquisition of that real property by the Corporation.

§ 904.22 Eligibility.

(a) A displaced person is eligible for payment of moving and related expenses or payments in lieu thereof without regard to the length of time he occupied the real property from which displacement occurred. A person may be eligible for both a business and a residential moving payment if the displaced person resides and conducts a business on the same property, or is the owner-occupant of a multi-family dwelling that is being acquired.

(b) To be eligible for the moving expense payments provided for in this subpart, a person shall:

(1) Be a displaced person.

(2) Submit (i) a written notice of his intention to move, setting forth the address to which he will move, (ii) an inventory of the personal property to be moved, and (iii) any other supportive data or information, including bids which the Corporation may require. All of these shall be submitted at least 15 days prior to the move, unless the Corporation determines under exceptional circumstances that less than 15 days is justified.

(3) Not be a department, agency or instrumentality of any Federal, state, or local government.

§ 904.23 Actual reasonable moving expenses.

Except as provided in § 904.24, a displaced person is entitled to actual resonable expenses for the following:

(a) Transporting individuals, families and personal property from the displacement site to a replacment site (including storage), but not more than fifty (50) miles unless the Corporation finds that the displaced person cannot relocate within that distance. If the Corporation finds that relocation cannot be accomplished within the 50 mile limit, then payments may be allowed, but only to the nearest adequate and available site. This paragraph is not intended to limit the distance a displaced person may move, but sets the maximum distance for which the Corporation will pay the transportation component of moving expenses;

(b) Packing and unpacking, crating and uncrating personal property, and advertising for such services when the Corporation determines that advertising is necessary;

(c) Storing personal property for up to 12 months when determined necessary by the Corporation;

(d) Insurance premiums covering loss or damage of personal property while in storage or transit. Also, the reasonable replacement value of property lost, stolen or damaged through no intentional or negligent actions of the displaced person, his agent or employee, where insurance to cover such loss or damage is unavailable.

(e) Removing, reinstalling, and reconnecting utilities for machinery, appliances, and equipment, together with modification when the Corporation determines modification to be necessary; if the items are not acquired by the Corporation as real property, and the displaced person agrees in writing that the items are personal property and releases the Corporation from payment for them;

(f) Such additional expenses as may apply under § 904.25;

(g) Such other reasonable expenses determined to be allowable by the Corporation.

§ 904.24 Exclusions.

A displaced person is not entitled to be paid for:

(a) Additional expenses incurred because of living in a new location;

(b) The cost of moving structures or other improvements to real property in which ownership is reserved by the displaced person;

(c) Improvements to the replacement site, except when required by law for use of tangible personal property moved from the acquired property;

(d) Interest on loans to cover moving expenses;

(e) Loss of goodwill, profits, or trained employees;

(f) Loss due to personal injury;

(g) Cost of preparing the application for moving and related expenses;

(h) Expenses in searching for a replacement dwelling; or

(i) Any item which the Corporation excludes from payments as inconsistent with these regulations.

§ 904.25 Additional moving and related expenses: business or non-profit organizations.

In addition to those expenses provided for in § 904.23, the following pertains to an eligible person who conducts a business:

(a) A displaced person who conducts a business is entitled to additional actual reasonable expenses for:

(1) Licenses, permits, fees or certifications determined by the Corporation to be necessary and related to the move, when (i) the displaced person had such license, permit, or certification at the acquired property, and (ii) the cost does not exceed the cost for one year or the remaining useful life of the license, permit, or certification at the acquired property.

(2) Relettering of trucks, signs, and similar items, and reprinting of a reasonable supply of stationery determined by the Corporation to be necessary as a result of the move.

(b) In the case of low value, high bulk personal property, such as junk, stockpiled sand, gravel, minerals, metals, or similar items used in connection with a relocated business, payment for actual reasonable moving expenses may not be more than the cost of replacing that personal property at the relocation site less the amount for which it could be sold at the displacement site.

(c) If the cost of moving or relocating an outdoor advertising display is determined to be equal to or in excess of the inplace value of the display, the Corporation shall acquire the display as part of the real property.

(d) Regarding actual direct losses, a displaced person who conducts a business and does not move all or part of his business-related personal property and makes a bona fide effort to sell business-related personal property not moved, is entitled, subject to the requirements and limitations in paragraphs (d) (1) through (3) of this section, to payment for actual direct losses of personal property used in connection with the business but is no longer needed because the business is being discontinued; or not being moved to a relocation site because it is not suitable for use there.

(1) The displaced person who relocates a business, sells an item of business-related personal property and promptly replaces it with a comparable item, is entitled to payment for actual direct loss of the original item but not more than the replacement cost less its sale price, or the estimated cost of moving the original item, whichever is less.

(2) The displaced person who discontinues a business and sells an item of business-related personal property is entitled to payment for actual direct loss of the item but not more than the fair market value of the item for continued use at its location prior to displacement less its sale price, or the estimated cost of moving the original item 50 miles, whichever is less.

(3) The displaced person who abandons an item of business-related personal property after making a bonafide effort to sell it is entitled to payment for the actual direct loss of that item but not more than the fair market value of the item for continued use at its location prior to displacement or the estimated cost of moving the original item 50 miles, whichever is less regardless of the cost to the Corporation of removing that item.

(e) For the actual reasonable expenses in searching for a replacment business location, the displaced person may be reimbursed up to Five Hundred Dollars ($500). In exceptional cases, and with prior approval of the Corporation, an amount greater than Five Hundred Dollars ($500) may be authorized when circumstances so require. The displaced person must submit receipted bills for expenses claimed, other than the value of time when time actually spent in search is claimed. A signed statement of the time spent in search and the applicable wage rate(s) shall accompany the claim and shall be based on the actual wage rate for the person(s) conducting the search, but not to exceed $10.00 per hour. Expenses to be reimbursed may include transportation, meals, lodging away from home and the reasonable value of time actually spent in search. Such expenses may also include the fees of real estate agents or real estate brokers when determined necessary by the Corporation.

§ 904.26 Fixed payment in lieu of moving and related expenses: businesses and non-profit organizations.

(a) Any displaced person eligible for payments under § 904.23 who is displaced from his place of business and who elects to accept the payment provided for in this section in lieu of the payment authorized by § 904.23 may receive a fixed payment in an amount equal to the average annual net earning of the business except that the payment shall be not less than $2,500 nor more than $10,000. For purposes of this section, the term "average annual net earnings" means one-half of any net earnings of the business, before Federal, State, and local income taxes, during the two taxable years immediately preceding the taxable year in which such business moves from the real property acquired by the Corporation, or such other period of time as may be determined under paragraph (d) of this section. Earnings shall include any compensation paid by the business to the owner, his spouse, or his dependents during such period. If a business has no average annual net earnings or has an average annual net deficit during the period used to compute average annual net earnings, the person who conducts that business may receive a $2,500 payment if he is otherwise eligible for payment under this section.

(b) A business conducted for profit qualifies for a payment in lieu of moving and related expenses if, in addition to the requirements in paragraph (c) of this section, the Corporation determines that during the two taxable years immediately preceding displacement the business had:

(1) Average gross receipts of at least $2,000 in value; or

(2) Average annual net earnings of at least $1,000 in value; or

(3) Contributed at least 33⅓ percent of the average gross annual income of the owner including income from all sources, such as welfare.

(c) A business or non-profit organization qualifies for a payment in lieu of moving and related expenses, if the Corporation determines that:

(1) It cannot be relocated without substantial loss of existing patronage, taking into consideration such factors as the type of business, the nature of its clientele, the relative importance of the present and proposed locations, and the availability of relocation sites.

(2) It is not part of a commercial enterprise having at least one other establishment engaged in the same or similar business, and not being acquired by the United States.

(d) The Corporation shall:

(1) Prescribe some other time period for computing average annual net earnings if it finds that the two tax years immediately preceding displacement are not representative or the business has not been in operation for at least two years;

(2) Require a displaced person who conducts a business and elects to receive a payment in lieu of moving and related expenses to provide proof of his earnings from the business. Proof of earnings may be established by income tax returns, certified financial statements, or other similar evidence;

(3) Consider the following factors, among others, in determining whether one or more displaced legal entities, constitute a single business for purposes of this section:

(i) The extent to which the same premises and equipment are shared;

(ii) The extent to which substantially identical or intimately interrelated business functions are pursued and business and financial affairs are commingled;

(iii) The extent to which such entities are held out to the public, and to those customarily dealing with such entities as one business; and

(iv) The extent to which one person or closely related persons own, control or manage the entities.

§ 904.27 Fixed payments in lieu of moving and related expenses: individuals and families.

(a) An individual or family displaced from a dwelling who elects to receive a fixed dislocation and moving expense allowance in lieu of payment of actual moving and related expenses is entitled to:

(1) A dislocation allowance of $200; and

(2) The applicable moving expense allowance specified in the schedule of moving expense allowances for the District of Columbia, established and maintained by the Federal Highway Administration (42 FR 35961, July 13, 1977, as amended).

(b) Two or more individuals, not a family, who occupy the same dwelling, are considered to be a single family for the purposes of this section.

Subpart D—Replacement Housing Payments

§ 904.40 Scope.

This subpart prescribes the requirements governing payment for replacement housing for individuals and families displaced from a dwelling actually owned and occupied by such individuals or families as the result of acquisition of the dwelling by the Corporation.

§ 904.41 Eligibility.

(a) A displaced homeowner, who actually owned and occupied the acquired dwelling for at least 180 consecutive days immediately preceding initiation of negotiations for the property, is eligible for a replacement housing payment under §§ 904.42 or 904.43 and, a displaced homeowner, who actually owned and occupied the acquired dwelling for at least 90 consecutive days, but less than 180 days, immediately preceding initiation of negotiations for the property, is eligible for a replacement housing under §§ 904.43 or 904.44 if he:

(1) Qualifies as a displaced person; and

(2) In the case of a payment under §§ 904.42 or 904.44 purchases and occupies, or, in the case of a payment under § 904.43 rents and occupies, a decent, safe and sanitary dwelling within one year after the latest of the following events: The date he receives a final payment of just compensation paid for the acquired dwelling; or the date he moves from the acquired dwelling.

(b) A displaced tenant is eligible for a replacement housing payment under §§ 904.43 or 904.44 if he:

(1) Qualifies as a displaced person;

(2) Actually lawfully occupied the acquired dwelling for at least 90 consecutive days immediately preceding the initiation of negotiations for the property; and

(3) Rents or purchases, and occupies a decent, safe and sanitary dwelling within one year after the effective date he is required to move as stated in the Notice to Vacate, or, if earlier, the date he actually moves.

(c) For the purpose of this section, if a homeowner inherits an interest in a dwelling by devise or operation of law, his tenure of ownership, but not occupancy, includes the tenure of the preceding homeowner.

§ 904.42 Replacement housing payments: purchase.

(a) A displaced homeowner who actually owned and occupied the acquired dwelling for at least 180 days immediately preceding initiation of negotiations, and qualifies under § 904.41(a) is entitled to a replacement housing payment of not more than $15,000, which represents the combined cost of:

(1) The amount, if any, by which the cost of a comparable replacement dwelling as determined under paragraph (b) of this section exceeds the price the Corporation paid for the acquired dwelling;

(2) The amount, if any, necessary to compensate the displaced person for any increased interest costs and other debt service costs to be incurred in connection with the mortgage(s) on the replacement dwelling, as determined under paragraph (c) of this section; and

(3) The amount of the reasonable expenses, as determined in accordance with paragraph (d) of this section that are incidental to the purchase of the replacement dwelling, but not including prepaid expenses.

(b) *Computation of reasonable cost of comparable replacement dwelling.* (1) The Corporation shall compute the amount of payment to which the displaced homeowner is entitled under this section by: (i) Establishing the cost of a comparable replacement dwelling by examining the selling prices of at least three comparable replacement dwellings; and

(ii) Subtracting the price the Corporation paid for the acquired dwelling.

(2) If the displaced homeowner purchases and occupies a decent, safe and sanitary dwelling, for a price less than the amount established in paragraph (b)(1)(i) of this section, then the actual purchase price will be used to compute the amount of the payment. To obtain a payment, however, the purchase price must be higher than the price paid for the acquired dwelling.

(3) If the displaced homeowner purchases and occupies a decent, safe and sanitary dwelling, for a price greater than the amount established in paragraph (b)(1)(i) of this section, then the amount established in paragraph (b)(1)(i) of this section will set the upper limit of the replacement housing payment. The displaced homeowner must pay any part of the purchase price over the cost of a comparable replacement dwelling.

(c) *Computation of increased interest costs.* (1) The amount payable for increased interest costs under paragraph (a)(2) of this section is the present value of the difference in interest costs and other debt service costs (including points paid by the purchaser) charged for refinancing an amount equal to the new mortgage or the balance of the mortgage on the acquired dwelling at the time of acquisition, whichever is less, over a period equal to the term of the new mortgage or the remaining term of the mortgage on the acquired dwelling, whichever is shorter.

(2) For purposes of computing increased interest costs, the following rules apply:

(i) The interest charge on the new mortgage may not exceed the prevailing interest rate currently charged by mortgage lending institutions in the area in which the replacement dwelling is located.

(ii) The present value of the increased interest cost must be computed at the prevailing interest rate paid or savings deposits by commercial banks in the area in which the replacement dwelling is located.

(iii) Purchaser's points or origination fees, or both, where permitted by law, may be added to the increased interest costs upon approval by the Corporation.

(iv) Seller's points may not be added to the increased interest costs.

(d) *Computation of incidental expenses.* (1) The incidental expenses payable under paragraph (a)(3) is the amount necessary to compensate the homeowner or tenant for actual costs incurred incident to the purchase of a decent, safe and sanitary dwelling, including the following:

(i) Legal closing costs, including title search, preparing conveyance instruments, notary fees, surveys, preparing plats, and charges incident to recordation;

(ii) Lender, FHA, or VA appraisal or application fees;

(iii) Certification of structural soundness when required by the lender, FHA, or VA;

(iv) Credit report;

(v) Title policies or abstract of title;

(vi) Escrow agent's fee;

(vii) State revenue stamps or sale or transfer taxes.

(2) An incidental expense which is part of a finance charge under the Truth in Lending Act, Title I, Pub. L. 90-321, and Regulation "Z" (12 CFR Part 226) issued thereunder by the Board of Governors of the Federal Reserve System may not be reimbursed.

§ 904.43 Replacement housing payments: rental assistance.

(a) A person is entitled to a payment of not more than $4,000 for rental assistance as determined in paragraph (b) of this section, if that person:

(1) Qualifies under § 904.41;

(2) Is a displaced homeowner who actually owned and occupied, or a displaced tenant who actually rented and occupied, the acquired dwelling for at least 90 days immediately preceding initiation of negotiations; and

(3) The amounts established in paragraph (b)(2) (i) and (ii) of this section are each greater than the rent paid at the acquired dwelling. For the purposes of this section, the amount used as rent paid at the acquired dwelling shall be the average monthly rent paid during the three months immediately preceding initiation of negotiations for the acquired dwelling. In the case of a homeowner, or in the case of a tenant whose rent was not reasonable, then the economic rent for the acquired dwelling will be the amount used as the rent paid at the acquired dwelling.

(b) Computation of rental assistance.

(1) The Corporation shall establish the amount necessary to rent a comparable replacement dwelling for four years by examining the rent of at least

three comparable replacement dwellings.

(2) The Corporation shall compute the amount of the payment by subtracting 48 times the average monthly rent paid at the acquired dwelling from the lesser of:

(i) The actual rent to be paid for a 4-year term (or 48 times the actual monthly rent) at the replacement dwelling; or

(ii) The rent established in paragraph (b)(1) of this section.

§ 904.44 Replacement housing payments: down payment assistance.

(a) A displaced homeowner who actually owned and occupied the acquired dwelling for at least 90 days but less than 180 days immediately preceding initiation of negotiations or a displaced tenant who actually rented and occupied the acquired dwelling for at least 90 days immediately preceding initiation of negotiations, and qualifies under § 904.41, and purchases a comparable replacement dwelling, is entitled to a payment of not more than $4,000 for down payment assistance.

(b) Computation of down payment assistance. (1) In determining the payment to which the displaced homeowner or tenant is entitled under paragraph (a) of this section, the Corporation shall establish:

(i) The down payment ordinarily required for financing a conventional loan on a comparable replacement dwelling. The comparable replacement dwelling value will be established by examining the price of three available Comparable Replacement Dwellings; or, if less

(ii) The down payment required for financing a conventional loan on the replacement dwelling actually purchased.

(2) Using the amount determined in paragraph (b)(1) of this section, the Corporation shall:

(i) Pay the full amount of the first $2,000 of the down payment required to obtain a conventional loan and incidental expenses as computed under § 904.42(d); plus

(ii) One-half of any amount required over $2,000, but the total amount provided by the Corporation shall not exceed $4,000.

The displaced homeowner or tenant must apply the full contribution of the Corporation to the down payment and incidental expenses.

§ 904.45 Combined payments.

(a) If a homeowner is eligible for payment under § 904.42, but has previously received a rental payment under § 904.43, the amount of rental payment previously received must be deducted from any amount that he receives under § 904.42.

(b) If a homeowner or tenant is eligible for a down payment under § 904.44, but has previously received a rental payment under § 904.43, the amount of rental payment previously received shall be deducted from the amount of any down payment that he receives under § 904.44.

§ 904.46 Occupancy.

(a) A displaced tenant or homeowner "occupies" a dwelling within the meaning of this subpart only if the dwelling is his permanent place of residence.

(b) If a tenant or homeowner contracts for the construction or rehabilitation of a replacement dwelling, and for reasons not within his control the construction or rehabilitation is delayed beyond the date occupancy is required, the Corporation may extend the period of eligibility for a replacement housing payment until the tenant or homeowner occupies the replacement dwelling.

§ 904.47 Inspection of replacement dwelling required.

(a) Before making a replacement housing payment to a displaced homeowner or tenant, or releasing a payment from escrow, the Corporation shall inspect the replacement dwelling to determine whether or not it meets the criteria for decent, safe, and sanitary dwellings. The Corporation may use the services of any public agency ordinarily engaged in housing inspection to conduct the inspection required by this section.

(b) A determination by the Corporation that a dwelling meets the criteria for decent, safe and sanitary housing is solely for the purpose of this subpart and is not a representation for any other purpose.

§ 904.48 Provisional payment pending condemnation.

If the exact amount of a replacement housing payment cannot be determined because of a pending condemnation suit, the Corporation may make a provisional replacement housing payment to the displaced homeowner equal to the difference between the Corporation's estimate of just compensation deposited in court for the property and the reasonable cost of a comparable replacement dwelling, but only if the homeowner enters into an agreement with the Corporation that:

(a) Upon final adjudication of the condemnation suit the replacement housing payment will be recomputed on the basis of the acquisition price determined by the court;

(b) If the acquisition price as determined by the court is greater than the Corporation's estimate of just compensation upon which the provisional replacement housing payment is based the difference will be refunded to the Corporation; and

(c) If the acquisition price as determined by the court is less than the Corporation's estimate of just compensation upon which the provisional replacement housing payment is based, the difference will be paid to the homeowner.

§ 904.49 Partial use of home for business

In the case of a displaced homeowner or tenant who has allocated part of his dwelling for use in connection with a displaced business, a replacement housing payment may not be paid for that part of the property which is allocated to the business.

§ 904.50 Multiple occupants of a single dwelling.

(a) Where two or more individuals, families, or combination thereof occupy an acquired dwelling, the replacement housing payment is based on the cost of a single comparable replacement dwelling.

(b) If a single comparable replacement dwelling is not available on the market, then a single replacement housing payment may be based on the cost of more than one comparable replacement dwelling.

§ 904.51 Dwelling in a multiple unit building.

In the case of a displaced homeowner who is required to move from a unit in a multiple dwelling which he owns, the replacement housing payment must be based on:

(a) The cost of a comparable unit in a multiple dwelling without regard for the number of units in the building being acquired; or

(b) If a comparable unit in a multiple dwelling is not available, the cost of a single-family structure.

§ 904.52 Certificate of eligibility pending purchase of replacement dwelling.

The Corporation shall, upon request of an eligible homeowner or tenant, certify to any interested party, financial institution, or lending agency, the eligibility of the displaced homeowner or tenant, the amount he will receive, and the time limit applicable to the payment if he purchases and occupies a decent, safe, and sanitary dwelling.

Subpart E—Review Procedure

§ 904.70 Scope.

This subpart prescribes the procedures for review of a claim submitted by any person aggrieved by a determination as to the amount of, or eligibility for, benefits under the Act, and these regulations.

§ 904.71 Request for review.

Any person aggrieved by a determination as to the amount of, or his eligibility for, a payment under the Act and these regulations may request that the determination be reviewed. The request shall be in writing, state the reasons for requesting review, and the relief sought by the applicant. The applicant's written request for review shall be sent to the Chief of Real Estate Operations, Pennsylvania Avenue Development Corporation, 425 13th Street NW., Washington, D.C. 20004.

§ 904.72 Time for filing request for review.

Any person who files a request for review must do so within one year of the date of the determination for which review is sought.

§ 904.73 Review procedures.

(a) Upon receipt of a request for review, the Chief of Real Estate Operations shall compile all pertinent records maintained on the applicant's relocation claim, including the following:

(1) Information on which the original determination was based, including applicable regulations;

(2) Information submitted by the applicant including the request for review and any information submitted in support of the claim;

(3) Any additional information the Chief of Real Estate Operations considers relevant to a full and fair review of the claim and which he obtains by request, investigation or research.

(b) The Chief of Real Estate Operations shall submit the complete file together with a summary of the issues and facts involved in the claim to the Chairman of the Board or his designee within 30 days of receipt of the request for review.

(c) The Chairman of the Board of Directors of the Corporation may either review the claim, or, designate one or more persons from the Board of Directors or from outside the Corporation to review the claim. During review the Chairman or designated person(s) may consult with the Corporation's General Counsel to obtain advice on legal issues arising from the claim.

§ 904.74 Final determination.

(a) The reviewer(s) shall make a final determination on the claim within 45 days of receipt of the file from the Chief of Real Estate Operations. The final determination shall be in the form of Findings of Fact and Conclusions of Law and shall be sent to the applicant. A copy of the final determination shall be furnished to the Chief of Real Estate Operations for appropriate action.

(b) If the applicant is determined to have been aggrieved as to eligibility for, or amount of, payment, the Corporation shall promptly make payment to the applicant based on the final determination. If the amount of payment due to the applicant is not stated in the final determination, and the final determination indicates the applicant is to receive a payment, the Corporation shall promptly determine the amount of payment, and shall pay the applicant.

(c) A notice of the right to judicial review shall be sent to the applicant with the final determination.

Subpart F—Acquisition of Real Property

§ 904.80 Scope.

This subpart prescribes procedures for the acquisition of real property by the Pennsylvania Avenue Development Corporation.

§ 904.81 Real property acquisition practices.

(a) In acquiring real property, the Corporation shall to the greatest extent practicable:

(1) Make every reasonable effort to acquire real property expeditiously through negotiation;

(2) Have the real property appraised before the initiation of negotiations and give the owner or his representative an opportunity to accompany the appraiser during inspection of the property;

(3) Before the initiation of negotiations establish an amount which it believes to be just compensation for the real property and make a prompt, written offer to acquire the property for that amount. In no event shall the amount be less than the Corporation's approved appraisal of the fair market value of the property. Any decrease or increase in the fair market value of the real property prior to the date of evaluation caused by the Corporation, The Pennsylvania Avenue Plan—1974, as amended, implementation of the Plan, or by the likelihood that the property would be acquired by the Corporation, other than any increase or decrease due to physical deterioration within the reasonable control of the owner, will be disregarded in determining compensation for the property;

(4) Before requiring any owner to surrender possession of real property: (i) Pay the agreed purchase price; or (ii) deposit with the court an amount not less than the Corporation's approved appraisal of the fair market value of the property;

(5) If any interest in real property is to be acquired by exercise of the power of eminent domain, institute formal condemnation proceedings and not intentionally make it necessary for an owner to institute legal proceedings to establish the taking of his real property;

(6) If the acquisition of only part of a property would leave its owner with an uneconomic remnant, offer to acquire that remnant; and

(7) Schedule the construction or development of a public improvement so that no person lawfully occupying real property shall be required to move from a dwelling or to move his business without at least 90 days written notice of the scheduled date for vacating the property.

(b) In acquiring real property, to the greatest extent practicable, the Corporation shall not:

(1) Charge more than the short-term fair rental value of the property, if the Corporation rents real property for short term to the person who occupied the property at the time of the Corporation's acquisition.

(2) Compel an agreement on the price to be paid for the property by: (i) Advancing the time of condemnation; (ii) deferring negotiations, condemnation, or the deposit of funds in court for use of the owner; or (iii) taking any other action coercive in nature.

§ 904.82 Statement of just compensation to owner.

At the time it makes an offer to purchase real property, the Corporation shall provide the owner with a written statement and summary of the basis for the amount established by the Corporation as just compensation. To the greatest extent practicable, the statement shall include: an identification of the real property, the interests being acquired, and the owner of the interests; an identification of buildings, structures, and other improvements, including fixtures, removable building equipment, and any trade fixtures considered part of the real property for which the offer of just compensation is made; and a declaration regarding the Corporation's determination of just compensation. The declaration shall state that the determination of just compensation:

(1) Is based on the fair market value of the property;

(2) Is not less than the Corporation's approved appraised value of the property;

(3) Disregards any decrease or increase in the fair market value as set forth in § 904.81(a)(3); and

(4) In the case of separately held interests in the real property, includes an apportionment of the total just compensation for each of those interests, including, in the case of partial taking, the amount of damages, if any, to the remaining real property.

§ 904.83 Buildings, structures, and improvements to be acquired.

(a) In acquiring any interest in real property, the Corporation shall acquire at least an equal interest in all buildings, structures, or other improvements located on that real property which must be removed or which the Corporation determines will be adversely affected by the completed project.

(b) In the case of a building, structure, or other improvement owned by a tenant on the real property required to be acquired by paragraph (a) of this section, the Corporation shall, notwithstanding the right or obligation of the tenant to remove such building, structure, or improvement at the expiration of his lease, subject to paragraph (c) of this section, pay the tenant the greater of:

(1) The fair market value that the building, structure, or other improvement contributes to the fair market value of the real property acquired; or

(2) The fair market value of the building, structure or other improvement, for removal from the property.

(c) The Corporation shall not pay a tenant under paragraph (b) of this section unless:

(1) The tenant, in consideration for the payment, assigns, transfers, and releases to the Corporation all his right, title, and interest in the improvement;

(2) The owner of the acquired real property disclaims all interest in the improvement; and

(3) The payment is not duplicated by any payment otherwise authorized by law.

(d) Nothing in this section shall be construed to deprive the tenant of any rights to reject payment under this section and to obtain payment otherwise authorized by law.

§ 904.84 Expenses incidental to transfer of title.

As soon as possible after real property has been acquired, the Corporation shall, to the extent it deems fair and reasonable, reimburse the owner for expenses necessarily incurred for:

(a) Recording fees, transfer taxes, and similar expenses incidental to conveying the real property to the Corporation;

(b) Penalty costs for prepayment of any preexisting recorded mortgage entered into in good faith encumbering the real property; and

(c) The pro rata portion of any prepaid real property taxes which are allocable to a period subsequent to the date of vesting title in the Corporation or the effective date of possession of the real property by the Corporation, whichever is the earlier.

§ 904.85 Litigation expenses.

The Corporation shall pay any award made pursuant to section 304(a) of Pub. L. 91-646 (42 U.S.C. 4654(b)).

§ 904.86 Allowance for benefits prohibited.

No allowance for relocation benefits provided in Title II of the Act and this part may be included in:

(a) Contracts or options to purchase real property;

(b) The appraised value of real property; and

(c) Estimated compensation in the event of condemnation with a declaration of taking.

[FR Doc. 78-34414 Filed 12-8-78; 8:45 am]

[3510-16-M]

Title 37—Patents, Trademarks and Copyrights

CHAPTER I—PATENT AND TRADEMARK OFFICE, DEPARTMENT OF COMMERCE

PART 1—RULES OF PRACTICE IN PATENT CASES

Correction of Interference Rule

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Correction of final rule.

SUMMARY: This notice corrects a rule relating to preliminary statements in patent interferences which was amended effective August 1, 1978. (43 FR 28477, June 30, 1978).

EFFECTIVE DATE: December 11, 1978.

ADDRESS: Information on the rule that came into effect August 1, 1978 is available for public inspection in Room 11E10, Crystal Plaza Building 3, 2021 Jefferson Davis Highway, Arlington, Virginia.

FOR FURTHER INFORMATION CONTACT:

Ian A. Calvert, Chairman, Board of Patent Interferences, Patent and Trademark Office by telephone at (703) 557-3625, or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, D.C. 20231.

SUPPLEMENTARY INFORMATION: The corrections are to FR Doc. 78-18198, which was published at page 28477 in the FEDERAL REGISTER of June 30, 1978. The document also was published in the Patent and Trademark Office's Official Gazette of August 1, 1978 (973 OG 19). The corrections are as follows:

§ 1.217 [Corrected]

1. In § 1.217, appearing on page 28478, after the title and before the first sentence, "(a)" is deleted.

2. In § 1.217, subparagraph (1), second sentence, the phrase "signed or sworn to" is changed to "signed and sworn to".

Dated: October 11, 1978.

DONALD W. BANNER,
Commissioner of Patents and Trademarks.

Approved December 1, 1978.

JORDAN J. BARUCH,
Assistant Secretary for Science and Technology.

[FR Doc. 78-34503 Filed 12-8-78; 8:45 am]

[4310-84-M]

Title 43—Public Lands: Interior

CHAPTER II—BUREAU OF LAND MANAGEMENT, DEPARTMENT OF THE INTERIOR

[Circular No. 2438]

SUBCHAPTER A—GENERAL MANAGEMENT (1000)

PART 1880—FINANCIAL ASSISTANCE, LOCAL GOVERNMENTS

Subpart 1882—Mineral Development Impact Relief Loans

LOANS FOR RELIEF FROM MINERAL DEVELOPMENT IMPACTS

AGENCY: Bureau of Land Management, Interior.

ACTION: Final rulemaking.

SUMMARY: Section 317(c) of the Federal Land Policy and Management Act of 1976, as amended, authorizes the Secretary of the Interior to make loans to qualified States and their political subdivisions to relieve the adverse impacts which may result from the development of mineral deposits leased under the Act of February 25, 1920, as amended. This final rulemaking provides the procedure under which the loan program will be carried out.

DATE: The final rulemaking will be effective January 8, 1979.

ADDRESS: All inquiries should be directed to: Director (210), Bureau of Land Management, 1800 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Robert C. Bruce, 202-343-8735.

SUPPLEMENTARY INFORMATION: Proposed rulemaking was published in the FEDERAL REGISTER on October 20,

1978, and provided for a 30-day comment period. The minimum comment period was provided because the amendment to section 317(c) mandates that regulations carrying out the section must be promulgated by November 20, 1978, 90 days after enactment of the amendment. No written comments were received during the 30 day period. Several phone inquiries were received and answered. Most of the phone inquiries asked for general information concerning the proposed rulemaking and the basis for some of the provisions. One concern that did arise in several of the phone contacts concerned the need to have a pledge from the State for a loan for a political subdivision of that State. This provision was placed in the proposed rulemaking because section 35 payments are made to the States and not to the political subdivisions. Since the amendment states that the only security for loans will be the mineral revenues payable to the States, the Government would have no security for a loan to a political subdivision of a State if such a pledge were not obtained. Section 1882.2(a) of the rulemaking has been amended to clarify that only the States receive mineral leasing revenues under section 35. Sections 1882.2(b) and 1882.3 have been amended to provide assurance that the State and its political subdivisions have legal authority to participate in the loan program and to provide assurance that a participating political subdivision has authority to commit the section 35 revenues paid to the State.

When money is appropriated by the Congress for this program and it is put into operation, the Department will carefully analyze its operation to see if changes are needed in the regulations and needed changes will be made by amending this rulemaking.

The principal author of this rulemaking is Robert C. Bruce, Division of Legislation and Regulatory Management, Bureau of Land Management.

It is determined that the publication of this final rulemaking is not a major Federal action significantly affecting the quality of the human environment and that no detailed statement is required pursuant to section 102(2)(C) of the National Environmental Protection Act of 1969 (42 U.S.C. 4332(2)(C)).

NOTE.—The Department of the Interior has determined that this document is not a significant regulatory action requiring the preparation of a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

Under the authority of section 317(c) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740), Part 1880, Group 1800, Subchapter A, Chapter II of Title 43 of the Code of Federal Regulations is amended by adding a new Subpart 1882 as set forth below.

GUY R. MARTIN,
Assistant Secretary of the Interior.

DECEMBER 6, 1978.

Subpart 1882—Mineral Development Impact Relief Loans

Sec.
1882.0-1 Purpose.
1882.0-2 Objective.
1882.0-3 Authority.
1882.0-5 Definitions.
1882.1 Loan fund, general.
1882.2 Qualifications.
1882.3 Application procedures.
1882.4 Allocation of funds.
1882.5 Terms and conditions.
1882.5-1 Tenure of loan.
1882.5-2 Interest rate.
1882.5-3 Limitation on amount of loans.
1882.5-4 Loan repayment.
1882.5-5 Security for a loan.
1882.5-6 Use of loan.
1882.5-7 Nondiscrimination.
1882.5-8 Additional terms and conditions.
1882.6 Loan renegotiation.
1882.7 Inspection and audit.

AUTHORITY: Sec. 317(c), Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1740) (90 Stat. 2767).

Subpart 1882—Mineral Development Impact Relief Loans

§ 1882.0-1 Purpose.

The purpose of this subpart is to establish procedures to be followed in the implementation of a program under section 317 of the Federal Land Policy and Management Act to make loans to qualified States and their political subdivisions.

§ 1882.0-2 Objective.

The objective of the program is to provide financial relief through loans to those States and their political subdivisions that are experiencing adverse social and economic impacts as a result of the development of Federal mineral deposits leased under the provisions of the Act of February 25, 1920, as amended.

§ 1882.0-3 Authority.

Section 317(c) of the Federal Land Policy and Management Act of 1976, as amended (43 U.S.C. 1744), authorizes the Secretary of the Interior to make loans to States and their political subdivisions to relieve social or economic impacts resulting from the development of Federal minerals leased under the Act of February 25, 1920 (30 U.S.C. 181 et seq.).

§ 1882.0-5 Definitions.

As used in this subpart, the term:

(a) "Secretary" means the Secretary of the Interior.

(b) "Director" means the Director, Bureau of Land Management.

(c) "Act" means the Act of February 25, 1920, as amended (30 U.S.C. 181).

§ 1882.1 Loan fund, general.

Funds appropriated by Congress for loans for relief of adverse social and economic impacts resulting from the development of Federal mineral deposits leased and developed under the Act may be loaned to those States and their political subdivisions who qualify under this subpart. Such loans may be used for: (a) Planning, (b) construction and maintenance of public facilities, and (c) provisions for public services.

§ 1882.2 Qualifications.

(a) Any State receiving payments from the Federal Government under the provisions of section 35 of the Act or any political subdivision of such a State that can document to the satisfaction of the Director that it has suffered or will suffer adverse social and economic impacts as a result of the leasing and development of Federal mineral deposits under the provisions of the Act shall be considered qualified to receive loans made under this subpart.

(b) A loan to a qualified political subdivision of a State receiving payment from the Federal Government under the provisions of section 35 of the Act shall be conditioned upon a showing of proof, satisfactory to the Director, by the political subdivision that it has legal authority to pledge funds payable to the State under section 35 of the Act in sufficient amounts to secure the payment of the loan.

§ 1882.3 Application procedures.

No later than October 1 of the fiscal year in which a loan is to be made, the State or its political subdivision shall submit to the Director a letter signed by the authorized agent requesting a loan. The authorized agent shall furnish proof of authority to act for the State or political subdivision with the application. Such letter shall constitute a formal application for a loan under this subpart and shall contain the following:

(a) The name of the State or political subdivision requesting the loan.

(b) The amount of the loan requested.

(c) The name, address, and position of the person in the State or political subdivision who is to serve as contact on all matters concerning the loan.

(d) A description and documentation of the adverse social and economic impacts suffered as a result of the leasing and development of Federal mineral deposits.

(e) An analysis and documentation of the additional expenses generated as a result of the leasing and development of Federal minerals.

(f) Proposed uses of the funds derived from the loan.

(g) Evidence that the loan and repayment provisions are authorized by State law.

(h) The Director may request any additional information from the applicant that is needed to properly act on the loan application. The applicant shall furnish such additional information in any form acceptable to the applicant and the Director. No loan shall be granted unless such additional information is timely received by the Director.

§ 1882.4 Allocation of funds.

If applications for loans exceed the funds appropriated for such purpose, loans shall be allocated among the States and their political subdivisions in a fair and equitable manner, after consultation with the Governors of the affected States, giving priority to those States and political subdivisions suffering the most severe social and economic impacts. The allocation of funds under this section shall be the final action of the Department of the Interior.

§ 1882.5 Terms and conditions.

§ 1882.5-1 Tenure of loan.

Loans shall be for a period not to exceed 10 years. Loan documents shall include a schedule of repayment showing the amount of the principal and interest due on each installment.

§ 1882.5-2 Interest rate.

Loans shall bear interest at a rate equivalent to the lowest interest rate paid on an issue of at least $1 million of bonds exempt from Federal taxes of the applicant State or any agency thereof within the calendar year immediately preceding the year of the loan. Proof of each rate shall be furnished by an applicant with its application.

§ 1882.5-3 Limitation on amount of loans.

Total outstanding loans under this program for qualified States or their political subdivisions shall not exceed the total amount of the qualified State's projected mineral revenues under the Act for the 10 years following. The total outstanding loans shall be the sum of the unpaid balance on all such loans made to a qualified State and all of its qualified political subdivisions.

§ 1882.5-4 Loan repayment.

Loan repayment shall be by withholding mineral revenues payable to the qualified State for itself or its political subdivisions under the Act until the full amount of the loan and interest have been recovered.

§ 1882.5-5 Security for a loan.

The only security for loans made under this subpart shall be the mineral revenues received by a qualified State or its political subdivisions under the Act. Loans made under this subpart shall not constitute an obligation upon the general property or taxing authority of the qualified recipient.

§ 1882.5-6 Use of loan.

A loan made under this subpart may be used for the non-Federal share of the aggregate cost of any project or program otherwise funded by the Federal Government which requires a non-Federal share for such project or program and which provides planning or public facilities otherwise eligible for assistance under the Act.

§ 1882.5-7 Nondiscrimination.

No person shall, on the grounds of race, color, religion, national origin or sex be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or part with funds made available under this subpart.

§ 1882.5-8 Additional terms and conditions.

The Director may impose any terms and conditions that he determines necessary to assure the achievement of the purpose of the loans made under this subsection.

§ 1882.6 Loan renegotiation.

The Secretary may, upon application of a qualified State or one of its qualified political subdivisions, take any steps he determines necessary and justified by the failure of anticipated mineral development or related revenues to materialize as expected when the loan was made under this subpart to renegotiate the loan, including restructuring of the loan. All applications submitted under this section shall set forth in detail the basis for the renegotiation of the loan. The renegotiated loan shall meet the requirements of this subpart to the extent possible.

§ 1882.7 Inspection and audit.

Upon receipt of a loan under this subpart, the grantee of the loan shall establish accounts and related records necessary to record the transactions relating to receipt and disposition of such loan. These accounts and related records shall be sufficiently detailed to provide an adequate inspection and audit by the Secretary and the Comptroller General of the United States. The loan funds shall not be commingled with other funds of the recipient.

[FR Doc. 78-34429 Filed 12-8-78; 8:45 am]

[1505-01-M]

PART 2650—ALASKA NATIVE SELECTIONS

Reservation of Public Easements

Correction

In FR Doc. 78-33185 appearing at page 55326 in the issue for Monday, November 27, 1978, on page 55331, second column, the date which should have been supplied in the blank in the second full paragraph is "November 27, 1978".

[6315-01-M]

Title 45—Public Welfare

CHAPTER X—COMMUNITY SERVICES ADMINISTRATION

[CSA Instruction 6803-1b]

PART 1068—GRANTEE FINANCIAL MANAGEMENT

Subpart—Allowances and Reimbursements for Members of Policy Making Bodies

AGENCY: Community Services Administration.

ACTION: Final rule

SUMMARY: Title II of the Economic Opportunity Act requires that there be maximum feasible participation of the poor in the planning, conduct and evaluation of programs which affect their lives. To encourage participation of low-income members in policy making bodies, the Act provides allowances and reimbursement expenses incurred in connection with meetings. This document revises the regulations by developing a formula and increasing the amounts payable for such expenses. The revised regulations will provide flexibility and have been reorganized for clarity.

EFFECTIVE DATE: The rule is effective January 10, 1979 since the changes are of benefit to grantees. CSA welcomes comments which will be considered and the rule changed if warranted.

FOR FURTHER INFORMATION CONTACT:

Ms. Maryann J. Fair, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, Telephone Number: (202) 254-5047, Teletypewriter: (202) 254-6218.

It should be noted that a Spanish version of this document is available upon request from the contact person, Ms. Maryann J. Fair.

SUPPLEMENTARY INFORMATION: In implementing Section 244(1) of the Act, the drafters of the 1972 regulation (OEO Instruction 6803-1a) pegged the permissible maximum allowance payable to the poor at a specific dollar figure ($5.00). The same was done for the amount allowable for meals ($2.50 for lunch, $4.00 for dinner and lost wages not to exceed $18.00 a day.) However, due to the effects of inflation these amounts now are unrealistic. The attached Instruction proposes to allow more realistic reimbursements—a maximum of up to $4.00 for lunch; up to $9.00 for dinner; and reimbursement for actual wages lost. We arrived at these figures based on the Federal Travel Regulations. In addition a formula has been developed, based on the Consumer Price Index, on which allowances will be based. This will assure that allowances paid to the poor continue to be realistic regardless of inflationary impact on the value of the dollar.

Categories of board members, eligible for allowances and reimbursements has not changed. Reimbursement will only go to the poor for meals, baby-sitting and lost wages; however, both poor and non-poor can receive reimbursement for transportation.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Part 1068, Subpart—*Allowances and Reimbursements for Members of Policy Making Bodies* is revised to read as follows:

Subpart—Allowances and Reimbursements for Members of Policy Making Bodies

Sec.
1068.5-1 Applicability.
1068.5-2 Background.
1068.5-3 Policy.
1068.5-4 Allowances.
1068.5-5 Reimbursements.
1068.5-6 Procedures.

AUTHORITY: Sec. 602, 78 Stat. 530, (42 U.S.C. 2942).

Subpart—Allowances and Reimbursements for Members of Policy Making Bodies

§ 1068.5-1 Applicability.

This subpart applies to all grantees financially assisted under Titles II and III-B of the Economic Opportunity Act of 1964, as amended, if such assistance is administered by the Community Services Administration.

§ 1068.5-2 Background.

(a) Title II of the Economic Opportunity Act requires that there be maximum feasible participation of the poor in the planning, conduct and evaluation of programs which affect their lives. The Act also requires that at least one-third of the members of a community action agency board be poor or representatives of the poor and CSA administratively requires that the same ratio of poor be included on other grantee boards or that such boards establish policy advisory boards composed of at least 50 percent representatives of the poor.

(b) In order to assure and encourage this participation, Section 244(1) of the Act permits the use of Title II funds to provide reasonable allowances for attendance at board or committee meetings and reimbursement of actual expenses connected with those meetings.

§ 1068.5-3 Policy.

CSA encourages all grantees funded under Titles II, and III-B to make use of this authority by providing allowances to low income members and reimbursing all members of boards and committees for actual expenses incurred in connection with meetings.

§ 1068.5-4 Allowances.

(a) Who can receive an allowance? Any member of a grantee board or committee may be paid an allowance as long as his/her family income falls within the CSA Poverty Guidelines and as long as the member is not an employee of the Federal government, a State, a local public agency, or a CSA grantee or delegate agency.

(b) How often may allowances be provided? Payment of allowances to any board/committee member is limited to two meetings a month regardless of whether the meetings are for the same or different boards and/or committees. Any allowance may be paid if a meeting is called but the board fails to conduct business for lack of a quorum.

(c) How to compute allowances. In attempting to provide a method of computation that is simple yet continues to provide a realistic dollar figure, CSA has determined that a formula making use of the Consumer Price Index will achieve this end. The Index is readily available. It can be found in the *Monthly Labor Review* in public libraries. Following is the formula to be used when determining the amount of allowances:

$$CPI/100 \times \$5 = \$——$$

§ 1068.5-5 Reimbursements.

(a) Reimbursements are payments to cover the cost of certain expenses actually incurred as a result of attendance at a meeting, or in the performance of other official duties and responsibilities in connection with a CSA-funded program. However, if a meeting (or other official activity) takes place outside of the community, payment for all expenses listed below should be made in accordance with CSA Instruction on per diem rates and travel for grantees and not with this Instruction.

(b) Who may be paid a reimbursement? The poor only shall be reimbursed for the following:

(1) *Meals.* The actual costs of meals shall be paid to the poor, only when the time of an official meeting or other official appointment is such as to require attendance during a meal hour and when the meal is not otherwise provided. Reimbursement shall be for the actual cost of the meal (including applicable tax and reasonable tip), but may not exceed $4.00 per person for lunch and $9.00 per person for dinner.

(2) *Baby-sitting expenses.* The poor, only, shall be reimbursed for the actual costs necessarily incurred for the care of their young children while they attend an official meeting. The hourly rate paid must be comparable to that usually paid in the area for such services. In no event shall the rate of hourly reimbursement exceed the Federal minimum wage.

(3) *Lost wages.* When attendance at a meeting involves loss of wages the poor may be reimbursed for actual wages. If during any month lost wages exceed the allowance, then payment shall be in the amount of actual wages lost.

(c) The poor and non-poor may be reimbursed for the following:

(1) *Transportation.* Reimbursement for transportation to and from official appointments is permissible. If private automobile is used the rate shall be in accordance with the CSA Instruction covering travel regulations for CSA grantees and delegate agencies.

(2) *Other expenses.* A grantee or delegate agency may make available to board members the use of telephones in the agency office free of charge for matters relating to official business.

(d) How often can reimbursement be made? Board members may be reimbursed for up to six meetings per month.

§ 1068.5-6 Procedures.

(a) A record of the board's decision regarding the payment or nonpayment of allowances and reimbursements should be maintained by the grantee.

(b) Allowances and reimbursements may not be credited as a non-Federal share contribution in lieu of making payments to eligible board and committee members.

(c) Allowances paid to recipients are reportable by the recipient as income for Federal Income Tax purposes. However, when such allowances are re-

ported as income by a recipient, a deduction may be made from such income for expenses if any were incurred as a result of attending the meeting which were not otherwise reimbursed. Therefore, it is incumbent on the grantee making allowance payments to advise recipients of their reporting responsibilities in this regard. The agency paying such allowances is required to report the total of such payments made to each individual within 30 days after the end of each calendar year or in the case of a terminated grantee within 30 days of the date of termination.

[FR Doc. 78-34420 Filed 12-8-78; 8:45 am]

[6315-01-M]

[CSA Instruction 6903-1a]

PART 1069—GRANTEE PERSONNEL MANAGEMENT

Subpart—Policy and Procedures on $18,000 Per Year Salary Limitation

AGENCY: Community Services Administration.

ACTION: Final rule.

SUMMARY: Title II of the Economic Opportunity Act of 1964 placed limitations on salary levels of employees engaged in carrying out community action program activities and financed under that title. The Community Services Administration is amending its regulations to increase the maximum salary allowable for payment to grantee employees carrying out activities under Title II. This rule is required in order to implement the provisions of the 1978 amendments which authorized such increase. It will assure conformity with the maximum salary allowable for payment to Title II grantees.

EFFECTIVE DATE: This rule is effective January 8, 1979, since the changes are of benefit to grantees. CSA welcomes comments which will be considered and the rule changed if warranted.

FOR FURTHER INFORMATION CONTACT:

Ms. Maryann J. Fair, Community Services Administration, 1200 19th Street, NW., Washington, D.C. 20506, Telephone Number: (202) 254-5047, Teletypewriter: (202) 254-6218.

SUPPLEMENTARY INFORMATION: The 1978 amendments to the Economic Opportunity Act authorize an increase in the maximum salary allowable for payment on Title II funds to grantee employees carrying out activities under Title II from $15,000 to $18,000 per annum. In addition, the Congress has rescinded the preference given to large metropolitan areas in providing exception to the $18,000 limitation by deleting "(particularly in large metropolitan areas)" previously contained in Section 244(2). This subpart reflects those changes.

GRACIELA (GRACE) OLIVAREZ,
Director.

45 CFR Part 1069 is amended by adding the following:

Subpart—Policy and Procedures on $18,000 Per Year Salary Limitation

Sec.
1069.9-1 Applicability.
1069.9—2 Reference.
1069.9-3 Definitions.
1069.9-4 Policy.
1069.9-5 Clarification of effect of $18,000 limitation.
1069.9-6 Criteria and procedures for CSA Exceptions to $18,000 limitation.

AUTHORITY: Sec. 602, 78 Stat. 530, 42 U.S.C. 2942.

Subpart—Policy and Procedures on $18,000 Per Year Limitation

§ 1069.9-1 Applicability.

This subpart is applicable to all employees working on a community action program funded under Title II, Sections 221 and 222(a) of the Economic Opportunity Act of 1964, as amended, if the assistance is administered by the Community Services Administration.

§ 1069.9-2 Reference.

Section 244(2) of the Economic Opportunity Act, as amended; "The Director (of CSA) shall issue necessary rules or regulations to insure that no employee engaged in carrying out community action program activities receiving financial assistance under this title is compensated from funds so provided at a rate in excess of $18,000 per annum, and that any amount paid to such an employee at a rate in excess of $18,000 per annum shall not be considered in determining whether the non-Federal contributions requirements of Section 225(c) have been complied with; the Director may, however, provide in those rules or regulations for exceptions covering cases where, because of the need for specialized or professional skills or prevailing local salary levels, application of the foregoing restrictions would greatly impair program effectiveness or otherwise be inconsistent with the purposes sought to be achieved."

§ 1069.9-3 Definitions.

(a) *Employee.* A person considered an employee for the purpose of withholding Federal income tax. For example, experts and consultants performing services on an intermittent or occasional basis will usually not be employees and will usually not be covered by the restriction. Volunteer service is the valuation of volunteered services, which the volunteer receives no compensation.

(b) *Project funds.* Funds received from CSA as part of the Federal share of a grant or contributed locally as part of the approved non-Federal share of an CSA grant.

§ 1069.9-4 Policy.

(a) The 1978 amendments to the Economic Opportunity Act authorized an increase in the maximum salary allowable for payment to employees carrying out activities under Title II to $18,000. Anytime this limitation is to be exceeded, regardless of the cause, e.g. step increases, promotions, etc. approval by CSA is requested. Also, any succeeding increases or promotions for position again must receive CSA approval. However, the $18,000 limitation does not include the value of fringe benefits allowable under CSA policies.

(b) Note that the legislative permission to grant exceptions is a means to avoid situations in which the salary limitation would impair program effectiveness. It does not give any general permission for liberalization of salaries at or near $18,000.

§ 1069.9-5 Clarification of effect of $18,000 limitation.

(a) *Local payment of salaries over $18,000 per year.* The legislation does not forbid local agencies from paying community action employees at a rate over $18,000 per year in those cases where CSA does not approve such a salary. The Act provides only that the excess compensation is granted. Local agencies may pay more than the $18,000 rate, using their own sources for the excess compensation.

(b) *Impact on new employees.* In cases where CSA has approved a salary above $18,000 for a position under the provisions of this directive and there is a change in the incumbent of that position, it will not normally be necessary to request a new waiver if the duties and responsibilities of the position remain essentially the same and the approved salary was not based on the comparability data of the community from which the previous incumbent was hired.

(c) *Effect of restriction on part-time CAP employees.* Where an employee spends only part-time working on a community action program, the $18,000 per year restriction will apply pro rata to that portion of the work which is charged to the community action program.

§ 1069.9-6 Criteria and procedures for CSA exceptions to $18,000 limitation.

(a) In general, procedures for applying for an exception to the $18,000

limitation will be part of the regular grant approval process. Although it is expected that most requests for an exception to the $18,000 limitation will be made at the time of the grant application, a grantee may initiate a request for an exception at any time during the program year. No matter when the request is made, however, CSA administering offices will specifically inform the grantee in writing when such a request is approved.

(b) At a minimum, the notification will contain the specific identification of the position (and the applicant and his/her last community in which he/she was employed if approval is based on salary rates that prevail in the community from which hired), the salary requested, the salary approved and the effective time period covered.

(1) Types of Positions Eligible for Exception. The grantee may apply for an exception to the $18,000 limitation for any specific position which calls for a person of specialized skills or other qualifications requiring a rate of pay in excess of $18,000 per year, e.g. physicians, dentists, lawyers. Top administrators of large and complex programs, e.g. executive director of a large metropolitan area CAA or of a multi-county rural CAA involving a complex coordinating role and administration of a large poverty program with many components may also be excepted.

(2) Criteria for CSA Approval of Salaries in Excess of $18,000 per Year Rate. In all cases the grantee must provide documentation and CSA approval will be based upon, the following considerations:

(i) Programmatic Need for Salary Requested. Consider both the need for that position and the need for a person with qualifications calling for the salary requested.

(ii) Also consider the anticipated reduction in program effectiveness if a person of lower qualifications were hired and any anticipated difficulties in recruiting persons if a lower rate were paid.

(3) Wage Comparability. Generally, the salary paid must be comparable to the prevailing salary level for comparable positions in the community of the CSA-funded agency or must be comparable to the prevailing salary level for similar positions in the community in which the person hired held in his/her last preceding employment. (See OEO Instruction 6900-02).

(c) The administering offices may request additional justification and/or documentation from the grantee or delegate agency if the submission is inadequate as a basis for judgment.

[FR Doc. 78-34421 Filed 12-8-78; 8:45 am]

[4910-60-M]

Title 49—Transportation

CHAPTER I—RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION, DEPARTMENT OF TRANSPORTATION

[Docket No. HM-139; Amdt. Nos. 172-49, 173-125]

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

Conversion of Individual Exemptions to Regulations of General Applicability

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final rule.

SUMMARY: This action is being taken to incorporate into the Department's Hazardous Materials Regulations a number of changes based on the data and analysis supplied in selected exemption applications or from existing exemptions. The need for this action has been created by the public demand to make available new packaging and shipping alternatives that have proven themselves safe under the Department's exemption program. The intended effect of these amendments is to provide wider access to the benefits of transportation innovations recognized and shown to be effective and safe.

EFFECTIVE DATE: December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Associate Director for Hazardous Materials Regulations, 2100 2nd Street, S.W., Washington, D.C. 20590 (202-426-0656).

SUPPLEMENTARY INFORMATION: On September 7, 1978, the Materials Transportation Bureau (MTB) published a Notice of Proposed Rulemaking, Docket HM-139; Notice No. 78-10 (43 FR 39835) which proposed these amendments. The background and the basis for incorporating these exemptions into the regulations were discussed in that notice. Interested persons were invited to give their views prior to the closing date of October 10, 1978. Primary drafters of this document are Darrell L. Raines and John C. Allen, of the Office of Hazardous Materials Regulations, Exemptions and Regulations Termination Branch, and Evan C. Braude, of the Office of the Chief Counsel, Research and Special Programs Administration.

Only three comments were received concerning Notice 78-10. One commenter expressed support for the proposal to add an asterisk to the Hazardous Materials Table in § 172.101 for the entry "Di-(2-ethylhexyl) phosphoric acid." Another commenter supported the proposal to add the DOT Specification 56 portable tank for magnesium metallic powder in § 173.220, but suggested some small changes in the proposed wording. The most significant change to that proposal, which has been incorporated in the amendment, is the requirement to pressurize the tank with 2 psig of nitrogen before shipment. The commenter, who is also the holder of DOT-E 7423, maintains that this is necessary to eliminate vapor spaces in the tank which could cause moisture problems after the magnesium powder has been loaded.

The third, and last, commenter objected to the proposal to add tungsten hexafluoride (DOT-E 2901) to §§ 172.101 and 173.284. The commenter maintains that the proper classification should be nonflammable gas and that packages should bear both nonflammable gas and poison labels. The Bureau disagrees with this position. Tungsten hexafluoride has been shipped under DOT-E 2901 as a corrosive material for over twenty-five years and the commenter has submitted no information supporting a change in the hazard class. The classification of this material is based on the information supplied by the exemption holder and on information available to DOT. In view of the successful shipping experience using the 3A, 3AA, 3BN and 3E cylinders for both air and surface shipments, the Bureau believes this rule change should be incorporated as proposed in Notice 78-10. However, paragraph (b) of that proposal is deleted since MTB is convinced that the containers in § 173.245 are not adequate for this corrosive material for surface transportation. Shipments will be limited strictly to 3A, 3AA, 3BN and 3E cylinders for all modes.

The only other change from the proposals presented on September 7, 1978, involves the proposal to authorize Specification 112A200W tank cars for acrylonitrile. This has been accomplished through a change to § 173.119(m)(14) rather than paragraph (m)(15) as originally proposed.

In consideration of the foregoing, 49 CFR Parts 172 and 173 are amended as follows:

1. In § 172.101, the Hazardous Materials Table is amended by adding, in alphabetical sequence, entries for pinane hydroperoxide solution and tungsten hexafluoride, and by revising two other entries as follows:

§ 172.101 Hazardous Materials Table.

(1)	(2)	(3)	(4)	(5)		(6)		(7)		
				Packaging		Maximum net quanity in one package		Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exceptions	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirements
	(Revise)									
*	Di-(2-ethylhexyl) phosphoric acid	Corrosive material	Corrosive	173.244	173.245	1 quart	10 gallons	1,2	1,2	
	*	*			*		*			*
	(Add)									
	Pinane hydroperoxide solution not over 45% peroxide.	Organic peroxide	Organic peroxide	173.153	173.224	1 quart	1 quart	1,2	4	
	*	*			*		*			*
	(Revise)									
*	Soda lime, solid	Corrosive material	Corrosive	173.244	173.245b	25 pounds	100 pounds	1,2	1,2	Keep dry.
	*	*			*		*			*
	(Add)									
	Tungsten hexafluoride	Corrosive material	Corrosive	None	173.284	Forbidden	110 pounds	1	5	Segregation same as for nonflammable gases.
	*	*			*		*			*

2. In § 173.119, paragraph (m) (14) is revised to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

* * * * *

(m) * * *

(14) Specification 105A100W or 112A200W (§§ 179.200, 179.201, 179.100, 179.101 of this subchapter). Tank cars. Authorized only for propylene oxide except 112A200W also authorized for acrylonitrile.

* * * * *

3. In § 173.220, paragraph (b)(2) is added to read as follows:

§ 173.220 Magnesium or zirconium scrap consisting of borings, clippings, shavings, sheets, turnings, or scalpings, and magnesium metallic (other than scrap), powdered, pellets, turnings, or ribbon.

* * * * *

(b) * * *

(2) Specification 56 (§ 178.252 of this subchapter). Portable tank. Not authorized for transportation by water. For magnesium powder, the following additional requirements must also be met:

(i) The tank must be pressurized with 2 psig of nitrogen before shipment and the pressure relief valve must have a maximum setting of 3 psig; and

(ii) The tank must have both a siftproof valve with a locking pin and a plug or blind flange on the bottom opening.

4. In § 173.224, the heading and paragraph (a)(4) are revised to read as follows:

§ 173.224 Cumene hydroperoxide, dicumyl peroxide, diisopropylbenzene hydroperoxide, paramenthane hydroperoxide, pinane hydroperoxide, and tertiary butylisopropyl benzene hydroperoxide.

(a) * * *

(4) Specification MC 310, MC 311 or MC 312 (§ 178.343 of this subchapter). Tank motor vehicles. Authorized for paramenthane hydroperoxide of strength not exceeding 60 percent in a nonvolatile solvent. Authorized for pinane hydroperoxide of strength not exceeding 45 percent in a nonvolatile solvent. Authorized for cumene hydroperoxide of strength not exceeding 90 percent in a nonvolatile solvent in MC 311 or MC 312 cargo tanks only.

5. In § 173.232, paragraph (a) is revised to read as follows:

§ 173.232 Aluminum metallic powder.

(a) Aluminum flake powders which have been rendered nondusting by agglomerating or other treatment of the individual particles, aluminum granules, aluminum atomized powder and aluminum paste are not subject to the requirements of this subchapter.

* * * * *

6. In § 173.252, paragraph (a)(4) is revised to read as follows:

§ 173.252 Bromine.

(a) * * *

(4) Specification MC 310 or MC 312 (§ 178.343 of this subchapter). Tank motor vehicles. Each tank must have a shell and head thickness of at least $\frac{3}{8}$-inch. Each tank must have a nickel cladding material on the inside surface comprising at least 20 percent of the total thickness or be lined with lead at least $\frac{3}{16}$-inch thick. The cladding material must conform to requirements of ASTM Specification B-162-69. The composite plate must conform to requirements of ASTM Specification A-265-69. The maximum quantity of liquid bromine loaded into the tank must not exceed 300 percent of the water weight capacity of the tank. The total quantity loaded must not be less than 95 percent of the quantity the tank is authorized to carry.

* * * * *

7. Section 173.284 is added to read as follows:

§ 173.284 Tungsten hexafluoride.

(a) Tungsten hexafluoride must be packed in specification containers as follows:

(1) Specification 3A, 3AA, 3BN, or 3E (§§ 178.36, 178.37, 178.39, 178.42 of this subchapter). Cylinders. Cylinders shall be equipped with a valve protection cap or be packed in a strong outside container adequate to protect valves. Outlets of any valves must be capped or plugged. As an alternate, the cylinder opening may be closed by the use of a metal plug. Specification 3E cylinders must be shipped in an overpack.

8. In § 173.314 paragraph (c) the Table is amended by deleting the reference Note 7 and substituting therefor Note 25 in the following entries: anhydrous ammonia, chlorine, hexafluoropropylene, and sulfur dioxide; the entry "Monobromotrifluoromethane" is revised; reference to Note 26 is added in the following entries: dimethylamine, anhydrous, monomethylamine, anhydrous, and trimethylamine anhydrous; and Note 26 is added at the end of the Table to read as follows:

§ 173.314 Requirements for compressed gases in tank cars.

* * * * *

(c) * * *

Kind of gas	Maximum Permitted filling density, Note 1	Required tank car, see § 173.31(a)(2) and (3)
	Percent	
Anhydrous ammonia	50.0	DOT-106A500-X, Note 25
	57.0	DOT-105A300W.
	57.0	DOT-112A400-F, 112A340W, 114A340W, Notes 15 and 24.
	58.8	DOT-112A400-F, 112A340-W, 114A340-W, Notes 15 and 24.
* * * * *		
Chlorine	125	DOT-106A500X, Note 25
	125	DOT-105A500W, Note 12.
* * * * *		
Dimethylamine, anhydrous	59	DOT-106A500X.
	62	DOT-105A300W, Notes 4 and 26.
	61	DOT-112A340W, 112A400W, Note 26.
* * * * *		
Hexafluoropropylene	110	DOT-106A500X, 110A500W, Note 25.
* * * * *		

Kind of gas	Maximum Permitted filling density, Note 1	Required tank car, see § 173.31(a)(2) and (3)
	Percent	
Monobromotrifluoromethane	124	DOT 110A800W, Notes 7 and 13
	140	DOT 105A500W, Note 13
* * * * *		
Monomethylamine, anhydrous	60	DOT-106A500X
	62	DOT-105A300W, Notes 4 and 26.
	61	DOT-112A340W, 112A400W, Note 26.
* * * * *		
Sulfur dioxide	125	DOT-106A500X, 110A500W, Note 25. DOT-105A200W
* * * * *		
Trimethylamine, anhydrous	57	DOT-106A500X
	59	DOT-105A300W, Note 4 and 26.
	58	DOT-112A340W, 112A400W, Note 26.
* * * * *		
* * * * *		

Note 26: For these materials only, Specifications 105A300W and 112A340W tank cars may be equipped with safety relief devices with a start-to-discharge pressure setting of 247.5 psi and 280.5 psi respectively.

9. In § 173.315 paragraph (a) the Table is amended by adding an entry for monobromotrifluoromethane in proper sequence to read as follows:

§ 173.315 Compressed gases in cargo tanks and portable tank containers.

(a) * * *

[4910-60-C]

	Maximum permitted filling density		Specification container required	
	Percent by weight (see Note 1)	Percent by volume (see par. (f) of this section)	Type (see Note 2)	Minimum design pressure (psig)
Monobromotrifluoromethane---- (See Note 9)	133	See Note 7	DOT-51, MC 331	365

* * * * *

[4910-60-C]

In § 173.358, paragraph (a)(14) is revised to read as follows:

§ 173.358 Hexaethyl tetraphosphate, methyl parathion, organic phosphate compound, organic phosphorous compound, parathion, tetraethyl dithio pyrophosphate, and tetraethyl pyrophosphate, liquid.

(a) * * *

(14) Specification MC 310, MC 311, MC 312, MC 330 or MC 331 (§§ 178.343, 178.337 of this subchapter). Tank motor vehicle. Bottom outlets, if any, must be equipped with valves conforming with § 178.337-11(c) of this subchapter. MC 311 or MC 312 must have a minimum material thickness of 3/16-inch and designed for a product weight of 13 pounds per gallon or over. Contents of the tank must be under no gas pressure except its own vapor pressure. Authorized for parathion, methyl parathion and organic phosphate compound only, and by private motor carrier only.

11. In § 173.359, paragraph (a)(16) is revised to read as follows:

§ 173.359 Hexaethyl tetraphosphate mixtures; methyl parathion mixtures; organic phosphorous compound mixtures; organic phosphate compound mixtures; parathion mixtures; tetraethyl dithio pyrophosphate mixtures; and tetraethyl pyrophosphate mixtures, liquid (includes solutions, emulsions, or emulsifiable liquids).

(a) * * *

(16) Specification MC 310, MC 311, MC 312, MC 330, or MC 331 (§§ 178.343, 178.337 of this subchapter). Tank motor vehicle. Bottom outlets, if any, must be equipped with valves conforming with § 178.337-11(c) of this subchapter. MC 311 or MC 312 must have a minimum material thickness of 3/16 inch and designed for a product weight of 13 pounds per gallon or over. Contents of the tank must be under no gas pressure except its own vapor pressure. Authorized for parathion mixtures, methyl parathion mixtures and organic phosphate compound mixtures only, and by private motor carrier only.

* * * * *

12. In § 173.850, paragraph (a)(8) is added to read as follows:

§ 173.850 Lime, unslaked; quicklime; and calcium oxide.

(a) * * *

(8) Portable tank with gross weight not over 7,000 pounds.

* * * * *

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) of Appendix A to Part 106).

NOTE.—The Materials Transportation Bureau has determined that this document constitutes a non-major regulation under Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available for review in the docket.

Issued in Washington, D.C., on December 1, 1978.

L. D. SANTMAN,
Director,
Materials Transportation Bureau.

[FR Doc. 78-34368 Filed 12-8-78; 8:45 am]

[4910-60-M]

[Docket No. HM-143; Amdt. Nos. 172-48, 173-124, 174-34, 175-8, 176-7, 177-45]

BLASTING AGENTS

Final Rules

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Final Rule.

SUMMARY: The purpose of this rule is to amend various sections of the regulations to:

1. Add a new shipping name, Blasting agent, n.o.s., a new class, Blasting agent, and a definition and test criteria for blasting agents.
2. Remove the shipping name Nitro carbo nitrate from the regulations and add two entries for Ammonium nitrate fuel oil mixtures.
3. Prescribe packaging requirements for Blasting agents; and
4. Prescribe a label and a placard for Blasting agents.

The inclusion of a blasting agent description and class will contribute to increased safety in transportation because some materials now shipped as nitro carbo nitrates (oxidizing materials) present a potential explosive hazard. Establishing a blasting agent class will bring the DOT regulations into closer conformity with Mining Enforcement and Safety Administration (MESA) and Bureau of Alcohol, Tobacco, and Firearms (BATF) regulations, which now incorporate definitions of blasting agents.

EFFECTIVE DATE: August 15, 1979; however, shipments may be prepared, offered for transportation, and transported in accordance with these amendments beginning March 15, 1979.

FOR FURTHER INFORMATION CONTACT:

Alan I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: The Office of Hazardous Materials Operations published a notice of proposed rulemaking under docket HM-143 on November 26, 1976 (41 FR 52083; Notice 76-11). At the request of one of the major producers of nitro carbo nitrates, a public conference was held on September 23, 1977.

The principal drafters of this document are Charles W. Schultz, Technical Services Branch, Office of Hazardous Materials Regulation, and George W. Tenley, Office of the Chief Counsel, Research and Special Programs Administration.

Comments on the notice were received from a total of twenty-one organizations and persons. All comments have been carefully considered and the significant comments are discussed as they apply to the sections appearing in the notice.

Section 172.101 Hazardous Materials Table: One commenter objected to the n.o.s. following the blasting agent description because he said it implies that there are other blasting agents which are specifically named. The Materials Transportation Bureau (MTB) does not agree since it is adding the shipping name, ammonium nitrate-fuel oil mixtures to the table and contemplates that other specific descriptions for blasting agents will be added in the future.

Two commenters said that the description nitro carbo nitrate (NCN) is a more specific name than blasting agent and recommended that the shipping description NCN be retained. The MTB believes that this description should no longer be used since it has been so closely associated with the Oxidizer class for many years and has only been recognized as a description by other agencies because it is contained in the DOT regulations. Also the term is considered so vague that its continued use would cause considerable confusion in light of the new test criteria being adopted in this amendment for classification purposes. In consideration of the fact that a very large volume of the materials to be classed as blasting agents are ammonium nitrate fuel oil mixtures, a shipping description is being provided for such mixtures, as an alternative to the Blasting agents, n.o.s., description, if they meet the definition and test procedures specified for blasting agents.

Concerning the commenters' argument that such materials be retained in the Oxidizer class, the MTB acknowledges the good shipping experience of these materials in the past. However, they do present a potential explosive hazard, though very insensitive to fire and shock, and this potential risk should be recognized through appropriate classification and resultant labeling and placarding. Therefore, the MTB does not agree that such materials should be retained in the Oxidizer class.

Section 172.411 Explosive A, Explosive B, Explosive C and Blasting Agent labels: One commenter stated that the colors prescribed for the blasting agent label associated these products with explosives. He also said "The label * * * doesn't contain the Hazard Symbol * * * a direct contradiction to OHM's reasoning for symbols as directed in HM 103-112." The MTB considers blasting agents to be very insensitive explosives and, as stated in the preamble to the notice, the reason no symbol is displayed is due to the fact that blasting agents present a much lower level of hazard in terms of their detonation potential than Class A and Class B explosives for which an "exploding bomb" is displayed on the label. This is analogous to the labeling system recommended by the United Nations where no hazard symbol is required on labels for Division 1.5 materials.

Section 172.504 General placarding requirements: Two commenters pointed out that no provisions had been made indicating under what conditions the blasting agent placard will be required. Blasting agents will be placed in Table 2 immediately following Class C explosives.

Section 172.524 Blasting Agents placard: The MTB considers that a BLASTING AGENT placard rather than an OXIDIZER placard is necessary to alert emergency personnel that an explosion is possible if blasting agents are involved in large fires.

Five organizations commented on the proposed placards for blasting agents. The main criticisms were that the placards are too small and of the wrong color and shape. The blasting agent placard is similar in these respects to those required for explosives and it would be incongruous to require a larger placard for a material having less potential hazard than Class A and Class B explosives. If one of the placards for explosives or blasting agents is changed, all would have to be changed, which is beyond the scope of this rulemaking. The MTB, however, will be initiating a proceeding during 1979 to evaluate overall experience with the new placard system adopted under Docket HM-103/112 in 1976 and review all related questions and concerns including those raised in this rulemaking. The Bureau recognizes the concerns raised by those commenters objecting to addition of a new placard. Offsetting this is the fact that virtually all of the proponents of this rulemaking, the shippers of blasting agents, will be required to placard rail cars and freight containers, and will be

required to give BLASTING AGENT placards to motor carriers if their vehicles are not equipped with such placards. Also, the Bureau is not making compliance with this amendment mandatory for approximately eight months following its publication to allow sufficient time for the making of necessary adjustments in shipper/carrier programs.

Section 173.86 New explosives and blasting agent definitions; approval and notification: Three commenters objected to placing blasting agents in this section, recommended that the entire section be moved to a new § 173.52a, and that changes be made to the section. While § 173.86 has been located in the part of the regulations governing Class A explosives for many years, it has always been applicable to all classes of explosives. The proposals to move it to another section will be considered in a future rulemaking action involving recodification.

Section 173.96 (now 173.114a) Blasting agents. (a) Definition of blasting agent. Six organizations commented on the proposed definition of a blasting agent.

One commenter stated that the proposed definition was not really a definition because it does not specify physical properties or chemical composition and that a definition should not be based on a negative test. The present definition of nitro carbo nitrate (NCN), to which the commenter apparently does subscribe, also does not specify any physical properties and addresses chemical composition in only the most general terms. The NCN definition also incorporates a negative test—i.e., the material may not detonate when tested with a number 8 blasting cap. The physical properties and chemical compositions of materials which will be included in the blasting agent description are of such great variety that it would be impossible to describe them in a regulation of any reasonable length.

This same commenter objected to the phrase "* * * very little probability of initiation to explosion or of transition from burning to detonation under conditions incident to transportation * * *." It was further stated that "the railroad industry firmly believes that MTB and the commodity manufacturer must be certain that a material will not detonate before it is classed as nondetonable." This appears to be a rather paradoxical comment since his opening comments indicated that the overall proposal "* * * is neither wise nor necessary." Presently, NCNs are transported as oxidizing materials and are known to be detonable under certain conditions. They are designed to function by detonation and would be of no commercial value if they were nondetonable.

Two commenters objected to the fact that the definition did not include a prohibition against ingredients which are explosives as defined in the regulations. The MTB believes that such a prohibition is neither necessary nor desirable. There are many explosive formulations, which contain no explosive ingredients, which are far more hazardous than those containing such ingredients. An obvious example of this is explosives composed of chlorates and organic materials compared with commercial dynamite which contains nitroglycerin. The former are so hazardous and unpredictable that they are no longer produced as commercial explosives in the United States while dynamite has been used commercially for many years and is still being used in some applications.

Several commenters were concerned that the ingredients in blasting agents containing explosives might separate out during storage. Any separation of components of the blasting agents which occurs in the packaging is a localized change in composition and character of the material and the product may not be offered for transportation unless it has been established that the separation will not result in an increased level of hazard.

One commenter expressed concern about the behavior of blasting agents containing explosive ingredients in a fire. The rule requires that the largest commercial package (up to 200 kg) be subjected to a fire test. Any instability under these conditions should be detected in this test.

Four commenters objected to placing blasting agents in § 173.96 which is under the heading CLASS B EXPLOSIVES; DEFINITIONS. The commenters interpreted this as implying that the MTB was considering blasting agents to be similar to Class B explosives. There was no intent by the MTB to relate blasting agents to Class B explosives since such a relationship would be inappropriate in most instances.

One commenter suggested that blasting agents be placed in Subpart E of Part 173. This subpart covers flammable solids, oxidizers and organic peroxides. Another commenter suggested that blasting agents be placed in a new § 173.114a. The MTB believes that the hazards of blasting agents in transportation are more closely associated with those of explosives than with flammable solids and oxidizing materials and is placing the entry in a new § 173.114a until the codification efforts are completed.

Several commenters stated that the proposed definition appeared to restrict blasting agents to those materials used in the mining industry. The definition has been reworded to correct this impression.

Section 173.96(b) (now 173.114a(b)) Tests: There were many comments on the proposed tests. There was almost unanimous objection to the card-gap test. Tests conducted by the manufacturers of blasting agents and by the U.S. Bureau of Mines have demonstrated that the card-gap test described in DOD TB 700-2 (May 19, 1967) is not suitable for most materials which would be described as blasting agents. Tests conducted at the U.S. Bureau of Mines also showed that a meaningful card-gap test, the blasting cap test, and the bullet (projectile) test all gave the same results as far as potential transportation hazards are concerned. Therefore, the rifle bullet test and the card-gap test are not being adopted. Tests also established that the lead witness cylinder, presently described in Note 1 to § 173.53 is a more sensitive indicator of detonation than the detonating cord proposed in the notice. Since the use of the detonating cord witness might allow some materials to be classed as blasting agents which would not pass the blasting cap test if a lead witness cylinder were employed, the blasting cap test has been modified to require the lead cylinder witness. Several commenters said that the 500 gram test portion proposed in the thermal sensitivity test is too large for practicable testing. The MTB agrees and has reduced the sample size to 50 grams.

Section 173.96(c)(2) (now 173.114a(c)(2)). There were many objections to the positive statement that blasting agents may not be transported in portable tanks, cargo tanks or tank cars. The MTB believes that this prohibition is necessary for safety in transportation because:

1. The largest package required to be tested in a fire under the rule is 200 kg. The results of a test on this quantity do not necessarily indicate what would happen if a 3000 gallon tank of the same material was involved in a fire. In certain instances, the MTB might want to require additional testing before authorizing the transport of blasting agents in bulk.

2. The initiation to explosion of high energy liquids in bulk is not completely understood. The MTB might require special testing of a highly fluid blasting agent before allowing bulk transport.

Section 174.81 (Amended). This paragraph has been changed to place blasting agents after Class C explosives in the loading and storage table.

Section 175.78 Stowage compatibility of cargo. One commenter noted that there was nothing in the air carrier regulations to prevent blasting agents from being loaded in contact with or close proximity to special fireworks and railroad torpedoes. This prohibition has been added.

Section 175.320 Cargo-only aircraft; only means of transportation.

The table has been amended to replace "oxidizing materials" and "Nitrocarbonitrate" with blasting agent, n.o.s. The reason for this is that nitrocarbonitrates are now classed as oxidizers and the restrictions applying to nitrocarbonitrate must now be applied to blasting agents. This change was overlooked in the notice.

Section 176.83 (a) and (b): A new entry, blasting agents, n.o.s., has been added to Table I under item 17.

Blasting Agents has been added after Explosives C in Table II.

Section 177.848(a): This paragraph has been changed to place blasting agents after Class C explosives in the loading and storage table.

In consideration of the foregoing, 49 CFR Parts 172, 173, 174, 175, 176 and 177 are amended as follows:

PART 172—HAZARDOUS MATERIALS TABLE AND HAZARDOUS MATERIALS COMMUNICATIONS REGULATIONS

1. Section 172.101 is amended by deleting the entry "nitro carbo nitrate," and adding the following entries to read as follows:

§ 172.101 Hazardous Materials Table.

(1)	(2)	(3)	(4)	(5) Packaging		Maximum net quantity in one package		(7) Water shipments		
*/ W/ A	Hazardous materials descriptions and proper shipping names	Hazard class	Labels(s) required (if not excepted)	(a) Exception	(b) Specific requirements	(a) Passenger carrying aircraft or railcar	(b) Cargo only aircraft	(a) Cargo vessel	(b) Passenger vessel	(c) Other requirement
	(Add)									
	Blasting Agent, n.o.s.	Blasting agent	Blasting agent	None	173.114a	Forbidden	100 lb	1, 2	1, 2	
	Ammonium nitrate - fuel oil mixtures see blasting agent									
	Ammonium nitrate - fuel oil mixtures see High explosive									

2. In § 172.411 the Heading is revised and new paragraphs (c) and (d) are added to read as follows:

§ 172.411 EXPLOSIVE A, EXPLOSIVE B, EXPLOSIVE C, and BLASTING AGENTS labels.

* * * * *

(c) Except for size and color, the BLASTING AGENT label must be as follows:



(d) In addition to complying with § 172.407, the BLASTING AGENT label must be orange. The printing must be black.

3. In § 172.504 Table 2 is amended by adding the following entry immediately following "Class C explosives":

"Blasting agents	BLASTING AGENT"

4. Section 172.524 EXPLOSIVES B placard is redesignated § 172.523; a new § 172.524 is added to read as follows:

§ 172.524 BLASTING AGENTS placard.

(a) Except for size and color, the BLASTING AGENTS placard must be as follows:



(b) In addition to meeting the requirements of this part, the BLASTING AGENTS placard must be orange with a ½-inch (12.7 mm) white outer border. The printing must be black.

5. Appendix B to Part 172 is amended by adding a new paragraph (c)(19) to read as follows:

(c) * * *

(19) *BLASTING AGENTS placard.* The words BLASTING AGENTS must be across the center area of the placard and made with letters 1⅞ inches (47.6 mm) high with a 3/16-inch (7.9 mm) stroke.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

6. In § 173.86 the Heading is revised to read as follows:

§ 173.86 New explosives and blasting agents, definitions; approval and notification.

* * * * *

7. Section 173.114a is added to read as follows:

§ 173.114a Blasting agents.

(a) *Definition of a blasting agent.* A blasting agent is a material designed for blasting which has been tested in accordance with paragraph (b) of this section, and found to be so insensitive that there is very little probability of accidental initiation to explosion or of transition from deflagration to detonation.

(b) *Tests.* Materials which are to be described as Blasting agents, n.o.s. for purposes of transportation, must be tested in accordance with this paragraph.

(1) Blasting cap sensitivity test.

(i) The container used for the blasting agent sample must be cylindrical, having a diameter of 3⅜ inches and a length of 6⅜ inches. The container must provide essentially no confinement.

(ii) The container must be filled with the sample. Solid materials must be packed to the same filling density as they will be packed in the shipping container. The temperature of the sample must be between 70°F. and 75°F. If it is difficult to achieve an appropriate filling density in the test container, e.g., auger packed products, it may be necessary to auger fill a special container for the test.

(iii) The filled container must be placed on a solid lead cylinder 4 inches long by 2 inches diameter which must, in turn, be placed upright on a firm surface.

(iv) A commerical No. 8 fuse blasting cap or electric blasting cap must be inserted in the center of the top of the sample for the full length of the cap. A No. 8 commercial cap means a cap which contains 0.40–0.45 grams of PETN base charge pressed into an aluminum shell with bottom thickness not to exceed 0.03 inches to a specific gravity of not less than 1.4 g/cc and primed with standard weights of primer, in accordance with the manufacturer's specifications.

(v) The blasting cap must be initiated from a safe position.

(vi) If the lead block is compressed ⅛-inch or more, the material is considered to have detonated.

(vii) The test must be conducted three time or until detonation occurs, whichever comes first.

(viii) A material which detonates in any trial may not be described as Blasting agent, n.o.s., for purposes of transportation.

(2) Differential thermal analysis test.

(i) This test must be conducted using a standard, commercially produced, differential thermal analysis instrument or a laboratory-constructed apparatus which gives comparable results.

(ii) The portion of the blasting agent tested must be representative of the complete mixture.

(iii) The test must be conducted three times. If the first exotherm exhibited by the material in any trial is less than 212°F., it may not be described as a Blasting agent n.o.s. for purposes of transportation.

(3) Thermal stability test.

(i) At least 50 grams of the material must be placed in a loosely covered glass vessel and maintained at 167°F. for 48 consecutive hours.

(ii) A material which ignites or evidences decomposition by fumes, discoloration, or other characteristics may not be described as Blasting agent, n.o.s., for purposes of transportation.

(4) Electrostatic sensitivity test.

(i) The apparatus must be designed so that an electrostatic spark can be caused to jump from a pointed electrode to a metal plate which also serves as a sample holder.

(ii) Ten milligrams of material must be used for each test. The portion of the blasting agent tested must be representative of the complete mixture.

(iii) If the test portion flames, smolders, or glows from the spark, the material is considered to have ignited.

(iv) The test must be conducted three times or until ignition occurs, whichever comes first.

(v) A material which ignites in any trail when exposed to a spark of 0.006 joules delivered from a 0.002 to 0.004 micro-farad capacitor may not be described as a Blasting agent, n.o.s., for purposes of transportation.

(5) Impact sensitivity test.

(i) Impact tests must be conducted in the Bureau of Explosives Impact Tester.

(ii) The tests must be run on ten milligram samples. The test portions must be representative of the complete mixture.

(iii) The drop height used in all trials must be ten inches.

(iv) The test must be conducted ten times or until an explosion occurs, whichever comes first. An explosion is evidenced by flame or flame and noise. The production of smoke alone is not evidence of explosion.

(v) A material which explodes in any trial may not be described as Blasting agent, n.o.s., for purposes of transportation.

(6) Fire test.

(i) The largest package (not to exceed 200 kg) of each type to be offered for transportation must be placed on incombustible supports and subjected to a fire.

(ii) The fuel used may be kerosene-soaked wood, flammable or combustible liquid, or flammable gas.

(iii) The fire shall be large enough to engulf the bottom of the package. The flames must reach at least half way up on all sides.

(iv) The duration of the fire must be such as to cause the material in the package to burn or fume off completely, except for substances such as the oxides of aluminum or iron which are incombustible.

(v) Explosion is evidenced by a loud noise and the projection of fragments from the fire area.

(vi) This test must be conducted at least once.

(vii) Any material which explodes in this test may not be described as Blasting agent, n.o.s., for purposes of transportation.

(c) *Packaging for blasting agents.* (1) Each package of blasting agents when prepared for shipment must comply with the applicable requirements of § 173.24 and pass one of the following tests:

(i) Rigid packages (e.g., boxes and drums), prepared as for shipment, must be capable of withstanding a four-foot drop onto solid concrete so as to strike the most vulnerable point on the package without rupture or any loss of contents.

(ii) Non-rigid packages (e.g., tubes and bags), prepared as for shipment, must be capable of withstanding three four-foot drops onto solid concrete without rupture or any loss of contents.

(3) Blasting agents shall not be transported in portable tanks, cargo tanks, or tank cars except in accordance with the terms of specific exemptions issued by the Office of Hazardous Materials Regulation.

(d) See §§ 174.81, 176.80, and 177.848 of this subchapter for loading requirements.

§ 173.182 [Amended]

8. In § 173.182 paragraph (a) is amended by deleting "nitro carbo nitrate (see Note 1)" in the fourth and fifth lines from the end of the paragraph; Note 1 and paragraph (c) are deleted.

PART 174—CARRIAGE BY RAIL

§ 174.81 [Amended]

9. In § 174.81 paragraph (a) Table is amended by adding "Blasting agent" as the first entry under OTHER HAZARDOUS MATERIALS and placing an "X" in the columns headed, "Initiating and primary explosives," and "Fireworks, special or railway torpedoes." Note e following the table would be amended by striking the words "nitrocarbonitrate" in the first line and replacing with "blasting agent, n.o.s."

PART 175—CARRIAGE BY AIRCRAFT

10. Section 175.78 The present text is designated paragraph (a); paragraph (b) is added to read as follows:

§ 175.78 Stowage compatibility of cargo.

* * * * *

(b) No person may stow a package of blasting agents, n.o.s., on an aircraft next to, or in a position that will allow contact with, a package of special fireworks or railway torpedoes.

11. In § 175.320 paragraph (a), the Table is amended by revising the following entries:

§ 175.320 Cargo-only aircraft; only means of transportation.

(a) * * *

Material description	Class	Conditions
Gasoline	Flammable liquid	Permitted in metal drums having rated capacities of 55 gal. or less. May not be transported in the same aircraft with materials classed as class A, B, or C explosives, blasting agents, corrosive materials or oxidizing materials. Permitted in installed tanks each having a capacity of more than 110 gal. subject to the conditions specified in paragraph (c) of this section.
High explosives	Class A explosives	Limited to explosives to be used for blasting. Permitted only when no other cargo is aboard the aircraft or when being transported in the same aircraft with an authorized shipment of any 1 or more of the following materials to be used for blasting: Blasting agent, n.o.s. Cordeau detonant fuse. Propellant explosive (solid) class B (water gels only). Propellant explosive (liquid) class B (water gels only).
Oil, n.o.s.; petroleum oil; or petroleum oil, n.o.s.	.....	.....
	Flammable liquid	Permitted in metal drums having rated capacities of 55 gal. or less. May not be transported in the same aircraft with materials classed as class A, B, or C explosives, blasting agents, corrosive materials, or oxidizing materials. Permitted in installed tanks each having a capacity of more than 110 gal. subject to the conditions specified in para. (c) of this section.

PART 176—CARRIAGE BY VESSEL

§ 176.83 [Amended]

12. In § 176.83 paragraph (c)(3)(ii), Table I is amended by adding a new number 17 to read as follows: "17 Blasting agents." An "X" is added in column 3, and column 10 opposite entry number 17. Table II is amended by changing the third line to read: "Explosives C, Blasting Agents"; the remainder of the columns remain the same.

13. Subpart J Heading is revised to read as follows:

Subpart J—Detailed Requirements for Flammable Solids, Oxidizers, Organic Peroxides, and Blasting Agents

14. In § 176.410 the Heading and paragraph (a)(1) are revised; the introductory text of paragraphs (c), (d), and (e) and paragraph (e)(1) are amended by deleting the words "nitro carbo nitrate" and adding "blasting agents" in place thereof:

§ 176.410 Blasting agents and ammonium nitrate.

(a) * * *

(1) Blasting agents.

* * * * *

15. In § 176.415 the Heading is revised; paragraphs (a)(2), (c)(1) and (c)(2) are amended by deleting "nitro carbo nitrate" and inserting "blasting agents" in place thereof:

§ 176.415 Permit requirements for blasting agents and certain ammonium nitrates.

* * * * *

PART 177—CARRIAGE BY PUBLIC HIGHWAY

§ 177.848 [Amended]

16. In § 177.848 paragraph (a) Table is amended by adding "Blasting agents" as the last entry under Class C Explosives and placing an "X" in the columns headed, "Initiating and primary explosives * * *," and "Fireworks, special or railway torpedoes." Note e following the table is amended by striking the words "nitro carbo nitrate" in the first line and replacing with "blasting agent, n.o.s."

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

NOTE.—The Materials Transportation Bureau has determined that this final rule will not result in a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582). A regulatory evaluation is available in the docket.

Issued in Washington, D.C., on November 30, 1978.

L. D. SANTMAN
Director, Materials Transportation Bureau.

[FR Doc. 78-34370 Filed 12-8-78; 8:45 am]

[7035-01-M]

Title 49—Transportation

CHAPTER X—INTERSTATE COMMERCE COMMISSION

SUBCHAPTER B—PRACTICE AND PROCEDURES

[Ex Parte No. 290]

PART 1102—PROCEDURES GOVERNING RAIL CARRIER GENERAL INCREASE PROCEEDINGS

Procedures Governing Rail General Increase Proceedings

AGENCY: Interstate Commerce Commission.

ACTION: Final Rule.

SUMMARY: In a decision served November 20, 1978, in this proceeding the Commission adopted certain technical changes in the data requirements of schedule A set forth at 49 CFR Part 1102 (published at 41 FR 11824 on March 22, 1976, and as corrected on October 3, 1977, at 42 FR 53602).

EFFECTIVE DATE: The changes are effective December 20, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice Rosenak or Harvey Gobetz, Interstate Commerce Commission, Washington, D.C. 20423, Phone: 202-275-7693.

SUPPLEMENTARY INFORMATION: The following changes in Schedule A (published at 41 FR 11824, as corrected 42 FR 53602) are adopted. These changes are technical changes in the Schedule which were found warranted in Ex Parte No. 338, *Standards and Procedures for the Establishment of Adequate Railroad Revenue Levels* (43 FR 25774, published June 14, 1978 as corrected in 43 FR 29296 on July 7, 1978).

Carrier: _____
District: _____
Nationwide: /___/

SCHEDULE A

Selected financial data (dollars in thousands)

Line No.	Item (a)	Source 1/ (b)	Calendar Yr. 19__ (c)	Calendar Yr. 19__ (d)	Calendar Yr. 19__ (e)
1.	Net income	A.R. Sch. 210 (after acct. 592)			
2.	Depreciation & retirements-road	A.R. Sch. 412, total col. (b) + col. (c)			
3.	Depreciation & retirements-equipment	A.R. Sch. 415, L. 40, cols. (c) + (d)			
4.	Long-term debt due within one year	A.R. Sch. 200, acct. 764			
5.	Long-term debt due after one year	A.R. Sch. 200, total of accts. 765, 767, 766, 766.5, 768, 769, 770.1 & 770.2			
6.	Long-term debt due after one year 2/	See L. 5			
7.	Income available for fixed charges	A.R. Sch. 210 (after acct. 553)			
8.	Fixed and contingent charges	A.R. Sch. 210, total of accts. 546(a) and (b), 547, 548, and 546(c)			
9.	Railway operating expenses	A.R. Sch. 210, acct. 531			
10.	Railway operating revenues	A.R. Sch. 210, acct. 501			
11a.	Net revenue from railway operations	A.R. Sch. 210 (after acct. 531)			
11b.	Income taxes on ordinary income	A.R. Sch. 210, acct. 556			
11c.	Provision for deferred income taxes	A.R. Sch. 210, acct. 557			
11d.	Income from lease of road and equipment	A.R. Sch. 210, footnote			
11e.	Rent for leased roads and equipment	A.R. Sch. 210, footnote			
11f.	Net railway operating income	L. 11a - L. 11b - L. 11c - L. 11d + L. 11e			
12a.	Decrease in tax accrual from investment tax credit	A.R. Sch. 450, L. 11 or 12(5)			
12b.	Net railway operating income (less investment tax credit)	L. 11f - L. 12a			

1/ Annual report sources refer to 1978 proposed Annual Report Form R-1. See No. 36275, Revision to the Annual Report Forms for Class I and Class II Railroads (notice of proposed rulemaking served January 3, 1978). For years subsequent to 1978, use the comparable annual report sources. For years prior to 1978, see Conversion Table for Schedule A.

2/ Show average of beginning and end-of-year figures.

Selected financial data (dollars in thousands)

Line No.	Item (a)	Source (b)	Calendar Yr. 19__ (c)	Calendar Yr. 19__ (d)	Calendar Yr. 19__ (e)
13.	Equity in earnings (losses) of affiliated companies	A. R. Sch. 210, income from affiliated companies: dividends + equity in undistributed earnings (after acct. 519)			
14.	Total current assets	A. R. Sch. 200 (after acct. 713)			
15.	Total current liabilities	A. R. Sch. 200 (after acct. 764)			
16.	Stockholders' equity	A. R. Sch. 200, net stockholders' equity (after acct. 798.5)			
17.	Stockholders' equity 2/	See L. 16			
18.	Cash dividends paid	A. R. Sch. 220, L. 11 + L. 12			
19.	Release of premiums on funded debt	A. R. Sch. 210, acct. 517			
20a.	Working capital	Rail Form A formula (attach computation) 3/			
20b.	Net road and equipment	A. R. Sch. 335, L. 39, col. (d) minus col. (e)			
20c.	Interest during construction	A. R. Sch. 335 A, L. 47 total			
20d.	Other elements of investment (debits)	Acct. 80 debits contained in A. R. Sch. 335 A, L. 51 total			
20e.	Net investment in railroad property	L. 20a + L. 20b - L. 20c - L. 20d			
20f.	Accumulated deferred income tax credits	A. R. Sch. 200, acct. 786			
20g.	Net investment in railroad property (less deferred taxes)	L. 20e - L. 20f			
21a.	Net investment in railroad property 2/	See L. 20e			

2/ Show average of beginning and end-of-year figures.

3/ Forms for the computation of working capital may be obtained from the Section of Cost and Valuation of the Commission's Bureau of Accounts.

Selected financial data (dollars in thousands)

Line No.	Item (a)	Source (b)	Calendar Yr. 19__ (c)	Calendar Yr. 19__ (d)	Calendar Yr. 19__ (e)
21b.	Net investment in railroad property (less deferred taxes) 2/	See L. 20g			
22.	Current ratio	L. 14 ÷ L. 15			
23.	Dividend pay-out ratio	L. 18 ÷ L. 1			
24a.	Rate of return on net investment in railroad property	L. 11f ÷ L. 21a			
24b.	Rate of return on net investment in railroad property (adjusted for tax treatment)	L. 12b ÷ L. 21b			
25.	Rate of return on stockholders' equity	L. 1 ÷ 17			
26.	Cash flow	Ls. 1 thru 3 + L. 11c - L. 13			
27.	Throw off to debt ratio, current maturities	L. 26 ÷ L. 4			
28.	Capital structure ratio	L. 5 ÷ (L. 5 + L. 16)			
29.	Rate of return on total capitalization	(L. 1 + L. 8 - L. 19) ÷ (L. 6 + L. 17)			
30.	Fixed and contingent charge coverage (times)	L. 7 ÷ L. 8			
31.	Ratio ry. operating expenses (includes net rents) to ry. operating revenue	L. 9 ÷ L. 10			

2/ Show average of beginning and end-of-year figures.

SCHEDULE A

Purpose: The purpose of Schedule A is to provide key data and ratios for judging the financial posture of the individual railroads and groups of railroads.

Instructions: Schedule A should report financial data for class I carriers only. A separate Schedule A must be prepared for the following:

(1) Each individual class I carrier
(2) Composite district class I carriers
(3) Composite nationwide class I carriers

Time frame requirements:

Column c—The data reported in column c should be based on the 3d calendar year preceding the filing of the involved schedule.

Column d—The data reported in column d should be based on the 2d calendar year preceding the filing of the involved schedule.

Column e—The data reported in column e should be based on the calendar year immediately preceding the filing of the involved schedule.

NOTE.—After the initial submission of data for Schedule A, the carriers are required to report only column e data.

H.G. HOMME, Jr.,
Secretary.

SCHEDULE A CONVERSION TABLE

Data sources for 1977 and previous years

	Schedule A	System of Accounts Effective 1/1/78	System of Accounts Prior to 1/1/78
Line No.	Item	Source: Proposed 1978 A.R. Form R-1	Comparable Data from 1977 Annual Report, R-1
1.	Net Income	A.R. Sch. 210 (after acct. 592)	A.R. Sch. 300, L. 69, col. (b)
2.	Depreciation & retirements-road	A.R. Sch. 412, total col. (b) + col. (c)	A.R. Sch. 320, L. 47 + L. 48 + L. 68, col. (b)
3.	Depreciation & retirements-equipment	A.R. Sch. 415, L. 40, cols. (c) + (d)	A.R. Sch. 320, L. 81 + L. 82, col. (b)
4.	Long-term debt due within one year	A.R. Sch. 200, acct. 764	A.R. Sch. 200, L. 65
5.	Long-term debt due after one year	A.R. Sch. 200, total of accts. 765, 767, 766, 766.5, 768, 769, 770.1 & 770.2	A.R. Sch. 200, L. 74
6.	Long-term debt due after one year (avg. beg. and end of year)	See L. 5	See L. 5, above
7.	Income available for fixed charges	A.R. Sch. 210 (after acct. 553)	A.R. Sch. 300, L. 48 - L. 49 + L. 5 (acct. 533) + Sch. 350, total income taxes, L. 59
8.	Fixed and contingent charges	A.R. Sch. 210, total of accts. 546(a) and (b), 547, 548, and 546 (c)	A.R. Sch. 300, L. 54 - L. 49 + L. 56
9.	Railway operating expenses	A.R. Sch. 210, acct. 531	A.R. Sch. 300, L. 2 - L. 13 + L. 20 - L. 24 + L. 49 + (Sch. 350 L. 64 - L. 59)
10.	Railway operating revenues	A.R. Sch. 210, acct. 501	A.R. Sch. 300, L. 1
11a.	Net revenue from railway operations	A.R. Sch. 210 (after acct. 531)	Not needed
11b.	Income taxes on ordinary income	A.R. Sch. 210, acct. 556	Not needed

Data sources for 1977 and previous years

Ex Parte No 290

	Schedule A	System of Accounts Effective 1/1/78	System of Accounts Prior to 1/1/78
Line No.	Item	Source: Proposed 1978 A.R. Form R-1	Comparable Data from 1977 Annual Report, R-1
11c.	Provision for deferred income taxes	A.R. Sch. 210, acct. 557	A.R. Sch. 300, L. 5
11d.	Income from lease of road and equipment	A.R. Sch. 210, footnote	Not needed
11e.	Rent for leased roads and equipment	A.R. Sch. 210, footnote	Not needed
11f.	Net railway operating income	L. 11a - L. 11b - L. 11c - L. 11d + L. 11e	A.R. Sch. 300, L. 22
12a.	Decrease in tax accrual from investment tax credit	A.R. Sch. 450, L. 11 or 12(5)	A.R. Sch. 350, Part C, L. 20 or 25
12b.	Net railway operating income (less investment tax credit)	L. 11f - L. 12a	L. 11f - L. 12a, above
13.	Equity in earnings (losses) of affiliated companies	A.R. Sch. 210, income from affiliated companies: dividends + equity in undistributed earnings (after acct. 519)	A.R. Sch. 300, L. 36
14.	Total current assets	A.R. Sch. 200 (after acct. 713)	A.R. Sch. 200, L. 15
15.	Total current liabilities	A.R. Sch. 200 (after acct. 764)	A.R. Sch. 200, L. 64 + L. 65
16.	Stockholders' equity	A.R. Sch. 200, net stockholders' equity (after acct. 798.5)	A.R. Sch. 200, L. 99
17.	Stockholders' equity (avg. beg. and end of year)	See L. 16	See L. 16, above
18.	Cash dividends paid	A.R. Sch. 220, L. 11 + L. 12	A.R. Sch. 305, L. 11
19.	Release of premiums on funded debt	A.R. Sch. 210, acct. 517	A.R. Sch. 300, L. 31

SCHEDULE A CONVERSION TABLE
PAGE 3

Data sources for 1977 and previous years

Ex Parte No 290

Line No.	Schedule A Item	System of Accounts Effective 1/1/78 Source: Proposed 1978 A. R. Form R-1	System of Accounts Prior to 1/1/78 Comparable Data from 1977 Annual Report, R-1
20a.	Working capital	Rail Form A formula (attach computation)	Rail Form A formula (attach computation)
20b.	Net road and equipment	A. R. Sch. 20(b)A. R. Sch. 335, L. 39 col. (d) minus col. (e)	A. R. Sch. 211, N-1, L, 39, col. (d) minus col. (e)
20c.	Interest during construction	A. R. Sch. 335 A, L. 47 total	A. R. Sch. 211, N-2, L. 47 total
20d.	Other elements of investment (debits)	Acct. 80 debits contained in A. R. Sch. 335 A, L. 51 total	Acct. 80 debits contained in A. R. Sch. 211 N-2 L. 51 total
20e.	Net investment in railroad property	L. 20a + L. 20b - L. 20c - L. 20d	L. 20a + L. 20b - L. 20c - L. 20d, above
20f.	Accumulated deferred income tax credits	A. R. Sch. 200, acct. 786	A. R. Sch. 200, L. 82
20g.	Net investment in railroad property (less deferred taxes)	L. 20e - L. 20f	L. 20e - L. 20f, above
21a.	Net investment in railroad property (avg. beg. and end of year)	See L. 20e	See L. 20 e, above
21b.	Net investment in railroad property (less deferred taxes) (avg. beg. and end of year)	See L. 20g	See L. 20g, above

[FR Doc. 78-33595 Filed 12-11-78; 8:45 am]

[3410-02-M]

Title 7—Agriculture

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

[Orange and Grapefruit Regulation 30, Amendment 1]

PART 906—ORANGES AND GRAPEFRUIT GROWN IN TEXAS

Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final Rule.

SUMMARY: This amendment continues through November 4, 1979, the current minimum grade and size requirements for shipments of fresh oranges and grapefruit grown in Texas. The amendment takes into consideration the marketing situation facing the Texas citrus industry, and it is necessary to assure that shipments of oranges and grapefruit will be of suitable quality and size in the interest of consumers and producers.

EFFECTIVE DATES: December 12, 1978, through November 4, 1979.

FOR FURTHER INFORMATION CONTACT:

Charles R. Brader, 202-447-6393.

SUPPLEMENTARY INFORMATION: Orange and Grapefruit Regulation 30 was published in the FEDERAL REGISTER on November 1, 1978 (43 F.R. 50866). On November 21, 1978, a proposed rule was issued (43 F.R. 54254) to extend these regulatory provisions through November 4, 1979. The notice allowed interested persons until December 5, 1978, to submit written comments pertaining to the proposed amendment. None were received.

These grade and size requirements were recommended by the Texas Valley Citrus Committee, established under the marketing agreement, as amended, and Order No. 906, as amended (7 CFR Part 906). This marketing agreement and order regulate the handling of fresh oranges and grapefruit grown in Texas, and are effective under the applicable provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674).

The 1978-79 season Texas orange crop is estimated at 6,600,000 boxes (85 pounds net weight), compared with 6,100,000 produced in 1977-78, and 6,900,000 in 1976-77. The crop is of excellent quality, and fruit sizes are comparable to those in the past 2 seasons. The 1978-79 season Texas grapefruit crop is estimated at 11,500,000 boxes (80 pounds net weight), compared with 11,900,000 produced in 1977-78, and 12,400,000 in 1976-77. The crop is of excellent quality, and fruit sizes are reported to be larger than those of the past 2 seasons. Growing conditions have been favorable and soil moisture is adequate. Hence, considering the available supply and the reported quality and size of the fruit, ample quantities of both oranges and grapefruit meeting these grade and size requirements should be available to meet the demand for these fruits.

The committee estimates that 50 percent of the Texas orange crop, and 60 percent of the Texas grapefruit crop will meet these grade and size requirements, and will be sold fresh in the regulated domestic market. Grapefruit and oranges failing to meet these requirements, may be sold in unregulated channels, such as the fresh export market, the processed products market, or the local unregulated market within the production area. Fresh shipments of Texas oranges and grapefruit meet considerable competition in major markets from citrus produced in other areas of the country.

These minimum grade and size requirements reflect the Department's appraisal of the need for regulating Texas oranges and grapefruit by grade and size during the period December 12, 1978, through November 4, 1979, based on the available supply and current and prospective market demand conditions. These requirements are necessary to prevent the shipment of Texas oranges and grapefruit of lower grades and sizes than those recommended, to provide ample supplies of acceptable quality oranges and grapefruit in the interest of producers and consumers, and to enable Texas orange and grapefruit producers to compete more effectively in the market, thereby improving producers' returns, pursuant to the declared policy of the act.

After consideration of all relevant matter presented, including the proposals in the notice and other available information, it is hereby found that the following amendment is in accordance with this marketing agreement and order and will tend to effectuate the declared policy of the act.

It is further found that good cause exists for not postponing the effective date of this amendment until 30 days after publication in the FEDERAL REGISTER (5 U.S.C. 553) in that (1) shipments of oranges and grapefruit are currently in progress and this amendment should be applicable to all shipments during the season in order to effectuate the declared policy of the act; (2) the amendment is the same as that specified in the notice to which no exceptions were filed; (3) the regulatory provisions are the same as those currently in effect; and (4) compliance with this amendment will not require any special preparation on the part of the persons subject thereto which cannot be completed by the effective time hereof.

Accordingly, it is found that the provisions of § 906.361 Orange and Grapefruit Regulation 30 (43 FR 50866) should be and are hereby amended to read as follows:

§ 906.361 Orange and Grapefruit Regulation 30.

(a) During the period December 12, 1978, through November 4, 1979, no handler shall handle any variety of oranges or grapefruit grown in the production area unless:

(1) Such oranges grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, U.S. Combination (with not less than 60 percent, by count, of the oranges in any lot thereof grading at least U.S. No. 1) or U.S. No. 2;

(2) Such oranges are the least pact size 288, as such size is specified in § 2851.691(c) of the U.S. Standards for Oranges (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pact size 288 oranges in any lot shall be 2 $^{9}/_{16}$ inches;

(3) Such grapefruit grade U.S. Fancy, U.S. No. 1, U.S. No. 1 Bright, U.S. No. 1 Bronze, or U.S. No. 2;

(4) Such grapefruit are at least pack size 96, as such size is specified in § 2851.630(c) of the U.S. Standards for Grapefruit (Texas and States other than Florida, California, and Arizona), except that the minimum diameter limit for pack size 96 grapefruit in any lot shall be 3 $^{9}/_{16}$ inches: *Provided*, That any handler may handle grapefruit smaller than pack size 96, provided such grapefruit grade at least U.S. No. 1 and they are at least pack size 112, as such size is specified in the aforesaid U.S. Standards for Grapefruit, except that the minimum diameter limit for pack size 112 grapefruit in any lot shall be 3 $^{9}/_{16}$ inches;

(5) An appropriate inspection certificate has been issued for such fruit within 48 hours prior to the time of shipment; and

(6) The fruit meets all the applicable container and pack requirements effective under this marketing agreement and order.

(b) Terms used in this section shall have the same meaning as in the marketing order, and terms relating to grade and diameter shall have the same meaning as in the U.S. standards for oranges (Texas and States other than Florida, California, and Arizona) (7 CFR 2851.680-2851.714), or in the U.S. standards for grapefruit (Texas and States other than Florida, Califor-

nia, and Arizona) (7 CFR 2851.620-2851.653).

This regulation has not been determined significant under the USDA criteria for implementing Executive Order 12044.

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

Dated: December 7, 1978, to become effective December 12, 1978.

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

[FR Doc. 78-34602 Filed 12-8-78; 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-M]

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR PART 1002]

[Docket No. AO-71-A71]

MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision would change the procedure for classifying unaccounted for disappearances (shrinkage) of milk in a handler's operations, based on industry proposals considered at a hearing held in February 1976. Under the change, shrinkage would be classified on essentially the same basis as now provided under most other Federal milk orders. A referendum will be conducted to determine whether producers favor the issuance of the proposed amended order.

FOR FURTHER INFORMATION CONTACT:

Richard A. Glandt, Marketing Specialist, Dairy Division, Agricultural Marketing Service, United States Department of Agriculture, Washington, D.C. 20250 202-447-4829.

SUPPLEMENTARY INFORMATION: Prior documents in this proceeding:

Notice of Hearing—Issued January 9, 1976; published January 14, 1976 (41 FR 2092).

Extension of Time for Filing Briefs—Issued April 15, 1976; published April 21, 1976 (41 FR 16660).

Recommended Decision (Partial)—Issued April 5, 1977; published April 11, 1977 (42 FR 18950).

Extension of Time for Filing Exceptions to the Recommended Decision (Partial)—Issued May 6, 1977; published May 11, 1977 (42 FR 23841).

Final Decision (Partial)—Issued August 12, 1977; published August 17, 1977 (42 FR 41582).

Order Amending Order—Issued September 27, 1977; published September 30, 1977 (42 FR 52379).

Recommended Decision—Issued October 5, 1978; published October 11, 1978 (43 FR 46853).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the New York-New Jersey marketing area. The hearing was held, pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 et seq.), and the applicable rules of practice (7 CFR Part 900), at New York, New York, on February 17-20, 1976, and at Syracuse, New York, on February 23-26, 1976, pursuant to notice thereof.

Upon the basis of the evidence introduced at the hearing and the record thereof, the Acting Deputy Administrator, Marketing Program Operations, on October 5, 1978, filed with the Hearing Clerk, United States Department of Agriculture, his recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

Under "3. *Shrinkage.*", two new paragraphs are added after paragraph 13, and two new paragraphs are added after the last paragraph.

The material issues on the record of the hearing relate to:

1. Whether changes should be made in the following provisions for purposes of permitting a more equitable competitive situation, on both an intramarket and intermarket basis, for Order 2 handlers:

a. Class I price differential.

b. Transportation differentials.

c. Pool transportation credit to handlers for bulk tank milk.

d. Tank truck service charge.

e. Direct delivery differential.

2. Whether the classification provisions should be changed with respect to the following:

a. Milk moved between Order 2 pool plants and plants regulated under an order administered solely by the State of New York.

b. Bulk milk received at an Order 2 pool plant from a plant regulated under another Federal order.

c. Milk dumped, disposed of for animal feed, or lost under extraordinary circumstances.

3. Whether the procedure for classifying shrinkage should be changed.

4. Whether the order should provide for charges on overdue accounts.

This decision deals only with issue No. 3. The other issues were the subject of earlier actions that resulted in the issuance of an amended order effective November 1, 1977.

Findings and Conclusions

The following findings and conclusions on this material issue are based on evidence presented at the hearing and the record thereof:

3. *Shrinkage.* The treatment of shrinkage under the New York-New Jersey order should be modified to generally conform with the shrinkage provisions of the Middle Atlantic order.

Currently, Order 2 provides that shrinkage shall be classified by assigning the shrinkage pro rata to the actual utilization of milk in each class. However, such assignment to Class II may not exceed two percent of the skim milk and butterfat actually accounted for as Class II milk. Under the Middle Atlantic order, on the other hand, shrinkage is basically assigned to Class II. The order provides, however, that not more than two percent of a handler's receipts of producer milk may be classified as Class II shrinkage. Additional shrinkage of producer milk is included in Class I.

A handler organization proposed that Class II include skim milk and butterfat in shrinkage, but not to exceed two percent of producer milk or bulk tank unit milk received at a plant, plus 1.5 percent of milk received from other plants, plus free milk to employees that does not exceed two quarts per day per employee. Shrinkage of such receipts in excess of these limits would be Class I. Shrinkage of receipts other than milk from producers, units, and plants would be prorated to Class I and Class II with the amount assigned to Class II not to exceed two percent of the quantity actually accounted for in that class.

The proponent's spokesman contended that under Order 2 a higher proportion of shrinkage experienced in fluid milk processing operations is assigned to Class I than under the shrinkage provisions in most other orders. The spokesman estimated that in 1975 the current provisions added an average of 4.3 cents per hundredweight to handlers' costs for Class I milk. He contended that a comparable element of cost is not incurred by han-

dlers in adjacent markets with different order provisions for classifying shrinkage, and that Order 2 handlers are therefore disadvantaged in competing for Class I sales with handlers under the other orders. Because of this, the proponent organization urged that the shrinkage provisions be changed to conform with those found in most other orders.

Individual handlers also urged that the proposed shrinkage provisions be adopted. They indicated that no basis exists for having shrinkage provisions in Order 2 that differ substantially from the generally uniform shrinkage provisions of other orders. To this end, if was proposed that Class II shrinkage be divided between receipts of pool milk and certain receipts of other source milk, and that there be limits on the Class II allowance for receiving and processing operations. Handlers expressed the view that, subject to reasonable limitations, shrinkage should be assigned to Class II because handlers receive no return on milk losses experienced in the receiving and processing operations.

A number of cooperatives in the market opposed any change from the present shrinkage provisions. Their spokesman indicated that the current procedure for classifying shrinkage is superior to the procedure generally used under other orders and should be continued. He stressed that the present order provisions penalize inefficient processing operations. In contrast, he claimed, the proposed provisions would reward inefficiency and would provide an incentive to "hide" Class I sales in order to take advantage of the maximum allowable Class II shrinkage. Moreover, he contended, adoption of the shrinkage proposals would reduce returns to producers and provide windfalls gains for handlers.

Handlers normally experience some shrinkage in milk processing operations. Some milk is unavoidably lost because it adheres to surfaces of pipes, tanks, and other plant equipment, and subsequently is rinsed away in cleaning operations. Additional losses can be expected due to such things as accidental spillage, a breakdown of equipment or leaky packages. Also, shrinkage is normally experienced in the receipt of farm tank milk at receiving stations and processing plants.

Since a handler's total receipts must be classified in order to carry out the pricing and pooling provisions of the order, it is necessary to provide for the classification and pricing of shrinkage. A handler's costs are affected by the proportions of shrinkage priced as Class I milk and Class II milk.

The shrinkage provisions proposed by the handlers organization would establish Class II shrinkage allowances for milk received from producers, bulk tank units, and other plants. Shrinkage associated with other receipts would be assigned pro rata to Class I and Class II, except that the quantity assigned to Class II could not exceed two percent of the milk actually used in that class. In effect, the proposal represents a combination of some of the present order provisions and certain other provisions common to most other Federal orders. The record clearly indicates, however, that the intent of the proponent and other supporting witnesses is to have the shrinkage provisions of Order 2 closely coordinated with the shrinkage provisions in most other orders, and particularly the Middle Atlantic order.

The central issue in this proceeding is the need for establishing an equitable interorder relationship of raw milk costs imposed on handlers regulated under the New York-New Jersey order and on handlers regulated under the Middle Atlantic order. The shrinkage classification under Order 2 is a factor in this regard. In the interest of minimizing interorder competitive problems attributable to differences in regulatory provisions, it is desirable that shrinkage be classified under Order 2 in essentially the same manner as provided under the Middle Atlantic order.

The shrinkage provisions adopted herein set forth maximum Class II shrinkage allowances for various sources of receipts. Pool milk received at a plant, both in cans and in bulk from pool units, would have a two percent allowance in Class II. A maximum Class II shrinkage allowance of 1.5 percent would apply to receipts of bulk milk from other pool plants, and to receipts of bulk fluid milk products from other order plants, except such receipts for which Class II use is requested. Receipts of milk from units other than pool units, other than for requested Class II use, would be allowed up to 2.0 percent Class II shrinkage. When milk is moved in bulk tank lots from a plant to other plants, the shipping handler's Class II shrinkage allowance would be reduced by 1.5 percent of the quantity moved. Shrinkage on other source bulk fluid milk, other than that for which a specific allowance is otherwise provided, would be assigned to Class II, with no limitation. A handler's total shrinkage would be prorated between those receipts to which specific shrinkage allowances apply and remaining receipts of other source milk. Shrinkage in excess of the total Class II allowance would be assigned to Class I.

The adopted shrinkage provisions have been found suitable for other markets and similarly should be compatible with the handling practices existing in the Order 2 market. Shrinkage normally varies with the type of handling involved. More loss in usually experienced in the processing operations of a plant than in merely receiving the milk. There is no reason to believe that the operations of Order 2 handlers are significantly different from those of handlers in other markets. Thus, the commonly-used Class II shrinkage allowances of 0.5 percent and 1.5 percent for receiving and processing operations, respectively, should be reasonable for the Order 2 market.

Most of the milk on the Order 2 market is received from farms equipped with bulk tanks. Under the "Classification and Accounting Rules and Regulations" established by the market administrator for administering the order (which were adopted after meetings with the industry), plants receive milk from bulk tank units on the basis of weights and butterfat tests determined from measurements and samples taken at the farm. Thus, a maximum Class II shrinkage allowance of 2.0 percent should be applicable at the receiving plant to all receipts of milk from units. No shrinkage allowance would accrue to the operator of the bulk tank unit. While this procedure differs from that used under other orders, it is consistent with the accounting rules already established for the market.

In his exceptions to the recommended decision, a proprietary handler claimed that handlers operating processing plants usually understate the amount of milk received from bulk tank units and transfer stations and pay for the milk on the basis of the understated receipts. The thrust of the exceptions is that the bulk tank unit and transfer station operators should have a Class II shrinkage allowance to help offset the affects of the alleged practice. The handler indicates that an apparent oversight resulted in the failure of the recommended decision to provide a Class II shrinkage allowance for bulk tank units and transfer stations.

The question of Class II shrinkage allowances in these cases was considered in reaching the initial recommendations on this issue. The exceptions, when reviewed in light of the hearing evidence, do not provide an adequate basis for reaching a different conclusion on the matter of shrinkage allowances.

The shrinkage provisions provided herein would preclude any accumulation of Class II shrinkage on milk movements between plants. When a plant operator disposes of bulk milk by transfer to another plant, his shrinkage allowance would be reduced by 1.5 percent of the quantity transferred. The maximum Class II shrinkage on milk that may be moved from the farm to a receiving station and then on to a distributing plant for

processing thus would be limited to two percent.

Also adopted is the commonly-used method of prorating total plant shrinkage to (1) those receipts of bulk fluid milk products that are generally intended for Class I use, and on which Class II shrinkage limitations apply, and (2) other receipts of bulk fluid milk products generally intended for manufacturing use, such as nonpool milk for which a Class II classification is requested. To the extent that the quantity of shrinkage prorated to the first category exceeds the established limit, the excess would be classified in Class I.

The shrinkage provisions adopted herein are generally the same as those provided in most other orders, including the Middle Atlantic order. Any minor differences between the latter order and the other orders have been decided in favor of the uniform provisions established for a large number of orders throughout the country. These uniform provisions were proposed at the hearing by a handler in the Order 2 market.

Milk that a handler gives to employees should continue to be accounted for as a Class I disposition. The proposed inclusion of such disposition as Class II shrinkage was prompted by the terms of a labor contract that requires a handler to provide free milk to his employees. Proponent's witness expressed the view that since the handler receives no return on this milk he should not have to account for it at the Class I price.

Whether a handler receives payment for milk or milk products is not an appropriate basis for establishing the classification of milk under the order. The Act requires that classification be "in accordance with the form in which or the purpose for which it is used . . ." These are the criteria that must be followed in establishing the classification of milk under the Federal order program. Milk given free of charge to a handler's employees cannot be distinguished from other fluid milk products disposed of by the handler for fluid consumption. A Class I classification of milk so provided to employees for fluid use should be continued under the order.

Testimony offered by cooperatives in oppostion to the shrinkage proposal centered on the contention that the present classification of shrinkage more nearly reflects the nature of the operations involved. It was argued, for example, that producer returns should reflect a Class I value for shrinkage experienced in a bottling plant since the milk lost would have been disposed of as Class I milk had it not disappeared. Such classification, it was maintained, provides an incentive for operating a plant efficiently and does not penalize producers if a handler conducts an inefficient operation.

Whether or not a plant is operated efficiently, producers are paid for all their pool milk delivered to such plant. As a minimum, the Class II price must be paid on any milk lost through shrinkage, and there are no returns to the handler from the lost milk. This certainly provides an incentive to operate a plant as efficiently as possible.

Moreover, under the proposed provisions, a handler processing milk for distribution to consumers will continue to need the same quantity of milk for his route sales irrespective of how much of his receipts at the plant may be lost through shrinkage. Any milk lost will have to be replaced with additional receipts if the handler expects to meet his fluid sales commitments. Presumably, such additional receipts are drawn from the market's reserve supplies that otherwise would be processed into Class II products. Thus, in terms of returns to producers, it makes little difference whether milk is classified in Class II as shrinkage or as milk that is surplus to the fluid needs of a plant.

The opposing coopeatives excepted to the preceding position of the Department, which was set forth in the recommended decision. They argued that the conclusions are correct only to the extent that shrinkage represents an actual physical loss of milk. They maintained, however, that the proposed method of classifying shrinkage would result in an unrecoverable monetary loss to dairy farmers and a windfall gain to handlers if shrinkage results from accounting errors by handlers.

This view, and other views expressed in the cooperatives' exceptions to the recommended decision, reiterates positions taken by the cooperatives in their hearing testimony and in briefs. These views were fully considered in arriving at the recommended decision. The exceptions provide no basis for now reaching a different conclusion.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. 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 parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a marketing agreement upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions, and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a MARKETING AGREEMENT regulating the handling of milk, and an ORDER amending the order regulating the handling of milk in the New York-New Jersey marketing area which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire decision, except the attached marketing agreement, be published in the FEDERAL REGISTER. The regulatory provisions of the marketing agreement are identical with those contained in the order as hereby proposed to be

amended by the attached order which is published with this decision.

REFERENDUM ORDER TO DETERMINE PRODUCER APPROVAL; DETERMINATION OF REPRESENTATIVE PERIOD; AND DESIGNATION OF REFERENDUM AGENT

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300 *et seq.*), to determine whether the issuance of the attached order as amended and as hereby proposed to be amended, regulating the handling of milk in the New York-New Jersey marketing area is approved or favored by producers, as defined under the terms of the order (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be July 1978.

The agent of the Secretary to conduct such referendum is hereby designated to be Thomas A. Wilson.

Signed at Washington, D.C., on: December 5, 1978.

P. R. "BOBBY" SMITH,
Assistant Secretary for Marketing Services.

Order[1] amending the order, regulating the handling of milk in the New York-New Jersey marketing area.

FINDINGS AND DETERMINATIONS

The following findings and determinations supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth below.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the New York-New Jersey marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601 *et seq.*), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the said marketing area, and the minimum prices specified in the order as hereby amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order relative to handling. It is therefore ordered that on and after the effective date hereof the handling of milk in the New York-New Jersey marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreement and order amending the order contained in the recommended decision issued by the Acting Deputy Administrator, Marketing Program Operations, on October 5, 1978, and published in the FEDERAL REGISTER on October 11, 1978 (43 FR 46853), shall be and are the terms and provisions of this order, amending the order, and are set forth in full herein:

1. Section 1002.41 is revised to read as follows:

§ 1002.41 Classes of utilization.

Subject to the conditions set forth in §§ 1002.42 through 1002.46, the classes of utilization shall be as follows:

(a) Class I-A milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product:

(i) Inside the marketing area;

(ii) As route disposition in an other order marketing area;

(iii) To an other order plant and assigned under such other order to Class I;

(iv) In packaged form to an other order plant if such product is not defined as a fluid milk product under such other order; and

(v) To a partially regulated plant under an other order and there applied as an offset to Class I sales in any other order market;

(2) Contained in inventory of packaged fluid milk products on hand at the end of the month except as provided in paragraph (c)(3) of this section;

(3) In shrinkage assigned to Class I-A pursuant to paragraph (d) of this section; and

(4) Not specifically accounted for as Class I-B or Class II milk.

(b) Class I-B milk shall be all skim milk and butterfat:

(1) Disposed of as a fluid milk product outside the marketing area, except as provided in paragraphs (a)(1)(ii) through (v) and (c)(3), (4) and (5) of this section; and

(2) In shrinkage assigned to Class I-B pursuant to paragraph (d) of this section.

(c) Class II milk shall be all skim milk and butterfat:

(1) Disposed of in any product other than a fluid milk product;

(2) Disposed of as a fluid milk product in bulk to any establishment (other than a plant defined in § 1002.8) at which food products are processed and packed and at which establishment there is no disposition of fluid milk products other than those received in consumer packages for consumption on the premises;

(3) Contained in inventory of fluid milk products in bulk which are on hand at the end of the month, and also with respect to any plant not defined in § 1002.8(b) or (d) in inventory of fluid milk products in packaged form;

(4) Disposed of as a packaged fluid milk product to an other order plant and assigned under such other order as a fluid milk product to Class II;

(5) Disposed of in bulk as a fluid milk product to an other order plant and assigned to Class II under such other order;

(6) In skim milk represented by the nonfat solids added to a fluid milk product for fortification which is in excess of the volume included within the fluid milk product definition pursuant to § 1002.15;

(7) Contained in fluid milk products that are disposed of for animal feed;

(8) Contained in fluid milk products that are dumped, if the market administrator is notified in advance and is given the opportunity to verify such disposition;

(9) Contained in fluid milk products that are destroyed or lost by a handler in a vehicular accident, flood, fire, or in a similar occurrence beyond his control, to the extent that the quantities destroyed or lost can be verified from records satisfactory to the market administrator;

(10) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(1), but not to exceed the following:

(i) Two percent of the skim milk and butterfat respectively, in pool milk received from producers;

[1] This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

(ii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from pool units;

(iii) Plus 2.0 percent of the skim milk and butterfat, respectively, in milk received from units other than pool units, exclusive of the quantity for which class II utilization was requested by the handler;

(iv) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from other pool plants;

(v) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from an other order plant, exclusive of the quantity for which Class II utilization was requested by the operators of both plants;

(vi) Plus 1.5 percent of the skim milk and butterfat, respectively, in receipts of fluid milk products in bulk from plants other than those defined in § 1002.8(b) or (d), exclusive of the quantity for which Class II utilization was requested by the handler; and

(vii) Less 1.5 percent of the skim milk and butterfat, respectively, in bulk fluid milk products transferred to other plants that is not in excess of the respective amounts of skim milk and butterfat to which percentages are applied in paragraph (c)(10)(i) through (vi) of this section;

(11) In shrinkage of skim milk and butterfat, respectively, at a plant that is allocated pursuant to § 1002.42 to the receipts specified in § 1002.42(b)(2).

(d) Shrinkage in excess of the amounts assigned to Class II pursuant to paragraph (c)(10) and (11) of this section shall be assigned pro rata to Class I-A and Class I-B in accordance with the respective volumes of skim milk and butterfat actually accounted for in each such class.

2. Section 1002.42 is revised to read as follows:

§ 1002.42 Shrinkage.

Shrinkage shall be allocated to a handler's receipts at each plant as follows:

(a) Compute the total shrinkage of skim milk and butterfat, respectively, at each plant.

(b) Shrinkage of skim milk and butterfat, respectively, shall be prorated between the respective quantities of skim milk and butterfat:

(1) In receipts described in § 1002.41(c)(10); and

(2) In other source milk not specified in § 1002.41(c)(10) which was received in bulk fluid form.

3. In § 1002.45(a), new subparagraphs (1-a) and (7-a) are added to read as follows:

§ 1002.45 Allocation of skim milk and butterfat classified.

* * * * *

(a) * * *

(1-a) Subtract from the total pounds of skim milk in Class II the pounds of skim milk classified as Class II pursuant to § 1002.41(c)(10);

* * * * *

(7-a) Add to the remaining pounds of skim milk in Class II the pounds subtracted pursuant to paragraph (a)(1-a) of this section;

* * * * *

[FR Doc. 78-34455 Filed 12-8-78; 8:45 am]

[3510-24-M]

DEPARTMENT OF COMMERCE

Economic Development Administration

[13 CFR Part 308]

SPECIAL ECONOMIC DEVELOPMENT AND ADJUSTMENT ASSISTANCE

Advance Notice of Proposed Rulemaking: Long-term Economic Deterioration Program

AGENCY: Economic Development Administration (EDA), Department of Commerce.

ACTION: Advance Notice of Proposed Rulemaking.

SUMMARY: The Economic Development Administration announces its intention to revise the regulations relating to the Special Economic Development and Adjustment Assistance Program. The revision would establish separate programs for the long-term economic deterioration and the sudden and severe economic dislocation programs—the two basic types of assistance extended under the authorizing legislation. The intended effect is to facilitate administration of the Program. Advance notice will provide the public and interested organizations with the opportunity to participate early in the rulemaking process.

DATES: Comments must be received on or before: January 1, 1979.

ADDRESSES: Send Comments to: Assistant Secretary for Economic Development, U.S. Department of Commerce, Economic Development Administration, Room 7800B, Washington, D.C. 20230.

FOR FURTHER INFORMATION CONTACT:

Charles W. Coss, Director, Office of Public Works, 202-377-5265.

SUPPLEMENTARY INFORMATION: The Economic Development Administration (EDA) is considering amending Part 308 of Title 13 of the Code of Federal Regulations to establish separate programs for assistance extended under the "sudden and severe economic dislocation" provisions of section 901 of the Public Works and Economic Development Act of 1965, as amended (Act) (42 U.S.C. 3241) and for assistance extended under the "long-term economic deterioration" provision of section 901. EDA published guidelines concerning the sudden and severe economic dislocation (SSED) program as an advance notice on November 9, 1978 (FEDERAL REGISTER, Vol. 43, No. 218, Part III, pages 52432-52435). EDA has prepared guidelines for the long-term economic deterioration program (LTED) and is publishing them as an advance notice of proposed rulemaking as well.

EDA is publishing the LTED program guidelines as an advance notice of proposed rulemaking to provide the public with opportunity to participate early in the rulemaking process, as required by Executive Order 12044 on Improving Government Regulations. EDA is now proceeding to revise its regulations at 13 CFR Part 308 in order to separate the administration of Title IX of the Act into two programs along the lines indicated by the LTED and SSED guidelines. EDA will revise these regulations in accord with the procedural requirements imposed on significant regulations by Executive Order 12044. Proposed regulations are expected to be published around January 1, 1979.

PROPOSED GUIDELINES FOR ADMINISTERING THE TITLE IX LONG-TERM ECONOMIC DETERIORATION PROGRAM

I. INTRODUCTION

These guidelines describe the policies and procedures which apply to the Long-Term Economic Deterioration (LTED) Program administered by the Economic Development Administration (EDA).

II. STATUTORY AUTHORITY AND PURPOSE

The Authority for this program is provided by Title IX of the Public Works and Economic Development Act of 1965, as amended (42 U.S.C. 3121, *et seq.*), which was enacted on September 27, 1974 (Pub. L. 93-423) and amended on October 12, 1976 (Pub. L. 94-487). Regulations appear in 13 CFR Part 308.

The Public Works and Economic Development Act of 1965 (Act), together with its amendments, is designed to provide a multi-faceted program of assistance to areas suffering from substantial and persistent unemployment and other serious economic problems.

The special purposes of Title IX, an amendment to the Act, are to help State and local areas:

1. Adjust to actual or threatened severe and sudden economic dislocations; and

2. Overcome the problems associated with long-term economic deterioration.

These guidelines describe only the Title IX program to assist areas to overcome the problems associated with long-term economic deterioration. The Title IX program to assist areas suffering from sudden and severe economic dislocations (the "SSED" program) is administered separately and is governed by different policies and requirements.

III. MAJOR OBJECTIVES AND POLICIES OF THE LTED PROGRAM

Long-term economic deterioration is the steady decline of the economy of an area due to the loss of productive economic activity. It is manifested by the loss of jobs and income; by the physical deterioration and devaluation of land, buildings and public infrastructure; and by human suffering and social disintegration.

The goal of the LTED program is to help States and communities design and carry out strategies to arrest and then reverse long-term deterioration. The strategies must:

1. Be an integral part of a more comprehensive framework developed through coordinated local planning processes for stabilizing and/or diversifying the economic base and upgrading the overall economic well-being of an area.

2. In most cases, be aimed directly at revitalizing blighted areas and/or creating more jobs and income for disadvantaged people.

3. Reflect a serious effort to bring available Federal resources, such as those provided by EDA and HUD, together with State and local resources in support of LTED strategy objectives.

4. Reflect cooperation with the private sector and commitment of private sector resources.

5. In most cases, propose a set of time-phased, mutually supportive project activities which constitute a comprehensive program to address the long-term economic deterioration problem(s) identified by the applicant.

A LTED strategy might involve the combination of public facility projects with land acquisition, the provision of technical assistance and business financing to the private sector, job training for the target population, and other activities necessary to ensure the success of the strategy. The unique flexibility of Title IX gives EDA the authority to support all of the activities mentioned above, as well as many other activities which would further LTED program objectives.

However, since funding is available from a number of other sources, including other EDA programs, to carry out activities such as public facilities construction or renovation and business financing, EDA will place a greater emphasis on the use of scarce Title IX resources to support those LTED programs which cannot be assistd either through other EDA funding sources or by other Federal agencies. In working with applicants to carry out their LTED strategies, EDA will attempt to coordinate its own programs and resources in support of the strategies, and to facilitate the participation of other Federal agencies.

IV. ELIGIBILITY REQUIREMENTS

A. *Eligible areas.* 1. To be eligible for LTED assistance, an area must first be either:

a. a Redevelopment Area designated by EDA and covered by an up-to-date Overall Economic Development Plan (OEDP), or

b. a contiguous, well, defined community with a population of 10,000 or more within a Redevelopment Area (a "pocket of distress").

2. The eligible area must also be experiencing at least one of the following three economic problems:

a. Very high unemployment—at least 12% (which would qualify an area for a Title I Grant Rate of 80%).

b. Low per capita income—75% of the national average or less, according to the most recent Treasury statistics.

c. Chronic distress—failure to keep pace with average national ecnomic growth trends over the last five years.

To be eligible in this last category, an area must meet three out of four of the following criteria:

i. A five-year *average rate of unemployment greater* than the national average;

ii. A five-year rate of *growth in employment* that is *less than* the national average;

iii. A five-year rate of *growth in population* that is *less than* the national average; and

iv. *A five-year absolute dollar change* in *per capita income* that is *less than* the national average.

Separate "national averages" will be computed for SMSAs and areas outside SMSAs. No community, however, will be eligible if the per capita income of its residents exceeds 125 percent of the national average.

Data to document area eligibility will be obtained by EDA from Federal Government sources. Information on eligibility of areas can be obtained from EDA's Regional Offices.

Data to document eligibility of "pockets" will be obtained by potential applicants. Unemployment data must be obtained from State Employment Security Agencies. Income and population data may be obtained from any reliable source, such as State agencies, State Universities, etc. EDA will generally require potential applicants to provide a brief description of the data gathering methodology for income and population data, and will not accept data it considers to be unreliable.

When an area ceases to meet one of the above three criteria it will no longer be eligible for LTED assistance. However, any projects which have been authorized before the area became ineligible for LTED assistance can continue to be processed.

B. *Eligible applicants.* The following entities are eligible applicants for the LTED program:

1. Individual States,
2. Cities, Towns, Counties, and other political subdivisions of States,
3. Councils of Governments (COG), Economic Development Districts (EDD's) and other consortia of political subdivisions within a State,
4. Nonprofit organizations which EDA determines are representative of the eligible area,
5. Indian Tribes.

In general, the smallest entity capable of dealing effectively with the area's economic deterioration problem will be the most suitable applicant.

C. *Eligible Project Activities*—1. *Types of Grants.* EDA will provide grant funding for:

a. Development of a strategy to overcome the problems associated with long-term deterioration and to arrest and reverse the process (Strategy Grants).

b. Projects and programs to carry out a strategy (Implementation Grants).

The usual EDA grant rate for both Strategy and Implementation Grants is 75 percent of eligible project costs. The local share may be in-kind and EDA may, at its own discretion, disburse grant funds before the local matching share is in place. EDA may also waive the requirement for a local share or reduce it to less than 25 percent in cases of extreme need. A local share is, however, normally expected as evidence of local commitment.

2. *Focus of Project Activities.* In many eligible areas, the manifestations of economic deterioration will be concentrated in fairly well-defined areas, which will usually become the *target areas* from the LTED assistance. In others, the problems may not be geographically isolated, but may disproportionately affect a segment of the population, such as a minority group or young workers, which will be the *target population.* In still other areas, symptoms of distress are so general that the *entire area* and most of the work force will be the appropriate target. Applicants for LTED assistance will be asked to classify their areas in

terms of these categories and, where appropriate, to identify target areas and/or target populations.

Where target areas or populations have been identified, the LTED strategy will focus directly on the problems of those areas or those people. Most implementation projects will be located in and/or directly serve the target areas or populations.

The following section gives a more detailed description of the types of activities eligible for funds.

V. TYPES OF ASSISTANCE AVAILABLE

A. *Strategy Grants.* Strategy Grants may be awarded to eligible applicants that require assistance in developing or refining strategies.

1. *Focus of Assistance.* a. Target area strategy—Such strategy should provide a framework for the coordination of a range of programs, projects and resources specifically tailored to address the problems of long-term physical and economic deterioration within the target areas. The types of programs which could be linked in such a strategy include industrial and commercial development; employment and training; transportation; etc.

b. Target population strategy—Such a strategy should identify a realistic set of coordinated project activities tailored to directly benefit the distressed target population residing within the eligible area.

If the most appropriate economic development opportunites for meeting the employment and income needs of the target population are not contained within or adjacent to the eligible area's most blighted subarea(s), planning activities may be focused on other parts of the eligible area. In these cases the applicant must clearly demonstrate how this approach will serve to alleviate the problems of the target population more effectively than a geographically targeted approach; or

c. Areawide strategy—This type of strategy will be aimed at improving the economic base of the area as a whole, and will be less targeted than the other types of strategies.

2. *Nature of Planning Assistance.* Title IX planning assistance differs from EDA's other planning programs funded under sections 302(a) and 301(b) of the Act in that it is not intended to support a permanent economic development staff capability at the State or local level. LTED Investment Strategy Grants should be used primarily to supplement or enhance ongoing economic development planning activities and will be short-term in nature (primarily one, but not to exceed two years in duration).

However, the types of planning activities funded under the LTED program will vary from place to place depending on the maturity of an area's economic development planning and implementation process and the particular nature of its long-term economic deterioration problems.

3. *Product of Assistance.* A LTED strategy is not a repetition of the OEDP; it is more focused and specific. It must, of course, be consistent with the up-to-date OEDP required for area eligibility, but it will usually address the deterioration problem of a specific target area or target population within the Redevelopment Area, rather than all of the area's economic problems and potentials.

A LTED strategy should contain the following components:

a. Identification of the specific LTED problems and a brief description of the historic trends, social and economic factors, etc., that created them.

b. A statement of policy priorities for development of the specific programs and projects to overcome the LTED problems. These priorities should reflect the unique local situation and the judgment and commitment of local leaders.

c. A detailed description of the activities planned to meet each LTED need. The description must indicate how the activities interrelate and how they relate to the OEDP, other established area plans, and the local LTED policy priorities. Goals must be established for such activities.

d. A detailed description of how the LTED program is to be managed within the community and how Federal, State and local resources can be coordinated to achieve strategy objectives.

e. Identification of the participants in th LTED strategy development process, and of the commitments of money, other resources, and support which each of these participants is prepared to make to implement the strategy.

4. *Relationship to Implementation Grants.* The award of assistance to develop an LTED strategy will not necessarily lead to the provision of an Implementation Grant from EDA. All applicants for LTED Implementation grants will be subject to the preference factors listed in Section VI, regardless of the method by which their investment strategies were developed. Implementation Grants may provide funding for all or, more usually, a portion of the proposed activities suggested by the strategy.

B. *Implementation Grants.* Implementation Grants are available to fund project activities identified in investment strategies. Implementation Grants may be used singly or in tandem with other grants awarded under PWEDA and other Federal and State programs and can fund a wide range of activities, including: Construction of public facilities; training programs; revolving loan funds; business assistance; land banking; and other activities as appropriate.

1. *Requirement for an Investment Strategy.* A LTED investment strategy as defined in Section A.3. above must be described in the application for an Implementation Grant. Such a strategy may have been funded by an LTED Strategy Grant or may be the product of other planning efforts. In some cases, an existing OEDP may contain an adequate strategy.

2. *Focus of Assistance.* The LTED assistance can be used to implement a strategy designed:

a. To revitalize a specific deteriorated *target area* within the eligible area.

b. To assist a *target population* directly, whether or not the activities involved are actually located in a target area; or

c. To strengthen the economic base of the *entire area* in those cases where the whole area is considered to be physically and economically deteriorated.

3. *Nature of Assistance.* LTED Implementation Grants provide a unique economic development resource which is flexible and can be used for a variety of development activities needed by the local community. Further, in most instances, Implementation Grants will be awarded to fund a range of project activities which constitute a comprehensive program to address local deterioration. It is also expected that LTED assistance will often be complemented by assistance provided under other EDA authorities.

4. *Revolving Loan Funds.* One of the unique features of the Title IX authority is that it can be used to establish a revolving loan fund. A component of a LTED Strategy may include a revolving loan fund. *EDA's Administrative Guideline for Title IX Revolving Loan Funds* should be referred to for an explanation of the procedure and requirements applying to such funds.

VI. LTED PROJECT SELECTION CRITERIA

EDA will select LTED Strategy Grant Projects based on the needs of the eligible area. Implementation Grants will be evaluated on the basis of the needs of the eligible area and the applicant's ability to use the LTED funds effectively.

A. *Indications of need.* 1. In considering urban areas, i.e., cities with populations of 50,000 or more, those which exhibit significant problems in one or more of the following areas will be given preference:

a. Outmigration and/or decline of industries.

b. Erosion of a tax base.

c. Physical deterioration of capital stock, including public facilities and infrastructure.

d. Decline of public services and amenities.

2. In considering rural areas, those which exhibit significant problems in one or more of the following areas will be given preference:

a. Population outmigration.

b. Loss of employment opportunities/dislocation of workers.

c. Physical deterioration.

d. Decline of economic base.

B. *Indication of applicant's ability to use LTED funds effectively.* 1. The degree to which the proposed LTED activity is targeted to the more economically distressed population and/or physicially deteriorated areas.

2. the availability of land and facilities to achieve the desired results set forth in the LTED strategy.

3. The level of preparedness and capacity of the applicant to administer the LTED strategy.

4. The innovative use of LTED funds.

5. The degree to which the proposed LTED activity is central to the goals identified in existing planning programs for the area, including OEDPs, CEDS, and 302 plans.

6. The degree of joint involvement and cooperation with other Federal, State and local entities in the forumlation and proposed implementation of the LTED strategy.

7. The dollar amount of private investment likely to result from implementation of the strategy.

8. The diversity of funding sources and mechanisms proposed in the LTED strategy.

9. EDA's interest in funding a variety of applicant types and areas, representing geographic and demographic diversity.

VII. APPLICATION PROCEDURES

A. *Applicant Forms*—1. *Strategy Grants.* Application for a Strategy Grant must be made according to the application procedures contained in Attachment "M" of the Office of Management and Budget Circular A-102 Revised. Part IV, Program Narrative, of Attachment "M" (Exhibit M-3) must be prepared according to special instructions provided by the EDA Regional Offices. (For applicants which are not States or political subdivisions of States, OMB Circular A-110 applies.)

2. *Implementation Grants.* Application for an Implementation Grant must be made according to the appropriate application procedures contained in Attachment "M" of Office of Management and Budget Circular A-102 Revised or A-110. Special instructions will be provided by the EDA Regional Offices.

B. *Application Development and Process.* Preliminary information on Long-Term Economic Deterioration proposals will be reviewed by the Regional Office and Washington staff before an application is authorized. Applications will be developed by the applicants with the assistance of the Economic Development Representative and the Regional Office Staff. Completed applications will be reviewed by the Regional Offices and sent to Washington for final action.

Grants will be approved by the Assistant Secretary and obligated upon acceptance of the grant offer by the grantee. In most instances disbursements of funds will be by letter of credit.

VIII. FINANCIAL GUIDELINES

A. Strategy Grants must be used by the recipient only for direct expenditures, including the purchase of services.

B. Implementation Grants may be used either in direct expenditures by the recipient or through redistribution by it to public and private entities in grants, loans, loan guarantees, payments to reduce interest on loan guarantees, or other forms of assistance, with the exception that no grant shall be made to a private profit-making entity.

IX. MONITORING

A. *Reporting Requirements.* Each grantee will be required to submit a complete status report to the appropriate Regional Office for each year that the assistance continues and for one year thereafter. This report must evaluate the effectiveness of the assistance provided under the LTED program in meeting the needs it was designed to alleviate and in meeting the purposes of the LTED program.

B. *Contruction.* When construction activities are part of the implementation stratgey to be funded, they will be monitored according to construction management procedures established for other EDA construction programs.

C. *Audit Requirements.* The program budget must provide for audits by an auditor acceptable to the Department of Commerce Office of Audits. Such audits will be conducted for submission to the Agency, either at the completion of an individual project which is part of the adjustment plan, or at the completion of the entire adjustment program, whichever EDA deems most appropriate.

Comments are welcome on these guidelines. Comments should be sent to the Assistant Secretary at the above address. There will also be a sixty day period for comment following publication of the forthcoming proposed regulations.

This advance notice of proposed rulemaking is issued under the authority of sections 701 and 901-905 of the Act (Pub. L. 89-136, 79 Stat. 570, 42 U.S.C. 3211, 3241 *et seq.*) and Department of Commerce Organization Order 10-4, as amended (40 FR 56702, as amended).

Dated: December 2, 1978.

ROBERT T. HALL,
Assistant Secretary for Economic Development.

[FR Doc. 78-34440 Filed 12-8-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[19 CFR Part 177]

[058450]

WATCHES AND WATCH MOVEMENTS

Tariff Classification Under General Headnote 3(a), Tariff Schedules of the United States: Change of Practice Considered

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

ACTION: Proposed change of practice.

SUMMARY: This document gives notice that the Customs Service is reviewing the current practice of according duty-free treatment to watches and watch movements pursuant to General Headnote 3(a), TSUS. The Customs Service has ruled that certain watches and watch movements assembled in the insular possessions from foreign watch subassemblies and parts satisfy the "manufactured or produced" requirements of General Headnote 3(a), TSUS. The Customs Service is contemplating a change of this practice. If the practice is changed, watches and watch movements which are not subjected to sufficient processing in the insular possessions would be dutiable pursuant to Subpart E, Part 2, Schedule 7, TSUS.

DATES: Comments must be received on or before February 9, 1979.

ADDRESS: Comments should be addressed to the Commissioner of Customs, Attention: Regulations and Legal Publications Division, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT:

Alan W. Brick, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5727).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Under a uniform and established practice, the Customs Service accords duty-free treatment to importations of certain watches and watch movements from the insular possessions, pursuant to General Headnote 3(a), Tariff Schedules of the United States (TSUS).

GENERAL HEADNOTE 3(a), TSUS

Under General Headnote 3(a), TSUS, watches and watch movements imported from an insular possession may enter the Customs territory of the United States free of duty if they:

(1) Are manufactured or produced in the possession,

(2) Do not contain foreign materials which represent more than 70 percent of their total value and,

(3) Come directly to the Customs territory of the United States from the possession.

In order to satisfy the "manufactured or produced" requirement of General Headnote 3(a), TSUS, Customs has ruled that a new and different article of commerce must result from the operations performed in the insular possession.

The insular possessions include the Virgin Islands, American Samoa, and Guam. The Customs territory of the United States includes the 50 States, the District of Columbia, and Puerto Rico.

General Headnote 3(a), TSUS, embodies a legislative intent to promote the growth of the economies of the insular possessions by stimulating the development of light industry, such as watch assembly. (Senate Report No. 94-273, 94th Cong., 1st Sess. (1975), reprinted in 1975 U.S. Code Cong. & Ad. News at 884, et seq.).

PROPOSED CHANGE OF PRACTICE

The Customs Service is considering a change in the practice of according duty-free treatment, pursuant to General Headnote 3(a), TSUS, to certain, watches and watch movements imported from the insular possessions. In some instances, "low labor" watches and watch movements which are subjected to limited processing in an insular possession have been accorded duty-free treatment under General Headnote 3(a), TSUS. For example, in some cases, the value added in direct labor cost has been as little as 10 percent of the cost of the foreign components. This raises the question whether the present practice requires sufficient processing to warrant a finding that these "low labor" watches and watch movements are "manufactured or produced" in the insular possession.

Accordingly, the Customs Service will review written comments submitted, and if it is determined that the present practice is "clearly wrong" (see 19 CFR 177.10(b)), the Customs Service will propose for public comment a new practice.

COMMENTS

Consideration will be given to any written comments submitted to the Commissioner of Customs, preferably in triplicate. Comments submitted will be available for public inspection in accordance with § 103.8(b), Customs Regulations (19 CFR 103.8(b)), during regular business hours at the Regulations and Legal Publications Division, Headquarters, United States Customs Service, Room 2335, 1301 Constitution Avenue, N.W., Washington, D.C.

AUTHORITY

This notice is published pursuant to section 315(d), Tariff Act of 1930, as amended (19 U.S.C. 1315(d)), and § 177.10(c) of the Customs Regulations (19 CFR 177.10(c)).

DRAFTING INFORMATION

The principal author of this notice was Alan W. Brick, Office of Regulations and Rulings, United States Customs Service. However, personnel from other offices of the United States Customs Service participated in developing this notice, both on matters of substance and style.

LEONARD LEHMAN,
Commissioner of Customs.

Approved: November 3, 1978.

RICHARD J. DAVIS,
Assistant Secretary of the Treasury.

[FR Doc. 78-34461 Filed 12-8-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

[21 CFR Part 1310]

PIPERIDINE REPORTING AND PURCHASER IDENTIFICATION REGULATIONS

AGENCY: Drug Enforcement Administration, Justice.

ACTION: Notice of Proposed Interim Rulemaking.

SUMMARY: This proposal is to give notice of the intent of the Drug Enforcement Administration to establish interim regulations to implement Section 203(b)(1) of Title II—PCP Criminal Penalties and Piperidine Reporting—of Pub. L. 95-633, "The Psychotropic Substance Act of 1978," as required by Section 203(b)(1) of Title II. Specifically, Section 203(b)(1), requires that within 30 days of enactment of Pub. L. 95-633, such interim regulations shall be published and detail the manner and extent of piperidine reporting and customer identification requirements of Section 202(b) of Title II of the Act. Subsequent to the publication of this notice and receipt of comments in response thereto, the Drug Enforcement Administration will publish final interim regulations on or before January 31, 1979 implementing the above-referenced Section 202(b).

DATE: Comments should be received on or before January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Alfred A. Russell, Chief, Regulatory Support Division, Drug Enforcement Administration, telephone 202-633-1570.

SUPPLEMENTARY INFORMATION: In furthermore of and pursuant to Section 203(b)(1) of Title II—PCP Criminal Penalties and Piperidine Reporting—of Pub. L. 95-633, "The Psychotropic Substances Act of 1978," and under the authority vested in him by the Controlled Substances Act and by Department of Justice regulations, the Administrator of the Drug Enforcement Administration hereby proposes the creation of interim regulations as a new Part 1310 of Title 21 of the Code of Federal Regulations, as set forth below:

PART 1310—PIPERIDINE REPORTING AND PURCHASER IDENTIFICATION

Sec.

1310.01 Persons required to report.
1310.02 Contents of reports.
1310.03 Frequency of reports and format.
1310.04 Purchaser identification.
1310.05 Exemptions.

AUTHORITY: Section 203(b)(1) of Title II of Pub. L. 95-633, The Psychotrophic Substances Act of 1978.

§ 1310.01 Persons required to report.

Any person who distributes, sells or imports piperidine, unless exempted in accordance with § 1310.03(c) shall report:

(a) Each importation of any quantity of piperidine and each transfer from the importer of record to any purchaser who is not the importer of record;

(b) Each shipment of piperidine in any quantity to any individual or entity other than an individual;

(c) All losses or thefts of piperidine.

§ 1310.02 Content of reports.

Reports required of suppliers shall include at least the following:

(a) For an individual purchaser: the name, address and age of the individual; the type of identification which the individual purchaser presents to confirm his identity to the supplier with corresponding identification numbers; the quantity and form of piperidine; the date shipped and the method of

shipment (company truck, picked up by customer, etc.); the name and address of the shipper and the name and title of the person authorizing the shipment. The intended use of piperidine shall also be reported.

(b) In the case of shipment to an entity other than an individual: the name and address of the entity; the name, address and title of the individual ordering or receiving the piperidine; the type of indentification presented to confirm the identity of the individual and the entity; the quantity and form of piperidine; the date shipped and method of shipment; the name and address of the shipper; and the name and title of the person authorizing the shipment. The intended use of piperidine shall also be reported.

§ 1310.03 Frequency of reports and format.

(a) All reports required to be made under this part shall be submitted to the Drug Enforcement Administration office nearest the reporter's place of business, no later than seven (7) days after the sale.

(b) Reporting forms will be provided by the Drug Enforcement Administration as soon as they are available and may then be obtained from the nearest Drug Enforcement Administration office. In the meantime, reports may be submitted on plain bond paper or business letterhead provided they contain the required information. A suggested format for reporting is given below:

Supplier/Importer

Name _____
Business phone _____
Address _____
City _____ State _____ Zip _____
Name of person authorizing shipment _____
Title _____

Purchaser

Name _____
Business phone _____
Address _____
City _____ State _____ Zip _____
Name of person requesting shipment _____
Title _____

Shipping address (if other than purchaser):
Street _____
City _____ State _____ Zip _____
Identification:
Purchase Order _____
Drivers license _____
Credit Card _____
Other _____
Method of Shipment:
Company truck _____
Common carrier _____
Customer pick up _____
Other _____
Quantity and form _____
Date of shipment _____
Intended use of piperidine: _____

Loss or Theft:
Date _____
Quantity _____
Loss or Theft:
In Transit _____
Theft from premises _____
Details: _____

(c) Notwithstanding the provisions of subparagraph (a) hereof, and § 1310.05, beginning on June 30, 1979 and on each December 31 and June 30 thereafter each person who distributes, sells or imports piperidine shall submit to the Drug Enforcement Administration office nearest his place of business a complete list of all purchasers of piperidine to which the seller has made shipment within six (6) months immediately preceding each reportng date as hereinabove required. Such lists need only contain the name and address of the purchaser and the quantity and date of each shipment to that purchaser.

§ 1310.04 Purchaser identification.

Each person required to report under Section 310(a) of the Act (21 U.S.C. 830) shall establish a system requiring positive identification by all persons who purchase piperidine from them. Such identification shall consist of at least a letterhead and a recognized signature of the purchaser or his agent in the case of business entities and the usual identification (e.g., drivers license/credit card combination) required for credit transactions for sales to individuals.

§ 1310.05 Exemptions.

Requests for exemption from reporting: Any person who distributes, sells or imports piperidine may request exemption from reporting shipments to the Drug Enforcement Administration upon his certification that a specific purchaser is known by him to be a customer of long-standing who uses piperidine thus received for legal purposes. Such certification may be on a letterhead signed by a responsible party and should be submitted to the Drug Enforcement Administration office nearest the person's place of business. The Drug Enforcement Administration will inform the person requesting the exemption of its approval or disapproval within thirty (30) days.

* * * * *

All interested persons are invited to submit the comments in writing regarding this proposal. These comments should state with particularity the issues concerning which the person desires to be heard. Comments should be submitted in quintuplicate to the Administrator, Drug Enforcement Administration, United States Department of Justice, 1405 I Street, N.W., Washington, D.C. 20537, Attention: DEA Federal Register Representative, on or before January 10, 1979.

Dated: December 4, 1978.

PETER B. BENSINGER,
Administrator,
Drug Enforcement Administration.

[FR Doc. 78-34486 Filed 12-10-78; 8:45 am]

[1505-01-M]

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

[29 CFR Part 2700]

PROCEDURAL RULES

Proposed Rulemaking

Correction

In FR Doc. 78-30777, appearing at page 50712 in the issue of October 31, 1978, the following changes should be made:

1. On page 50714, second column, the seventh line of §2700.7(b) should read, "served by the filing party upon the represen-[tatives]".

2. On page 50714, third column, the last line of § 2700.11(d) should read, "an informant who is a miner".

[8320-01-M]

VETERANS ADMINISTRATION

[38 CFR Part 1]

SAFEGUARDING PERSONAL INFORMATION IN VETERANS ADMINISTRATION RECORDS

Proposed Regulation

AGENCY: Veterans Administration.

ACTION: Proposed Regulation.

SUMMARY: The Veterans Administration proposes to amend its regulation concerning use of social security numbers in veterans' benefits matters. the current regulation stipulates that no one will be denied any right, benefit, or privilege provided by law because of refusal to disclose to the Veterans Administration a social security number. We are proposing to amend the regulation to provide authority for requiring mandatory disclosure of a claimant's or beneficiary's social security number as a condition precedent to the receipt or continued receipt of Veterans Administration periodic monetary benefits. This change is needed to ensure the fiscal integrity of the Veterans Administration benefits program. The effect of this action is to provide for verification of social security benefit data furnished in connection with a claim for Veterans Administration benefits.

DATES: Comments must be received on or before January 8, 1979. We propose to make this change effective date of final approval.

ADDRESSES: Send written comments to: Administrator of Veterans Affairs

(271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. Comments will be available for inspection at the address shown above during normal business hours until January 18, 1979.

FOR FURTHER INFORMATION CONTACT:

T. H. Spindle 202-389-3005.

SUPPLEMENTAL INFORMATION: Entitlement (including level of payment) of three Veterans Administration monthly benefit programs is directly related to a claimant's annual income. These programs are disability and death pension and parents' DIC (dependency and indemnity compensation). Pension is payable when disability or cause of death is non-service connected. DIC is payable when cause of death is service connected.

The Veterans Administration is responsible to Congress and the American people for the proper administration of these programs. This means, among other things, that we must ensure that benefits are paid only to those entitled and that the amount paid to each beneficiary is the correct amount authorized by law. Social security benefits are the major source of income for many of our pension and DIC beneficiaries. It is, therefore, essential that we have the means to verify a claimant's or beneficiary's reported social security entitlement to determine whether the Veterans Administration payment is correct. From a practical standpoint, verification of social security benefits with the Social Security Administration can only be accomplished by use of a social security number.

The Privacy Act, Pub. L. 93-579, does not prohibit the Veterans Administration from requiring mandatory disclosure of a social security number inasmuch as the social security number was authorized to be required by the Veterans Administration before the enactment of the Privacy Act.

ADDITIONAL COMMENT INFORMATION

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposal to the Administrator of Veterans Affairs (271A), Veterans Administration, 810 Vermont Avenue, NW., Washington, DC 20420. All written comments received will be available for public inspection at the above address only between the hours of 8 am and 4:30 pm Monday through Friday (except holidays) until January 18, 1979. Any person visiting Central Office for the purpose of inspecting any such comments will be received by the Central Office Veterans Services Unit in room 132. Such visitors to any VA field station will be informed that the records are available for inspection only in Central Office and furnished the address and the above room number.

Approved: December 1, 1978.

By direction of the Administrator.

RUFUS H. WILSON,
Deputy Administrator.

Section 1.575 is revised to read as follows:

§ 1.575 Social security numbers in veterans' benefits matters.

(a) Except as provided in paragraph (b) of this section, no one will be denied any right, benefit, or privilege provided by law because of refusal to disclose to the Veterans Administration a social security number.

(b) The Veterans Administration may require mandatory disclosure of a claimant's or beneficiary's social security number (including the social security number of a dependent of a claimant or beneficiary) as a condition precedent to receipt or continuation of receipt of compensation (where affected by outside income) or pension payable under the provisions of chapters 11, 13 and 15 of title 38, United States Code.

(c) A person requested by the Veterans Administration to disclose a social security number shall be told, as prescribed by § 1.578(c), whether disclosure is voluntary or mandatory. The person shall also be told that the Veterans Administration is requesting the social security number under the authority of title 38, United States Code, that it will be used in the administration of veterans' benefits in the identification of veterans or persons claiming or receiving Veterans Administration benefits and their records, and that it may be used to verify social security benefit entitlement (including amounts payable) with the Social Security Administration and, for other purposes where authorized by both title 38, United States Code and the Privacy Act of 1974, (Pub. L. 93-579), or, where required by another statute.

[FR Doc. 78-34396 Filed 12-8-78; 8:45 am]

[7710-12-M]

POSTAL SERVICE

[39 CFR Part 111]

PREPARATION FOR MAILING: SECOND-CLASS BULK MAILINGS

Key Rate Second-Class Publications

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: This proposal would amend postal regulations to require publishers of second-class publications, for which the key rate method of computing postage is used, to submit a statement on Form 3541, Statement of Mailing Second-Class Publications, showing the number of subscribers' copies of an issue mailed to each zone, at six month intervals of the current twelve month interval. The proposal would also require publishers to submit such a statement when there is a postage rate change. The purpose of this proposal is to enable the Postal Service to compute key rates which reflect more up-to-date circulation data, increasing the likelihood that the proper postage can be calculated and collected.

DATE: Comments must be received on or before January 10, 1979.

ADDRESS: Written comments should be sent to: Director, Office of Mail Classification, Rates and Classification Department, U.S. Postal Service, Washington, D.C. 20260. Copies of all written comments will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday in Room 1610.

FOR FURTHER INFORMATION CONTACT:

Ernest J. Collins, (202) 245-4749.

SUPPLEMENTARY INFORMATION: Existing regulations permit the key rate method of computing postage to be used for copies of second-class publications subject to the advertising zone rates. The key rate is the average rate of postage per pound for the advertising portion of an issue. It is computed by postal employees based on the information appearing on the mailing statement submitted by publishers showing the number of subscribers' copies of an issue mailed to each zone. Present regulations require publishers to submit this information once each calendar year at twelve-month intervals. In addition, postmasters may require more frequent submission when the volume of mailings to the zones varies or when there is an increase in the total number of copies. During the one year interval, the regulations permit the publisher to submit a mailing statement each time a new issue is mailed which shows only the total copies mailed to all zones rather than the number of copies to each zone. Postal employees apply the key rate to the total weight of the advertising portion and apply the regular reading portion rate to the total weight of the reading portion to determine the postage charge.

In the past, the key rate method of computing postage saved time and labor costs because postal employees had to compute postage amounts mentally. However, with increased employee use of the electronic calculator which permits accurate calculations to be made easily and quickly, the key rate method is no longer very useful to the Postal Service. In addition, post offices vary in their determinations of

which changes in circulation warrant computation of new key rates. In some post offices, a new key rate is computed when circulation varies only slightly while in other post offices a new key rate is not computed even though the circulation varies substantially. Failure to recompute the key rate when circulation varies sometimes results in a loss of postal revenue. However, the Postal Service recognizes that many publishers favor retention of the key rate method as it simplifies mailing statement filing requirements. Therefore, rather than eliminating the key rate, the Postal Service proposes that publishers submit mailing statements at more frequent intervals. This proposed change, if adopted, should not be burdensome to publishers and should enable the Postal Service to compute key rates which reflect more up-to-date circulation data, increasing the likelihood that the proper postage can be calculated and collected.

Accordingly, although exempt from the notice and comment 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 revisions of the Postal Service Manual:

PART 125—SECOND-CLASS BULK MAILINGS

In 125.7 revise sections 125.72, 125.73 and 125.741 to read as follows:

125.72 Statement Showing Mailings to Each Zone. The publisher must submit at 6-month intervals a statement on Form 3541 showing the number of subscribers' copies of an issue mailed to each zone. See exhibit 125.742. During these 6-month intervals, the publisher does not need to complete the lines for zones 1 to 8 on Form 3541. The publisher should complete only the line labeled *Total Copies.*

125.73 New Zone Statement. Postmasters will require a new report on Form 3541 showing the mailings to each zone at any time during the 6-month intervals when the volume of mailings to the zones varies or when there is an increase in the total number of copies or when there is a postage rate change.

125.74 Computation.

.741 Compute the key rate on Form 3541 at 6-month intervals, using the subscribers' copies shown by zones on Form 3541 furnished in accordance with 125.72. If a new report on Form 3541 is filed at any time during the 6-month intervals showing mailings to each zone, a new key rate must be computed and used.

An appropriate amendment to 39 CFR 111.3 to reflect these changes will be published if the proposals are adopted.

(39 U.S.C. 401(2), 403.)

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc.78-34395 Filed 12-8-78; 8:45 am]

[7710-12-M]

[39 CFR Part 111]

CONDITIONS OF DELIVERY

Return of Refused Mail to the Mailstream After Delivery

AGENCY: Postal Service.

ACTION: Proposed Rule.

SUMMARY: Under existing postal regulations an addressee may mark "Refused" on a piece of mail delivered to him, unless it is registered, insured, certified, or COD mail, and return such mail unopened to the mailstream without putting postage on it. These regulations were intended by the Postal Service to apply only to unsolicited mail. Some mailers, however, have been returning to the mailstream mail they have received in response to their own sales promotions, solicitations, and the like. This proposed rule would specifically prohibit the refusal of such solicited mail after delivery.

DATE: Comments must be received on or before January 10, 1979.

ADDRESS: Written comments should be directed to the Director, Office of mail Classification, Rates and Classification Department, U.S. Postal Service, 475 L'Enfant Plaza, West, S.W., Washington, D.C. 20260. Copies of all written comments received will be available for public inspection and photocopying between 9 a.m. and 4 p.m., Monday through Friday, in the Office of Mail Classification, Room 1610, 475 L'Enfant Plaza, West, SW., Washington, D.C. 20260.

FOR FURTHER INFORMATION CONTACT:

Mr. George E. Thomas, (202) 245-4512.

SUPPLEMENTARY INFORMATION: Postal regulations dealing with "refused" mail are being revised to deal with the following practices. Periodically an addressee who solicits orders or requests for tickets, special licenses, contests and other products and services imposes a quota or limits the number of orders or requests that he will fill. After the quota or limited number has been processed or filled, such addressee does not open the remaining orders or requests but endorses them "Refused" or "Refused/Quota Filled" and redeposits them for return to the senders without the payment of new postage.

The right to refuse mail after its delivery is intended principally to cover situations where the delivery of mail could not conveniently have been stopped by prior action of the addressee. Accordingy, persons who have solicited requests or orders should not be permitted to return them as "Refused" after the available supplies of tickets, products, services, places, spaces, or special licenses applied for have been promised, allocated, or used. All such left-over solicited orders or requests tendered to the Postal Service for return to the senders should be placed into newly addressed envolopes bearing proper postage prior to being placed into the mails.

Accordingly, the Postal Service proposes to amend sections 154.11 and 159.11 of the Postal Service Manual, Chapter I of which has been incorporated by reference in the FEDERAL REGISTER, see 39 CFR 111.1. Although exempt from the requirements of the Administrative Procedure Act (5 U.S.C. 553(b), (c)) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed revisions of the Postal Service Manual:

PART 154—CONDITIONS OF DELIVERY

1. Amend 154.1 to read as follows:

154.1 *Delivery, Refusal and Return.*

.11 *Delivery to Addressee.* The addressee may control delivery of his mail. In the absence of a contrary order, the mail is delivered as addressed. Mail addressed to several persons may be delivered to any one of them.

.111 *Mail Refused When Offered For Delivery.* The addressee may refuse to accept a piece of mail at the time it is offered for delivery.

.112 *Mail Refused After Delivery.* After delivery, an addressee may mark a piece of mail REFUSED and return it unopened to the mail, EXCEPT:

a. Registered, insured, certified, and COD mail may not be refused and returned postage free after delivery has been effected.

b. Mail sent to an addressee in response to the addressee's sales promotion, solicitation, annoncement or other advertisement, and which has not been refused when offered to the addressee, may not be refused and returned postage free after delivery has been effected.

Mail that may not be refused and returned unopened to the mail under this provision may be returned to the sender only if enclosed in a new envelope or wrapper with a correct address and new postage.

.113 *Mail Withheld from Delivery.* An addressee may request his postmaster in writing to withhold from delivery for a period not exceeding 2 years any foreign letter or printed matter bearing a specified name or address appearing on the outside. Such mail will be marked REFUSED by the post office and treated as undeliverable.

.114 *Mail of Unknown Addressee.* Where a person claiming to be the addressee of certain mail is unknown to the postmaster, the mail may be withheld pending identification of the claimant.

.115 *Refused Mail as Undeliverable.* Matter refused by the addressee in accordance with 154.111 and 154.112 will be treated as undeliverable. See part 159.

.116 *Remailing of Matter Returned to Sender.* The mailer shall not remail undelivered or refused mail returned to him unless it is enclosed in a new envelope or wrapper with a correct address and new postage.

PART 159—UNDELIVERABLE MAIL

2. In 159.11, amend .111e and add new .111f to read as follows:

159.11 *Reasons for Nondelivery.*
.111 *General Reasons.*

* * * * *

e. Mail refused by the addressee at time of delivery.

f. Mail refused by the addressee after delivery when refusal is authorized under 154.112.

An appropriate amendment to 39 CFR 111.1 to reflect these changes will be published if the proposal is adopted.

ROGER P. CRAIG,
Deputy General Counsel.

[FR Doc. 78-34439 Filed 12-8-78; 8:45 am]

[6560-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 65]

[FRL 1022-8]

STATE AND FEDERAL ADMINISTRATIVE ORDERS PERMITTING A DELAY IN COMPLIANCE WITH STATE IMPLEMENTATION PLAN REQUIREMENTS

Proposed Delayed Compliance Order for General Motors Corporation, GM Assembly Division, Norwood, Ohio

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: U.S. EPA proposed to issue an Administrative Order to General Motors Corporation, GM Assembly Division. The Order requires the Company to bring its three coal-fired boilers (the source) into compliance with Ohio Regulation AP-3-11 part of the federally approved Ohio State Implementation Plan (SIP). Because the Company is unable to comply with these regulations at this time, the proposed Order would establish an expeditious schedule requiring final compliance by July 1, 1979. Boilers No. 1 and No. 2 will achieve final compliance by July 1, 1979. Operation of Boiler No. 3 will cease on June 30, 1979. Operation of Boiler No. 3 will resume when pollution control equipment necessary to achieve compliance has been installed. Source compliance with the Order would preclude suits under the Federal enforcement and citizen suit provision of the Clean Air Act (the Act) for violation of the SIP regulations covered by the Order.

The purpose of this notice is to invite public comment and to offer an opportunity to request a public hearing on U.S. EPA's proposed issuance of the Order.

DATES: Written comments must be received on or before January 10, 1979 and requests for a public hearing must be received on or before December 26, 1978. All requests for a public hearing should be accompanied by a statement of why the hearing would be beneficial and a text or summary of any proposed testimony to be offered at the hearing. If there is significant public interest in a hearing, it will be held after twenty-one days prior notice of the date, time, and place of the hearing has been given in this publication.

ADDRESS: Comments and requests for a public hearing should be submitted to Director, Enforcement Division, U.S. Environmental Protection Agency, Region V, 230 South Dearborn Street, Chicago, Illinois 60604. Material supporting the Order and public comments received in response to this notice may be inspected and copies (for appropriate charges) at this address during normal business hours.

FOR FURTHER INFORMATION CONTACT:

Ms. Anne Swofford, Attorney, Enforcement Division, U.S. Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604, at (312) 353-2082.

SUPPLEMENTARY INFORMATION: General Motors Corporation, GM Assembly Division, owns three coal-fired boilers at Norwood, Ohio. The proposed Order addresses emissions from the three coal-fired boilers at this facility, which are subject to Regulation AP-3-11 of the Ohio Implementation Plan. The regulation limits the emissions of particulates and is part of the federally approved Ohio State Implementation Plan. The Order requires final compliance with the regulations by July 1, 1979, and the source has consented to its terms. The source has agreed to meet the Order's increments during the period of this informal rulemaking.

The proposed Order satisfies the applicable requirements of Sections 113(a) and 113(d) of the Clean Air Act. If the Order is issued, source compliance with its terms would preclude further U.S. EPA enforcement action under Section 113 of the Act against the source for violations of the regulations covered by the Order during the period the Order is in effect. Enforcement against the source under the citizen suit provisions of the Act (Section 304) would be similarly precluded.

Comments received by the date specified above will be considered in determining whether U.S. EPA should issue the Order. Testimony given at any public hearing concerning the Order will also be considered. After the public comment period and any public hearing, the Administrator of U.S. EPA will publish in the FEDERAL REGISTER the Agency's final action on the Order in 40 CFR Part 65.

Dated: November 28, 1978.

JOHN MCGUIRE
Regional Administrator,
Region V.

In consideration of the foregoing, it is proposed to amend 40 CFR Chapter 1, as follows:

1. By adding an entry to the table in Section 65.400—*Federal Delayed Compliance Orders issued under Section 113(d)(1), (3), and (4) of the Act,* to reflect approval of the following order:

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

In the matter of General Motors Corporation, GM Assembly Division, Norwood, Ohio. Proceeding under Sections 113(a) and (d), Clean Air Act, as Amended.

ORDER

The following Order is issued this date pursuant to Sections 113(a) and (d) of the Clean Air Act, as amended, 42 U.S.C. Section 7413(a) and (d), (hereinafter referred to as "the Act"). The Order contains a compliance schedule with increments of progress, interim emission reduction requirements, and reporting conditions. Final compliance is required as expeditiously as practicable, but no later than July 1, 1979. The source is hereby notified that it may be required to pay a noncompliance penalty in the event it fails to achieve final compliance by July 1, 1979. Public notice, opportunity for a public hearing and notice to the State of Ohio have been provided pursuant to Section 113(d)(1) of the Act.

On November 10, 1977, James O. McDonald, Director, Enforcement Division, Region V, United States Environmental Protection Agency (hereinafter referred to as "U.S. EPA"), pursuant to authority duly delegated to him by the Administrator of U.S. EPA, issued a Notice of Violation to the General Motors Assembly Division (hereinafter referred to as "GMAD") stating that the Company's facility, located in Norwood, Ohio, was found to be in violation of the applicable Ohio Implementation Plan, as defined in Section 110(d) of the Act. The Notice cited GMAD's 3 coal-fired boilers for violation of Ohio Regulation AP-3-11. Said boilers are identified as follows:

Boiler No. 1—101 MMBTU/hr (80,000 lbs steam/hr)
Boiler No. 2—101 MMBTU/hr (80,000 lbs steam/hr)
Boiler No. 3—101 MMBTU/hr (80,000 lbs steam/hr)

A copy of said Notice was sent to the State of Ohio Environmental Protection Agency.

In satisfaction of Section 113(a)(4) of the Act, opportunity to confer with the Administrator's delegate was given to GMAD and on December 13, 1977 a conference was held. At that conference, U.S. EPA advised GMAD that the finding of violation with respect to Ohio Regulation AP-3-11 (contained in the Notice of Violation) was based on emission calculations derived from data submitted to U.S. EPA by GMAD.

At said conference, GMAD stated to U.S. EPA that it did not agree that a violation of Ohio Regulation AP-3-11 existed because on February 19, 1976, GMAD exercised its statutory right under the Ohio State Implementation Plan approved by U.S. EPA and requested an adjudication hearing before the Director of the Ohio EPA challenging the proposed denial of its permit to operate the boilers located at the facility. This request for hearing sought a statutory variance from the emission limitations contained in AP-3-11 or in the alternate a determination that the emission limitation contained in AP-3-11 was unreasonable and unlawful as applied to the subject boilers. On July 14, 1978, the Director of the Ohio EPA held, as a matter of law, that no variance could be granted as to particulate matter standards beyond April 15, 1977. Relief was therefore denied.

GMAD advised the U.S. EPA during discussions subsequent to the December 13 conference that it will install additional particulate control equipment on the boilers at the subject facility which will result in particulate emissions at a rate not greater than that allowed by AP-3-11.

U.S. EPA has determined that said violations have continued beyond the 30th day after the date of the Enforcement Director's notification.

After a review of information submitted at the conference and a thorough investigation of all relevant facts, including public comment, and without GMAD admitting any violations, it has been determined that GMAD Norwood is presently unable to comply with Ohio Regulation AP-3-11, that the schedule hereinafter set forth requires compliance as expeditiously as practicable, and that the terms of this Order comply with 113(d) of the Act.

Therefore, it is hereby Ordered that:

I. GMAD shall bring Boilers #1, #2, and #3 into compliance with the emission limitation contained in Ohio Implementation Plan Regulation AP-3-11 no later than July 1, 1979.

II. GMAD shall install control equipment on each boiler sufficient to control emissions to a rate not greater than 0.14 pounds per million BTU input.

III. GMAD shall achieve compliance with Ohio Regulation AP-3-11 in accordance with the following schedule:

Increment	Date
a. Submit specifications and preliminary drawings.	Aug. 25, 1978
b. Receive bids	Oct. 10, 1978
c. Commence construction	Nov. 1, 1978
d. Equipment fabrication and delivery.	Jan. 1, 1979
e. Cease operation of Boiler #3	June 30, 1979
f. Achieve compliance with applicable State and Federal statutes and regulations by Boilers #1 and #2.	July 1, 1979
g. Commence operation of Boiler #3 and achieve compliance with applicable State and Federal statutes and regulations by Boiler #3.	July 31, 1979
h. Stack test Boilers #1, #2, and #3	Sept. 1, 1979
i. Submit test results and demonstrate compliance with AP-3-11 for Boilers #1, #2, and #3.	Oct. 1, 1979

IV. This schedule provides for final compliance with Ohio Regulation AP-3-11 by July 1, 1979, as required by Section 113(d)(1)(D) of the Act. Final compliance will occur on this date when operation of Boiler #3 will cease; operation of this boiler will not begin again until pollution controls have been installed.

V. This schedule is protected by Section 113(d)(10) against Federal enforcement action and citizen suits under Section 304 until July 1, 1979. After July 1, 1979, this schedule is covered by Section 113(a).

VI. Nothing herein shall affect the responsibility of the Company to comply with other Federal, State or local regulations.

VII. No later than ten days after any date for achievement of an incremental step or final compliance, specified in this Order, GMAD shall notify U.S. EPA in writing of its compliance or noncompliance and reasons therefore, with the requirement. If delay is anticipated in meeting any requirement of this Order, GMAD shall immediately notify U.S. EPA in writing of the anticipated delay and reasons therefore. Notification to U.S. EPA of any anticipated delay does not excuse the delay. In addition, on or before October 1, 1979, GMAD will submit to U.S. EPA a copy of the report for the stack test required in Paragraph III(i) and certify that all 3 of the boilers are in final compliance. All submittals and notifications to U.S. EPA, pursuant to this Order, shall be made to Eric Cohen, Chief, Air Compliance Section, Enforcement division, region V, U.S. EPA, 230 South Dearborn Street, Chicago, Illinois 60604.

VIII. Pursuant to Section 113(d)(7) of the Act, during the period of this Order, until completion of the program set out in Paragraph III herein, the Company shall use the best practicable systems of emissions reduction so as to minimize particulate emission and shall further comply with the requirements of the applicable implementation plan insofar as it is able to. GMAD shall immediately institute an operation and maintenance procedure which will result in the minimization of particulate matter emissions from the boilers on a day-to-day basis during the interim period preceding final compliance. GMAD shall continue operation of the existing control equipment on Boilers #1, #2, and #3 so that particulate emissions do not exceed 0.30 pounds per million BTU Input.

IX. Nothing herein shall be construed to be a waiver by the Administrator of any rights or remedies under the Clean Air Act, including, but not limited to, Section 303 of the Act, 42 U.S.C. Section 7503.

X. GMAD is hereby notified that its failure to achieve final compliance by July 1, 1979, may result in a requirement to pay a noncompliance penalty under Section 120. In the event of such failure, the GMAD Plant will be formally notified, pursuant to Section 120(b)(3) and any regulations promulated thereunder of its noncompliance. Nothing in this Order shall be construed as a waiver of the right of GMAD to contest the validity of any noncompliance penalty, or the legality, constitutionality or reason-

ableness of the imposition of noncompliance penalties.

XI. In the event that the Ohio Implementation Plan shall be substantially modified or amended during the period of time in which this Order is in effect so as to make the above-described control program inadequate or unnecessary to achieve compliance with such modified or amended Ohio Implementation Plan, GMAD and U.S. EPA shall forthwith meet to discuss possible or appropriate modification of this Order as circumstances shall then require. No discussions shall be necessary until U.S. EPA approves any proposed revisions to the Plan. Any such discussions shall not operate so as to amend or modify the obligations and undertakings herein contained pending the issuance of any amending or modifying Order.

XII. This Order shall become effective upon final promulgation in the FEDERAL REGISTER.

Date ——————————
Administrator, U.S. EPA ——————————

XIII. General Motors Corporation, GM Assembly Division, Norwood, Ohio, has reviewed this Order, consents to the terms and conditions of this Order, and believes it to be a reasonable means by which the Norwood, Ohio, facility can achieve final compliance with Ohio Regulation AP-3-11.

Dated: September 19, 1978.

WALTER GREGONIS,
General Motors Corporation, Plant Manager, GM Assembly Division, Norwood, Ohio.

[FR Doc. 78-34374 Filed 12-8-78; 8:45 am]

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau

[49 CFR Parts 107, 171, and 175]

[Docket No. HM-168; Notice No. 78-13]

HAZARDOUS MATERIALS ABOARD AIRCRAFT

Proposed Rules

AGENCY: Materials Transportation Bureau (MTB), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend certain regulations pertaining to the transportation of hazardous materials aboard aircraft. It proposes (1) a restatement of § 175.5 pertaining to the applicability of Part 175 by removal of the reference to "civil" aircraft and adding a specific exception for government-owned aircraft and, with certain limitations, aircraft operated on behalf of a government; (2) the removal of the exception for aircraft of United States registry under lease to and operated solely by foreign nationals outside the United States; (3) the adoption of a new § 175.31 to require the reporting of discrepancies relative to shipments of hazardous materials following their acceptance for transportation aboard aircraft; and (4) to amend § 175.85 to provide an elaboration of the term "accessible" and to exclude certain classes of materials from the accessibility requirements of the section.

DATES: Comments must be received on or before February 15, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Materials Transportation Bureau, U.S. Department of Transportation, Washington, D.C. 20590. It is requested that five copies be submitted.

FOR FURTHER INFORMATION CONTACT:

A. I. Roberts, Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, Washington, D.C. 20590; phone (202) 426-0656.

SUPPLEMENTARY INFORMATION: This notice addresses four issues involving the transportation of hazardous materials aboard aircraft. The principal drafters of this document are Alan I. Roberts and Lee E. Metcalfe of the Office of Hazardous Materials Regulation and George W. Tenley of the Office of Chief counsel, Research and Special Programs Administration.

Applicability of Part 175. The issue concerning the definition of "public aircraft" has existed for a number of years and basically surrounds the term "used exclusively." The MTB is aware that the matter has been the subject of litigation on at least one occasion and that there has been much confusion concerning the applicability of its regulations in this area. Therefore, the MTB proposes to remove the references to "civil aircraft" and "public aircraft" in Appendix B to Part 107, and §§ 171.8 175.1, and 175.5 and, in lieu thereof, to specifically except government-owned and operated aircraft and those nongovernment-owned aircraft that are under the exclusive direction and control of a government for a period of not less than 180 days as specified in a written contract or lease. The exception would not extend to government-owned and operated aircraft used for commericial purposes.

In determining whether a government does in fact have "exclusive direction and control" over a given aircraft, the MTB believes that the government must, under the terms of the contract or lease, exercise at least the following responsibilities:

1. Approval of crew members and the determination that they are qualified to operate the aircraft (as established by documents showing compliance with pertinent Federal Aviation Regulations);

2. Determining the airworthiness and maintenance of the aircraft (as established by documents showing compliance with pertinent Federal Aviation Regulations); and

3. Dispatching the aircraft, including times of departure, airports to be used, and the type and amount of cargo to be carried.

These criteria are proposed for inclusion in the proposed revision to § 175.5, and the MTB believes they are necessary to assure the safety of an operation not otherwise conducted under the jurisdiction of the Hazardous Materials Regulations.

By specifying a minimum time period, the MTB intends to exclude aircraft operated on behalf of governments for short periods from the exception and to make such operations subject to the Department's Hazardous Materials Regulations. By adoption of the proposed revision to § 175.5 without reference to either "civil" or "public" aircraft, the MTB believes the matter will be clarified to the benefit of all concerned and that the proposal is consistent with responsibilities assigned to the Department by the Hazardous Materials Transportation Act.

Aircraft Leased to Foreign Nationals. The MTB is proposing to remove the exception in § 175.5 pertaining to aircraft of United States registry under lease to and operated solely by foreign nationals outside the United States. This action is being proposed in recognition of obligations imposed upon the United States through its membership in the International Civil

Aviation Organization (ICAO) and its commitment as a signatory to the Chicago Convention. Chapter 3.5, Annex 6, Part 1 of the Convention provides that explosives and other dangerous articles, except where necessary for operation, navigation, or safety of an aircraft, may only be carried if their carriage is approved by the aircraft's state of registry and they are in conformance with the regulations of that state. Consequently, in the absence of a demonstrated need to retain the exception based on considerations of safety, United States obligations as imposed by the Convention dictate that the exception be deleted. Therefore, the MTB is proposing that the operations of such aircraft be subject to the same requirements as those applicable to U.S. flag carriers.

Reports of Discrepancies. The Airline Pilots Association (ALPA) has petitioned the MTB to amend the Department's Hazardous Materials Regulations to require aircraft operators to report to the Federal Aviation Administration (FAA) any hazardous materials package that is not prepared for shipment in accordance with Parts 172 and 173 of the regulations. The National Transportation Safety Board (NTSB) made a similar proposal through its Safety Recommendation A-26, issued March 26, 1974, as a result of its investigation of an accident which occurred at Logan Airport in Boston, Massachusetts, on November 3, 1973. Subsequent to the NTSB recommendation, the Department's Hazardous Materials Regulations pertaining to the transportation of hazardous materials aboard aircraft were completely revised in new Part 175. The MTB believes that new § 175.3 entitled "Unacceptable Hazardous Materials Shipments" and new § 175.30 entitled "Accepting Shipments" pertaining to the acceptance of shipments are responsive in part to the NTSB recommendation. However, no discrepancy reporting requirement was adopted at that time. The term "discrepancy" has been selected to preclude the connotation of prejudgment as to the existence of a violation, and the proposed reporting requirement would only apply following the acceptance of a shipment for carriage aboard aircraft. This is to preclude the burdensome reporting of attempts to obtain acceptance for carriage when carrier personnel readily recognize nonconforming shipments and refuse to accept them for carriage. The MTB is proposing to keep the reporting requirement as uncomplicated as possible while accomplishing its intended purpose and believes that its adoption will significantly improve safety through improved communication between aircraft operators and FAA personnel.

Accessibility. The MTB is proposing to amend Section 175.85 to specify the circumstances under which a hazardous material will be considered in a location accessible to a crew member during flight. This a matter that has been at issue for several years since no definition of the term "accessible" has been provided by regulation in the past. This lack of definition has resulted in a number of different and conflicting interpretations, and the MTB believes that the matter should be resolved by the amendment proposed in this rulemaking. ALPA has petitioned for a much lengthier elaboration of the accessibility requirement, but the MTB believes that the brief description of what it considers to be accessible would result in the same limitations ALPA proposes. For example, ALPA suggests language pertaining to accessibility to hazardous materials on pallets or in containers. The proposed rule would require that the material be loaded so that it can be seen and handled. ALPA recommends that a hazardous materials package be placed so that a crew member will have unobstructed access from at least one side of each hazardous material package from a walkway (isle) and that there be sufficient space available to permit isolation of the package if necessary. The proposed rule would require that the material be loaded in such a manner that it can be separated from other cargo during flight. ALPA suggests that hazardous materials packages may be loaded one on top of the other provided each package is accessible from at least one side. The proposed rule would not preclude stacking of packages so long as they can be seen, handled, and separated from other cargo during flight.

The MTB believes that there are several kinds of hazardous materials that should not be subject to the accessibility requirement of § 175.85. These are materials that would pose no significant risks to the structural integrity of an aircraft and may be safer to carry in inaccessible locations that are not in proximity to crew members. The MTB proposes to exclude the following from the accessibility requirement: radioactive materials; poison B, liquids or solids (except those labeled FLAMMABLE); and irritating materials.

For purposes of clarity, the latter portion of § 175.85(b) pertaining to the operation of single pilot, cargo-only aircraft would be placed in a revised paragraph (c) and the regulation presently found in paragraph (c) would be transferred to new paragraph (f). No substantive changes to these regulations are proposed.

In consideration of the foregoing, Parts 107, 171, and 175 would be amended as follows:

PART 107—PROCEDURES

Appendix B [Amended]

1. Appendix B to Part 107 would be amended by deleting the word "civil" in the second subtitle and the introductory text thereafter.

PART 171—GENERAL INFORMATION, REGULATIONS, AND DEFINITIONS

§ 171.8 [Amended]

2. Section 171.8 would be amended by deleting the definitions for "Civil aircraft" and "Public aircraft."

PART 175—CARRIAGE BY AIRCRAFT

3. Section 175.1 would be revised to read as follows:

§ 175.1 Purpose and scope.

This part prescribes requirements, in addition to those contained in Parts 171, 172 and 173 of this subchapter, applicable to aircraft operators transporting hazardous materials aboard (including attached to or suspended from) aircraft.

4. Section 175.5 would be revised to read as follows:

§ 175.5 Applicability.

(a) This part applies to the acceptance for transportation, loading, and transportation, of hazardous materials in any aircraft in the United States and in aircraft of United States regis-

try anywhere in air commerce. This Part does not apply to—

(1) Government-owned and operated aircraft other than aircraft engaged in carrying persons or property for commercial purposes; and

(2) Aircraft not owned by a government but under exclusive direction and control of a government for a period of not less than 180 days as specified in a written contract or lease.

(b) For the purposes of paragraph (a)(2) of this section, an aircraft is under the exclusive direction and control of a government when that government exercises responsibility for—

(1) Approving the crew members and determining that the are qualified to operate the aircraft;

(2) Determining the airworthiness and maintenance of the aircraft; and

(3) Dispatching the aircraft, including the times of departure, the airports to be used, and the type and amount of cargo to be carried.

5. Section 175.31 would be added to read as follows:

§ 175.31 Reports of discrepancies.

(a) Each person who discovers a discrepancy relative to the shipment of a hazardous material following its acceptance for transportation aboard an aircraft shall, as soon as practicable, notify the nearest Air Carrier District Office, Flight Standards District Office, or General Aviation District Office (as appropriate) by telephone and shall provide the following information:

(1) Name and telephone number of the person reporting the discrepancy.

(2) Name of aircraft operator.

(3) Specific location of the shipment concerned.

(4) Name of the shipper.

(5) Nature of discrepancy.

(b) For the purposes of this section, discrepancies which must be reported in accordance with paragraph (a) of this section include—

(1) Incorrect entries and certifications on shipping papers;

(2) Quantities of hazardous materials in excess of maximums permitted per package;

(3) Incorrect marking, labeling and packaging; and

(4) Instances of packages and baggage found to contain hazardous materials subsequent to their being offered and accepted as other than hazardous materials.

6. In § 175.85, paragraph (b) would be revised, paragraph (c) would be redesignated as paragraph (f), and a new paragraph (c) would be added as follows:

§ 175.85 Cargo location.

* * * * *

(b) Each person carrying a package containing a hazardous material acceptable only for cargo-only aircraft shall carry the package in a location accessible to a crew member during flight. To be considered accessible, the package must be loaded in such a manner that it can be seen, handled, and separated from other cargo during flight. This paragraph does not apply to—

(1) Radioactive materials,

(2) Poison B, liquids or solids (except those labeled FLAMMABLE), and

(3) Irritating materials.

(c) Notwithstanding the provisions of paragraph (b) of this section, when materials acceptable for cargo-only or passenger-carrying aircraft are carried on a small, single pilot, cargo-only aircraft being used where other means of transportation are impracticable or not available, they may be carried without quantity limitation as specified in § 175.75 in a location that is not accessible to the pilot if:

(1) No person other than the pilot, an FAA inspector, the shipper or consignee of the material or a representative of the shipper or consignee so designated in writing, or a person necessary for handling the material is carried on the aircraft.

(2) The pilot is provided with written instructions on characteristics and proper handling of the material.

(3) Whenever a change of pilots occurs while the material is on board, the new pilot is briefed under a hand-to-hand signature service provided by the operator of the aircraft.

* * * * *

NOTE.—The Materials Transportation Bureau has determined that this document does not contain a major proposal requiring the preparation of an economic impact statement under Executive Order 11821, as amended by Executive Order 11949, and OMB Circular A-107 nor an environmental impact statement under the National Environmental Policy Act (49 U.S.C. 4321 et seq.).

Issued in Washington, D.C., on December 1, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-34372 Filed 12-8-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 354]

[49 CFR Parts 1307, 1309, 1310]

ADDITIONAL CHARGES OF MOTOR CARRIERS AND FORWARDERS

Participation Notice and Procedural Time Schedule

AGENCY: Interstate Commerce Commission.

ACTION: Notice to prospective participants and procedural time schedule for filing and cross-service of pleadings.

SUMMARY: This notice extends the time for filing comments; provides for the development and service of a participation list; orders the cross-service of pleadings; and provides for the filing of replies.

DATES: Participation list—December 21, 1978. Opening Statements—December 30, 1978. Reply Statements—January 31, 1978.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz (202) 275-7693.

SUPPLEMENTARY INFORMATION: By notice of proposed rulemaking, published September 1, 1978, (43 FR 39157) this proceeding was instituted to consider the propriety of the motor common carrier and freight forwarder practice of publishing and collecting additional charges (e.g. arbitraries, surcharges, pickup and delivery charges, additional charges) for which no additional services are performed. Proposed regulations were set forth in the notice and interested parties were invited to comment.

In an order served November 30, 1978, parties were granted a second 30-day extension for the purpose of gathering material and submitting comments. Although a lengthier extension was denied and a request for oral hearing, and informal conference was denied without prejudice, the Commission directed that a participation list be developed to permit the cross-service of comments and replies.

Persons who have already submitted comments will automatically be placed upon the participation list. However, they will be required to cross-serve a copy of their comments on all other persons on the participation list. The list will be sent to all parties in time to allow for the cross-service of comments and replies on the dates provided by this notice.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34305 Filed 12-7-78; 8:45 am]

[3510-22-M]

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[50 CFR Part 661]

COMMERCIAL AND RECREATIONAL SALMON FISHERIES OFF THE COASTS OF WASHINGTON, OREGON, AND CALIFORNIA

Draft Supplemental Environmental Impact Statement/Fishery Management Plan: Hearings

AGENCY: National Oceanic and Atmospheric Administration/Commerce.

ACTION: Notice of public hearings.

SUMMARY: A Draft Supplemental Environmental Impact Statement and Fishery Management Plan for the Commercial and Recreational Salmon Fisheries off the Coasts of Washington, Oregon, and California Commencing in 1978, has been prepared by the Pacific Marine Fisheries Service. This draft supplement proposes that measures applied to the 1978 ocean salmon fishery would be extended to 1979 without change, and deletes section 10.5 from the fishery management plan, which stated that council's intent to begin limiting access into the fishery in 1979.

These hearings are scheduled to provide the public with opportunities to comment on these documents. Written comments will be accepted until close of business on January 22, 1979. The hearings will be tape recorded, and the tapes will be filed as an official transcript of proceedings. A written summary will be prepared on each hearing.

DATES: Public hearings will be held on January 2, 3, 4, 5, and 6, 1979. Submit written comments to either of the contact persons listed below by January 22, 1979, to receive full consideration in the implementation process.

ADDRESS: The Pacific Fishery Management Council and the National Marine Fisheries Service will hold joint public hearings at the following dates and locations.

January 2 Williamsbury Room, Olympic Hotel, 4th and Seneca Streets, Seattle, Wash., 7:00 p.m.

January 3 Auditorium Astoria Middle School, 1100 Klaskanine Ave., Astoria, Ore., 7:00 p.m.

January 4 Umpqua Room, Thunderbird Motor Inn, 1313 North Bayshore Dr., Coos Bay, Oreg., 7:00 p.m.

January 4 Blue Lake Room, Holiday Inn, 1350 Blue Lake Blvd., North, Twin Falls, Ida., 7:00 p.m.

January 5 Redwood Ballroom, Red Lion Motor Inn, 1929—4th St., Eureka, Calif., 7:00 p.m.

January 6 West Bay/Peninsula South Room, Airport Marina, 1380 Old Bayshore Dr., San Francisco, Calif., 2:00 p.m.

FOR FURTHER INFORMATION CONTACT:

Mr. John A. Martinis, Chairman, Pacific Fisheries Management Council, 526 S.W. Mill Street, Portland, OR 97201,

Mr. Donald R. Johnson, Director, Northwest Region, National Marine Fisheries Service, 1700 Westlake Avenue North, Seattle, WA 98109.

Copies of the supplemental environmental impact statement and fishery management plan for commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California Commencing in 1978, are available from the addresses shown above. In addition, copies will be mailed to all known interested individuals and organizations. A limited number of copies will also be available at the public hearings.

Dated: December 6, 1978.

WINFRED H. MEIBOHM,
Acting Executive Director,
National Marine Fisheries Service.

[FR Doc. 78-34454 Filed 12-8-78; 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.

[6320-01-M]

CIVIL AERONAUTICS BOARD

[Docket No. 30777; Agreement C.A.B. 27545, R-1 Through R-54, etc.; Order 78-11-148]

INTERNATIONAL AIR TRANSPORT ASSOCIATION

Order Relating to Western Hemisphere Longhaul Passenger Fares

By Order 78-9-51, September 12, 1978, the Board established procedural dates for submission of carrier justifications, comments and replies concerning an agreement among the member carriers of the International Air Transport Association (IATA), which would establish a new "longhaul" passenger fare structure between the United States and South/Central America for effect through March 31, 1980.

In general, the agreement would increase first-class fares by 7 to 10 percent; [1] increase normal economy fares by 5 to 7 percent; hold promotional fares at current levels; replace U.S.-South America group inclusive-tour (GIT) fares for groups of five with individual inclusive-tour (IIT) fares at the GIT levels; and remove the group travel requirement on the U.S.-Venezuela advance-purchase excursion (APEX) fare. Appendix A outlines these fare revisions in selected markets.[2]

Pan American World Airways, Inc. (Pan American), and Braniff Airways, Inc. (Braniff), have submitted justification in support of the agreement.

Pan American states that: The proposed increases in first-class and normal economy fares are modest; the Board earlier deferred action on proposed first-class fare increases because of the baggage problem,[3] but a satisfactory resolution of the matter has since been reached; the proposed normal economy fares are lower than those earlier disapproved; [4] the new proposal should therefore be more acceptable; the individual APEX fare to Venezuela will make a low-fare alternative available in that market and stimulate new traffic; the IIT fares will also satisfy the demand for low-fare scheduled service; its forecast return on investment (ROI) under proposed fares, 11.17 percent, falls short of the Board's historical 12-percent guideline; and this ROI forecast is overstated, since it assumes that the proposed increases also apply to the South America-Mexico/Central America/Caribbean and intra-South America markets, where fares will in fact remain at current levels.

Braniff states that: The first-class fare increases should now be acceptable in view of the recent Board-approved baggage agreement; normal economy fares for interior U.S. points involve smaller increases than those for gateways; and it expects to achieve an 11.9 percent ROI with the proposed fares.

The table below summarizes the carriers' financial and operating results:

U.S.-South/Central America Scheduled Passenger Service [5]

[In percent]

		Forecast YE 6/30/79	
	Historical YE 6/30/78	Present Fares	Proposed Fares
Pan American:			
Passenger Load Factor	58.0	54.8	55.1
Return on Investment	17.92	8.83	11.17
Braniff:			
Passenger Load Factor	56.6	58.3	58.3
Return on Investment	11.11	10.04	11.91
Composite:			
Passenger Load Factor	57.6	55.9	56.1
Return on Investment	15.82	9.19	11.38

[5] Cargo results removed by the revenue-offset method.

We will approve the agreements except for the proposed increases in normal economy fares, which will be disapproved.

We have carefully reviewed the carriers' economic justification submitted in support of approval of the agreements, and have made one adjustment to the data. Pan American forecasts a traffic increase of 7.6 percent under proposed fares,[6] but a 13.2 percent increase in capacity, apparently stemming from a greater use of B-747 equipment in the market. As a result, the passenger load factor declines from 58.0 percent for the historical year to 55.1 percent for the forecast year under proposed fares. We do not question Pan American's prerogative in deciding how to deploy its fleet and, certainly, it is unrealistic to expect any carrier to be able to perfectly match is capacity with growing demand. Yet, in evaluating fare increases based on load-factor projections, we will not implicitly ask travelers to pay for capacity exceeding their needs. We have therefore applied Pan American's historical load factor to its forecast under proposed fares by removing the added capacity, with appropriate adjustments to forecast investment, interest expense, and operating expenses. With the revised figures, Pan American would achieve a 14.65 percent ROI under the proposed fares; the adjusted composite ROI is 13.82 percent. (See Appendix B.)

We will approve the proposed first-class and promotional fares. The first-class fares reflect the piece baggage system—i.e., excess baggage charges are no longer levied solely on the basis of weight or tied to first-class fares—and we are prepared to allow the carriers discretion in pricing this premium service. The fact that increases are proposed only in those markets covered by the recent baggage agreement, while first-class fares remain at current levels in those markets where a weight-based baggage system still prevails, is central to our approval.[7]

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[1] First-class fares to and from Colombia, Ecuador and Venezuela would remain at status quo.

[2] In this order, we will also act on Agreements C.A.B. 27591, which would increase U.S.-Santiago IIT fares by 6 to 9 percent; C.A.B. 27622, which would introduce excursion fares in additional intra-South America markets; and C.A.B. 27677, which would establish new U.S.-Ecuador 7/21-day GIT fares.

[3] Order 78-2-106, February 23, 1978.

[4] *Ibid.*

[6] Nearly 8 percent of this increase represents traffic newly generated by the liberalization of some promotional fare requirements. However, we also note that Pan American's forecast under proposed fares shows a reduction in first-class traffic, apparently diverted to lower rated fares "as a result of the proposed revisions." Pan American does not explain why this traffic, which has continued to use a premium service despite availability of a variety of promotional fares and the unrestricted normal economy fare, should suddenly take on a discretionary character because of some revisions in promotional fares. We estimate that the carrier's passenger revenue may be understated by about $100,000 in this regard. Since Braniff, on the other hand, shows no generated traffic under proposed fares, its forecast ROI may also be slightly understated.

[7] Colombia, Ecuador and Venezuela were not included in the IATA U.S.-South America piece-system baggage agreement, approved by Order 78-9-152, September 29,

Footnotes continued on next page

Easing the restrictions attached to the present GIT and U.S.-Venezuela APEX fares (to allow individual travel) and introduction of a new GIT fare to Ecuador are welcome revisions. They will broaden the range of low-cost travel options available to the traveling public, and their generative capability—recognized by Pan American in its traffic forecast—should benefit the carriers as well.

We cannot, however, allow the proposed increases in normal economy fares. These fares are already priced well above the costs associated with providing them and, further, the carriers would achieve adequate earnings without these increases.

U.S.-South/Central America normal economy fares have been set at levels high enough not only to cover the cost of basic, point-to-point transportation, but to protect generally high-cost carriers, provide liberal stopover allowances, and incorporate a 20-percent mileage circuity. All passengers who require on-demand service must pay a single premium fare, priced to cover extra services which many of them neither need nor use, yet must pay for. They have no alternative, since the restrictions attached to promotional fares, although some would now be slightly loosened, still effectively bar many non-discretionary passengers from using anything but the normal economy fare. There are no alternative, "unbundled," on-demand fares.

A more competitive market might evolve on-demand fares based on the cost of basic, point-to-point service with separate, unbundled charges for stopovers and circuitous routings. However, in the absence of competition in normal economy fares we believe it our responsibility to prevent an exacerbation of the present situation in the form of economy fare increases.

In any event, the carriers have not demonstrated a need for obtaining additional revenue through higher normal economy fares. Without the increases, it appears that their earnings will still be satisfactory: a composite ROI of about 12.05 percent (10.41 percent for Braniff and 12.76 percent, assuming the load-factor adjustment, for Pan American).

Finally, several IATA resolutions governing promotional fares between foreign points, contained in Agreement C.A.B. 27545,[8] include restrictions which prohibit carriers and agents from advertising or selling these fares in the United States or combining them, as part of a through ticket, with fares to or from the United States.

In Order 78-7-113, July 21, 1978, we attached a condition to our approval of the IATA ratemaking machinery providing that no provision of any IATA resolution shall prevent any carrier or agent from advertising or selling a ticket for air transportation between foreign points at a location within the United States or in combination with any fare to or from the United States. In keeping with our finding there, we will approve these promotional fares, subject to the same condition.

We invite U.S. and foreign carriers to file appropriate tariffs with the Board, and encourage the carriers and their agents to market these fares within the United States. Our disapproval of the IATA restrictions excludes these discriminatory practices from antitrust immunity under section 414 of the Act, and ensures that any carrier or agent who chooses to advertise and sell these fares on a non-discriminatory basis, pursuant to a duly filed tariff, will not be subject to IATA enforcement action.

Section 30(a) of the Airline Deregulation Act of 1978, Pub. L. 95-504, October 24, 1978, amends section 414 of the Act to require the Board to specifically exempt, or not exempt, persons entering into section 412 agreements, which are approved by the Board, from the operations of the antitrust laws set forth in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12) when the Board finds such exemption is required in the public interest. In keeping with our outstanding approval of the IATA conference machinery, which we are currently reviewing in Docket 32851, and our findings concerning the instant agreements, we will grant antitrust immunity with respect to the approved portions of these agreements.

Pursuant to sections 102, 204(a), 412 and 414 of the Act:

1. We do not find that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
27545:			
R-1	001mm	Special Escape for TCI Conditions of Service.	1
R-2	001ss	Special Provisions for Review of USA/Mexico-Venezuela Fares Structure (New).	1
R-3	002II	Special Adoption Resolution	1
R-4	002IV	Standard Revalidation Resolution	1
R-5	014a	Construction Rule for Passenger Fares (Amending).	1
R-6	051b	TCI First Class Fares	1
R-8	070bb	TCI Excursion Fares—USA/Mexico-Venezuela (New).	1
R-9	071ee	USA to Venezuela Advance Purchase Excursion Fares (New).	1
R-10	080LL	TCI 14 Day Individual Inclusive Tour Fares USA-Venezuela (New).	1
R-11	084j	TCI 14 Day Group Inclusive Tour Fares-Venezuela (New).	1
R-12	084jj	TCI 5 Day Group Inclusive Tour Fares—Venezuela.	1
R-13	003	Standard Recision Resolution	1
R-14	012f	Definition of Areas Within TCI (New)	1
R-30	001b I	TCI Special Effectiveness Resolution (Tie-in).	1
R-31	001f	Special Provisions for Review of TCI Longhaul Fare Structure.	1
R-32	001mm	Special Escape for TCI Conditions of Service.	1
R-33	002 I	Standard Readoption Resolution	1
R-34	002 IV	Standard Revalidation Resolution	1
R-35	014a	Construction Rule for Passenger Fares (Amending).	1

Footnotes continued from last page

1978. We have not permitted first-class fare increases in markets where the old weight-based baggage system has remained in force. See, for example, Order 78-8-25, July 25, 1978.

[8] "Within South America" Resolutions 084m, 084oo and 084uu, and "Longhaul" Resolutions 075zz, 084cc and 084tt.

Agreement C.A.B.	IATA No.	Title	Application
27545:			
R-36	051c	TC1 First Class Fares	1
R-37	051x	USA/Canada-Greenland First Class Fares	1
R-40	070cc	TC1 Excursion Fares North and Central America/Caribbean-South America (Readopting and Amending).	1
R-41	070ee	TC1 Excursion Fares USA/Canada-Central America (Readopting and Amending).	1
R-42	071x	TC1 Advance Purchase Excursion Fares USA/Canada-South America (Readopting and Amending).	1
R-43	075g	TC1 Group Excursion Fares from Brazil to the USA (Readopting and Amending).	1
R-45	080gg	TC1 Individual Inclusive Tour Fares—USA-Colombia (New).	1
R-47	080x	TC1 3/21 Day Individual Inclusive Tour Fares Mexico/USA-Costa Rica (Readopting and Amending).	1
R-48	080xx	TC1 Individual Inclusive Tour Fares—USA/Canada/Mexico-South America (New).	1
R-50	084g	TC1 7/14 Day Group Inclusive Tour Fares USA-Colombia (New).	1
R-51	084mm	TC1 10 Day Group Inclusive Tour Fares San Juan-Colombia (Readopting and Amending).	1
R-52	084s	TC1 Group Inclusive Tour Fares USA-Central America/Panama (Readopting and Amending).	1
27591	080xx	TC1 Individual Inclusive Tour Fares—USA/Canada/Mexico-South America (Amending).	1
27677	085a	TC1 7/21 Day Group Inclusive Tour Fares USA-Ecuador (New).	1

2. We do not find that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
27545:			
R-15	001b II	TC Special Effectiveness Resolution (Tie-in).	1 (within S. America)
R-16	001mm	Special Escape for TC1 Conditions of Service.	1 (within S. America)
R-17	001nn	Special TC1 Escape for First Class Fares and Conditions of Service.	1 (within S. America)
R-18	002 II	Standard Revalidation Resolution	1 (within S. America)
R-19	002 IV	Standard Revalidation Resolution	1 (within S. America)
R-20	003	Special Recision Resolution	1 (within S. America)
R-21	014a	Construction Rule for Passenger Fares (Amending).	1 (within S. America)
R-22	051d	TC1 First Class Fares	1 (within S. America)
R-23	061d	TC1 Economy Class Fares	1 (within S. America)

3. We do not find that the following resolutions, which have indirect application in air transportation as defined by the Act, are adverse to the public interest or in violation of the Act: *Provided*, That approval is subject to conditions previously imposed by the Board:

Agreement C.A.B.	IATA No.	Title	Application
27545:			
R-26	084m	TC1 Group Inclusive Tour Fares—Within South America (New).	1
R-27	084oo	TC1 7/30 Day Group Inclusive Tour Fares—Panama-Argentina/Brazil/Uruguay (New).	1
R-28	084uu	TC1 Group Inclusive Tour Fares—Cayenne/Paramaribo-Peru/Brazil (Revalidating and Amending).	1
R-44	075zz	TC1 Group Excursion Fares—Canada-Argentina/Chile (New).	1
R-49	084cc	TC1 Group Inclusive Tour Fares—Mexico-Columbia (New).	1
R-53	084tt	TC1 7/30 Day Group Inclusive Tour Fares—Central America-Argentina/Brazil/Uruguay (New).	1

4. We find that the following resolutions, which have direct application in air transportation as defined by the Act, are adverse to the public interest and in violation of the Act:

Agreement C.A.B.	IATA No.	Title	Application
27545:			
R-7	061b	TC1 Economy Class Fares	1 (U.S.-Venezuela)
R-38	061c	TC1 Economy Class Fares	1 U.S.-South/Central America)
R-39	061x	USA/Canada-Greenland Economy Class Fares.	1

5. We do not find that the following resolutions affect air transportation within the meaning of the Act:

Agreement C.A.B.	IATA No.	Title	Application
27545:			
R-24	070j	TC1 Excursion Fares Within South America (Revalidating and Amending).	1
R-25	084hh	TC1 Group Inclusive Tour Fares—South America (Revalidating and Amending).	1
R-29	084w	TC1 Group Inclusive Tour Fares—Bolivia/Chile/Colombia/Ecuador/Peru/Paraguay (Revalidating and Amending).	1
R-46	080rr	TC1 3/21 Day Individual Inclusive Tour Fares Mexico-Ecuador and Panama (Readopting and Amending).	1
R-54	084ww	TC1 17 Day Group Inclusive Tour Fares—Netherland Antilles-Central/South America (Readopting and Amending).	1
27622:	070j	TC1 Excursion Fares—Within South America (Amending).	1

6. We have decided that the public interest requires a grant of antitrust immunity in this case. These agreements are a product of the IATA rate-setting machinery approved and immunized in Order E-9305, June 15, 1955. In Docket 32851, we are reviewing that machinery to determine whether or not it should continue under our approval and immunization. Pending our decision in that docket, we will continue to consider IATA rate agreements on a case-by-case basis.

Accordingly,

1. We approve those portions of Agreements C.A.B. 27545, C.A.B. 27591 and C.A.B. 27677 set forth in finding paragraphs 1 and 2 above;

2. We approve those portions of Agreement C.A.B. 27545 set forth in finding paragraph 3 above, subject to conditions previously imposed by the Board;

3. We disapprove those portions of Agreement C.A.B. 27545 set forth in finding paragraph 4 above;

4. We disclaim jurisdiction on those portions of Agreements C.A.B. 27545 and C.A.B. 27622 set forth in finding paragraph 5 above; and

5. Those persons filing tariffs implementing the approved portions of Agreements C.A.B. 27545, C.A.B. 27591 and C.A.B. 27677 shall mark them to expire no later than March 31, 1980.

We shall publish this order in the FEDERAL REGISTER.[9]

[9] Appendices A and B filed as part of the original document. All Members concurred.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR,
Secretary.

[FR Doc. 78-34286 Filed 12-8-78; 8:45 am]

[6320-01-M]

[Docket Nos. 34136, etc.; Order 78-11-144]

CHICAGO/TEXAS/SOUTHEAST-WESTERN MEXICO ROUTE PROCEEDING

Order Instituting Investigation

Adopted by the Civil Aeronautics Board at its office in Washington, D.C., on the 30th day of November 1978.

On January 20, 1978, the United States and Mexico amended their Air Transport Agreement to provide, among other things, for substantial new route awards to United States carriers. The Board has already instituted proceedings to implement most of the new authority for U.S. carriers,[1] so only four routes remain which require action:

B.1: San Antonio-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadelajara [2]

B.5: Houston-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Mansanillo, Zihuatanejo, Acapulco [2]

B.8: Chicago-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara

C.1: Atlanta, New Orleans-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara.

We have thus far received applications for three of the above-described routes. Braniff Airways, Inc. (Docket 32732) has filed an application for Route B.1;[3] Texas International Airlines, Inc. (Docket 31929) has filed for Route B.5; and United Air Lines, Inc.

[1] *California/Southwest-Western Mexico Proceeding*, Docket 32665, is considering applications for Routes A.3, A.4, A.5; *Dallas/Ft. Worth-Western Mexico*, Docket 29790, considered applications for Route B. 3; *Yucatan Service Case*, Docket 33220, will consider applications for Routes D.1-D.11; and *Florida-Mexico City Route Proceeding*, Docket 32830 will consider applications for Route C.2. Eastern Airlines, Inc. currently holds authority for Route C.3 except the points Manzanillo and Zihuatanejo; all other routes provided for in the United States-Mexico Air Transport Agreement have been awarded.

[2] U.S. Route B.1 prohibits nonstop service between San Antonio and Guadalajara until after October 1, 1980, while Route B.5 prohibits all nonstop Houston-Acapulco service.

[3] Braniff filed a petition for reconsideration of Order 78-5-69, which instituted the *California/Southwest-Western Mexico Route Proceeding*, urging the Board to expand the scope of that case to include Route B.1 and a conditional motion to consolidate its application into that proceeding. Order 78-7-19 denied Braniff's petition and motion.

(Docket 32914) has filed for Route B.8. To date, no air carrier has applied for route C.1 authority.

Currently, Mexican carriers enjoy a virtual monopoly in most of the United States-Western Mexico markets at issue. With the exception of Houston-Acapulco service, no U.S. carrier operates in any of the United States-Mexico markets noted above.[4] Moreover, the Mexican carriers offer single-plane services in only five (5) of the sixteen (16) markets.[5] Travelers journeying to western Mexico points must make time-consuming inter-line connections at various U.S. points or Mexico City with little alternative but to travel on Mexican carriers for the Mexican portion of their trip. The general lack of price/service options available to the traveling public exemplifies a system devoid of a competitive spur which the inauguration of U.S. carrier operations will provide. In addition, service to La Paz, Loreto, and San Jose del Cabo is presently nonexistent. In summary, the routes are available, service is demonstrably poor, a price competitive pattern of service has not developed, and applications for authority to provide superior service on several of the routes availabel to U.S. carriers have been received.

In view of the foregoing, we have tentatively decided to institute the *Chicago/Texas/Southeast-Western Mexico Route Proceeding.* We will consider here first-time, single-plane service by United States carriers to all points described above and initial operations to markets which heretofore have never received service. We have determined for now to consolidate the route into one proceeding due to the similarity of the Mexican points and the potential interrelationship of the United States gateways. This should conserve the Board's and parties' resources and enable the carriers and the Board to maintain the utmost flexibility to tailor a route pattern that best serves the traveling public.

However, we emphasize that we are not unalterably wedded to a consolidated proceeding. Several of the Mexican markets are undeveloped and may not have sufficient traffic to support even daily connecting service.[6] Only single applications have been filed for Routes B.1, B.5 and B.8, while no carriers have shown interest in Route C.1. Obviously, it is difficult at this juncture to anticipate carrier response. Therefore, we intend to keep open a variety of options on the scope of this proceeding. For example, if we receive only single applications for some routes, we are prepared to consider them by show cause procedures while convening a hearing for the contested ones, rather than waste the carriers' and the Board's resources on uncontested matters. Our primary aim is to provide the U.S. traveling public with U.S. air carrier service to these markets as quickly as possible. Before the case is actually set for hearing, we will take another look at its scope in light of the applications received in response to this order.[7]

[4] Braniff operates daily single-plane service between Houston and Acapulco on U.S. Route B.4 of the Agreement Route Schedule.

[5] Mexican carriers provide single-plane service in the following markets at issue:
San Antonio-Guadalajara
Houston-Guadalajara
Houston-Manzanillo
Houston-Mazatlan
Houston-Puerto Vallarta

[6] International Origin and Destination Surveys, Table 15, Calendar Year 1977:

	Chicago	San Antonio	Houston	Atlanta	New Orleans
Acapulco	N/A	N/A	30,580	N/A	N/A
Guadalajara	11,970	180	N/A	680	960
La Paz	290	10	100	10	10
Loreto	0	0	0	0	0
Manzanillo	N/A	N/A	320	N/A	N/A
Mazatlan	810	140	420	110	90
Puerto Vallarta	2,500	130	930	130	470
San Jose del Cabo	40	0	10	10	0
Zihuatanejo	N/A	N/A	310	N/A	N/A

Pursuant to §§ 241.10(b) and 298.62 of the Board's Economic Regulations and § 399.100 and its Policy Statements, we deem the preceding data relevant and material to the issues in this proceeding and disclose them for such use as any party may deem warranted.

In cases such as this, where carrier selection is at issue,[8] it is our policy that the offer or failure to offer lower prices will be taken into account in determining whether the public convenience and necessity require the award of new or additional authority, and, if so, which carrier or carriers should be selected. We therefore expect this proceeding to include an examination of the need for and feasibility of various new price/quality options in addition to the traditional service benefits.

Moreover, the parties and the administrative law judge should consider whether any new authority should be temporary and whether contingent back-up awards should be made. At the same time, however, we are concerned with reducing the delay and costs of the evidentiary burdens typically associated with traditional carrier selection cases. Accordingly, we invite the judge and the parties to explore ways to reduce the quantity of required exhibit material, eliminate duplication and excessive detail, standardize methodology, and focus on significant facts and assumptions. Ultimately, we leave the resolution of these matters to the administrative law judge.

Finally, the applicants have not submitted sufficient information for the Board to determine the environmental consequences of their proposed operations. We will require all applicant carriers to file environmental evaluations pursuant to Part 312 of the Board's regulations (14 CFR Part 312) within 30 days of the date of service of this order.

Applications, motions to consolidate, and petitions for reconsideration shall be filed within 20 days after service date of this order, and responsive answers shall be filed within 10 days thereafter.

Accordingly,

1. We institute a proceeding entitled the *Chicago/Texas/Southeast-Western Mexico Route Proceeding,* Docket 34136 and set it for hearing before an administrative law judge of the Board at a time and place to be designated, after petitions for reconsideration have been acted upon by the Board;

2. The proceeding shall include consideration of the following issues:

(a) Do the public convenience and necessity require certification of one or more air carriers to engage in foreign air transportation on a subsidy-ineligible basis between the following U.S. and Mexican points:

(1) San Antonio-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara;

(2) Houston-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Manzanillo, Zihuatanejo, Acapulco;

(3) Chicago-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara; and

(4) Atlanta, New Orleans-Loreto, La Paz, San Jose del Cabo, Mazatlan, Puerto Vallarta, Guadalajara;

[7] Applicants should be aware that there is no prohibition aainst combining on one route United States behind gateway points with gateway points and no bilateral prohibition preventing one carrier from being designated for more than one route.

[8] The U.S.-Mexico Agreement provides for single designation on each of the U.S. routes we are placing in issue.

(b) If the answer to subparagraph (a) is affirmative, in whole or in part, which air carrier(s) should be authorized to engage in such service, and what terms, conditions, and limitations, if any, should be placed on the operation of such carriers;

3. The applications of Braniff Airways, Inc. in Docket 32732, Texas International Airlines, Inc. in Docket 31929 and United Air Lines, Inc. in Docket 32914 are consolidated into this proceeding to the extent they conform with its scope; otherwise, they are dismissed;

(4) All carriers who have filed or who will file applications in this proceeding shall file environmental evaluations under Part 312 and Part 313 of the Board's regulations by January 3, 1979; and

5. Applications, motions to consolidate, and petitions for reconsideration of this order shall be filed by December 26, 1978, and responsive answers shall be filed by January 5, 1979.

This order shall be published in the FEDERAL REGISTER.

By the Civil Aeronautics Board.

PHYLLIS T. KAYLOR, [9]
Secretary.

[FR Doc. 78-34287 Filed 12-8-78; 8:45 am]

[1505-01-M]

[Order No. 78-11-82; Docket Nos. 33320, 31542, 33605]

HOUSTON SERVICE INVESTIGATION

Applications of DHL Airways for Approval of Control and Interlocking Relationships and American Airlines for Amendment of Certificate

Correction

In FR Doc. 78-33157 appearing on page 55271 in the issue of Monday, November 27, 1978, in the middle column, the 1st paragraph, the order number in the 16th line should read, ". . . proceeding. By Orders 78-9-126 and 78-10-2, Admin- [istrative . . .]".

[3510-25-M]

DEPARTMENT OF COMMERCE

Industry and Trade Administration

ADVISORY COMMITTEE ON EAST-WEST TRADE

Partially Closed Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), notice is hereby given that a meeting of the Advisory Committee on East-West Trade will be held on Wednesday, December 13, 1978, at 9:30 a.m., in Room 6802, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee was established on February 11, 1974 to advise the Department, through the Deputy Assistant Secretary for East-West Trade, on ways to further its mission to promote and encourage the orderly expansion of commercial and economic relations between the United States and the communist countries. The Committee, which currently has 21 members, will terminate no later than December 10, 1980, unless renewed by proper authority by appropriate action. The meeting will not be held unless the Committee's charter is renewed prior thereto.

The Committee meeting agenda has four parts:

GENERAL SESSION, ROOM 6802

MORNING 9:30 A.M.-12:00 NOON

(1) Welcome and Opening Remarks by Jerome Ottmar and Kempton B. Jenkins.

(2) China: An Update.

a. China: Recent Political and Economic Developments.

b. China: Export Potential.

c. Developments in China: Implications for U.S.-China Trade.

d. Discussion on China.

EXECUTIVE SESSION, ROOM 6802

AFTERNOON 1:30 P.M.-3:30 P.M.

(3) Discussion of Matters Properly Classified Under Executive Orders 11652 or 12065 Relating to U.S. Economic Policy Initiatives Toward the Soviet Union in the Aftermath of the Meetings of the U.S.-Soviet Joint Commercial Commission and U.S.-U.S.S.R. Trade and Economic Council.

(4) Committee Recommendations for the CSCE Review of Basket II Provisions of the Helsinki Final Act.

This meeting is being called on short notice because the U.S. Government will begin in mid-December its series of bilateral consultations with East European governments on the CSCE compliance review and it is imperative that the Department receive U.S. business advice as soon as possible on these matters. In addition, rapidly changing economic and foreign policy developments in the People's Republic of China necessitate up-to-date advice from the U.S. business community on how the Department should react, if at all, to these developments.

The General Session of the meeting will be open to public observation. Approximately 50 seats will be available (including 5 seats reserved for media representatives) on a first-come first-served basis.

A period will be set aside for oral comments or questions by the public which do not exceed 10 minutes each. More extensive questions or comments may be submitted in writing at any time before or after the meeting.

With respect to agenda items (3) and (4), the Assistant Secretary of Commerce for Administration, with the concurrence of the delegate of the General Counsel, formally determined on December 5, 1978 pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act Pub. L. 94-409, that the matters to be discussed under agenda items (3) and (4) should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because in the case of agenda item (3) it will be concerned with matters listed in 5 U.S.C. 552b(c)(1) *i.e.*, it is specifically required by Executive Orders 11652 and 12065 that they be kept confidential in the interests of national defense or foreign policy, and in the case of agenda item (4), it will be concerned with matters listed in 5 U.S.C. 552b(c)(9)(b), *i.e.*, premature disclosure would be likely to significantly frustrate implementation of a proposed agency action. All materials to be reviewed and discussed by the Committee under agenda item (3) will have been properly classified under the Executive Orders. Committee members will have received appropri ate security clearances by the time of the meeting.

Copies of minutes of the open por tion of the meeting will be available 30 days after the meeting upon written request addressed to the Industry and Trade Administration, Freedom of Information Officer, Freedom of Information Control Desk, Room 3012, U.S. Department of Commerce, Washington, D.C. 20230.

For further information, contact Mr. Gary R. Teske, Committee Control Officer, Office of East-West Policy and Planning, Bureau of East-West Trade, Industry and Trade Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone (202) 377-2403.

The complete notice of Determination to close the aforementioned portion of the December 13 meeting of the Advisory Committee on East-West Trade is hereby published.

Dated: November 30, 1978.

J. MISHELL GEORGE,
Deputy Assistant Secretary for East-West Trade (Acting).

U.S. DEPARETMENT OF COMMERCE, OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION, ADVISORY COMMITTEE ON EAST-WEST TRADE

NOTICE OF DETERMINATION

The Secretary of Commerce, having determined that it is in the public interest in connection with the duties imposed on the Department by law, initially established the Advisory Committee on East-West Trade ("the Committee") on February 11, 1974.

[9] All Members concurred.

pursuant to the Federal Advisory Committee Act, 5 U.S.C. App. (1976). The Committee, which currently has 21 members, will terminate no later than December 10, 1980, unless renewed by proper authority by appropriate action.

The Committee provides advice on ways to promote, facilitate and coordinate the expansion of two way trade with the Soviet Union, Poland, Hungry, Czechoslovakia, Romania, Bulgaria, the People's Republic of China, and certain other areas of the world with similar economic/political structures, so as to contribute materially to a more positive balance of trade and payments situation.

The Committee may identify and make recommendations concerning current and proposed government policies and programs relating to the promotion and expansion of such trade; advise on the development of future government plans and actions directed at promoting and increasing such trade and improving trading relations; advise on ways U.S. firms could enter this trade or expand existing trade programs and activities; advise on problems encountered by U.S. business in pursung such trade and recommend solutions; and provide a forum for business, the academic community and government to discuss problems and issues in the field of East-West trade.

The Committee's activities are conducted pursuant to the provisions of the Federal Advisory Committee Act, 5 U.S.C. App. (1976), and Office of Management and Budget Circular A-63 (Revised), Advisory Committee Mangement, effective May 1, 1974. Section 10 of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, P.L. 94-409, provides, among other things, that the meetings of advisory committees are to be open to the public, and to public participation, unless the President, or the head of the agency to which the advisory committee reports, determines that such meetings or portions thereof may be closed to the public in accordance with 5 U.S.C. 552b(c).

On September 7, 1977 the Assistant Secretary for Administration determined that a one-hour portion of the September 28, 1977 meeting of the Advisory Committee on East-West Trade could be closed to the public because Committee discussions concerned matters listed in 5 U.S.C. 552b (c)(9)(B). Such discussions addressed the progress by the U.S.S.R. and other East European countries toward implementation of the economic and commercial (Basket II) provisions of the Helsinki Final Act. Advice and information received from the Committee at this meeting was used to formulate and implement an effective U.S. Government negotiation. Similarly, on September 12, 1978 the Assistant Secretary for Administration also determined that a two-hour portion of the September 27, 1978 meeting of the Advisory Committee on East-West Trade could be closed to the public because Committee discussions concerned matters listed in 5 U.S.C. 552b (c) (9) (B). Such discussions centered on future U.S. Government actions regarding U.S.-Soviet trade in light of the arrest and conviction of a U.S. businessman in Moscow and the imposition of validated licensing controls on exports of oil- and gas-related equipment to the U.S.S.R.

5 U.S.C. 552b (c) (1) provides that agency meetings or portions thereof may be closed to the public where they are likely to disclose matters that are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order. 5 U.S.C. 552b (c)(9)(B) provides that agency meetings or portions thereof may be closed to the public where the premature disclosure of information discussed at such meetings is likely to significantly frustrate implementation of a proposed agency action.

In order to provide advice to the Department under terms of the charter, on December 13, 1978 1:30 p.m.-2:30 p.m. the Committee will discuss future U.S. Government actions regarding U.S.-Soviet trade in light of the recently improved U.S.-Soviet relations. In order for the Committee to provide required advice to the Department, it will be necessary, as part of such discussions, to provide the Committee with information properly classified for national defense or foreign policy purposes pursuant to Executive Order No. 11652, 3 C.F.R. 339 (1974) or Executive Order No. 12065, 43 F.R. 28949 (1978). In addition, from 2:30 p.m. to 3:30 p.m., the Committee will present recommendations for the Madrid Conference on Security and Cooperation in Europe (CSCE) review of the economic and commercial provisions of the Helsinki Final Act. Advice and information received from the Committee at this meeting will be used by the Government in the implementation of policy on these issues. Public disclosure of informaton and advice furnished by the Committee could thwart the implementation of effective U.S. Government actions on these matters. In addition, knowledge that attributed information provided by the Committee would be disclosed would inhibit frank discussions of such issues by committee members at the December 13 meeting. Therefore, the portion of the December 13 meeting of the Committee that will involve discussions of matters specifically authorized under criteria established by an Executive Order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive Order, and discussions of matters the premature disclosure of which is likely to significantly frustrate implementation of a proposed agency action will be closed to the public. The remaining portions of the meeting will be open to the public.

Accordingly, I hereby determine, pursuant to Section 10 (d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government in the Sunshine Act, Pub. L. 94-409, that the portion of the Committee meeting scheduled from 1:30 p.m.-3:30 p.m. on December 13, 1978, which will address matters discussed in the preceding paragraph, shall be exempt from the provisions of Section 10 (a) (1) and (a) (3) relating to open meetings and public participation therein, because the aforementioned Committee discussions will be concerned with matters listed in 5 U.S.C. 552b (c) (1) and 5 U.S.C. 552b(c)(9)(B). Remaining portions of the meeting will be open to the public.

Dated December 5, 1978.

GUY CHAMBERLIN,
Assistant Secretary for Administration.

Dated December 1, 1978.

ALFRED MEISNER,
General Counsel.

[FR Doc. 78-34375 Filed 12-8-78; 8:45 am]

[3510-13-M]

National Bureau of Standards

VOLUNTARY PRODUCT STANDARD

Action of Withdrawal

In accordance with section 10.12 of the Department's "Procedures for the Development of Voluntary Product Standards" (15 CFR Part 10), notice is hereby given of the withdrawal of Voluntary Product Standard PS 35-70, "Poly(Vinylidene Fluoride) (PVF_2) Plastic Lined Steel Pipe and Fittings."

This withdrawal action is being taken for the reason that PS 35-70 is adequately covered by the American Society for Testing and Materials' standard ANSI/ASTM F 491-77, "Standard Specification for Poly(Vinylidene Fluoride) (PVDF) Plastic-Lined Ferrous Metal Pipe and Fittings," and duplication is inappropriate and not in the public interest. This action is taken in furtherance of the Department's announced intentions as set forth in the public notice appearing in the FEDERAL REGISTER of October 27, 1978 (43 FR 50236) to withdraw this standard.

The effective date for the withdrawal of this standard will be 60 days after the publication of this notice. This withdrawal action terminates the authority to refer to this standard as a voluntary standard developed under the Department of Commerce procedures.

Dated: December 5, 1978.

ERNEST AMBLER,
Director.

[FR Doc. 78-34385 Filed 12-8-78; 8:45 am]

[3510-17-M]

Office of the Secretary

ECONOMIC ADVISORY BOARD

Meeting

Pursuant to the provisions of section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976), notice is hereby given that the meeting of the Department of Commerce Economic Advisory Board will be held on Tuesday, December 19, 1978, from 9:30 a.m. to 4:00 p.m. in Room 4833, Main Commerce Building, 14th Street and Constitution Avenue, NW., Washington, D.C.

The Board was established by the Secretary of Commerce on January 13, 1967. The purpose of the Board is to advise the Secretary of Commerce on

economic policy issues. The intended agenda for this meeting is as follows:

- A review of the economic outlook by major sector
- A discussion of the outlook for prices and employment and of strategies for sustaining economic growth and dealing with inflation.

A limited number of seats will be available to the public on a first-come, first-served basis. Public participation will be limited to request for clarification of items under discussion. Additional statements or inquiries may be submitted to the chair before or after the meeting. Copies of the minutes will be available on request 30 days after the meeting.

This meeting is contingent on fulfillment of on-going actions which will renew and extend the Committee's Charter for 1 year, i.e., until November 18, 1979.

Additional information concerning this meeting may be obtained by contacting Ms. Virginia R. Marketti, Office of the Chief Economist for the Department of Commerce, Room 4848, Department of Commerce, Washington, D.C. 20230, 202-377-3523.

Dated: December 6, 1978.

COURTENAY M. SLATER,
Chief Economist for the Department of Commerce.

[FR Doc. 78-34390 Filed 12-8-78; 8:45 am]

[3510-17-M]

[Department Organization Order 10-9]

CHIEF ECONOMIST OF THE DEPARTMENT

NOVEMBER 22, 1978.

This order effective November 22, 1978 supersedes the material appearing at 43 FR 3603 of January 26, 1978.

SECTION 1. PURPOSE.

.01 This order prescribes the scope of authority and the functions of the Chief Economist of the Department of Commerce (the "Chief Economist").

.02 This revision reflects the establishment of the Office of Economic Affairs, the Office of Federal Statistical Policy and Standards and the Office of Industrial Economics as separate offices under Department Organization Orders 35-3, 35-4 and 35-5 respectively.

SECTION 2. ADMINISTRATIVE DESIGNATION.

.01 The position of Chief Economist is hereby continued, as designated by the Secretary of Commerce on February 2, 1976. The Chief Economist shall report and be responsible to the Secretary.

.02 The Chief Economist shall be assisted by a Deputy Chief Economist who shall assume responsibility for carrying out the functions and duties of the Chief Economist during the latter's absence.

SECTION 3. DELEGATION OF AUTHORITY.

Pursuant to the authority vested in the Secretary of Commerce by law, and subject to such policies and directives as the Secretary may prescribe, the Chief Economist:

a. Is delegated the authorities of the Secretary contained in Executive Order 12013 of October 7, 1977, which provides for the performance of certain functions related to statistical policy and standards. The authorities previously delegated by the Secretary under Executive Orders 10033, dated February 8, 1949, and 11961, dated January 19, 1977, to the Bureau of Economic Analysis and the ITA shall remain in effect.

b. Is authorized to exercise the functions contained in 15 U.S.C. 1516 which relate to statistical information.

c. Is authorized to exercise the functions contained in 15 U.S.C. 171 *et seq.* relating to the collection and dissemination of statistical information.

d. May exercise other authorities of the Secretary as applicable to performing the functions assigned in this Order.

e. May redelegate authority and prescribe conditions on its exercise.

SECTION 4. FUNCTIONS.

.01 The Chief Economist shall advise the Secretary on economic and statistical affairs; shall serve as adviser to other Commerce officials with respect to economic and statistical matters; and shall serve as the Department's liaison with the Council of Economic Advisers, the Council on Wage and Price Stability and other government agencies concerned with economic and statistical affairs.

.02 The Chief Economist shall exercise policy direction and general supervision over the Bureau of the Census, the Bureau of Economic Analysis, the Office of Economic Affairs, the Office of Federal Statistical Policy and Standards and the Office of Industrial Economics.

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[FR Doc. 78-34423 Filed 12-7-78; 8:45 am] 3

[3510-17-M]

[Department Organization Order 25-5A; Amendment 5]

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OCTOBER 17, 1978.

This order effective October 17, 1978 further amends the material appearing at 42 FR 35672 of July 11, 1977, 43 FR 6127 of February 13, 1978, 43 FR 6128 of February 13, 1978 43 FR 21497 of May 18, 1978 and 43 FR 27224 of June 23, 1978.

Department Organization Order 25-5A of June 3, 1977, is hereby further amended as shown below. The purpose of this amendment is to delegate to the Administrator of NOAA, with certain reservations, the Secretary's authority to act under Public Law 95-367, the National Climate Program Act.

SECTION 3. DELEGATION OF AUTHORITY.

A new subparagraph 3.01ii. is added to read as follows:

"ii. The functions prescribed by the National Climate Program Act (Public Law 95-367, September 17, 1978); provided, however, that the Secretary reserves the authority to:

"1. Submit 5-year plans to the Congress under section 5(d)(9) of the Act;

"2. Establish the Advisory Committee under 5(e) of the Act; and

"3. Submit the annual report to the President and the authorizing committees of the Congress under section 7 of the Act."

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[FR Doc. 78-34424 Filed 12-7-78; 8:45 am]

[3510-17-M]

[Department Organization Order 35-3]

OFFICE OF ECONOMIC AFFAIRS

NOVEMBER 16, 1978.

This order is effective November 16, 1978.

SECTION 1. PURPOSE.

The purpose of this Order is to prescribe the functions of the Office of Economic Affairs and to establish it as a separate organization outside of the immediate Office of the Chief Economist.

SECTION 2. LINE OF AUTHORITY.

The Office of Economic Affairs shall be a constituent operating unit of the Department of Commerce. It shall be headed by a Director who shall report and be responsible to the Chief Economist.

SECTION 3. FUNCTIONS.

The Office of Economic Affairs shall:

1. Monitor and interpret current economic developments, prepare projections of the economic outlook, and draft speeches, articles and reports on economic issues.

2. Review and evaluate the economic impact of proposed legislation and assist the Office of the General Counsel in preparing Departmental positions on such legislation.

3. Review and comment on regulatory analyses prepared by agencies within and, when appropriate, outside of Commerce pursuant to Executive Order 12044.

4. Represent the Chief Economist in interagency working groups involved in the preparation of economic forecasts and similar material.

5. Assist the Chief Economist in advising the Secretary, the Council of Economic Advisers, the Council on Wage and Price Stability and related agencies on economic policy matters.

6. In conjunction with the Office of Public Affairs, coordinate contacts with the communications media concerning press releases, public statements, and news conferences by the Chief Economist.

7. Review material prepared for use by other Departmental officials to assure that the information contained therein regarding the current economic situation is accurate and timely.

COURTENAY M SLATER,
Chief Economist of the Department of Commerce.

Approved:

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[FR Doc. 78-34425 Filed 12-7-78; 8:45 am]

[3510-17-M]

[Department Organization Order 35-4]

OFFICE OF FEDERAL STATISTICAL POLICY AND STANDARDS

NOVEMBER 16, 1978.

This order is effective November 16, 1978.

SECTION 1. PURPOSE.

The purpose of this Order is to prescribe the functions of the Office of Federal Statistical Policy and Standards and to establish it as a separate organization outside of the immediate Office of the Chief Economist.

SECTION 2. LINE OF AUTHORITY.

The Office of Federal Statistical Policy and Standards shall be a constituent operating unit of the Department of Commerce. It shall be headed by a Director who shall report and be responsible to the Chief Economist.

SECTION 3. FUNCTIONS.

The Office of Federal Statistical Policy and Standards shall:

1. Plan and promote the development of an improved organizational structure for the performance of statistical services by the Federal Government.

2. Foster the development of coordinated programs so that information collected and analyzed by Federal agencies meets the needs of policymakers in operational and research programs.

3. Reduce burdens imposed on respondents to statistical surveys by eliminating duplication in existing statistical programs and research services and by promoting joint agency programs to plan, conduct, and use statistical and research methods and materials.

4. Initiate actions, when appropriate, to designate single collecting agencies to serve the needs of all agencies in a particular field and assure the availability and interchange of statistical and analytical information among Federal agencies.

5. Investigate and determine whether proposals to collect information for statistical purposes meets the needs of Federal agencies and the public.

6. Coordinate the activities of Federal agencies in the development of Federal, State, and local cooperative programs in statistics, with particular emphasis on those areas where Federal and State programs overlap.

7. Identify and resolve common Federal statistical problems and policies through the establishment of, and reliance on, interagency advisory committees.

8. Act as liaison in the coordination of statistical reporting between the Federal Government and representative of business and industry as appropriate.

9. Serve as lead agency for the U.S. Government in its relationship and activities with international statistical organizations.

10. Develop and promulgate Government-wide standards with respect to classification systems, statistical procedures, and data dissemination.

11. In conjunction with the Office of the General Counsel, provide advice to the Office of Management and Budget with respect to proposed legislation on statistical matters; the review and preparation of that portion of the annual Budget of the U.S. Government dealing with gathering, interpreting, and disseminating statistics and statistical information; and on clearance of proposed statistical reports.

12. Provide assistance to the Cabinet-level Statistical Policy Coordination Committee in its efforts to improve Federal statistical services.

COURTENAY M. SLATER,
Chief Economist of the Department of Commerce.

Approved:

GUY W. CHAMBERLIN,
Acting Assistant Secretary for Administration.

[FR Doc. 78-34426 Filed 12-7-78; 8:45 am]

[3510-17-M]

[Department Organization Order 35-5]

OFFICE OF INDUSTRIAL ECONOMICS

NOVEMBER 16, 1978.

Subject this order is effective November 16, 1978.

SECTION 1. PURPOSE.

The purpose of this Order is to prescribe the functions of the Office of Industrial Economics and to establish it as a separate organization outside of the immediate Office of the Chief Economist.

SECTION 2. LINE OF AUTHORITY.

The Office of Industrial Economics shall be a constituent operating unit of the Department of Commerce. It shall be headed by a Director who shall report and be responsible to the Chief Economist.

SECTION 3. FUNCTIONS.

The Office of Industrial Economics shall:

1. Coordinate the development and maintenance of a data system to aid in the analysis of issues relating to specific industries or sectors of the economy.

2. Perform research and analysis on industrial and sectoral problems, including matters such as long-run growth and stabilization, cost-price relationships, short-run forecasts of industrial activity on a detained basis and the impact of economic conditions on businesses of varying sizes.

3. Evaluate the impact of proposed government rules, regulations and legislation on specific industries or sectors.

4. Assess the outlook for capacity utilization, by industry, and the prospects of supply and material shortages.

5. Determing the impact on specific industries of major developments and events, such as natural disasters, strikes or major price increases.

6. Review and comment on industrial analysis studies performed by other commerce units.

7. Assist the Chief Economist in advising the Secretary, the Council of Economic Advisers, the Council on Wage and Price Stability and other

economic policy agencies on matters affecting specific industries and sectors.

COURTENAY M. SLATER,
Chief Economist of the Department of Commerce.

Approved:

GUY W. CHAMBERLIN,
Acting for Assistant Secretary for Administration.

[FR Doc. 78-34427 Filed 12-7-78; 8:45 am]

[1505-01-M]

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

PROCUREMENT LIST 1979

Notice of Establishment

Correction

In FR Doc. 78-32031 appearing at page 53152 in the issue for Wednesday, November 15, 1978, make the following corrections:

(1) On page 53153, third column, six lines from the top of the page, under "Pillow, Bed (IB)" the entry now reading "7210-00-619-8261" should have read "7210-00-619-8262", and seven lines from the bottom of the page, under "Binder, Looseleaf (IB)", the entry now reading "281-4314" should have read "7510-00-281-4314".

(2) On page 53154, first column, in the seventh line from the top of the page, under "Binder, Note Pad (IB)" the entry now reading "7510-00-053-5591" should have read "7510-01-053-5591". In the tenth line from the top of the page, under "Calendar, Pad (SH)" change "7510-00-021-3252" to read "7510-01-021-3252".

(3) On page 53155, first column, under *Class 8105*, in the fourth line under "Bag, Cotton (IB)" the entry now reading "8105-00-174-0336" should have read "8105-00-174-0836". Also, the following entry now reading "8105-00-6989" should have read "8105-00-183-6989".

(4) In the middle column of page 53155, under "Flag, Signal (IB)" make the following changes:

In the ninth and tenth lines "8345-00-926-0640" should have read "8345-00-935-0640".

In the eighteenth and nineteenth lines, "8345-00-926-0624" should have read "8345-00-935-0624".

In the 24th line, "8345-00-935-6002" should have read "8345-00-926-6002".

In the 25th line, "8345-00-935-6814" should have read "8345-00-926-6814".

(5) In the third column of page 53155, under *Class 8415*, in the third line under "Apron, Food Handling (IB)" the entry now reading "8415-00-045-0587" should have read "8415-01-045-0587".

(6) In the third column of page 53156, under *SIC 0782*, in the fifth line under "Edwards Air Force Base", change "2640" to read "2650".

[6740-02-M]

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. G-7526, et al.]

AMOCO PRODUCTION COMPANY, ET AL.

Applications for Certificates, Abandonment of Service and Petitions To Amend Certificates [1]

NOVEMBER 29, 1978.

Take notice that each of the Applicants listed herein has filed an application or petition pursuant to Section 7 of the Natural Gas Act for authorization to sell natural gas in interstate commerce or to abandon service as described herein, all as more fully described in the respective applications and amendments which are on file with the Commission and open to public inspection.

Any person desiring to be heard or to make any protest with reference to said applications should on or before December 21, 1978, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, petitions to intervene or protests in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Persons wishing to become parties to a proceeding or to participate as a party in any hearing therein must file petitions to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal 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 all applications in which no petition to intervene is filed within the time required herein if the Commission on its own review of the matter believes that a grant of the certificates or the authorization for the proposed abandonment is required by the public convenience and necessity. Where a petition for leave to intervene is timely filed, or where the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicants to appear or to be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

Docket No. and Date Filed	Applicant	Purchaser and Location	Price per Mcf	Pressure Base
G-7526, C, 10/25/78	Amoco Production Company, Security Life Building, Denver, Colorado 80202.	Northwest Pipeline Corporation, (Succ. in Interest to El Paso Natural Gas Company), Ignacio-Blanco Field, LaPlata County, Colorado.	[1]	15.025
G-11828, C, 10/30/78	Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.	El Paso Natural Gas Company, Jicarilla Area—San Juan Basin, San Juan and Rio Arriba Counties, New Mexico.	[1]	15.025
G-12128[2], 11/13/78	Atlantic Richfield Company, P. O. Box 2819, Dallas, Texas 75221.	United Gas Pipe Line Company, Certain acreage in Terrebonne Parish, Louisiana.	[3]	15.025
G-20224, D, 11/13/78	Shell Oil Company, Two Shell Plaza, P. O. Box 2099, Houston, Texas 77001.	Natural Gas Pipeline Company of America, Harrington Field, Texas County, Oklahoma.	Uneconomical, plugged and abandoned, and acreage surrendered and released to mineral interest owners by Assignment dated 12-19-77.	
CI61-468, D, 10/26/78	Atlantic Richfield Company, (Succ. in Interest to Oil Reserves Corporation).	Trunkline Gas Company, Quicksand Creek Field, Newton County, Texas.	Atlantic Richfield Company no longer has an interest in 18 out of 20 tracts covered by Gas Sales Contract.	
CI68-92, D, 10/16/78	Atlantic Richfield Company	Transwestern Pipeline Company, Gomez Field, Pecos County, Texas.	[4]	
CI74-184, C, 10/23/78	Pan Eastern Exploration Company, P. O. Box 1642, Houston, Texas 77001.	Panhandle Eastern Pipe Line Company, Certain acreage in Roger Mills County, Oklahoma.	[1] [5]	14.65
CI77-360, C, 9/29/78	Placid Oil Company, 1600 First Natl. Bank Bldg., Dallas, Texas 75202.	Transcontinental Gas Pipe Line Corporation, Certain acreage in Bassfield Field, Jefferson Davis County, Mississippi.	[6]	15.025

Docket No. and Date Filed	Applicant	Purchaser and Location	Price per Mcf	Pressure Base
CI78-308, C, 10/27/78	TransOcean Oil, Inc., 1700 First City East Bldg., Houston, Texas 77002.	El Paso Natural Gas Company, Chacon Dakota Field, Rio Arriba County, New Mexico.	[7]	14.65
CI78-631, C, 11/6/78	J. M. Huber Corporation, 2000 West Loop South, Houston, Texas 77027.	Colorado Interstate Gas Company, West Panhandle Field, Hutchinson and Carson Counties, Texas.	[8]	14.65
CI78-697, C, 11/6/78	HNG Oil Company, P.O. Box 1188, Houston, Texas 77001.	El Paso Natural Gas Company, Woods "9" Com. No. 2 Well (Morrow Formation), located in Sec. 9-T24S-R28E, Malaga West (Morrow) Field, Eddy County, New Mexico.	[1]	14.73
CI78-1110, A, 8/21/78	Marathon Oil Company, 539 South Main Street, Findlay, Ohio 45840.	Texas Eastern Transmission Corporation, Vermilion Area, Block 331 Field, Offshore Louisiana.	[1]	15.025
CI79-83, A, 10/25/78	Sun Oil Company, P.O. Box 20, Dallas, Texas 75221.	Transco Gas Supply Company, Brazos SA, Block A-133, Offshore Texas.	[9]	14.65
CI79-84, A, 10/25/78	Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, Arkansas 71730.	Natural Gas Pipeline Company of America. Certain acreage located in the Genoa Field Area, Miller County, Arkansas.	[1]	14.65
CI79-85, A, 10/26/78	Mobil Oil Corporation, Nine Greenway Plaza—Suite 2700, Houston, Texas 77046.	Southern Natural Gas Company. Certain acreage in the Main Pass Area, East Addition, Block No. 237, Federal Offshore Louisiana.	[1]	14.73
CI79-86, A, 10/26/78	Diamond Shamrock Corporation, (Succ. to the Shamrock Oil and Gas Corporation), P.O. Box 631, Amarillo, Texas 79173.	Cities Service Gas Company, Coal Gulch Working Interest Unit No. 1 Well in Carbon County, Wyoming.	[10]	15.025
CI79-87, A, 10/23/78	Amoco Production Company, Security Life Building, Denver, Colorado 80202.	Panhandle Eastern Pipe Line Company, South Peek Field, Ellis County, Oklahoma.	[1]	14.65
CI79-88, A, 10/6/78	Texas Gas Exploration Corporation, P.O. Box 52310, Houston, Texas 77052.	Texas Gas Transmission Corporation, "A" Platform, Block 237, West Cameron Area, Offshore Louisiana.	[1]	14.73
CI79-89, E, 10/27/78	Gulf Oil Corporation, (Succ. in Interest to Kewanee Oil Company), P.O. Box 2100, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company. Certain acreage located in the Laverne field, Harper County, Oklahoma.	[11]	14.65
CI79-90, A, 10/25/78	Aminoil Development, Inc., Golden Center One, 2800 North Loop West, Houston, Texas 77018.	Natural Gas Pipeline Company of America, Block 312, Eugene Island Area, Offshore Louisiana.	[1]	15.025
CI79-91, A, 10/6/78	Texas Gas Exploration Corporation, P. O. Box 52310, Houston, Texas 77052.	Texas Gas Transmission Corporation, "B" Platform, Block 271, Ship Shoal Area, Offshore Louisiana.	[1]	14.73
CI79-92, A, 10/24/78	Prosper Energy Corporation, (Succ. in Interest to Hunt Oil Company), 2500 First Natl. Bank Bldg., Dallas, Texas 75202.	Southern Natural Gas Company, South Marsh Island Area (North Addition) Blocks 268, 269 and 281, Offshore Louisiana.	[12]	15.025
CI79-93, A, 10/23/78	Energy Reserves Group, Inc., P.O. Box 1201, Wichita, Kansas 67201.	Northern Natural Gas Company. Certain acreage in Irion County, Texas.	[1]	14.65
CI79-94, A, 10/26/78	Mesa Petroleum Co., P.O. Box 2009, Amarillo, Texas 79189.	Transwestern Pipeline Company, Burton Flat Field, Eddy County, New Mexico.	[1]	14.65
CI79-95, A, 10/24/78	Texaco Inc., P.O. Box 2100, Denver, Colorado 80201.	Mountain Fuel Supply Company, Bruff Field, Sweetwater & Lincoln Counties, Wyoming.	[1]	14.73
CI79-96, B, 10/23/78	Southeastern Public Service Company, 1625 Southwest Tower, Houston, Texas 77002.	Tennessee Gas Pipeline Company, R. B. Wallace Tract, North Louise Field, Wharton County, Texas.	All gas productive zones depleted.	
CI79-79, A, 10/30/78	Phillips Petroleum Company, 5 C4 Phillips Building, Bartlesville, Ok. 74004.	Michigan Wisconsin Pipe Line Company, Sherman Plant, covering gas production from various wells in Roberts, Ochiltree, Moore, Hansford and Sherman Counties, Texas, and Texas County, Oklahoma.	[1]	14.65
CI79-98, A, 10/16/78	Amoco Production Company, P.O. Box 50879, New Orleans, La. 70150.	Texas Gas Transmission Corporation, Charenton Field, St. Mary Parish, Louisiana.	[13]	15.025
CI79-99, A, 10/30/78	Continental Oil Company, P.O. Box 2197, Houston,Texas 77001.	El Paso Natural Gas Company, State KN 12 Lease, Lea County, New Mexico.	[14]	14.73
CI79-100, (G-19964) B, 10/30/78.	Galilee Land and Cattle Company, 2600 Southwest Freeway, Suite 375, Houston, Texas 77098.	Florida gas Transmission Company (Succ. to Coastal Transmission Corporation), West League City Field, Galveston County, Texas.	[15]	
CI79-101, A, 10/30/78	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	Columbia Gas Transmission Corporation, Pecan Island Field, Vermilion Parish, Louisiana.	[1]	14.73
CI79-102, A, 10/30/78	The Superior Oil Company, P.O. Box 1521, Houston, Texas 77001.	Northern Natural Gas Company, Hansford Field, Hansford County, Texas.	[1]	14.65
CI79-103, A, 10/30/78	Exxon Corporation, P.O. Box 2180, Houston, Texas 77001.	United Gas Pipe Line Company, N.W. Rosalia Field, Duval County, Texas.	[1]	14.73
CI79-104, A, 10/30/78	Columbia Gas Development Corporation, P.O. Box 1350, Houston, Texas 77001.	Columbia Gas Transmission Corporation, South Marsh Island Area Block 267, East Cameron Area Blocks 370 and 371, West Cameron Area Blocks 479, 531, 642 and 485, Offshore Louisiana, and that area of west Cameron Block 507 unitized with a portion of Block 485, as said unitized area is described in the Unit Agreement between Forest Oil Corporation and Columbia Gas Development Corporation effective 2-1-78.	[16 5]	15.025
CI79-106, A, 11/1/78	Phillips Petroleum Company, 5 C4 Phillips Building, Bartlesville, Ok. 74004.	United Gas Pipe Line Company Ashton No. 2 Well located in the Matthew Ashton Survey, Abstract 8, Panola County, Texas.	[1]	14.65

Docket No. and Date Filed	Applicant	Purchaser and Location	Price per Mcf	Pressure Base
CI79-108, A, 11/1/78	CNG Producing Company, 445 West Main Street, Clarksburg, W. Va. 26301.	Consolidated Gas Supply Corporation, Block 313, Vermilion Area South Addition, Offshore Louisiana.	[1] [5]	14.73
CI79-109, A, 10/20/78	Cotton Petroleum Corporation, 4200 One Williams Center, Tulsa, Oklahoma 74103.	Tennessee Gas Pipeline Company, Certain acreage in the Crowley Field, Acadia Parish, Louisiana.	[1]	15.025
CI79-110, A, 11/2/78	General American Oil Company of Texas, Meadows Building, Dallas, Texas 75206.	Transcontinental Gas Pipe Corporation, Block No. 325 and Block No. 320 Field, Vermilion Area, Gulf of Mexico.	[1]	14.73
CI79-111, A, 11/2/78	Gulf Oil Corporation, (Succ. in Interest to Kewanee Oil Company), P.O. Box 2100, Houston, Texas 77001.	Zenith Natural Gas Company, Certain acreage located in the Medicine Lodge Field, Barber County, Kansas.	[17]	14.65
CI79-112, (C166-705) B, 10/30/78.	Damson Resources Corporation (now Damson Oil Corporation, 260 North Belt East, Suite 300, Houston, Texas 77060.	Panhandle Eastern Pipeline Company, Sec. 5-T24N-R13W, Woods County, Oklahoma.	Depleted, plugged and abandoned.	
CI79-113, A, 11/2/78	Gulf Oil Corporation, (Succ. in Interest to Kewanee Oil Company), P.O. Box 2100, Houston, Texas 77001.	Southern Natural Gas Company, Certain acreage located in the Fort Jackson Field, Plaquemines Parish, Louisiana.	[18]	15.025
CI79-116, A, 11/3/78	Amoco Production Company, P. O. Box 50879, New Orleans, La. 70150.	Transcontinental Gas Pipe Line Corporation, Ship Shoal Block 246 Field, Offshore Louisiana.	[19]	15.025
CI79-117, A, 11/6/78	Kerr-McGee Corporation, P. O. Box 25861, Oklahoma City, Ok. 73125.	Northern Natural Gas Company, Certain depths in Section 14, Block 14 H&TC Survey, Irion County, Texas.	[1]	14.65
CI79-118 (CI74-546), B, 11/7/78.	Pioneer Production Corporation, P. O. Box 2542, Amarillo, Texas 79189.	Cities Service Gas Company, N W Quinlan Field, Woodward County, Oklahoma.	Ceased production 3/78 and depleted.	
CI79-119, A, 11/8/78	Texaco Inc., P. O. Box 60252, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corporation, Leleux Field, Vermilion Parish, Louisiana.	[1]	14.73
CI79-120 (CI66-352), B, 10/30/78.	Hunt Oil Company, 2900 First Natl. Bank Bldg., Dallas, Texas 75202.	Michigan Wisconsin Pipe Line Company, Grand Isle Blocks 14, 15 and 25, La-Fourche Parish, Louisiana.	[20]	
CI79-121, A, 11/6/78	Amoco Production Company, Security Life Building, Denver, Colorado 80202.	Cities Service Gas Company, Coal Gulch Field, Carbon County, Wyoming.	[1]	15.025
CI79-122 (CI64-1493), B, 11/13/78.	Cities Service Company, P. O. Box 300, Tulsa, Oklahoma 74102.	Columbia Gas Transmission Corporation, Woodruff Investment Co. Well situated on the waters of Mill Creek, Union District, Jackson County, West Virginia.	[21]	
CI79-123 (CI71-285), B, 11/13/78.	Cities Service Company	El Paso Natural Gas Company, Citgo-University No. 1 Well, SE/4 of SW/4 of Section 13, Block 34, University Lands, Terrell County, Texas.	[22]	
CI79-124, B, 11/13/78	Doris D. Burns, 7038 Carter Trail, Boulder, Colorado 80301.	Kansas-Nebraska Natural Gas Company, Inc., Stampede Field, Logan County, Colorado.	[23]	
CI79-125 (G-8830), B, 11/13/78.	Cities Service Company	El Paso Natural Gas Company, NE/4 of Sec. 12-22S-35E, Lea County, New Mexico, Jalmat Field.	[24]	
CI79-126 (CI66-1060), E, 11/13/78.	Gulf Oil Corporation, (Succ. to Murphy Oil Company of Oklahoma, *et al.*), P. O. Box 2100, Houston, Texas 77001.	Southern Natural Gas Company, Coquille Bay Field, Plaquemines Parish, Louisiana.	[1] [25]	15.025
CI79-127, B, 11/13/78	R. Clark Taylor (Paladin Petroleum, Inc.), Suite 480 City Center Bldg., Broadway at Main, Oklahoma City, Ok. 73102.	Northern Natural Gas Company, Tyrone Field, Texas County, Oklahoma.	Uneconomical.	
CI79-128, A, 11/13/78	Amoco Production Company, Security Life Building, Denver, Colorado 80202.	Cities Service Gas Company, Wildcat and Wildrose Fields, Sweetwater and Carbon Counties, Wyoming.	[1]	15.025
CI79-129, A, 11/8/78	Chevron U.S.A. Inc., P. O. Box 7643, San Francisco, Ca. 94120.	Natural Gas Pipeline Company of America, West Cameron 537, 551, 552 and 560, Offshore Louisiana.	[1]	15.025
CI79-130, B, 11/6/78	Texaco Inc., P. O. Box 2100, Denver, Colorado 80201.	El Paso Natural Gas Company, Bisti Field, San Juan County, New Mexico.	Depleted, plugged and abandoned.	
CI79-131, A, 11/8/78	Texaco Inc., P. O. Box 60252, New Orleans, La. 70160.	Transcontinental Gas Pipe Line Corporation, Holiday Creek Field, Jefferson Davis County, Mississippi.	[1]	14.73
CI79-132, A, 11/3/78	Tenneco Oil Company, P. O. Box 2511, Houston, Texas 77001.	Michigan Wisconsin Pipe Line Company, Hatcher No. 2, Northwest Anthon Field, Custer County, Oklahoma, Griffin No. 1, Northwest Cheyenne Field, Roger Mills County, Oklahoma and McMordie No. 1, St. Clair Field, Roberts County, Texas.	[1]	14.73
CI79-135, A, 11/8/78	Ocean Production Company, P. O. Box 61780, New Orleans, La. 70161.	Trunkline Gas Company, South Timbalier Block 203, in the Gulf of Mexico, Offshore Louisiana.	[1]	15.025
CI79-136, E, 11/13/78	Gulf Oil Corporation, (Succ. in Interest to Kewanee Oil Company).	Transcontinental Gas Pipe Line Corporation. Certain acreage located in the Rousseau Field, LaFourche Parish, Louisiana.	[26]	15.025
CI79-137, A, 11/15/78	Aminoil USA, Inc., Golden Center One, 2800 North Loop West, P. O. Box 94193, Houston, Texas 77018.	Texas Eastern Transmission Corporation, Block 331 Field, Vermilion Area, Offshore Louisiana.	[1]	15.025
CI79-138, A, 11/13/78	Phillips Petroleum Company, 5 C4 Phillips Building, Bartlesville, Ok. 74004.	Northern Natural Gas Company, East Puckett Field, Pecos County, Texas.	[1]	14.65
CI79-139 (G-15522), B, 11/13/78.	George K. Taggart, Jr., *et al.*, 901 Main Street, Rockport, Texas 78382.	United Gas Pipe Line Company, North La Rosa Field, Refugio County, Texas.	Uneconomical.	
CI79-140 (CI69-967), B, 11/14/78.	Columbia Gas Development Corporation, P.O. Box 1350, Houston, Texas 77001.	Tennessee Gas Pipeline Company, West Cameron Block 174 Field, Offshore Louisiana.	Depletion of producible reserves, plugging of wells, and termination of lease.	
CI79-141, A, 11/13/78	Texaco Inc., P.O. Box 2420, Tulsa, Oklahoma 74102.	Panhandle Eastern Pipe Line Company, Rice S.W. Field, Texas County, Oklahoma.	[1]	14.65

Docket No. and Date Filed	Applicant	Purchaser and Location	Price per Mcf	Pressure Base
CI79-142, B, 11/16/78	National Oil Company, (Operator), *et al.*, 200 W. Douglas, Wichita, Kansas 67202.	Kansas-Nebraska Natural Gas Co., Inc., NE/4 SW/4 SE/4 of Sec. 24-23S-17W, Pawnee County, Kansas, (Reichuber Well).	Non-commercial	and reservoir is depleted.
CI79-143, B, 11/16/78	National Oil Company, (Operator), *et al.*	Kansas-Nebraska Natural Gas Co., Inc., SW/4 NW/4 SW/4 of Sec. 19-23S-16W, Pawnee County, Kansas, (Thomas Well).	Non-commercial	and reservoir is depleted.
CI79-144, B, 11/16/78	National Oil Company, (Operator), *et al.*	Kansas-Nebraska Natural Gas Co., Inc., C SE/4 SW/4 of Sec. 13-23S-17W, Pawnee County, Kansas, (Van Vleet Well).	Non-commercial	and reservoir is depleted.

[1] Applicant is willing to accept the applicable national rate pursuant to Opinion No. 770, as amended.
[2] Applicant is filing to cover its own interest currently covered under a certificate issued to The Superior Oil Company in docket No. CI63-377.
[3] Not used.
[4] Transwestern has determined, however, that the cost of facilities necessary to connect and deliver said gas into its system would be prohibitive for the small amount of gas available.
[5] Seller and purchaser are affiliated.
[6] Applicant is filing under Gas Sales Contract dated 2-8-77, amended by amendment dated 9-15-78.
[7] Applicant is filing under Gas Purchase Agreement dated 12-16-77, amended by Supplemental Agreement dated 9-29-78.
[8] Applicant is filing under Gas Purchase Agreement dated 3-31-78, amended by Supplement dated 9-21-78.
[9] Applicant is filing under Gas Purchase Contract dated 10-6-78.
[10] Applicant is filing under Gas Purchase Contract dated 10-12-78.
[11] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 4-2-63, as amended.
[12] Applicant is filing under Gas Sales Contract dated 6-4-74.
[13] Applicant is filing under Gas Purchase Contract dated 9-12-78.
[14] Applicant is filing under Gas Purchase and Sales Agreement dated 9-29-78.
[15] Sparta Oil Company dedicated the subject acreage to the interstate market under contract dated 9-10-59. Production from the dedicated acreage ceased in 1/69 and Sparta never sought abandonment authorization from the Commission. Sparta's leases have reverted to the landowners. In 11/77 Galilee purchased a portion of the acreage dedicated by Sparta to the interstate market (48.032 acres) from Stewart A. Hervey, Sr. That land is encumbered with an easement grant to FGT. Thus, before FGT can be granted authorization to abandon it's pipeline, Galilee must receive authorization to abandon the 48.032 acres from Sparta's rate schedule.
[16] Applicant is filing under Gas Purchase and Sales Agreement dated 9-26-78.
[17] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 3-14-29, as amended.
[18] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 9-24-56, as amended.
[19] Applicant is filing under Transportation Agreement dated 9-7-78.
[20] Hunt does not have any interest in any of the Blocks covered under Rate Schedule No. 64 (Gas Sales Contract dated 7-1-65, as amended) and therefore will have no further gas available for sale from said Blocks.
[21] The only producing well under this contract was plugged and abandoned on 10-15-72, and the lease covering all committed acreage was canceled in 4/73. No sales have been made under this contract since some time in 1972.
[22] By an Assignment of Operating Rights and Bill of Sale effective 1-1-73, filed with the FERC as Supplement No. 4 to Cities Servidce Company Rate Schedule No. 341 on 3-26-73, Cities sold the only producing well to Earl R. Bruno. As of 12-1-74, all remaining committed leases have expired on their own terms and were canceled insofar as Cities is concerned. No deliveries have been made on behalf of Cities since 1-1-73.
[23] Last production was 5-27-78, water increasing with decreasing gas. Well was capped and upon approval of this application well will be plugged.
[24] The primary term of twenty years from date of initial deliveries under contract dated 4-15-55 has expired and there has been no sales thereunder since 1965. In accordance with Article XII, this Gas Sales Contract has been terminated effective 12-2-78.
[25] Applicant succeeded to Murphy on 10-1-74, who was a partial successor to Mississippi River Fuel Corporation on 8-1-73.
[26] Effective as of 7-1-78, Applicant acquired all of Kewanee's interest in properties covered by contract dated 2-11-58, as amended.

Filing Code: A—Initial Service. B—Abandoment. C—Amendment to add acreage. D—Amendment to delete acreage. E—Total Succession. F—Partial Succession.

[FR Doc 78-34246 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-74]

ARKANSAS LOUISIANA GAS CO.

Notice of Application

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Arkansas Louisiana Gas Company (Applicant), P.O. Box 21734, Shreveport, Louisiana 71151, filed in Docket No. CP79-74, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon approximately ten miles of 14-inch pipeline located in Wheeler

County, Texas, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Applicant states that the pipeline to be abandoned was originally constructed by Williams Brothers Construction Company in 1928, and supplied the Consolidated Gas Utilities Corporation thereafter and it functioned as a transmission line with gas supply coming from the Texas Panhandle Field until 1963. In 1960 the Consolidated Gas Utilities Corporation merged with Applicant, it is said.

Applicant further states that after the Texas Panhandle Field, east, depleted, Applicant acquired new supplies in central Oklahoma and in 1964 Applicant sold its Texas Main Line Compressor Station, as well as part of its 14-inch pipeline to Mr. Daniels, *et al.* There was no practical and economical use for this remaining segment of line at that time and it has been retained for possible future gas supply development in the area, it is said.

The testing and upgrading of the pipeline to be abandoned as a transmission pipeline in the event new supply is developed near the pipeline is now considered impractical, it is said. Enormous costs would be incurred in repairing and lowering the pipeline in order to keep it in service if some useful purpose of the line is found, it is said. The line has improper ground cover and would have to be reditched and lowered to meet current safety requirements and due to leaks the line is currently blocked off and there is no gas remaining in the line, it is said.

Applicant asserts there are no customers or gas supply areas currently being served by said pipeline and it serves no useful purpose whatsoever. Further, Applicant does not anticipate that the pipeline would ever serve any useful purpose.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 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 protestents 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34477 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-77]

COLORADO INTERSTATE GAS CO.

Application

DECEMBER 4, 1978.

Take notice that on November 20, 1978, Colorado Interstate Gas Company (Applicant), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP79-77, an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon certain miscellaneous facilities formerly used in connection with gas transmission, purchases, and sales, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Applicant proposes to abandon the following facilities:

1. Compressor Unit Nos. 3, 9, 10, and 11 at Applicant's Bivins Compressor Station, Moore County, Texas.
2. Meter Run Nos. 4 and 5 at Applicant's Dumas Sales Meter Station, Moore County, Texas.
3. Compressor Unit Nos. 5 and 9 at the Elk Basin Plant, Park County, Wyoming, that were under lease to Applicant from Amoco Production Company.
4. Prairie Dog Purchase Meter Station and Lateral pipeline, Baca County, Colorado.
5. Comet Purchase Meter Station, Baca County, Colorado.
6. Gas purchase facilities—Point of Rocks Well No. 44-25, Sweetwater County, Wyoming.
7. Gas purchase facilities—Twining No. 1 Well, Cimarron County, Oklahoma.
8. Gas purchase facilities—Clayton Federal 1-2 Well, Washakie County, Wyoming.

Applicant states that, with the exception of the redesignation of usage of Compressor Unit Nos. 9, 10, and 11 at its Bivins Compressor Station and the relocation of two meter runs from its Dumas Sales Meter Station, the facilities proposed to be abandoned are no longer in service and that in the foreseeable future there is no practical use for the facilities. Applicant further states that there will be no effect on service to any of Applicant's customers, and that, by abandoning and salvaging the facilities, Applicant can make use of the salvaged materials elsewhere on its system.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 78-34478 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-86]

COLUMBIA GAS TRANSMISSION CORP. AND TEXAS EASTERN TRANSMISSION CORP.

Application

DECEMBER 4, 1978.

Take notice that on November 27, 1978, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue SE., Charleston, West Virgina 25314, and Texas Eastern Transmission Corporation (Texas Eastern), One Houston Center, Houston, Texas 77002, (Applicants) filed in Docket No. CP79-86 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction of facilities and the exchange and transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicants propose to exchange natural gas under the terms of a Letter Agreement dated September 27, 1978. In accordance with that Letter Agreement, it is stated that Texas Eastern would exchange on a daily basis its gas from company-owned production located in the Leadmine Field of Tucker and Preston Counties, West Virginia (at a point of delivery in the Leadmine Field to Columbia) for Columbia's gas purchased from the East Mt. Carmel Field, Gibson County, Indiana (at a point of delivery to Texas Eastern's existing 24-inch line located in Gibson County, Indiana). The proposed exchange of gas would be on a Btu basis, with no price being attached to or placed upon any of the gas to be exchanged.

Applicants estimate that the average daily volumes of gas taken for exchange would be 5,000 Mcf per day from the East Mt. Carmel Field and 3,000 Mcf per day from the Leadmine Field. It is stated that the Leadmine Field gas, however, has a low Btu level, and that consequently Columbia has reserved the right to reduce its takes of exchange gas to the extent such reductions are necessary to permit Columbia to obtain a proper blend between the Leadmine Field gas taken and Columbia's existing gas supplies.

It is proposed that if the deliveries from Columbia and Texas Eastern at the two points of exchange cannot be balanced, Applicants would balance such quantity of gas, on a Btu basis, at Texas Eastern's existing Hooker Delivery Point to Columbia located in Fairfield County, Ohio.

Texas Eastern requests authorization to construct and operate a measuring and regulating facility and an interconnecting tap facility at the point of delivery to it in Gibson County, Indiana. Columbia has pending a budget-type application for authorization to construct and operate gas purchase facilities in Docket No. CP79-77.

Applicants also request authorization for either Columbia or Texas Eastern to transport gas on a temporary basis in the event either Columbia's gas or Texas Eastern's gas is available for exchange substantially sooner than the other. It is proposed that if all necessary facilities for the delivery of the East Mt. Carmel gas to Texas Eastern have been completed, and the East Mt. Carmel gas is otherwise available for exchange, and if construction of facilities for the delivery or receipt of the Leadmine gas has been started but not completed, then Texas Eastern would transport on a temporary basis, Columbia's East Mt. Carmel gas from the point of receipt in Gibson County, Indiana, and redeliver said gas at Texas Eastern's existing points of delivery to Columbia. It is stated that such temporary transportation would be pursuant to the terms and conditions set out under Rate Schedule TS-1 of Texas Eastern's FERC Gas Tariff Volume No. 1. It is likewise proposed that if all necessary facilities for the delivery and receipt of the Leadmine gas have been completed and the Leadmine gas is otherwise available for exchange, and if construction of the facilities for the delivery of the East Mt. Carmel gas has been started but not completed, then Columbia would transport on a temporary basis the Leadmine gas and deliver it to Texas Eastern at existing points of interconnection between the pipeline facilities of the two companies. It is stated that for such transportation service, Columbia would charge its average system-wide unit, storage and transmission costs, exclusive of company-use and unaccounted-for gas, as reflected in Columbia's rate filings with the Commission, which rate is currently 23.05¢ per Mcf. It is further stated that Columbia would also retain a percentage of the gas delivered into its system for company-use and unaccounted-for gas; this percentage, based on data reflected in Columbia's rate filings, is currently 2.51 percent.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 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 or its designee 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34479 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. R-406]

COLORADO INTERSTATE GAS CO.

Proposed Changes in FERC Gas Tariff

DECEMBER 1, 1978.

Take notice that Colorado Interstate Gas Company (CIG), on November 15, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1979.

CIG proposes tariff changes to conform its Purchased Gas Cost Adjustment (PGA) tariff provisions with changes made in the Commission's Regulations by the Commission's Order No. 13 issued October 18, 1978, in Docket No. R-406. Specifically, the tariff changes would allow for the collection or payment of carrying charges by CIG on its unrecovered purchased gas cost account and prohibit CIG from making more than two PGA rate changes per year pursuant to subsections 21.21 and 21.22 of CIG's FERC Gas Tariff, General Terms and Conditions.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested public bodies.

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 December 11, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34462 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. ES79-16]

COMMUNITY PUBLIC SERVICE CO.

Application

DECEMBER 1, 1978.

Take notice that on November 17, 1978, Community Public Service Company, a corporation organized under the laws of the State of Texas, with its principal business office in Fort Worth, Texas filed an application pursuant to Section 204 of the Federal Power Act, seeking authority to issue up to $27 million unsecured promissory notes or commercial paper, with maturity dates of less than twelve months, but not later than April 1, 1980.

The short-term debt will be used to finance Applicant's construction program.

Any person desiring to be heard or to make any protests with reference to said Application should file a petition to intervene or protest with the Federal Energy Regulatory Commission, Washington, D.C. 20426, in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10) on or before December 18, 1978. The Application is on file and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34463 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Proposed Changes in FERC Gas Tariff

DECEMBER 1, 1978.

Take notice that Michigan Wisconsin Pipe Line Company, on November 16, 1978, tendered for filing Twenty-second Revised sheet No. 27F to its FERC Gas Tariff, Second Revised Volume No. 1, under Section 17 of the General Terms and Conditions of such tariff, to be effective January 1, 1979.

Michigan Wisconsin states that this revised sheet is being filed pursuant to ordering Paragraph (B) of Opinion No. 30 which provides for a Gas Research Institute Charge Adjustment of 3.5 mills ($.0035) per Mcf, adjusted downward by .4 mills representing amounts currently being collected by Michigan Wisconsin in its base tariff rates. Michigan Wisconsin will make the net $.0031 GRI Adjustment effective January 1, 1979. Michigan Wisconsin asserts that this filing is predicated on acceptance by FERC of Michigan Wisconsin's concurrent filing of November 16, 1978 of Substitute Twenty-first Revised Sheet No. 27F covering a revision of its Demand Charge Adjustment, effective November 1, 1978.

Michigan Wisconsin further states that copies of this filing have been mailed to its customers and interested state regulatory agencies.

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, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 11, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34464 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Change in Tariff

DECEMBER 1, 1978.

Take notice that on November 29, 1978 Trunkline Gas Company (Trunkline) tendered for filing Substitute Twenty-Fourth Revised Sheet No. 3-A to its FERC Gas Tariff, Original Volume No. 1. An effective date of January 1, 1979 is proposed.

Trunkline states that this filing correctly lists the Rate Schedule G-1 commodity rate which appeared in the November 22, 1978 tariff filing in the subject docket. Trunkline further states that this filing only corrects the rate listing as described, and in no other way modifies the November 22, 1978 filing.

Copies of this filing were served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to make any protest said filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Section 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 December 22, 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 in accordance. Copies of this filing are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 78-34465 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. RP78-76]

GAS RESEARCH INSTITUTE

Proposed Changes in FERC Gas Tariff

DECEMBER 1, 1978.

Take notice that Colorado Interstate Gas Company (CIG), on November 15, 1978, tendered for filing proposed changes in its FERC Gas Tariff, Original Volume No. 1, to be effective January 1, 1979.

The proposed tariff changes would establish a "Gas Research Institute Charge Adjustment Provision" in CIG's FERC Gas Tariff and provide for the collection by CIG of $.0035 per Mcf of sales and transportation deliveries to distributors for resale and to pipelines which are not members of Gas Research Intitute (GRI). Pursuant to the tariff changes proposed, CIG would be obligated to remit such charges to GRI within 30 days of collection. CIG avers that the collection and remittance procedure provided in the proposed tariff changes and the $.0035 per Mcf charge are consistent with and permissible under the Commission Opinion No. 11 issued in Docket No. RM77-14 on March 22, 1978, and the Commission's Opinion No. 30 issued in Docket No. RP78-76 on September 21, 1978.

Copies of CIG's filing have been served on CIG's jurisdictional customers and interested public bodies.

Any person desiring to be heard or to protest said filing should file a peti-

tion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, in accordance with Sections 1.8 and 1.10 of the Commission's Rules of Practice and procedure (18 CFR 1.8, 1.10). All such petitions or protests should be filed on or before December 11, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34466 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-70]

THE DETROIT EDISON CO.

Proposed Tariff Changes

DECEMBER 1, 1978.

Take notice that The Detroit Edison Company (Detroit Edison) on November 20, 1978 tendered for filing the following revised and original tariff sheets:

FERC Electric Tariff Original Volume No. 1

First Revised Sheet No. .1
First Revised Sheet No. 2.
First Revised Sheet No. 4.
First Revised Sheet No. 5.
First Revised Sheet No. 6.
First Revised Sheet No. 7.
First Revised Sheet No. 8.
First Revised Sheet No. 9.
First Revised Sheet No. 10.
First Revised Sheet No. 14.
First Revised Sheet No. 15.
Original Sheet No. 19 A.
Original Sheet No. 19 B.
Original Sheet No. 19 C.

Detroit Edison states that these tariff sheets implement a general rate increase for the Company's jurisdictional sales of electric energy. Detroit Edison further states that the proposed changes would increase revenues from jurisdictional sales and service by $7,829,000 based on the twelve month period ending December 31, 1979. Detroit Edison requests that the proposed rates and tariffs be made effective on January 20, 1979.

Detroit Edison indicates that it is essential that these increased revenues be made available to the Company on the proposed effective date or as close thereto as possible, in order to offset rapidly increasing costs which are resulting in deteriorating earnings to the Company from this class of service. Detroit Edison further indicates that Detroit Edison has not filed any rate increase applicable to its jurisdictional sales since March 28, 1977. Detroit Edison states that since that time, all costs including capital costs incurred by the Company have been subjected to the continuous impact of inflation and other factors making it essential to adjust the rates to meet these increased costs.

According to Detroit Edison copies of the filing were served upon the public utility's jurisdictional customers and the Michigan Public Service Commission.

Any person desiring to be heard or to protest said application 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 December 22, 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 application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34467 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket Nos. AR70-1, *et al.*]

EL PASO NATURAL GAS CO.

Filing of Pipeline Refund Reports and Refund Plans

DECEMBER 1, 1978

Take notice that the pipelines listed in the Appendix hereto have submitted to the Commission for filing proposed refund reports or refund plans. The date of filing, docket number, and type of filing are also shown on the Appendix.

Any person wishing to do so may submit comments in writing concerning the subject refund reports and plans. All such comments should be filed with or mailed to the Federal Energy Regulatory Commision, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before December 19, 1978. copies of the respective filings are on file with the Commission and available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

APPENDIX

Filing Date	Company	Docket No.	Type filing
10/4/78	El Paso	AR70-1	Report
10/30/78	East Tennessee	RP78-65	Report
11/3/78	Ark.-La.	RP76-10	Plan
11/3/78	Ark.-La.	RP74-61	Plan
10/30/78	Cities	AR70-1	Plan
11/20/78	Mid Louisiana	RP77-58	Refund
11/15/78	South Georgia	G-4264	Refund

[FR Doc. 78-34468 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-57 (see Docket No. CP78-123, *et al.* and Docket Nos. CP79-56, CP79-58, CP79-59, and CP79-60]

EL PASO NATURAL GAS CO.

Application

DECEMBER 4, 1978.

Take notice that on November 6, 1978, El Paso Natural Gas Company (Applicant), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-57 (and Docket Nos. CP78-123, *et al.*) 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 certain facilities on its existing transmission system and the transportation and delivery of up to 240,000 Mcf of natural gas per day, on a firm basis, for the account of Pacific Interstate Transmission Company (Pac-Interstate) from a point of receipt near Ignacio, Colorado, to an existint point of delivery to Southern California Gas Company (SoCal) on the Arizona-California boundary near Topock, Arizona, all as more fully set forth in the application on file with the Commission and open to public inspection.

The instant application is one of several related applications submitted by various parties for authorization to permit the importation, transportation and sale of Canadian gas which, in turn, would allegedly facilitate the pre-building of the Alaska Highway Pipeline Project. The Alaska Highway

Pipeline Project is designed to bring Alaskan North Slope gas through Canada and down into the lower 48 states.

On September 22, 1977, the President, pursuant to Section 7 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), issued his *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, in which he designated the sponsors of the Alaska Highway Pipeline Project as the companies responsible for construction of the Alaska Natural Gas Transportation System (ANGTS). Congress ratified the President's Decision by joint resolution, and the President signed the joint resolution into law.

By order issued December 16, 1977, in Docket Nos. CP78-123, *et al.*, the Commission, pursuant to Section 5(a)(2) of ANGTA, awarded conditional certificates of public convenience and necessity to the sponsors of the Alaska Highway Pipeline Project. The parties receiving the conditional certificates were (1) Alcan Pipeline Company (Alcan), which was given responsibility for the Alaskan segment of the system; [1] (2) Northern Border Pipeline Company, responsible for the construction and operation of the lower-48 eastern transmission leg; and (3) Pacific Gas Transmission Company (PGT), which was given responsibility for construction and operation of the portion of the Western Leg from the U.S.-Canada border near Kingsgate, British Columbia, to the Oregon-California border.

On April 5, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan), the successor-in-interest to Alcan, filed with Commission in Docket Nos. CP-123, *et al.*, two applications pursuant to Section 3 of the Natural Gas Act and Sections 5(a)(2) and 9 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA). In these applications, Northwest Alaskan requested authorization to import, on an average daily basis, up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada boundary near Kingsgate, British Columbia, and up to 800,000 Mcf of gas per day at a proposed import point on the U.S.-Canada boundary in the vicinity of Monchy, Saskatchewan. In these applications, Northwest Alaskan proposed to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta), pursuant to the terms of a contract dated March 9, 1978, and said that the proposed purchase would facilitate the pre-building of the southern portions of the ANGTS, which includes the Eastern Leg (the U.S. segment of which would commence at Monchy) and the Western Leg (the U.S. segment of which would commence at Kingsgate).

By order of June 7, 1978, in Docket Nos. CP78-123, *et al.*, the Commission granted conditional approval of the two import applications, pending appropriate authorization under Section 7 of the Natural Gas Act. In that order, the Commission stated that the conditional import authorizations did not constitute rulings on, *inter alia*, the following matters: (1) any questions relating to the specific facilities needed to effectuate the contemplated importation; (2) the jurisdictional sales, exchange and transportation arrangements by which the gas would be delivered; and (3) "any matters related to the import authorization applications other than the basic question of whether in general such imports are in the public interest." [2]

The instant application is part of a proposal to deliver an average daily volume of 240,000 Mcf of natural gas produced in the Province of Alberta to Pac-Interstate's affiliate, SoCal, a natural gas distribution company serving the southern California market. The gas would be transported to the International Boundary near Kingsgate, British Columbia, and sold by Pan-Alberta to Northwest Alaska, it is indicated. (By the Commission order of June 7, 1978, in Docket No. CP78123, *et al.* Northwest Alaskan received conditional import authorization for this proposed purchase.) Northwest Alaskan would resell this gas to Pac-Interstate at the U.S. side of the International Boundary, and Pac-Interstate would ship and sell the gas to SoCal at the Arizona-California boundary, it is stated.

Applicant states that in order to effectuate the delivery of this gas to SoCal, Pac-Interstate has entered into various contractual agreements with PGT, Northwest Pipeline Company (Northwest), and Applicant. Under these agreements, PGT would receive the Canadian gas at the Kingsgate Import Point, and transport the gas (less fuel and line losses) for Pac-Interstate's account to northwest at an existing point of interconnection near Stanfield, Oregon, it is stated. Applicant further states that Northwest would then transport the gas for the account of Pac-Interstate and redeliver equivalent volumes (less fuel and line losses) to Applicant at an existing point of interconnection in La Plata County, Colorado.

In the instant application, Applicant requests authorization to transport and deliver up to 240,000 Mcf of natural gas per day, less shrinkage, to SoCal, for Pac-Interstate's account pursuant to the provisions of a Gas Transportation Agreement dated August 18, 1978 (Transportation Agreement) between Applicant and Pac-Interstate. Under the Transportation Agreement, Applicant says it has agreed to receive from Northwest, for the account of Pac-Interstate, up to 240,000 Mcf of natural gas per day for transportation, on a firm basis, for a period of 12 contract years from the date of commencement of the second contract year. El Paso would transport the gas so received from Northwest through utilization of its interstate transmission system, expanded as proposed herein, and deliver to SoCal, at Applicant's existing delivery point to SoCal on the Arizona-California boundary near Topock, Arizona, for Pac-Interstates account, a quantity of natural gas equivalent to 95 percent by volume of the transportation quantities received from Northwest, Applicant says. The Transportation Agreement provides that the gas which is the subject of this application would be excluded from the operation of the curtailment provisions of Applicant's FERC Gas Tariff.

As compensation for the use of Applicant's mainline transmission system in the transportation and delivery of natural gas for Pac-Interstate's account, Pac-Interstate has agreed to pay Applicant for each Mcf of transportation gas delivered by Applicant at the Arizona-California boundary, the rate in effect and reflected from time to time as the "Mainline Transmission Charge—California" set forth on Sheet No. 1-D.2 of El Paso's FERC Gas Tariff, Third Revised Volume No. 2, or superseding tariff, it is stated. Applicant says that, in addition, the Transportation Agreement provides that when Applicant is required to construct and operate additional facilities to provide additional capacity to accommodate the proposed transportation arrangements for Pac-Interstate, Pac-Interstate has agreed to pay Applicant on a cost-of-service basis, its allocable share of the additions and/or modifications of the San Juan Basin Triangle Facilities required for such incremental capacity addition. Pac-Interstate's allocable share of the cost of the additional San Juan Basin Triangle Facilities for the first year operation is estimated to equate to 1.80¢ per Mcf which, when added to the mainline transportation rate of 15.58¢ per Mcf, results in a total first year

[1] On January 4, 1978, Northwest Alaskan Pipeline Company became the successor-in-interest to Alcan. In March 1978, Northwest Alaskan joined with five other companies, including an affiliate of Pac-Interstate, Pacific Interstate Transmission Company (Arctic), in the formation of a partnership, Alaskan Northwest Natural Gas Transportation Company. Under the partnership agreement, all rights conferred upon Northwest Alaskan to construct and operate the Alaskan segment were transferred to the partnership. On June 30, 1978, in Docket No. CP78-123, the Commission authorized the transfer of Alcan's conditional certificate to the partnership.

[2] Order issued June 7, 1978, Docket No. CP78-123, *et al.* (mimeo, p. 6).

transportation charge to Pac-Interstate of 17.38¢ per Mcf under the arrangements proposed herein, it is stated.

Applicant says it has determined that its existing interstate transmission system capacity, including the San Juan Basin Triangle Facilities, is inadequate to handle, on a firm basis, the total transportation quantities to be provided under the proposed transportation arrangements. In order to accommodate such transportation arrangements, Applicant says it would be required to construct, modify, update and operate certain San Juan Basin Triangle pipeline and compression facilities and to construct and modify certain mainline transmission facilities.

Applicant estimates that the cost of the San Juan Basin Triangle Facilities proposed herein is $9,119,000. The additional Mainline Transmission Facilities to be installed are estimated to cost $2,220,000, it is stated. The estimated cost of the total project facilities, including overhead, contingency and required filing fees, is $11,339,155, Applicant says.

The Commission advises interested parties that the project for which authorization is being sought involves the following related applications:

Applicant and Docket No.
Northwest Pipeline Corporation, CP79-56.
El Paso Natural Gas Company, CP79-57.
Pacific Interstate Transmission Company, CP79-58.
Northwest Alaskan Pipeline Company, CP79-59.
Pacific Gas Transmission Company, CP79-60.

Although the Commission is noticing these filings separately, these applications are related to the overall Alaska Natural Gas Transportation System proceeding. Therefore, persons who have already petitioned to intervene in Docket Nos. CP79-123, *et al.*, need not also petition to intervene in any of the above dockets in order to obtain party status.[3] Persons desiring to be heard or to make any protest are requested to state with reasonable specificity the basis for their protest or intervention.

Any person desiring to be heard or to make any protest with reference to the application in Docket No. CP79-57 should on or before December 27, 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, unless the person has already filed a petition to intervene in Docket Nos. CP78-123, *et al.*

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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 78-34469 Filed 12-8-78; 8:45 am]

[3] See order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo. p. 3).

[6740-02-M]

[Docket No. ER79-44]

FLORIDA POWER & LIGHT CO.

Order Accepting for Filing and Suspending Rate Schedule, Providing for Hearing, Waiving Regulations and Consolidating Proceedings

NOVEMBER 30, 1978.

On October 31, 1978, Florida Power & Light Company (FP&L) tendered for filing [1] an amendment to its existing transmission service agreement with Tampa Electric Company (Tampa).[2] FP&L states that, under this agreement, it will provide the transmission services necessary for Tampa to implement its present interchange agreement with Fort Pierce Utilities Authority (Fort Pierce).[3] The rate which FP&L proposes to charge for this transmission service is that rate, currently in effect subject to refund, filed for the original service agreement.[4]

FP&L requests an effective date of no later than 30 days after the date of filing.

In addition, FP&L requests that, pursuant to Section 35.19, the Commission incorporate by reference the cost support furnished in Docket No. ER78-19, *et al.*[5] and that any additional Section 35.13 filing requirements be waived.

Notice of FP&L's filing was issued on November 7, 1978, with protests or petitions to intervene due on or before November 20, 1978. No such responses have been received.

FP&L's proposed rates have not been shown to be just and reasonable and may be unjust, unreasonable, unduly discriminatory, preferential or otherwise unlawful. The Commission, therefore, shall suspend the proposed rates for one day, to become effective December 2, 1978, subject to refund, pending the outcome of a hearing and decision thereon. The Commission shall waive the cost support requirements of Section 35.13 in view of the fact that the rates and terms and conditions for this transmission service remain unchanged from that of the original agreement.

The Commission finds that due to common issues of law and fact, it is appropriate to consolidate this docket with the ongoing proceeding in Docket No. ER78-19, *et al.*

The Commission orders:

(A) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Section 402(a) of the Department of Energy Act and by the Federal Power Act, particularly Sections 205, 206, 301, 308 and 309 thereof, and pursuant to the Commission's Rules of Practice and Procedure and to the Regulations under the Federal Power Act (18 CFR Chapter I), a public hearing shall be held concerning the justness and reasonableness of the rate increase proposed by Florida Power & Light Company in this proceeding.

(B) Pending a hearing and decision therein, FP&L's proposed rates and service are hereby accepted for filing and suspended for one day, to become effective December 2, 1978, the rates thereunder to be subject to refund.

(C) Waiver of Section 35.13 is hereby granted.

(D) Docket No. ER79-44 is hereby consolidated with Docket Nos. ER78-19, *et al.* for the purposes of a hearing and decision therein.

(E) The Secretary shall cause prompt publication of this order to be made in the FEDERAL REGISTER.

[1] Docket No. ER79-44. Designated as: *Florida Power & Light Company* Supplement No. 2 to Rate Schedule FERC No. 29.

[2] The existing agreement provides for the transmission of power and associated energy which Tampa purchases from the Cities of Homestead and Vero Beach, Lake Worth Utilities Authority and the Orlando Utilities Commission.

[3] Dated August 29, 1978.

[4] Docket No. ER78-19, *et al.*

[5] Tendered on June 16, 1978.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34470 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. ES78-36]

GULF STATES UTILITIES CO.

Order Authorizing Issuance of Preferred Stock and Granting Exemption from Competitive Bidding

NOVEMBER 29, 1978.

On May 18, 1978, Gulf States Utilities Company (Applicant) filed a request with this Commission, pursuant to section 204 of the Federal Power Act and Part 34 of the Commission's Regulations, in the above captioned docket, for authorization to engage in negotiations for the exchange of certain old Preferred Stock issues for a new series of Preferred Stock and by letter dated July 21, 1978, the Commission granted such authorization.

On October 11, 1978, the Applicant filed an application with this Commission, pursuant to Section 204 of the Federal Power Act, seeking authorization to exchange up to 500,000 shares of new preferred stock, par value $100 per share, for certain older issues of Preferred Stock, par value $100 per share. By amendment filed October 25, 1978, applicant submitted final proposals and a request to increase the number of new Preferred Stock shares authorized from 500,000 to 600,000 shares.

On November 14 and November 15, 1978, Applicant filed amendments No. 2 and No. 3, respectively, requesting that the new preferred stock be issued in two series rather than one series, along with supplemental information thereto.

Applicant is incorporated under the laws of Texas with its principal business office at Beaumont, Texas and is engaged in the electric utility business in portions of Louisiana and Texas. Natural gas is purchased at wholesale and distributed at retail in the city of Baton Rouge, Louisiana and vicinity.

The exchange of preferred stock is being proposed by Gulf States in order that it might increase its common stock equity without the necessity of issuing additional shares of common stock. This will be effected by reclassifying the excess of existing preferred stock par value over the total new preferred stock par value as miscellaneous paid-in capital.

The proposed exchange transaction involves nine series of older preferred stock with dividends ranging from $4.20 to $6.08 to be exchanged for one or more new series of preferred stock. Electing shareholders will be offered a pro rata number of new shares for each old share held. A dividend premium of 10% is included as being necessary to facilitate the exchange, along with the 3% sinking fund. The company is expecting a tax ruling from the IRS indicating that if certain requirements are met, the exchange would qualify as a tax free reorganization. Due to the fact that the dividends on one of the oustanding series ($4.40 of 1944 series) are afforded treatment under Section 247 of the Internal Revenue Code, different from that afforded dividends on other outstanding preferred stock, a separate series of New Preferred Stock will have to be offered in exchange for this series.

Because of the consolidation of several series of preferred into one, the marketability of the new shares should be enhanced. Since exchanging shareholders will be only receiving a pro rata number of new shares, the shareholders as a group will have a reduced aggregate preference and also a reduced aggregate redemption price in the event of liquidation. Also with a smaller number of shares, their voting position in the company will be reduced. Those shareholders not electing to exchange their shares may find that their older issues will be de-listed from the exchanges since the outstanding shares of those series may fall below 100,000 shares. Only three series are currently listed on the New York Stock Exchange: the 4.40 (1944), the 4.52 and the 5.08.

The company invited four investment banking firms to submit proposals for acting in a dealer-manager capacity and on the terms of a security which would effect a maximum exchange of the old series of preferred stock. The company proposes to accept the proposal of The First Boston Corporation to be the book-running dealer-manager of the transaction, based upon the fee ($.75 per old share) submitted for the exchange. Solomon Brothers and E. F. Hutton will join First Boston as co-dealer-managers.

Based upon discussions with the dealer-managers, the company is proposing to issue one or more new series of preferred stock with a 3% sinking fund, producing an average life of not less than 20 years.

MECHANICS OF EXCHANGE

Assuming a 100% conversion, the company would exchange 825,000 shares of old preferred stock with dividend rates ranging from 4.20% to 6.08% for approximately 521,337 shares, assuming a 10% dividend premium.

Mechanically, the exchange will be effected by exchanging one share of the old preferred for something less than one share of the new preferred. Assuming an 8½ percent dividend, the exchange formula would be formulated as follows: (current dividend × 110% ÷ 8.5% × $100 = value of old preferred on exchange. Substituting the 4.20 series, we have: ($4.20 × 110%) ÷ 89.5% × $100 = exchange value = $54.35.

For every $100 par value of old preferred outstanding, holders would receive $54.35 par value of new preferred at an 8½ percent dividend rate or $200 old preferred equals $100 new preferred with an $8.70 fractional share cash payment.

The excess of the par value of the old preferred, in this case $45.65 ($100 − $54.35) would be charged to Account 204, Preferred Stock Issued, and credited to Account 211, Miscellaneous Paid-In Capital, a common stock equity account. Upon the exchange, holders of fractional shares would receive cash in lieu of fractional shares of new preferred. This fractional share cash payment would reduce the credit to common equity. Fractional share payments have not been considered in any of the calculations.

The 4.40 series of 1944 was issued pursuant to a plan of reorganization following the break-up of the Stone and Webster group of companies in exchange for existing preferreds, bonds and some cash. As a result of the Internal Revenue Service Regulations then applicable, a portion of the dividend exclusion is thus taxable providing a lower effective yield. Accordingly, this series trades at a greater discount than the other old preferreds. Consequently, the company states that it will be necessary to offer this series at a higher dividend rate than the other issues proposed to be exchanged. If we assume a 9.5 percent dividend rate the series would have an exchange value of $50.95. The stated par value of new preferreds for this series, assuming 100% exchange, would be approximately $6,113,864 and the credit to common equity would be approximately $5,886,316. The total credit to common equity would be approximately $30,376,000, assuming a 100% conversion of all nine series.

The net effect of the exchange is a transfer of excess preferred stock equity resulting from the exchange, to common equity, thereby increasing common equity without issuing additional shares of Common.

Written notice of the Application has been given to the Louisiana Public Service Commission, Texas Public Utility Commission and to the Governors of the aforementioned States. Notice has also been given by publication in the FEDERAL REGISTER, stating that any person desiring to be heard or to make any protest with reference to the application, should on or before

June 9, 1978, file petitions or protests with the Federal Energy Regulatory Commission, Washington, D.C. 20426. No petition, protest, or request to be heard in opposition to the granting of the application has been received.

The Commission finds:

(1) Applicant, a corporation, is a public utility within the meaning of Section 204 of the Federal Power Act.

(2) The proposed issuance of Preferred Stock, will constitute an issuance of securities within the purview of Section 204 of the Act.

(3) Applicant is not organized and operating in a state under the laws of which the security issue here involved is regulated by a State Commission within the meaning of Section 204(f) of the Act; and the proposed issuance of securities is, therefore, not exempt by virtue of that Section from the requirements of Section 204 of the Act.

(4) Under the circumstances of this case, sufficient cause has been shown for exempting the proposed issuance of preferred stock from the competitive bidding requirements of § 34.1a (a) and (b) of the Commission's Regulations under the Federal Power Act.

(5) The proposed issuance of securities, as hereinafter authorized, is consistent with the provisions of section 204(a) of the Federal Power Act.

The Commission Orders:

(A) The proposed issuance of up to 600,000 shares of Preferred Stock, par value $100 per share, upon the terms and conditions and for the purpose specified in the application, is hereby authorized subject to the provisions of this order.

(B) The proposed issuance of up to 600,000 shares of Preferred Stock is exempted from compliance with the competitive bidding procedures of Section 34.1a (a) and (b) of the Regulations under the Federal Power Act.

(C) The proposed issuance of up to 600,000 shares of Preferred Stock, $100 par value per share, by negotiated underwriting may be completed without further action by this Commission, provided that the amount of any and all compensation for underwriters to be paid by Applicant in connection with this sale shall not exceed $618,750 and that the dividend rate when priced at par is at the current market rate.

(D) Applicant shall amend the application pursuant to the requirements of § 34.9(c) of the Commission's Regulations under the Federal Power Act within ten days after the consummation of the above mentioned transaction.

(E) This authorization shall expire unless the transaction hereby authorized is consummated within 90 days from the date of issuance of this order.

(F) The foregoing authorization is without prejudice to the authority of the Commission or any other regulatory body with respect to rates, service, accounts, valuation, estimates or determinations of cost, or any other matter whatsoever now pending or which may come before this Commission.

(G) Nothing in this order shall be construed to imply any guarantee or obligation on the part of the United States with respect to any security which this order relates.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34480 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. RP79-8]

KANSAS-NEBRASKA NATURAL GAS CO., INC.

Order Accepting for Filing and Suspending Proposed Tariff Sheet, Rejecting Proposed Substitute Revised Tariff Sheet, Granting Waiver and Establishing Procedures

NOVEMBER 29, 1978.

On October 31, 1978, Kansas-Nebraska Natural Gas Company, Inc. (K-N) filed proposed tariff sheets [1] set forth in Appendix A, which provided December 1, 1978 as the proposed effective date. Eighth Revised Sheet No. 4 to FERC Gas Tariff, Third Revised Volume No. 1 provides for a general rate increase of $8.6 million, or 23.7% above the rates presently collected, subject to refund, in Docket No. RP78-10. K-N proposes an 11.38 percent overall rate of return, and states that the increased rates are necessary to recover increases in operating costs, additional gas supply facilities, gas purchases and royalty costs, gas exploration and development expenses, and payroll and property taxes.

K-N also filed a substitute revised tariff sheet [2], which reflects only the purchased gas and royalty costs proposed in the general rate increase herein. This substitute revised sheet is proposed to be accepted for filing on December 1, 1978 and suspended for one day to become effective on December 2, 1978, subject to refund, in the event the Eighth Revised Sheet No. 4, which provides for a general rate increase, is suspended by the Commission for a five month period. K-N claims that the increased costs associated with this substitute revised tariff sheet amount to approximately $5.3 million annually, and are based upon K-N's estimated gas prices through its march 1979 test period, as determined under the Natural Gas Policy Act (NGPA).[3]

Finally, K-N requests waiver of Section 154.63(e)(2)(ii) of the Commission's Regulations to permit the inclusion in its proposed rates of costs and gas volumes associated with uncertificated facilities. K-N anticipates that the certificate for these facilities will be granted, and that the facilities will be placed in service by the end of the March 1979 test period.

Based upon a review of K-N's filing, the Commission finds that the proposed general rate increase has not been shown to be just and reasonable, and may be unjust, unreasonable and unduly discriminatory, or otherwise unlawful. Accordingly, the Commission shall accept K-N's Eighth Revised Sheet No. 4 for filing, suspend its use for five months until May 1, 1979 subject to refund and the conditions set forth below, and set the matter for hearing.

K-N's cost of service includes costs associated with facilities which are uncertificated and not in service. Although K-N anticipates that these facilities will be certificated and placed in service by the end of the test period, Section 154.63(e)(2)(ii) of the Commission's Regulations provides that test period adjustments for new facilities may be made only for those facilities that have been certificated by the filing date and will be in service by the end of the test period. The Commission shall grant waiver of this regulation and accept K-N's filing, upon condition that on or before March 31, 1979 K-N file revise tariff sheets reflecting elimination of costs associated with all facilities which have not been placed in service on that date. K-N shall also reflect in those revised tariff sheets adjustments of the estimated balance of advance payments in Account 166 to the actual balance at the net of the test period, provided that the inclusion of a higher advance payments balance shall not be permitted to increase the level of the original suspended rates. This waiver is granted upon condition that K-N shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders.

K-N's request to make Substitute Revised Sheet No. 4 effective on December 2, 1978, after a one day suspension shall be denied. K-N's entire proposed rate increase shall be suspended for the full five month period. The increased costs reflected on this substi-

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[1] Eighth Revised Sheet No. 4, FERC Gas Tariff, Third Revised Volume No. 1.

[2] Substitute Sixth Revised Sheet No. 4, FERC Gas Tariff, Third Revised Volume No. 1.

[3] The Natural Gas Policy Act of 1978 (NGPA) was enacted on November 9, 1978.

tute sheet include estimates of increased purchased gas and royalty costs under the NGPA through March 31, 1979, but would, under K-N's proposal become effective as of December 2, 1978. Also, we are unable to conclude from the data contained in K-N's Schedule H(1)-3 which provisions of the NGPA are the bases for the estimated increases in purchased gas costs.

K-N, unlike most other pipelines, is permitted under Section 19 of its FERC Gas Tariff, Third Revised Volume No. 1, to estimate purchased gas costs for the forthcoming year. K-N's tariff provides for PGA adjustments to be made effective only once a year as of December 1, subject to the right to make on additional filing. Paragraph 19e of K-N's First Revised Sheet No. 27 to FERC Gas Tariff, Third Revised Volume No. 1, provides that in addition to the annual purchased gas cost rate adjustment which may be made effective December 1, K-N may file a purchased gas cost adjustment once during the billing year on April 1st, to become effective on June 1st, to reflect changes which have occurred or are reasonably certain to occur in the unit cost of gas purchased from producers and pipeline suppliers as compared to costs included in the most recent annual PGA filing. This adjustment may be made if the newly projected increase in purchased gas costs to K-N exceeds the previously estimated purchased gas costs by at least $300,000 for the balance of the billing year applicable to jurisdictional sales. Further, Section 154.38(d)(4)(iv)(*b*) of the Commission's Regulations[5] has been amended to permit carrying charges on all balances in Account 191, if the company adopts the principles of interperiod income tax allocation in connection with the balances recorded in the unrecovered purchased gas cost account.

As noted above, K-N has not demonstrated with sufficient clarity the bases for the increases in purchased gas and royalty costs. These changes do not meet the standard of being: "* * * known and * * * measureable with reasonable accuracy at the time of the filing, and which will become effective within nine months after the last month of available actual experience utilized in the filing * * *" [Section 154.63(e)(2)(i) of the Regulations]. However, we shall grant waiver of this regulation to permit K-N to include these costs in its filing subject to the condition that K-N file revised tariff sheets reflecting the actual level of purchased gas costs and royalty costs being incurred as of March 31, 1979, exclusive of purchased gas costs being collected through its PGA clause rate adjustments, provided that K-N shall not be permitted to increase the level of its original suspended rates as a result of K-N reflecting a higher level of purchased gas and royalty costs in its rates. The waiver is also granted upon condition that K-N not be permitted to make offsetting adjustments, ad discussed earlier in the order with respect to uncertificated facilities.

The Commission orders:

(A) Pursuant to the authority of the Natural Gas Act, particularly sections 4, 5, 8, and 15 thereof, and the Commission's rules and regulations, a public hearing shall be held concerning the lawfulness of the increased rates proposed by Kansas-Nebraska.

(B) Pending hearing and decision, and subject to the conditions of Ordering Paragraph (C) below, K-N's proposed Eighth Revised Sheet No. 4 to FERC Gas Tariff, Third Revised Volume No. 1 is accepted for filing and suspended for five months until May 1, 1979, when they may become effective subject to refund, in the manner prescribed by the Natural Gas Act.

(C) K-N shall file substitute revised tariff sheets to become effective subject to refund as of March 31, 1979, reflecting (1) the elimination of costs associated with facilities which are uncertificated and not in service by March 31, 1979, pursuant to the requirements of 18 CFR 154.63 (e)(2)(ii) and subject to condition that K-N shall not be permitted to make offsetting adjustments to the suspended rates prior to hearing, except for those adjustments made pursuant to Commission approved tracking provisions, those adjustments required by this order, and those required by other Commission orders; (2) the actual balance of advance payments in Account 166 outstanding as of March 31, 1979, and subject to condition that inclusion of a higher overall advance payments balance shall not be permitted to increase the original suspended rates; (3) the actual purchased gas and royalty costs as of March 31, 1979 provided that, exclusive of purchased gas costs being collected through its PGA clause rate adjustments, K-N shall not be permitted to increase the level of its original suspended rates as a result of K-N reflecting a higher level of purchased gas and royalty costs in its rates and provided further that K-N may not make offsetting adjustments except those described in condition (2) above in Ordering Paragraph (C).

(D) Waiver of Section 154.63(e)(2)(i) is granted to the extent necessary to effectuate the condition contained in Ordering Paragraph (C)(3) above.

(E) K-N's proposed Substitute Sixth Revised Sheet No. 4 to FERC Gas Tariff, Third Revised Volume No. 1 shall be rejected.

(F) The Commission Staff shall prepare and serve top sheets on all parties on or before March 30, 1979.

(G) A Presiding administrative Law Judge, to be designated by the Chief administrative Law Judge for that purpose (18 CFR 3.5(d)), shall convene a settlement conference in this proceeding to be held within 10 days after the service of top sheets by the Staff, in a hearing or conference room of the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, D.C. 20426. The Presiding Administrative Law Judge is authorized to establish such further procedural dates as may be necessary, and to rule upon all motions (except motions to consolidate, sever, or dismiss), as provided for in the rules of practice and procedure.

By the Commission.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34471 Filed 12-8-78; 8:45 am]

[5] 18 CFR Section 154.38(d)(4)(iv) was amended by the Commission in Order No. 13 at Docket No. R-406, issued October 18, 1978.

[6740-02-M]

[Docket No. CP78-341]

MICHIGAN WISCONSIN PIPE LINE CO.

Petition To Amend

NOVEMBER 30, 1978.

Take notice that on November 2, 1978, Michigan Wisconsin Pipe Line Company (Petitioner), One Woodward Avenue, Detroit, Michigan 48226, filed in Docket No. CP78-341 a petition to amend the order issued July 18, 1978 in the instant docket pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Commission's Regulations (18 CFR 157.7(b)) so as to increase the single and total project cost limitations for the construction of gas purchase facilities during the 12-month period commencing July 13, 1978, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

Petitioner states that by order issued by the Commission on July 18, 1978, it was authorized to construct during the 12-month period commencing July 13, 1978, gas-purchase facilities utilized for the gathering, connection, and transportation of newly acquired gas supplies and that the order limited the total cost of said facilities to $12,000,000, with no single onshore project to exceed $1,500,000 and no single offshore project to exceed $2,500,000. Petitioner further states that it determined that these single project and total cost limitations are too low in relationship to current con-

struction costs and the number of new gas supply sources to be connected during such 12-month period as to restrict unduly the usefulness of its budget authorization. This would thwart the purposes of issuing budget-type certificates, namely, expediting and facilitating the connection of new reserves to make additional gas supplies available to jurisdictional pipe lines and reduce the filing and reporting burden on pipelines and the administrative burden on the Commission, it is said.

Petitioner states that in the light of this evidence of increases in construction costs and the probability that they would continue to increase, it seeks to increase its currently authorized budget certificate limits to $2,500,000 for a single onshore project, $3,500,000 for a single offshore project and $20,000,000 overall. Petitioner further states that it needs increases to be assured so that projects of similar scope and number to those which it could perform under its prior budget certificates can be accomplished under it 1978 certificate.

Petitioner further states it has already completed or commenced construction on budget-type projects with an aggregate estimated cost of about $11,000,000 and if the present limit of $12,000,000 in the certificate issued herein is not raised to the $20,000,000 limit requested, some otherwise qualifying projects would have to be postponed or individually certified.

Petitioner asserts that in order to assure supply continuity and prompt connection of available gas, it is essential for it to have maximum reasonable flexibility in augmenting its gas supplies, particularly through connecting new wells. The proposed increase in limits would allow Petitioner to move quickly with normal supply facility installations and this helps to assure that available supplies would be connected when needed, it is stated.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 21, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34472 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Project No. 469]

MINNESOTA POWER & LIGHT CO.

Application for New Major License

NOVEMBER 29, 1978.

Public notice is hereby given that an application for a new major license was filed by the Minnesota Power & Light Company on October 9, 1970, and amended on August 2 and 4, 1972, September 8, 1972, December 14, 1972, and March 2, 1978, for the Winton Project No. 469. The original license for the project expired on October 26, 1973. The project is located on the Kawishiwi River, and it encompasses Birch Lake and Birch Lake Dam on the southern fork of the Kawishiwi River in Lake and St. Louis Counties, Minnesota, near the Village of Winton. The project affects a navigable water of the United States and lands within the Superior National Forest. Correspondence regarding the application should be sent to: Mr. Leslie P. Modeen, Minnesota Power & Light Company, 30 West Superior Street, Duluth, Minnesota 55802 and Mr. Harry A. Poth, Jr., Mr. Richard M. Merriman, and Mr. Peyton G. Bowman, Reid & Priest, 1701 K Street, N.W., Washington, D.C. 20006.

According to the application, the Winton Project No. 469, with an installed capacity of 4,000 kW, consists of: (1) the Winton Dam comprising from east to west: (a) an earth dike 227 feet long, (b) a spillway section (crest section 1,388.0 feet m.s.l.) approximately 176 feet long and 29 feet high, (c) a tainter gate and log sluice section 84 feet long, (d) a stoplog gate section 80 feet long, (e) a 111-foot long non-overflow section, (f) an intake (forebay) section about 161 feet long containing two intakes and provisions for a third, (g) a non-overflow section approximately 120 feet long, (h) a 1,250-foot long earth dike of which the 145 feet adjoining the non-overflow section contains a core wall; (2) a reservoir at the Winton Dam consisting of the naturally formed Garden, Farm and Friday Lakes at normal pond elevation of 1,388.0 m.s.l. and an area of about 2,982 acres with a total useable storage capacity of approximately 8,320 acre-feet within the top three feet; (3) two 250-foot long underground penstocks, nine feet in diameter, extending from the intake structure to the powerhouse; (4) a 100-foot long and 33 foot wide powerhouse constructed of brick, concrete, and steel containing two hydroelectric generating units each rated at 2,000 kW; and (5) all other facilities and interests appurtenant to the operations of the project.

The Birch Lake Reservoir, a naturally formed lake, is held at constant elevation during the summer for recreation. During the remainder of the year, it is drawn down for power use at Winton. There is no hydroelectric generating equipment located at the Birch Lake Dam. The Birch Lake Reservoir has a surface area of 7,624 acres at the normal pond elevation of 1,421.5 m.s.l. with a total useable storage capacity of 35,200 acre-feet. The Birch Lake Dam, a timber crib structure, is 227 feet long and 7 feet high and consists of four manually operated tainter gates and five stoplog bays.

The Applicant estimates that the original cost of the project, less accrued depreciation, is about $1,087,000 as of October 26, 1973, which is less than its estimate of fair value of $4,102,000. The Applicant did not provide an estimate of severance damages in the event of a Federal takeover. The Applicant reports that it annually pays taxes of $37,600 to local, state and Federal governments.

Recreational development at the various Winton Project lakes include 11 private resorts, 5 public access campground areas, and more than 70 seasonal and permanent homes along the shoreline. Most of the resort developments located at the reservoirs offer cabin and boat rental facilities. Future recreational development would involve the construction of new facilities which may include, but would not be limited to, replacement of the county boat launch near the Winton Dam and the addition of picnic facilities, toilets, a parking area, and a hiking trail.

The power produced by the Winton Project No. 469 is used as part of the capacity for the Applicant's integrated electric system.

Anyone desiring to be heard or to make any protest about this application should file a petition to intervene or a protest with the Federal Energy Regulatory Commission, in accordance with the requirements of the Commission's Rules of Practice and Procedure, 18 CFR § 1.8 or § 1.10 (1977). In determining the appropriate action to take, the Commission will consider all protests filed, but a person who merely files a protest does not become a party to the proceeding. To become a party, or to participate in any hearing, a person must file a petition to intervene in accordance with the Commission's Rules. Any protest or petition to intervene must be filed on or before January 26, 1979. The Commission's

address is: 825 N. Capitol Street, N.E., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 78-34473 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-19]

MOUNTAIN FUEL SUPPLY CO.

Application

DECEMBER 4, 1978

Take notice that on October 11, 1978, Mountain Fuel Supply Company (Applicant), 180 East First South Street, P.O. Box 11368, Salt Lake City, Utah 84139, filed in Docket No. CP79-19 an application, pursuant to Section 7(c) of the Natural Gas Act, for a certificate of public convenience and necessity authorizing the transportation and exchange of up to 20,000 Mcf per day of natural gas with Colorado Interstate Gas Company (CIG) for the account of Panhandle Eastern Pipe Line Company (Panhandle), and further, authorizing the construction and operation of a new point of interconnection between the facilities of CIG and Applicant, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Panhandle has under contract or otherwise owns or controls certain natural gas reserves in the Storm shelter East LaBarge area of southwestern Wyoming, which is alleged to be a considerable distance from its existing transmission system. In order to make such gas reserves available to Panhandle, Applicant, Panhandle, and CIG have entered into a transportation and exchange agreement dated June 28, 1978, which contemplates that Applicant and CIG would perform certain transportation and exchange services for the benefit of Panhandle, it is stated.

It is said that the agreement provides that the natural gas which Panhandle controls would be transported and exchanged between the facilities of Applicant, Panhandle, and CIG. Applicant would receive for transportation and exchange for the account of Panhandle natural gas produced from the East LaBarge area and transport such gas to a new point of interconnection between the facilities of Applicant and CIG (designated as the North Baxter Exchange) or to such other points of interconnection as may be mutually agreeable, it is said. Applicant understands that CIG would then transport for the account of Panhandle all volumes so received, it is said.

It is stated that the agreement further provides a swing gas feature, whereby during the first three years of the ten-year agreement Applicant may retain for its use up to 20,000 Mcf per day during the winter season and repay the gas so retained during the summer months. It is further stated that all exchanged gas volumes are to be thermally balanced.

It is said that in order to provide the proposed transportation and exchange service, applicant would construct approximately 10.3 miles of 1¾-inch O.D. pipeline beginning at the present terminus of Applicant's Mainline No. 35, located in Uinta County, Wyoming, and extending to Panhandle's gathering system located in Sweetwater County, Wyoming. It is further said that Applicant would construct the proposed gathering facilities pursuant to a Commission order dated August 14, 1978, in Docket No. CP78-359 authorizing Applicant to construct, install, and operate budget-type gas purchase facilities.

It is said that Applicant further proposes to construct a new point of interconnection with CIG which would be located near the North Baxter field in Sweetwater County, Wyoming. It is further said that Applicant proposes to construct and operate 400 feet of 4½-inch O.D. pipeline and necessary measuring facilities to effectuate the delivery of natural gas as proposed herein to CIG for the account of Panhandle. It is said that the estimated cost of constructing the facilities is $29,998, which cost would be financed by funds on hand.

It is said that Applicant proposes to charge Panhandle a transportation rate based upon Applicant's cost of service for gas delivered to Applicant for transportation. As provided in the agreement, the annual transportation charge, payable in equal monthly installments, would be $308,400 for the first delivery period, it is said. The transportation rate may be changed from time to time to reflect changes in related costs and delivery volumes, it is said. Based upon an expected volume of 2,039,683 Mcf for the first 12 month delivery period, the equivalent unit rate is 15.12 cents per Mcf, it is said. However, the actual cost of service is slightly higher due to higher than anticipated costs in constructing the proposed gathering facilities beyond the terminus of the Mainline No. 35 and in constructing needed facilities at the point of delivery to CIG, it is said. Nevertheless, the negotiated rate of $308,400 would prevail until such time as it is changed pursuant to the provisions of the agreement, it is said.

It is stated that should Applicant fail or be unable to transport the specified average daily delivery volume, Panhandle would be credited 15.12 cents per Mcf for each Mcf of deficiency, and similarly, for excess volumes transported Panhandle would pay Applicant 15.12 cents per Mcf.

It is stated that the agreement between Applicant and Panhandle includes a reciprocal provision whereby any gas supply which may be developed in the future by Applicant, in the same general area of interest, may be transported in Panhandle's gathering facilities, and that Applicant would pay Panhandle an appropriate charge. In practice this would result in a proportionate reduction being made to Panhandle's transportation charge, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 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 or its designee 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34474 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-56 (see Docket Nos. CP78-123 *et al.* and Docket Nos. CP79-57, CP79-58, CP79-59, and CP79-60)]

NORTHWEST PIPELINE CORP.

Application

DECEMBER 4, 1978

Take notice that on November 6, 1978, Northwest Pipeline Corporation (Applicant), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79-56 (and Docket Nos. CP78-123, *et al.*) 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 certain natural gas facilities, estimated to cost $145,167,000 and the transportation of 240,000 Mcf per day of natural gas for Pacific Interstate Transmission Company (Pac-Interstate) to be delivered to Southern California Gas Company (So Cal), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the instant application is one of several companion applications submitted by various parties to permit the importation, transportation and sale of Canadian gas which, in turn, would facilitate the pre-building of the Alaska Highway Pipeline Project. The Alaska Highway Pipeline Project is designed to bring Alaskan North Slope gas through Canada and down into the lower 48 states.

On September 22, 1977, the President, pursuant to Section 7 of ANGTA, issued his *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, in which he designated the sponsors of the Alaskan Highway Pipeline Project as the companies responsible for construction of the Alaska Natural Gas Transportation System (ANGTS). Congress ratified the President's Decision by joint resolution, and the President signed the joint resolution into law.

By order issued December 16, 1977, in Docket Nos. CP78-123 *et al.*, the Commission pursuant to section 5(a)(2) of ANGTA, awarded conditional certificates of public convenience and necessity to the sponsors of the Alaska Highway Pipeline Project. The parties receiving the conditional certificates were (1) Alcan Pipeline Company (Alcan), an affiliate of Applicant's, which was given responsibility for the Alaskan segment of the system;[1] (2) Northern Border Pipeline Company, responsible for the construction and operation of the lower-48 eastern transmission leg; and (3) Pacific Gas Transmission Company (PGT), which was given responsibility for construction and operation of the portion of the Western Leg from the U.S.-Canada border near Kingsgate, British Columbia, to the Oregon-California border.

On April 5, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan), the successor-in-interest to Alcan, filed with the Commission two applications pursuant to Section 3 of the Natural Gas Act and Sections 5(a)(2) and 9 of ANGTA. In these applications, Northwest Alaskan requested authorization to import, on an average daily basis, up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada boundary near Kingsgate, British Columbia, and up to 800,000 Mcf of gas per day at a proposed import point on the U.S.-Canada boundary in the vicinity of Monchy, Saskatchewan. In these applications, Northwest Alaskan proposed to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta), pursuant to the terms of a contract dated March 9, 1978, and said that the proposed purchase would facilitate the pre-building of the southern portions of the Alaskan Natural Gas Transportation System, which includes the eastern and western transmission legs.

By order of June 7, 1978, in Docket No. CP78-123, *et al.*, the Commission granted conditional approval of the two import applications, pending appropriate authorization under Section 7 of the Natural Gas Act. In that order, the Commission stated that the conditional import authorization did not constitute rulings on, *inter alia*, the following matters: (1) any questions relating to the specific facilities needed to effectuate the contemplated importation arrangements by which the gas would be delivered; (2) the jurisdictional sales, exchange and transportation arrangements; and (3) "any matters related to the import authorization applications other than the basic question of whether in general such imports are in the public interest."[2]

The instant application is part of a proposal to deliver an average daily volume of 240,000 Mcf of natural gas produced in the Province of Alberta to Pac-Interstate's affiliate, So Cal, a natural gas distribution company serving the southern California market. The gas would be transported to the International Boundary near Kingsgate, British Columbia, and sold by Pan-Alberta to Northwest Alaskan, it is indicated. (By the Commission order of June 7, 1978, Northwest Alaskan received conditional import authorization for its proposed purchase.) Northwest Alaskan would resell this gas to Pac-Interstate at the U.S. side of the International Boundary, and Pac-Interstate would ship and sell the gas to So Cal, it is stated.

Applicant states that in order to effectuate the delivery of this gas to So Cal, Pacific Gas Transmission Company (PGT), Applicant, El Paso Natural Gas Company (El Paso) and Pac-Interstate have entered into various arrangements whereby the gas to be imported from Canada would be transported by utilizing existing or expanded facilities of PGT, Applicant and El Paso. The volumes of natural gas transported by PGT, Applicant and El Paso would, in each instance, be for the account of Pac-Interstate, it is said.

In the instant application, Applicant requests authorization to transport up to 240,000 Mcf of gas per day (less fuel and line loss) for the account of Pac-Interstate from a point of interconnection with the facilities of PGT in the vicinity of Stanfield, Oregon, to a point of interconnection with the facilities of El Paso in the vicinity of Ignacio, Colorado. Applicant also requests authorization to construct and operate the following transmission facilities:

1. 100.0 miles of 30-inch loop pipeline.
2. 250.9 miles of 24-inch loop pipeline.
3. One 2,000 horsepower compressor unit at an existing compressor station in the vicinity of Baker, Oregon.
4. One 1,500 horsepower compressor unit at an existing compressor station in the vicinity of Caldwell, Idaho.
5. Increased cylinder capacity on 3 existing compressor units at Applicant's existing compressor station in the vicinity of Mountain Home, Idaho.
6. Modified measuring facilities at the Stanfield measuring station.
7. All necessary facilities appurtenant thereto.

It is said that upon receipt of all requisite authorizations, construction of the proposed facilities would commence during January 1980 and would extend through October 1980.

Applicant states that it and Pac-Interstate have entered into an Investment and Operating Agreement (Investment Agreement), dated October

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[1] On January 4, 1978, Northwest Alaskan Pipeline Company became the successor-in-interest to Alcan. In March 1978, Northwest Alaskan joined with five other companies, including an affiliate of PGT's, Natural Gas Corporation of California, and Pac-Interstate's wholly-owned subsidiary, Pacific Interstate Transmission Company (Arctic), in the formation of Alaskan Northwest Natural Gas Transportation Company, a partnership. Under the partnership agreement, all rights conferred upon Northwest Alaskan to construct and operate the Alaskan segment were transferred to the partnership, it is said. Applicant says that on June 30, 1978, in Docket No. CP78-123, the Commission authorized the transfer of Alcan's conditional certificate to the partnership.

[2] Order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo. p. 6).

29, 1978, which contemplates that Pac-Interstate would own an undivided 30 percent interest in the proposed facilities. Applicant says it plans to initially finance its 70 percent share of the costs of constructing the proposed facilities by utilizing interim bank loans. Applicant states it would refinance the interim bank loans through a permanent form of financing consisting of common stock and debentures. In accordance with the Investment Agreement, Pac-Interstate would advance funds to Applicant equal to Pac-Interstate's 30 percent interest in the project, it is stated.

Applicant states that, pursuant to the terms and conditions of the Investment Agreement, Applicant has the option to purchase Pac-Interstate's interest in the proposed facilities any time after seven years and Pac-Interstate may require that Applicant exercise its option to purchase Pac-Interstate's interest any time after ten years. Also, the Investment Agreement provides that Applicant shall have the sole responsibility for the operation and management of the proposed facilities, it is stated.

It is stated that Applicant and Pac-Interstate have entered into a Precedent Transportation Agreement, dated March 10, 1978, whereby Pac-Interstate has agreed that upon the satisfaction of certain conditions precedent, among which is the grant of requested authorizations, Pac-Interstate would execute a service agreement pursuant to which Applicant would transport volumes of natural gas for Pac-Interstate under the terms and conditions of Applicant's proposed T-1 Rate Schedule for a period of 12 years commencing November 1, 1980.

It is also stated that Rate Schedule T-1 provides for a two-part rate consisting of a Facility Charge and a Commodity Charge. The Facility Charge would be designed to recover, over the 12-year term of the Service Agreement, the cost of the facilities installed for the contemplated service, along with the other costs attributable to such facilities, Applicant indicates. The Commodity Charge would be designed to be equivelent to one-half of the unit cost of Applicant's existing overall transmission system and is for the purpose of assessing the shipper for use of Applicant's existing system, it is stated. It is further stated that a credit equal to the Commodity Charge would be provided to Applicant's existing customers.

The Commission advises interested parties that the project for which authorization is being sought involves the following related applications:

Applicant and Docket No.
Northwest Pipeline Corporation—CP79-56.
El Paso Natural Gas Company—CP79-57.
Pacific Interstate Transmission Company—CP79-58
Northwest Alaskan Pipeline Company—CP79-59
Pacific Gas Transmission Company—CP79-60.

Although the Commission is noticing these filings separately, these applications are related to the overall Alaska Natural Gas Transportation system proceeding. Therefore, persons who have already petitioned to intervene in Docket Nos. CP78-123, *et al.*, need not also petition to intervene in any of the above dockets in order to obtain party status.[3] Persons desiring to be heard or to make any protest are requested to state with reasonable specificity the basis for their protest or intervention.

Any person desiring to be heard or to make any protest with reference to the application in Docket No. CP79-56 should on or before December 27, 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, unless the person has already filed a petition to intervene in Docket Nos. CP78-123, *et al.*

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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34475 Filed 12-8-78; 8:45 am]

[3] See order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo, p. 3).

[6740-02-M]

[Docket No. CP79-59 (See Docket Nos. CP78-123, et al., and Docket Nos. CP79-56, CP79-57, CP79-58, and CP79-60)

NORTHWEST ALASKAN PIPELINE CO.

Application

DECEMBER 4, 1978.

Take notice that on November 6, 1978, Northwest Alaskan Pipeline Company (Applicant), formerly Alcan Pipeline Company, 136 East South Temple, Salt Lake City, Utah 84711, filed in Docket No. CP79-59 (and Docket Nos. CP78-123, *et al.*) an application pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976 and section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of a daily average volume of 240,000 Mcf of natural gas to Pacific Interstate Transmission Company (Pac-Interstate) for use in the market area of Southern California Gas Company (So Cal), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

The instant application is one of several related applications submitted by various parties to permit the importation, transportation and sale of Canadian gas which, in turn, would allegedly facilitate the pre-building of the Alaska Highway Pipeline Project. The Alaska Highway Pipeline Project is designed to bring Alaskan North Slope gas through Canada and down into the lower 48 states.

On September 22, 1977, the President, pursuant to section 7 of ANGTA, issued his *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, in which he designated the sponsors of the Alaska Highway Pipeline Project as the companies responsible for construction of the Alaska Natural Gas Transportation System (ANGTS). Congress ratified the President's Decision by joint resolution and the President signed the joint resolution into law.

By Order issued December 16, 1977, in Docket Nos. CP78-123, *et al.*, the Commission, pursuant to section 5(a)(2) of ANGTA, awarded conditional certificates of public convenience and necessity to the sponsors of the Alaska Highway Pipeline Project. The parties receiving the conditional certificates were (1) The Alcan Pipeline Company (Alcan), which was given responsibility for the Alaskan segment of the system; (2) the Northern Border

Pipeline Company, responsible for construction and operation of the lower-48 eastern transmission leg; and (3) Pacific Gas Transmission Company (PGT) which was given responsibility for construction and operation of the portion of the Western Leg from the U.S.-Canada border near Kinsgate, British Columbia to the Oregon-California border.

Applicant states that in March 1978, it entered into a partnership agreement in which all rights conferred upon Alcan to construct and operate the Alaskan segment of the Project were transferred to said partnership. However, Applicant continues to be directly responsible for the design, construction and operation of the Alaskan segment as the operating partner of the partnership, it is said.

Applicant states then on April 5, 1978, it filed with the Commission two applications pursuant to Section 3 of the Natural Gas Act and sections 5(a)(2) and 9 of ANGTA. In these applications, Applicant requested authorization to import, on an average daily basis up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada boundary near Kingsgate, British Columbia, and up to 800,000 Mcf of gas per day at a proposed import point on the U.S.-Canada boundary in the vicinity of Monchy, Saskatchewan, it is said. Applicant says it proposes to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta), pursuant to the terms of a contract dated March 9, 1978, in order to facilitate the prebuilding of the Southern portions of the Alaska Natural Gas Transportation System, which includes the eastern and western transmission legs.

By order of June 7, 1978, in Docket Nos. CP78-123, *et al.*, the Commission granted conditional approval of the two import applications, pending appropriate authorization under section 7 of the Natural Gas Act. In that order, the Commission stated that the conditional import authorization did not constitute rulings on, *inter alia*, the following matters: (1) any questions relating to the specific facilities needed to effectuate the contemplated importation; (2) the jurisdictional sales, exchange and transportation arrangements by which the gas would be delivered; and (3) "any matters related to the import authorization applications other that the basic question of whether in general such imports are in the public interest.[1]

In the instant application, Applicant requests authorization to sell up to a total of 240,000 Mcf of natural gas on an average daily basis to Pacific Interstate Transmission Company (Pac-Interstate) for ultimate delivery, less fuel and line loss, to the market area served by SoCal. Applicant states that the volumes of natural gas would be delivered into the facilities of PGT by Alberta Natural Gas Company Ltd. (ANG) for the accounts of Northwest Alaskan and Pan-Alberta. The sale by Applicant to Pac-Interstate would be concurrent with the delivery by ANG to PGT at the Kingsgate delivery point, it is indicated. Applicant says it does not propose to construct or operate any facilities to effectuate the importation of natural gas contemplated in Applicant's Section 3 application or to effectuate the sale of natural gas as proposed. In order to effectuate the delivery of the Canadian gas to SoCal, PGT, Northwest Pipeline Corporation (NWP), El Paso Natural Gas Company (El Paso) and Pac-Interstate have entered into various arrangements whereby the gas to be imported from Canada and sold to Pac-Interstate would be transported utilizing existing and/or expanded facilities of PGT, NWP and El Paso, it is said.

It is stated that Applicant has entered into an agreement with Pac-Interstate (Agreement), dated March 9, 1978, providing for the sale by Applicant to Pac-Interstate of up to 240,000 Mcf of gas per day on an average daily basis. The terms and conditions of the Agreement with Pac-Interstate basically track the terms and conditions of the Contract with Pan-Alberta, it is said. The term of the sale can extend for a period of 12 years at Pac-Interstate's option, it is indicated.

The Agreement provides that Pac-Interstate's payment to Applicant shall include the amount paid by Applicant to Pan-Alberta for deliveries of natural gas at the U.S.-Canada border established and approved by the National Energy Board of Canada, plus a proportionate share of Applicant's administrative costs, it is stated. Applicant says that these administrative costs in turn include (a) costs accumulated prior to commencement of deliveries in connection with contract negotiations and receipt of U.S. regulatory approvals, and (b) costs following commencement of deliveries attributable to billing and payment, contract administration, and any regulatory approvals which may be required from time to time. Administrative costs classified in (a) would be amortized over a one-year period following commencement of deliveries, and costs classified in (b) would be charged on a monthly basis, it is indicated.

The Commission advises interested parties that the project for which authorization is being sought involves the following related applications:

Applicant and Docket
Northwest Pipeline Corporation—CP79-56.
El Paso Natural Gas Company—CP79-57.
Pacific Interstate Transmission Company—CP79-58.
Northwest Alaskan Pipeline Company—CP79-59.
Pacific Gas Transmission Company—CP79-60.

Although the Commission is noticing these filings separately, these applications are related to the overall Alaska Natural Gas Transportation System proceeding. Therefore, persons who have already petitioned to intervene in Docket Nos. CP78-123, *et al.*, need not also petition to intervene in any of the above dockets in order to obtain party status.[2] Persons desiring to be heard or to make any protest are requested to state with reasonable specificity the basis for their protest or intervention.

Any person desiring to be heard or to make any protest with reference to the application in Docket No. CP79-59 should on or before December 27, 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, unless the person has already filed a petition to intervene in Docket Nos. CP78-123, *et al.*

Take further notice that, pursuant to the authority contained in and subject to the juridiction 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 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

[1] Order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo. P. 6).

[2] See order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo. p. 3).

appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34476 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket Nos. RP72-115 and R-406]

OKLAHOMA NATURAL GAS GATHERING CORP.

Filing of Revised Tariff Sheets

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Oklahoma Natural Gas Gathering Corporation (Gathering Corporation) tendered for filing the following tariff sheets:

Second Revised Sheet No. 58
Fourth Revised Sheet No. 59
Second Revised Sheet No. 60
Second Revised Sheet No. 61
Second Revised Sheet No. 62
Second Revised Sheet No. 63

Gathering Corporation states that said tariff sheets will become effective on January 1, 1979, and revise its Purchased Gas Cost Adjustment clause to include a provision for carrying charges on balances accumulated in its Unrecovered Purchased Gas Cost Account. Gathering Corporation's determination dates for its Purchased Gas Adjustment Clause are changed from January 1 and July 1 to April 1 and October 1, respectively. Gathering Corporation also states that this filing is made pursuant to and in compliance with Commission Order No. 13, issued October 18, 1978. Gathering Corporations further states that in order to avoid two PGA filings in a three-month period, it proposes to postpone its PGA filing, which would have been effective on January 1, 1979, and make a later filing to become effective on the new determination date of April 1, 1979.

Gathering Corporation states that copies of this filing were served upon all its jurisdictional customers, as well as interested state commissions.

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 December 12, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34481 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-60 (See Docket Nos. CP78-123, *et al.*, and CP78-125, and Docket Nos. CP79-56, CP79-57, CP79-58, and CP79-59)]

PACIFIC GAS TRANSMISSION CO.

Application

DECEMBER 4, 1978.

Take notice that on November 6, 1978, Pacific Gas Transmission Company (Applicant), 245 Market Street, San Francisco, California 94105, filed in Docket No. CP79-60 (and Docket Nos. CP78-123, *et al.* CP78-125) an application pursuant to Section 7(c) of the Natural Gas Act and Section 9 of the Alaska Natural Gas Transportation Act of 1976 (ANGTA), for a certificate of public covenience and necessity authorizing Applicant to construct and operate 160.5 miles of 36-inch pipeline loops to be installed in six sections on Applicant's pipeline between the U.S.-Canada boundary and Stanfield, Oregon, and authorizing the transportation of 240,000 Mcf of natural gas per day for Pacific Interstate Transmission Company (Pac-Interstate) to be delivered to Southern California Gas Company (So Cal), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that the proposed facilities would be a "prebuilt" portion of the Western Leg of the Alaska Highway Pipeline Project. The Project is designed to bring Alaska North Slope gas through Canada and down into the lower 48 states, it is said.

On September 22, 1977, the President, pursuant to Section 7 of ANGTA, issued his *Decision and Report to Congress on the Alaska Natural Transportation System*, in which he designated the sponsors of the Alaska Highway Pipeline Project, as the companies responsible for construction of the Alaska Natural Gas Transprotation System (ANGTS). Congress ratified the President's Decision by joint resolution, and the President signed the joint resolution into law.

By order issued December 16, 1977, in Docket Nos. CP78-123, *et al.*, the Commission, pursuant to section 5(a)(2) of ANGTA, awarded conditional certificates of public convenience and necessity to the sponsors of the Alaska Highway Pipeline Project. The parties receiving the conditional certificates were (1) Alcan Pipeline Company (Alcan), which was given responsibility for the Alaskan segment of the system; [1] (2) Northern Border Pipeline Company, responsible for the construction and operation of the lower-48 eastern transmission leg; and (3) Applicant, which was given responsibility for construction and operation of the portion of the Western Leg from the U.S.-Canada border near Kingsgate, British Columbia, to the Oregon-California border.

On April 5, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan), the successor-in-interest to Alcan, filed with the Commission two applications pursuant to section 3 of the Natural Gas Act and sections 5(a)(2) and 9 of ANGTA. In these applications, Northwest Alaskan requested authorization to import, on an average daily basis, up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada boundary near Kingsgate, British Columbia, and up to 800,000 of gas per day at a proposed import point on the U.S.-Canada boundary in the vicinity of Monchy, Saskatchewan. In these applications, Northwest Alaskan proposed to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta), pursuant to the terms of a contract dated March 9, 1978, and said that the proposed purchase would facilitate the prebuilding of the southern portions of the Alaska Natural Gas Transportation System, which includes the eastern and western transmission legs.

By order of June 7, 1978, in Docket Nos. CP78-123, *et al.*, the Commission granted conditional approval of the two import applications, pending appropriate authorization under section 7 of the Natural Gas Act. In that order, the Commission stated that the conditional import authorizations did not constitute rulings on, *inter alia*, the following matters: (1) any questions relating to the specific facilities needed to effectuate the contemplated importation; (2) the jurisdictional sales, exchange and transportation arrangements by which the gas would be delivered; and (3) "any matters related to the import authorization applica-

[1] On January 4, 1978, Northwest Alaskan Pipeline Company (Northwest Alaskan) became the successor-in-interest to Alcan. Applicant states that in March 1978, Northwest Alaskan joined with five other companies, including an affiliate of Applicant's, Natural Gas Corporation of California, and Pac-Interstate's wholly-owned subsidiary, Pacific Interstate Transmission Company (Arctic), in the formation of the Alaskan Northwest Natural Gas Transportation Company, a partnership. Under the partnership agreement, all rights conferred upon Northwest Alaskan to construct and operate the Alaskan segment were transferred to the partnership, it is said. Applicant says that on June 30, 1978, in Docket No. CP78-123, the Commission authorized the transfer of Alcan's conditional certificate to the partnership.

tions other than the basic question of whether in general such imports are in the public interest." [2]

Applicant states that the instant application is part of a proposal to deliver an average daily volume of 240,000 Mcf of natural gas produced in the Province of Alberta to Pac-Interstate's affiliate, So Cal, a natural gas distribution company serving the southern California market. The gas would be transported to the International Boundary near Kingsgate, British Columbia, through prebuilt portions of the ANGTS in Alberta and southeastern British Columbia, and sold by Pan-Alberta to Northwest Alaskan at the International Boundary, it stated. (By the Commission order of June 7, 1978, Northwest Alaskan received conditional import authorization for this proposed purchase.) Northwest Alaskan would resell this gas to Pac-Interstate at the U.S. side of the International Boundary, and Pac-Interstate would ship and sell the gas to SoCal, is indicated.

Applicant states that it would receive an annual average daily quantity of 240,000 Mcf of gas at the International Boundary and would transport the gas for the account of Pac-Interstate through the proposed facilities. Applicant would deliver the annual average daily volume of 240,000 Mcf, less fuel and line loss, to the pipeline system of Northwest Pipeline Corporation (Northwest) near Stanfield, Oregon, it is stated.

Expanding its facilities as necessary, Northwest would deliver thermally equivalent volumes, adjusted for fuel and line loss, to El Paso Natural Gas Company (El Paso) near Ignacio, Colorado, it is indicated. Applicant further indicates that El Paso, also expanding its facilities as necessary, would deliver equivalent volumes of gas, adjusted for fuel and line loss, to a point of interconnection with the SoCal transmission system at the Arizona-California border. At the California border, Pac-Interstate would sell the gas to SoCal for resale to SoCal's customers in southern California, it is stated. Applicant says that full deliveries are scheduled to commence on or about November 1, 1980.

Applicant states that it would not have available capacity in its existing system to transport the Alberta gas for Pac-Interstate over the approximately 280-mile section of its pipeline between the International Boundary and the proposed delivery point near Stanfield, Oregon. Applicant says that for this reason, it proposes to prebuild portions of the Western Leg between those two points. The prebuilt portions would consist of 160.5 miles of 36-inch pipeline loops, to be installed in six sections at four general locations, operating at a maximum pressure of 911 psig as does Applicant's existing pipeline, it is stated. Applicant says that, as with the full Western Leg design, existing compressor stations would be used and no compressor station horsepower additions are proposed. Centrifugal compressor aerodynamic assembly changes would be required on six (6) existing units at four existing stations, it is stated. New metering facilities are also proposed at the point of delivery into Northwest's pipeline system near Stanfield, Oregon, Applicant says. The capital cost of the prebuilt facilities is estimated, on a January 1, 1978 cost basis, at $116,015,000, it is indicated. Applicant says it would use conventional financing for the proposed facilities, with reliance on full recourse debt.

Applicant says that the service agreement between it and Pac-Interstate provides for a term of service coextensive with the export license to be issued by the National Energy Board of Canada for export volumes which Pac-Interstate proposes to purchase from Northwest Alaskan. Pac-Interstate may extend the term of the service agreement beyond the expiration date of the initial export license for as long as it has the right to purchase the Alberta gas under its March 9, 1978, Gas Purchase Agreement with Northwest Alaskan, provided that the related export license and any other necessary regulatory authorizations for such extended deliveries have been obtained, it is stated.

Applicant states that it would charge Pac-Interstate for the proposed transportation service under a cost-of-service tariff based on the tariff presently used for its existing customer, Pacific Gas and Electric Company (PG and E), and Northwest. Under the new tariff, all costs associated with the new facilities would be charged to Pac-Interstate until North Slope gas deliveries commence, and Pac-Interstate would also share with PG and E and Northwest the costs associated with their common use of PGT's existing facilities, it is indicated. Applicant says that no substantive change is proposed in the tariff terms and conditions applicable to the continuing service to PG and E and Northwest, although changes in the tariff format are necessary.

Applicant proposes to depreciate the new facilities on a unit-of-volume basis, which it says is the method embodied in its existing tariff. Applicant says that the proposed volumetric depreciation method would be based initially on the expiration date of the export license granted in relation to the gas to be purchased by Pac-Interstate and transported over the prebuilt facilities, and then, when deliveries of Alaskan gas through the fully constructed Western Leg commence, would take into account Alaskan deliveries. Applicant says that Pac-Interstate contemplates transporting Alaskan gas which it would purchase through the fully constructed Western Leg. Applicant says that its proposed tariff provides that when the full Western Leg is constructed and used by other customers besides Pac-Interstate to carry Alaskan gas, Applicant's cost of service billings to Pac-Interstate would be reduced ratably over the authorized life of the Alaskan gas by the difference between the depreciation thereto paid by Pac-Interstate for its use of the prebuilt facilities and the depreciation that would have resulted if the prebuilt facilities had been depreciated on a straight-line basis over the combined authorized life of the Alberta gas and Alaskan gas deliveries (with certain adjustments). Applicant says that it would provide this ratable cost of service reduction to Pac-Interstate to the extent of such amounts are otherwise recoverable in Applicant's cost of service billings to other Western Leg customers.

The Commission advises interested parties that the project for which authorization is being sought involves the following related applications:

Applicant and docket no.

Northwest Pipeline Corporation, CP79-56.
El Paso Natural Gas Company, CP79-57.
Pacific Interstate Transmission Company, CP79-58.
Northwest Alaskan Pipeline Company, CP79-59.
Pacific Gas Transmission Company, CP79-60.

Although the Commission is noticing these filings separately, these applications are related to the overall Alaska Natural Gas Transportation System proceeding. Therefore, persons who have already petitioned to intervene in Docket Nos. CP78-123, *et al.*, need not also petition to intervene in any of the above dockets in order to obtain party status.[3] Persons desiring to be heard or to make any protest are requested to state with reasonable specificity the basis for their protest or intervention.

Any person desiring to be heard or to make any protest with reference to the application in Docket No. CP79-60 should on or before December 27, 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

[2] Order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo. p. 6).

[3] See order issued June 7, 1978, Docket Nos. CP78-123, *et al.* (mimeo. p. 3).

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, unless the person has already filed a petition to intervene in Docket Nos. CP78-123, *et al.*

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon that 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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34445 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-58 (See Docket Nos. CP78-123, *et al.*, and Docket Nos. CP79-56, CP79-57, CP79-59 and CP79-60)]

PACIFIC INTERSTATE TRANSMISSION CO.

Application

DECEMBER 4, 1978.

Take notice that on November 6, 1978, Pacific Interstate Transmission Co. (Applicant), 720 West Eighth Street, Los Angeles, Calif. 90017, filed in Docket No. CP79-58 (and Docket Nos. CP78-123, *et al.*) an application pursuant to the provisions of the Alaska Natural Gas Transportation Act of 1976 (ANGTA) and Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the sale of a daily average volume of 240,000 Mcf of natural gas to the Southern California Gas Co. (SoCal), an affiliate of Applicant, and for authority to own a 30 percent undivided interest in certain facilities to be constructed and operated by Northwest Pipeline Corp. (Northwest), all as more fully set forth in the application on file with the Commission and open to public inspection.

The instant application is one of several related applications submitted by various parties for authorization to permit the importation, transportation and sale of Canadian gas which, in turn, would facilitate the prebuilding of the Alaska Highway Pipeline Project, it is said. The Alaska Highway Pipeline Project is designed to bring Alaskan North Slope gas through Canada and down into the lower 48 states.

On September 22, 1977, the President, pursuant to Section 7 of ANGTA, issued his *Decision and Report to Congress on the Alaska Natural Gas Transportation System*, in which he designated the sponsors of the Alaska Highway Pipeline Project as the companies responsible for construction of the Alaska Natural Gas Transportation System (ANGTS). Congress ratified the President's Decision by joint resolution, and the President signed the joint resolution into law.

By order issued December 16, 1977, in Docket Nos. CP78-123, *et al.*, the Commission, pursuant to Section 5(a)(2) of ANGTA, awarded conditional certificates of public convenience and necessity to the sponsors of the Alaska Highway Pipeline Project. The parties receiving the conditional certificates were (1) Alcan Pipeline Co. (Alcan), which was given responsibility for the Alaskan segment of the system; [1] (2) Northern Border Pipeline Co., responsible for the construction and operation of the lower-48 eastern transmission leg; and (3) Pacific Gas Transmission Co. (PGT), which was given responsibility for construction and operation of the portion of the Western Leg from the U.S.-Canada border near Kingsgate, British Columbia, to the Oregon-California border.

On April 5, 1978, Northwest Alaskan Pipeline Co. (Northwest Alaskan), the successor-in-interest to Alcan, filed with the Commission two applications pursuant to Section 3 of the Natural Gas Act and Sections 5(a)(2) and 9 of ANGTA. In these applicaitons, Northwest Alaskan requested authorization to import, on an average daily basis, up to 240,000 Mcf of gas at an existing import point on the U.S.-Canada boundary near Kingsgate, British Columbia, and up to 800,000 Mcf of gas per day at a proposed import point on the U.S.-Canada boundary in the vicinity of Monchy, Saskatchewan. In these applications, Northwest Alaskan proposed to purchase such gas from Pan-Alberta Gas, Ltd. (Pan-Alberta), pursuant to the terms of a contract dated March 9, 1978, and said that the proposed purchase would facilitate the prebuilding of the southern portions of the Alaska Natural Gas Transportation System, which includes the eastern and western transmission legs.

By order of June 7, 1978, in Docket Nos. CP78-123, *et al.*, the Commission granted conditional approval of the two import applications, pending appropriate authorization under Section 7 of the Natural Gas Act. In that order, the Commission stated that the conditional import authorizations did not constitute rulings on, *inter alia*, the following matters: (1) any questions relating to the specific facilities needed to effectuate the contemplated importation; (2) the jurisdictional sales, exchange and transportation arrangements by which the gas would be delivered; and (3) "any matters related to the import authorization applications other than the basic question of whether in general such imports are the public interest." [2]

In the instant application, Applicant requests authorization to sell to SoCal, a natural gas distribution company serving southern and central California, up to 240,000 Mcf of gas per day at the California-Arizona border. Applicant proposes to commence the sales proposed herein on or about November 1, 1980.

Applicant states that it has entered into a gas purchase agreement with Northwest Alaskan. The agreement provides that 240,000 Mcf of gas per day would be sold by Northwest Alaskan to Applicant at the U.S.-Canadian border, it is stated. Applicant indicates that Northwest Alaskan would purchase the gas to be sold to Applicant from Pan-Alberta. (By Commission order of June 7, 1978, Northwest Alaskan received conditional import authorization for this proposed purchase.)

Applicant says that its subsidiary, Pacific Interstate Transmission Co. (Arctic) (PacArctic), is a member of the Alaskan Northwest Natural Gas Transportation Co. General Partnership (Partnership) and, therefore, Applicant can obtain the gas which is the subject of this application.

Applicant says that the agreement between it and Northwest Alaskan provides that the sale would be for a period of 12 contract years from the date of commencement of the second contract year, unless Applicant cancels

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[1] On January 4, 1978, Northwest Alaskan Pipeline Co. became the successor-in-interest to Alcan. In March 1978, Northwest Alaskan joined with five other companies, including an affiliate of Applicant, Pacific Interstate Transmission Co. (Arctic), in the formation of a partnership, Alaskan Northwest Natural Gas Transportation Company. Under the partnership agreement, all rights conferred upon Northwest Alaskan to construct and operate the Alaskan segment were transferred to the partnership. On June 30, 1978, in Docket No. CP78-123, the Commission authorized the transfer of Alcan's conditional certificate to the partnership.

[2] Order issued June 7, 1978, Docket Nos. CP78-123, *et al.*, (mimeo. p. 6).

said agreement prior to the commencement of the second 6 years.

Applicant states that in order to deliver the gas to SoCal, Applicant has entered into transportation agreements with PGT, Northwest Pipeline Corp. (Northwest), and El Paso Natural Gas Co. (El Paso) for transportation of the gas from the U.S.-Canada border to the California-Arizona border.

Applicant indicates that PGT, Northwest and El Paso have concurrently filed applications for authorization to construct necessary facilities and to carry out the gas transportation agreements. Applicant says that the estimated price per decatherms of gas delivered to SoCal, inclusive of a transportation credit from El Paso, is $3.13.

Applicant says that its proposed tariff includes provisions for the collection from SoCal of the carrying costs of the funds which Applicant would provide to PacArctic as its share of the prefinancing cash requirements which PacArctic would be required to provide as a result of its participation in the Partnership during the financing phase of the project. Applicant states that PacArctic has thus far advanced approximately $4,225,000 to the Partnership and is obligated to advance additional funds through December 31, 1978. Through a funding agreement, Applicant would provide funds to PacArctic for its per capita share of the cash requirements, it is indicated. Applicant says that the carrying costs collected from SoCal, plus interest, would be refunded or otherwise credited to the cost of service to SoCal at the time satisfactory, permanent financing arrangements for the Partnership are completed.

Applicant says it has entered into an agreement with Northwest under which Applicant would own an undivided 30 percent interest in certain facilities to be constructed and operated by Northwest. These facilities would be used to transport the Canadian gas to SoCal, it is said. In order to finance its 30 percent share of the costs of the facilities, Applicant says that it plans to issue $27,408,000 in long term debt and $15,266,000 of equity investment.

The Commission advises interested parties that the project for which authorization is being sought involves the following related applications:

Applicant and Docket Number	
Northwest Pipeline Corp.	CP79-56
El Paso Natural Gas Co.	CP79-57
Pacific Interstate Transmission Co.	CP79-58
Northwest Alaskan Pipeline Co.	CP79-59
Pacific Gas Transmission Co.	CP79-60

Although, the Commission is noticing these filings separately, these applications are related to the overall Alaska Natural Gas Transportation System proceeding. Therefore, persons who have already petitioned to intervene in Docket Nos. CP78-123, *et al.*, need not also petition to intervene in any of the above dockets in order to obtain party status.[2] Persons desiring to be heard or to make any protest are requested to state with reasonable specificity the basis for their protest or intervention.

Any person desiring to be heard or to make any protest with reference to the application in Docket No. CP79-59 should on or before December 27, 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, unless the person has already filed a petition to intervene in Docket Nos. CP78-123, *et al.*

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 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc 78-34446 Filed 12-8-78; 8:45 am]

[2] See order issued June 7, 1978, Docket Nos. CP78-123, *et al.*, (mimeo. p. 3).

[6740-02-M]

[Docket No. RI79-6]

PREMIER RESOURCES, LTD.

Petition for Special Relief

NOVEMBER 30, 1978.

Take notice that on October 18, 1978, Premier Resources, LTD. (Petitioner), Suite 2100, First of Denver Plaza, 633—17th Street, Denver, Colo. 80202, filed a petition for special relief requesting a rate of $2.57 per Mcf at 14.65 psia, for the sale of natural gas to Michigan Wisconsin Pipeline Co., from its Oswego Well, Section 25-T21N-R18W, Woodward County, Okla.

Petitioners states that compression and plunger lift installation are required in order to continue production. Therefore, petitioners maintains that the above mentioned rate increase is necessary if future production is to be economically feasible.

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, Union Center Plaza Building, 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 and 1.10). All such petitions or protests should be filed on or before December 21, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34447 Filed 12-8-78; 8:45 am]

[1505-01-M]

SEMINARS CONCERNING IMPLEMENTATION OF THE NATURAL GAS POLICY ACT

Correction

In FR Doc. 78-2585 appearing at page 54132 in the issue of Monday, November 20, 1978, between the 24th and the 25th lines under the heading "Seminar Content" in column two, page 54132, insert the following:

December 11, 1978—Columbus, Ohio, Carousel Inn, 4900 Sinclair Rd. (614) 885-9045.

[6740-02-M]

[Docket No. CP79-20]

SOUTHERN NATURAL GAS CO.

Application

NOVEMBER 30, 1978.

Take notice that on October 12, 1978, Southern Natural Gas Company (Applicant), P.O. Box 2563, Birmingham, Alabama 35202, filed in Docket No. CP79-20 an application pursuant to section 7(b) of the Natural Gas Act for permission and approval to abandon by sale to Alabama Gas Corporation (Alagasco) its Bessemer T.C.I. Rolling Mills Line and to abandon in place the Bessemer T.C.I. Rolling Mills Meter Station thereto, all as more fully set forth in the application on file with the Commission and open to public inspection.

Pursuant to an agreement dated May 1, 1978, with Alagasco, Applicant has agreed to sell to Alagasco all of its right, title, and interest in approximately 1,204 feet of 4½-inch pipeline and an appurtenant valve setting lying upstream from the meter station known as the Bessemer T.C.I. Rolling Mills Line, for the depreciated book value of $4,600.00. Said line was formerly used by Applicant to serve the Bessemer Rolling Mills of U.S. Steel, but no deliveries have been made through this line since March 29, 1974, it is said. Applicant states that the sale of the facilities will enable Alagasco to operate more efficiently its present facilities.

It is indicated that the meter station will be abandoned because the sale of the line by Applicant eliminates the need for it.

No service is currently being rendered by Applicant by means of the facilities proposed to be abandoned, it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 21, 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). All protest 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 or its designee on this application if no petition to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Applicant to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34448 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-74]

SOUTHERN CALIFORNIA EDISON CO.

Filing of Interruptible Transmission Service Agreement

DECEMBER 1, 1978.

Take notice that on November 20, 1978, Southern California Edison Company (Edison) tendered for filing an interruptible transmission service agreement, dated November 9, 1978, with the City of Riverside providing for the transmission by Edison on an interruptible basis of power purchased by Riverside from Nevada Power Company on a non-firm basis. Edison indicates that the power will be delivered by the Department of Water and Power of the City Los Angeles (DWP) to the Victoryville-Lugo Point of Interconnection. Edison will provide interruptible transmission service under said agreement from the Victoryville-Lugo Point of Interconnection to Riverside's Point of Delivery at the City of Riverside. Edison states that it will charge Riverside as specified in the Agreement for transmission, dispatching, and scheduling services, and for losses between the Point of Interconnection with DWP and with the Riverside Point of Delivery.

Edison and Riverside request that service be initiated as soon as possible under this Agreement, and for that reason Edison requests that the notice provisions of the Commission's regulations be waived and the filing be permitted to become effective at the time of acceptance of filing but in no event later than the appropriate number of days.

Copies of this filing were served upon the City of Riverside California, and the Public Utilities Commission of the State of California, according to Edison.

Any person desiring to be heard or to protest this filing should file a petition to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., 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 December 22, 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 application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34449 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-22]

TENNESSEE GAS PIPELINE CO., A DIVISION OF TENNECO, INC., ET AL.

Application

DECEMBER 4, 1978.

Take notice that on October 13, 1978, Tennessee Gas Pipeline Company, a Division of Tenneco Inc. (Tennessee), P.O. Box 2511, Houston, Texas 77001, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77001 and Midwestern Gas Transmission Company (Midwestern), P.O. Box 2511, Houston, Texas 77001 filed in Docket No. CP79-22, a joint application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation and exchange of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated in the application that ANR Storage Company has agreed to provide a storage service for United, which United has sought in order to render service at a higher priority level during future winter heating seasons. It is further stated that United has entered into a gas transportation agreement with Tennessee to make possible the use of such storage facilities.

It is stated that under the agreement Tennessee would receive gas at the existing point of interconnection of United's line with Tennessee's Compressor Station 47, near West Monroe,

Ouachita Parish, Louisiana (Monroe Delivery Point) and would cause the delivery of such volumes by Midwestern to Michigan Wisconsin Pipeline Company (Mich Wisc) for the account of United at a point of interconnection between the pipeline systems of Mich Wisc and Midwestern located in Channahon Township, Will County, Illinois (Will County Delivery Point), and at other existing points of interconnection mutually agreed to.

It is said that the agreement specifically provides that during each April 1 through October 31 for a primary term of fifteen years Tennessee would receive at the Monroe Delivery Point up to 20,000,000 Mcf of gas at daily rates of up to 100,000 Mcf, subject to the conditions provided for in the agreement. It is further said that Tennessee also agrees to receive, at its option, volumes exceeding the volumes herein specified.

It is said that for the volumes of gas transported hereunder, Tennessee would charge a total monthly charge during the April 1 through October 31 period equal to $.34 per Mcf multiplied by 20,000,000 Mcf, divided by 7. To the extent any excess transportation volumes are transported, Tennessee would charge $.34 per Mcf. Such charge is based upon the sum of Tennessee's currently effective Mcf-Mile charge, utilizing Tennessee's current system average transmission cost of service between the Monroe Delivery Point and Tennessee's delivery point to Midwestern at the existing point of interconnection of Tennessee and Midwestern near Portland, Tennessee (Portland Delivery Point) plus Midwestern's currently effective Mcf-Mile charge, utilizing the same methodology but applied to the distance in miles between the Portland Delivery Point and the Will County Delivery Point, it is said.

It is stated that Tennessee and Midwestern have entered into a gas transportation agreement dated October 9, 1978, which provides for Midwestern to render a transportation service for Tennessee for the account of United. It is further stated that pursuant to such agreement, Midwestern would receive gas from Tennessee at the Portland Delivery Point and would deliver such volumes to Mich Wisc at the Will County Delivery Point.

It is said that this contract specifically provides that during each April 1 through October 31 Midwestern would receive up to 20,000,000 Mcf of gas at daily rates of up to 100,000 Mcf, such volumes subject to reduction as provided for in the contract. It is further said that Midwestern also agrees in such contract to receive, at its option, excess transportation volumes.

It is said for the volumes of gas transported hereunder, Midwestern would charge Tennessee a total monthly charge equal to the product of 17.94¢ per Mcf, multiplied by 20,000,000 Mcf, divided by 7. Such charge is an increment of Tennessee's charge to United pursuant to its agreement with United, it is said.

It is said that this contract further provides that Tennessee would endeavor to cause delivery of gas to be made to Midwestern at the Will Country Delivery Point in quantities sufficient to allow Midwestern to render transportation service hereunder without resulting in a net increase in Midwestern's fuel use. In the event that Midwestern incurs a net increase in fuel volumes for rendition of service hereunder, Tennessee would furnish to Midwestern a volume of gas equal to such net increase at the rate per Mcf then in effect for all gas purchased by Midwestern from Tennessee under its existing CD-1 rate schedule, it is said.

It is stated that Tennessee and United have also entered into a gas exchange agreement dated October 9, 1978, which provides for such parties to exchange volumes of gas during each November 1 through March 31 for a primary term of fifteen years. It is further said that pursuant to such exchange agreement Tennessee would receive as exchange gas for the account of United in Will County, Illinois at the Will County receipt point up to 20,000,000 Mcf at daily rates up to 222,222 Mcf. United would receive from Tennessee a total volume equivalent to the volume received by Tennessee during such November 1 through March 31 period, such receipts by United to be at the point of delivery by Tennessee to United from Tennessee's Louisiana Coastal Line at MLV 523 into the Project Lirette Pipeline in Terrebonne Parish, Louisiana (Cocodrie Delivery Point), it is said. Tennessee also would have the right to deliver up to 50,000 Mcf of such volumes at the Monroe Delivery Point, it is said. Moreover, to the extent that such total volumes to be received by United would not be delivered at the Cocodrie and Monroe Delivery Points, such deliveries by Tennessee would be at other mutually agreed to existing points where gas can be delivered to United by or for the account of Tennessee; such points include the point of interconnection of Tennessee's Muskrat Line and United's line near Bayou Sale, St. Mary Parish, Louisiana (Bayou Sale Delivery Point); the point of interconnection of Tennessee's line and United's line near Chauncey, Hancock County, Mississippi (Kiln Delivery Point) and a proposed point of interconnection between Tennessee and United's 36" line in Terrebonne Parish near Lirette, Louisiana (Lirette Delivery Point), it is said.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 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 or its designee 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 Tennessee, United and Midwestern to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[6740-02-M]

[Docket No. CP77-58]

TEXAS GAS TRANSMISSION CORP.

Petition To Amend

NOVEMBER 30, 1978.

Take notice that on November 3, 1978, Texas Gas Transmission Corporation (Petitioner), 3800 Frederica Street, Owensboro, Kentucky 42301, filed in Docket No. CP77-58, a petition to amend the order issued January 19, 1977 in the instant docket pursuant to section 7(c) of the Natural Gas Act and § 2.79 of the Commission's General Policy and Interpretations (18 CFR 2.79) so as to authorize the extension of transportation service for the ac-

count of Reynolds Metal Company (Reynolds) for an additional two-year period from January 27, 1979, all as more fully set forth in the petition to amend which is on file with the Commission and open for public inspection.

Petitioner states that by order issued January 19, 1977, it was authorized to transport, on an interruptible basis, and deliver volumes of natural gas up to 414 Mcf per day to Louisville Gas and Electric Company (LG&E) for the account of Reynolds and such transportation service was authorized for a period of two years from the date of initial delivery which was January 27, 1977.

Petitioner states it seeks Commission authorization to transport and deliver volumes of natural gas up to 380 Mcf per day for the account of Reynolds for an additional two-year period commencing January 27, 1979. Such transportation service would be rendered by Applicant for the additional period pursuant to a transportation service agreement between Petitioner and Reynolds, it is said.

Petitioner further states that Reynolds has amended its gas sales agreement with Ergon, Inc. (Ergon); the daily maximum rate which Reynolds would have the right to take would be set at 450 Mcf per day and the minimum rate which Reynolds is obligated to take would be set at 225 Mcf per day for the first year of the extended term. It is stated that the maximum rate for the second year of the two-year extended term would be reduced to 225 Mcf per day with a daily minimum take requirement of 200 Mcf per day.

It is stated that Reynolds agrees to pay Ergon, Inc. for all gas received commencing on January 28, 1979 and for the succeeding two years, unless terminated as provided by the contract a rate of $2.25 per Mcf. Such natural gas would be delivered to Petitioner at an existing meter station owned by Reynolds and operated by Petitioner, which is located on Petitioner's 26-inch pipeline in Union Parish, Louisiana, it is stated.

Petitioner further states it would simultaneously redeliver volumes of natural gas up to 380 Mcf per day at 14.73 psia to its existing point or points of delivery with LG&E for ultimate delivery by LG&E to Reynolds Plant No. 1 located near Louisville, Kentucky. Under existing authorization, LG&E delivers volumes transported by Petitioner to Reynolds at both Plant No. 1 and Plant No. 15; however, Petitioner states that Plant No. 15 has converted a significant part of its process gas requirements to alternate fuel and, therefore, no longer requires natural gas.

In no event would Petitioner be obligated to deliver on any day an aggregate volume of more than the Contract Demand of 239,706 Mcf of natural gas at 14.73 psia through all points of delivery of Petitioner to LG&E, it is said. LG&E has agreed to accept volumes of natural gas up to 380 Mcf per day to be transported and delivered by Petitioner to LG&E for the account of Reynolds it is stated.

Petitioner indicates that it would not retain any volumes of natural gas hereunder for its own system supply, but would retain as makeup for compressor fuel and line loss 7.89 percent of those volumes delivered to LG&E for the account of Reynolds.

It is asserted that Petitioner would collect an initial charge of 27.54 cents for each Mcf delivered to LG&E for the account of Reynolds.

Petitioner further asserts that no new facilities are necessary in order to effectuate the extension of the transportation service.

Any person desiring to be heard or to make any protest with reference to said petition to amend should on or before December 21, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34450 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-53]

TEXAS EASTERN TRANSMISSION CORP.

Application

NOVEMBER 30, 1978.

Take notice that on November 6, 1978, Texas Eastern Transmission Corporation (Applicant), P.O. Box 2521, Houston, Texas 77001, filed in Docket No. CP79-53 an application pursuant to section 7(c) of the Natural Gas Act and § 157.7(b) of the Regulations thereunder (18 CFR 157.7(b)) for a certificate of public convenience and necessity authorizing the construction, during the 12-month period commencing January 1, 1979, and operation of facilities to enable it to take into its certificated main pipeline system natural gas which would be purchased or received from producers or other similar sellers, all as more fully set forth in the application which is 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 connecting to its pipeline system supplies of natural gas which may become available from various producing areas generally co-extensive with its pipeline system or the systems of other pipeline companies which may be authorized to transport gas for the account of or exchange gas with Applicant.

Applicant states that the total cost of the proposed facilities would not exceed $10,000,000; that the cost of any single onshore project would not exceed $1,500,000; and that the total cost of any single offshore project would not exceed $2,500,000. Applicant states that these costs would be financed from funds on hand.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 21, 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 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 or its designee 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34451 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-65]

UPPER PENINSULA POWER CO.

Filing

DECEMBER 1, 1978.

Take notice that on November 17, 1978, Upper Peninsula Power Company (Upper Peninsula), Upper Peninsula Generating Company (Generating Company), and Cliffs Electric Service Company (Service Company) filed the 1978 Basic Agreement which will supersede and replace the 1972 Basic Agreement and various supplements thereto.

Upper Peninsula states that the 1978 Basic Agreement sets forth the terms and conditions under which the parties will coordinate the operating of their systems and under which Upper Peninsula will deliver for Service Company its entitlement in the output of certain units owned by Generating Company. Upper Peninsula further states that the 1978 Basic Agreement provides for various changes in the rates for reserve deficiency payments, interchange energy and in the determination of the share of the costs of the Jointly Used Transmission system to be borne by the parties.

Upper Peninsula requests an effective date of January 1, 1979, and therefore requests waiver of the Commission's notice requirements.

Any person desiring to be heard or to protest said application 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. All such petitions or protests should be filed on or before December 18, 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 application are on file with the Commission and are available for public inspection.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34452 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. ER79-73]

THE WASHINGTON WATER POWER CO.

Proposed Amendatory Agreement Number One to the Pacific Northwest Coordination Agreement

DECEMBER 1, 1978.

Take notice that on November 20, 1978, the Washington Water Power Company (Washington) tendered for filing copies of an Amendatory Agreement Number One to the Pacific Northwest Coordination Agreement dated September 15, 1964.

The amendatory Agreement Number One modifies the charges with respect to Interchange imbalances between Systems resulting from deliveries made after June 30, 1978, according to Washington.

Washington requests that the requirements of prior notice be waived and the effective date be made retroactive to July 1, 1976, adding that there would be no effect upon purchasers under other rate schedules.

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, N.E., Washington, D.C. 20416, 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 December 22, 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34453 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-80]

TRAILBLAZER PIPELINE CO., ET AL.

Application

DECEMBER 4, 1978.

Take notice that on November 21, 1978, Trailblazer Pipeline Company (Trailblazer), Overthrust Pipeline Company (Overthrust) and Colorado Interstate Gas Company (Colorado Interstate), hereinafter collectively referred to as Applicants, pursuant to Section 7(c) of the Natural Gas Act filed an application in Docket No. CP79-80 for a certificate of public convenience and necessity to authorize the construction and operation of three portions of pipeline which together would be an integrated facility, know as the "Trailblazer System," designed to transport the gas of Applicants and their affiliates from the Rocky Mountain Area to existing markets in the Eastern, Midwestern and Western portions of the United States, all as more fully set forth in the application on file with the Commission and open to public inspection.

The three segments of the proposed Trailblazer system are:

The Overthrust Pipeline segment, which would consist of 75 miles of 36-inch diameter pipeline and other facilities extending from Colorado Interstate's existing system in Sweetwater County, Wyoming, to a point in the vicinity of Ryckman Creek, Uinta County, Wyoming, and from there 14 miles of 30-inch diameter pipeline and 18.5 miles of 16-inch diameter pipeline to North Pineview, Summit County, Utah. This segment would be owned by the Overthrust Pipeline Company, an as yet unformed partnership which would consist of Columbia Gulf Transmission Company (Columbia Gulf), CIG Gas Supply Company, a subsidiary of Colorado Interstate, and NGPL-Overthrust, Inc., a subsidiary of Natural Gas Pipeline Company of America (Natural). Colorado Interstate would operate the Overthrust Pipeline.

2. The Colorado Interstate segment, which would consist of a 290-mile, 36-inch diameter pipeline paralleling Colorado Interstate's existing facilities from the Overthrust Pipeline to the vicinity of Rockport, Colorado (Cheyenne Interconnect). Colorado Interstate would own and operate the Colorado Interstate segment.

3. The Trailblazer Pipeline segment, consisting of 445 miles of 36-inch pipeline and other facilities, would receive gas at the Cheyenne Interconnect and transport the gas east to a point of inteconnection with existing facilities of Natural at or near Beatrice, Nebraska. This segment would be owned by the Trailblazer Pipeline Company, and as yet unformed partnership to consist of Columbia Gulf and NGPL-Trailblazer, Inc., a subsidiary of Natural. Natural or an affiliate would operate the Trailblazer Pipeline segment.

Applicants state that the Trailblazer Pipeline segment is estimated to cost $230 million, that the Colorado Interstate segment is estimated to cost $149 million and that the Overthrust segment is estimated to cost $45 million. Applicants intend to finance each of the three segments separately because of the differences in ownership interests in each segment.

Applicants state that there is a need for the Trailblazer System to transport reserves from the Rocky Mountain Area already committed or antici-

pated to be committed to each of the Applicants.

No compression facilities are proposed by Applicants.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 26, 1978, file with the Federal Energy Regulatory Commission, Wshington, 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 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 or its designee 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 Applicants to appear or be represented at the hearing.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34483 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-69]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

NOVEMBER 29, 1978.

Take notice that on November 13, 1978, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-69 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing an interruptible transportation service of up to 450 dekatherms (dt) equivalent of natural gas per day for the account of Carolina Pipeline Company, Inc.; NCNG Exploration Corporation, an affiliate of North Carolina Natural Gas Corporation; Pennsylvania Gas and Water Company; Philadelphia Electric Company; Piedmont Exploration Company, Inc.; an affiliate of Piedmant Natural Gas Company, Inc.; and Tar Heel Energy Corportion, an affiliate of Public Service Company of North Carolina, Inc., all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant states that these transportation customers are all distribution company customers of Applicant or affiliates of Applicant's distributors, and all of such transportation customers, or their affiliates, have participated in the Robert Mosbacher/Transco Exploration Company Joint Venture (Mosbacher).

Applicant further states that the joint venture has discovered and developed several successful wells in the West Hicksbaugh Field, Tyler County, Texas.

Applicant asserts that the producers owning working interests in the wells in the West Hicksbaugh Field have constructed a gathering line connecting the wells to a gathering line owned by Atlantic Richfield Company (ARCO) and the participants' gas would flow through the ARCO line to the tailgate of ARCO's Silsbee Processing Plant in Hardin County, Texas, where Texas Eastern Transmission Corporation (Texas Eastern) would receive the gas for Applicant's account and transport and redeliver such gas at existing authorized points of interconnection between the two pipeline systems.

Applicant asserts that it requests authorization herein to transport for the account of the above transportation customers, on an interuptible basis, their interests in the West Hicksbaugh Field gas from the point of receipt from Texas Eastern to existing points of delivery on Applicant's system to such customers, or their affiliates.

Applicant further states that transportation service into its Rate Zone 2 initially would be rendered at 23.5 cents per dt, and into Rate Zone 3 at 24.0 cents per dt. Applicant would initially withhold 3.8 percent of the transportation volumes destined for delivery in Rate Zone 2 and 4.4 percent of the volumes for delivery in Rate Zone 3 for compressor fuel and line loss make-up, it is said.

It is indicated that the subject gas would be used by the participants to moderate the impact of Applicant's curtailments on their high-priority end uses.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 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 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 or its designee 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34484 Filed 12-8-78; 8:45 am]

[6740-02-M]

[Docket No. CP79-70]

TRANSCONTINENTAL GAS PIPE LINE CORP.

Application

NOVEMBER 29, 1978.

Take notice that on November 17, 1978, Transcontinental Gas Pipe Line Corporation (Applicant), P.O. Box 1396, Houston, Texas 77001, filed in Docket No. CP79-70 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the construction, installation and operation of 8.43 miles of 24-inch pipeline and appurtenant metering facilities to connect Applicant's Texas offshore North High Island Pipeline system in

High Island Block 154L (junction platform) with a previously unconnected new source of supply at Shell Oil Company's (Shell) production platform in High Island Block 179L, all as more fully set forth in the application filed with the Commission and open for public inspection.

It is stated that Applicant has entered into a precedent agreement with Shell covering 25 per cent of Shell's 100 percent interest in Block 179L reserves; that Applicant expects to enter into a Gas Purchase Agreement with Shell in the near future; and that initial daily deliveries are expected to be about 25,000 Mcf, which is the maximum delivery capacity of the proposed facilities. Although not proposed in the instant docket, it is stated that the pipeline's maximum capacity could be increased with the installation of additional facilities downstream from Applicant's junction platform.

Applicant estimates that the facilities would cost $9,300,000. Applicant proposes to finance this cost initially through short term loans and available cash, with alternative long term financing to be undertaken at a later date.

Any person desiring to be heard or to make any protest with reference to said application should on or before December 22, 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 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 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 or its designee 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.

LOIS D. CASHELL,
Acting Secretary.

[FR Doc. 78-34485 Filed 12-8-78; 8:45 am]

[1505-01-M]

ENVIRONMENTAL PROTECTION AGENCY

[PP 5G1590/T162; FRL 1009-5]

PESTICIDE PROGRAMS

Establishment of Temporary Tolerances for Tricyclazole

Correction

In FR Doc. 78-32480 appearing in the issue of Monday, November 20, 1978 on page 54133 in the middle column, the 8th, 9th, 10th, and 11th lines should read as follows:

". . . tricyclazole (5-methyl-1,2,4-triazolo[3,4-*b*] benzothiazole) and its metabolite 1,2,4-triazolo[3,4-*b*] benzo thiazole-5-methanol in or. . . ."

[6560-01-M]

[FRL 1022-1]

RECEIPT OF ENVIRONMENTAL IMPACT STATEMENTS

President Carter's Reorganization Plan No. 1 (see President's Message of July 15, 1977) transferred certain functions from the Council on Environmental Quality (CEQ) to the Environmental Protection Agency (EPA). Some of these functions relate to operational duties associated with the administrative aspects of the environmental impact statement (EIS) process. In Memorandum of Agreement No. 1 entered into between CEQ and EPA, dated March 29, 1978, it was agreed that EPA would be the official recipient of EIS's and would publish the availability of each EIS received on a weekly basis. This is the duty formerly carried out by CEQ pursuant to Section 1500.11(c) of the CEQ Guidelines.

Review periods for draft and final EIS will be computed as follows: the 45 day review period for draft EIS's will be computed from the Friday following the week which is being reported, the 30 day wait period for final EIS's will be computed from the date of receipt of the EIS by EPA and commenting parties.

The following is a list of environmental impact statements received by the Environmental Protection Agency from November 27, 1978 through December 1, 1978; the date of submission of comments on draft EIS's as compared from December 8, 1978, is January 22, 1979.

Copies of individual statements are available for review from the originating agency. Back copies are also available at 10 cents per page from the Environmental Law Institute, 1346 Connecticut Avenue, Washington, D.C. 20036.

Dated: December 6, 1978.

PETER L. COOK,
Acting Director,
Office of Federal Activities.

DEPARTMENT OF AGRICULTURE

Contact: Mr. Barry Flamm, Coordinator, Environmental Quality Activities, U.S. Department of Agriculture, Room 359A, Washington, D.C. 20250, 202-447-3965.

FOREST SERVICE

Draft

1979 Maine Spruce Budworm Suppression Project, several counties in Maine, November 30: Proposed is the application of insecticides to 3.5 million acres of Spruce Fir Forest in 1979 to suppress an outbreak of the eastern spruce budworm in Hancock, Franklin, Washington, Piscataquis, Penobscot, Somerset and Aroostook Counties in Maine. The insecticides proposed for use are: Sevin 4 oil, oylox 4, and orthene forest spray. The proportion of the area to be treated with each insecticide has not yet been decided. (NA-79-01.) (EIS Order No. 81288.)

Island Planning Unit, Flathead National Forest, Flathead and Lake Counties in Montana, November 27: Proposed is a revised land management plan for the Island planning unit, located on the Swan Lake Ranger District, Flathead National Forest, in Flathead and Lake Counties, Montana. The plan affects 52,500 acres of national forest lands and recommends that the unit be managed as follows: 42,300 acres of high intensity timber management, visual quality and whitetailed deer habitat; and 200 acres to preserve a unique area. The alternatives discussed consider various balances of surface and subsurface resource use with wildlife, recreational and visual resources. (USDA-FS-R1(10)DES-ADM-79-03.) (EIS Order No. 81267.)

Chetco-Grayback Planning Unit, Siskiyou National Forest, Curry, Josephine, and Del Norte Counties, Oreg., November 27: Proposed is a land management plan for the Chetco-Grayback planning unit located in the Siskiyou National Forest in Josephine, Curry, and Del Norte Counties, Calif. Five alternatives are considered. The preferred alternative includes: (1) A high level of timber harvest, (2) protection of the Illinois River which has been recommended for inclusion in the national wild and scenic river system, (3) reserve of wilderness for recreation and other uses, (4) recreational opportunities, and (5) protection and management of other resources. (USDA-FS-R6-DES-(ADM)-79-2.) (EIS Order No. 81263.)

Final

Conecuh Unit Plan, Conecuh National Forest, Covington, Escambia, and Coffee Counties, Ala. November 28: Proposed is the implementation of a management plan for the 84,400-acre Conecuh unit, Conecuh National Forest. The action described in the plan is for the 10-year period beginning July 1, 1977. Environmental impacts will result from timber harvesting, site preparation, timber stand improvements, road construction or reconstruction, prescribed burning, cattle grazing, recreation development, hiking trails, and mineral exploration or extraction. (USDA-F5-R8-FES-ADM-77-02.) Comments made by: USDA, CUE, DOC, EPA, FPC, HEW, GSA, DOI, State and local agencies. (EIS Order No. 81275.)

Ocala National Forest Timber Management Plan, Florida, November 27: The proposed action is the implementation of a revised 10-year timber management plan for the Ocala National Forest. The plan proposes even-aged forest management for that part of the forest which is suitable for sustained yield timber production and not reserved for some other use. Estimated annual yield from approximately 5,140 acres of regeneration cuts and 2,000 acres of intermediate cuts will be 1.0 million board feet of sawtimber and 64.2 thousand cords of small roundwood. An estimated 6,480 acres will be site prepared and reforested annually. (USDA-FS-R8-FES(ADMIN)78-05.) Comments made by: DOE, EPA, GSA, HUD, DOI, USDA, HEW, AHP groups, individuals and businesses. (EIS Order No. 81266.)

Deschutes National Forest Management Plan, several counties in Oregon, November 29: Proposed are the selection and subsequent implementation of a comprehensive land management plan for four planning units on the Deschutes National Forest. The planning units are in Jefferson, Deschutes, Klamath, and Lake Counties, Oreg. A wilderness land use alternative for three contiguous and combined roadless areas on the adjacent Umpqua and Willamette National Forests is also presented. The preferred alternative features a mix of land uses and is presented in contrast to four other alternative plans. (USDA-FS-06-01-77-16.) Comments made by: HUD, USDA, AHP, DOI, EPA, FERC, State and local agencies, groups, individuals and businesses. (EIS Order No. 81278.)

U.S. Army Corps of Engineers

Contact: Dr. C. Grant Ash, Office of Environmental Policy, Attention: DAEN-CWR-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue SW., Washington, D.C. 20314, 202-693-6795.

Draft

Sand Dredging Operations, Lafourche Parish, La., November 29: Proposed is the excavation of sand for use as fill material which would be readily accessible to various projects in the southern portion of Lafourche Parish, La. Retaining levees would be constructed using material from the site in order to prevent water and silt from entering the surrounding marsh, to keep water out of the excavation area, and to serve as access roads for trucks and draglines. Completion of the project will result in the conversion of 112 acres of brackish and salt marsh to a 50-foot deep, water-filled pit. (New Orleans District.) (EIS Order No. 81281.)

Joyce Creek Flood Control Project, Camden County, N.C., November 29: Proposed is a flood control and drainage project for the previously channeled Joyce Creek and two of its tributaries, Cyprus Run and Mill Run, Camden County, N.C., consisting of about 9.5 miles of stream channel excavation. Construction will be from one site; trees will be left intermittently, sediment traps constructed, and construction access area developed. (Wilmington District.) (EIS Order No. 81280.)

Final

Kodiak Small Boat Harbor (2), Alaska, November 28: This statement recommends a plan of development consisting of an armored rubblemound breakwater 1,900 feet long and a main entrance channel 930 feet long. The project is designed to provide a protected mooring basin for resident and transient commercial fishing vessels. Adverse impacts of the project include the loss of marine habitat and organisms from construction, low-level chronic pollution of the harbor from accidental or intentional spillage or disposal of human refuse and waste lubricants, and loss of future timber production on the quarry sites. (Anchorage District.) Comments made by: DOC, USDA, HEW, DOI, USCG, DOT, EPA, State and local agencies. (EIS Order No. 81272.)

Little Wood River Flood Damage Reduction (2), Lincoln County, Idaho, November 30: Proposed is a flood damage reduction project which would improve the existing system for diverting floodwater from the Little Wood River into nearby lava fields. The two proposed diversion projects would be located near Shoshone and Dietrich in Lincoln County, Idaho, and would reduce present flood damage potential by 86 percent. Flood protection would be provided for 2,560 acres. The COE filed a draft EIS, No. 60820, dated June 3, 1976, which was replaced by a revised draft EIS, No. 70424, dated April 1, 1977. (Walla Walla District.) Comments made by: HUD, DOI, USDA, EPA, State agencies, groups, and businesses. (EIS Order No. 81285.)

Root River Basin Flood Control, several counties in Minnesota, November 27: The statement concerns the construction of 3.1 miles of levees and 0.2 miles of road raises, floodplain regulation, and flood insurance for purposes of flood protection for 1,660 square miles in Houston, Fillmore, Mower, Winona, Olmsted, and Dodge Counties. Construction disruption and altered land use would result. (St. Paul District.) Comments made by: EPA, USDA, DOC, HEW, DOI, DOT, USCG, HUD, State agencies and groups. (EIS Order No. 81265.)

Rahway River/Van Winkles Brook, Flood Control, Union County, N.J., November 30: Proposed is a flood control project for Rahway River and Van Winkles Brook in Springfield, Union County, N.J. The project will consist of channel modification, levees, and ponding areas. The alternatives considered are: (1) No action, (2) nonstructural, and (3) structural and upstream reservoirs. The COE filed a draft EIS, No. 41396, dated September 4, 1974, which was replaced by a revised draft EIS, No. 50737, dated May 21, 1975. (New York District.) Comments made by: USDA, DOT, DOI, HEW, USCG, EPA, State and local agencies. (EIS Order No. 81284.)

Rockaway Inlet-Norton Point Erosion Control, Kings County, N.Y., November 30: Proposed is a beach erosion control project for Coney Island and Brighton beaches, Kings County (Brooklyn), N.Y. The project consists of the placement of beach fill, construction of two terminal stone groins which will include safety features for recreational fishing and navigation consisting of smooth-topped walkway, railing, and a fixed red light. (New York District.) Comments made by: USDA, DOC, HEW, DOT, EPA, DOI, USCG, and State agencies. (EIS Order No. 81283.)

Chetco River Jetty Extension, Oregon (2), Oregon, November 28: Proposed is the construction of a 1,250-foot extension of the south jetty (to the 18 foot depth contour) and construction of a 750-foot extension of the north jetty (to the 22 foot contour) of the Chetco River, Oreg. Project plans also call for deepening of the existing 14-foot channel and turning basin to 16 foot with disposal at sea during construction and subsequent maintenance. The COE filed a draft EIS, No. 51733, dated December 1, 1975, which was replaced by the revised draft EIS, No. 61504, dated October 14, 1976. (Portland District.) Comments made by: EPA, DOT, AHP, DOC, USDA, FPC, HEW, USCG, DOI, State and local agencies, groups and businesses. (EIS Order No. 81269.)

Department of Commerce

Contact: Dr. Sidney R. Galler, Assistant Secretary for Environmental Affairs, Department of Commerce, Washington, D.C. 20230, 202-377-4335.

National Oceanic and Atmospheric Administration

Draft supplement

Salmon Fisheries, FMP, OR, WA, CA, (S-1), California, Washington, Oregon, December 1: This statement supplements a final EIS filed in March 1978. Proposed is the amendment of the Fishery Management Plan (FMP) for commercial and recreational salmon fisheries off the coasts of Washington, Oregon, and California commencing in 1978 and 1979 without change. This amendment is of a clarifying nature in that the FMP states that it would apply in 1979 if a comprehensive FMP was not prepared. A second amendment is to delete section 105, limited access of the commercial fishery from the plan. (EIS Order No. 81289.)

Final supplement

Proposed NOAA West Regional Center Development, several Washington Counties, December 1: This proposal supplements a final EIS filed in January of 1976 concerning the NOAA West Regional Center Development. This statement describes and considers 10 alternative sites on which NOAA proposes to construct about 550,000 square feet of building space, 300,000 square feet of outdoor work space and mooring space for twelve fishery and oceanographic vessels. The purpose of the project is to consolidate the major organizational components of NOAA which are presently located at several sites in and around Seattle. Comments made by: DOI, HUD, USCG, GSA, DOT, EPA, COE, USDA, State and local agencies, groups, individuals and businesses. (EPA Order No. 81290.)

Department of Energy

Contact: Mr. Robert Stern, Acting Director, Division of NEPA Affairs, Department of Energy, Federal Building, Room 7119,

1200 Pennsylvania Avenue, NW., Washington, D.C. 20461, 202-566-9760.

Draft

Motor Gasoline Deregulation, Regulatory, November 28: Proposed is the deregulation/exemption of motor gasoline from price and allocation controls. All 50 States, the District of Columbia, Puerto Rico, the Virgin Islands and Guam would be affected by the action. The purpose of this action is to remove Government regulation which, in the case of allocation controls, was initiated during the 1973-74 petroleum embargo and in the case of price controls, has antecedents in the 1970 Economic Stabilization Program. Other proposed and completed Federal actions discussed include the recently issued gasoline tilt and rent pass through regulations and the proposed petroleum product allocation and price regulation. (DOE/EIS-0039-D). (EIS Order No. 81271.)

The EPA has waived the forty-five day review period for the following EIS. Comments will be due to the Department of Energy by January 5, 1978.

FEDERAL MARITIME COMMISSION

Contact: Mr. Paul Gonzalez, Director, Office of Environmental Analysis, Federal Maritime Commission, 1100 L Street, NW., Washington, D.C. 20573, 202-523-5835.

Final

Investigation, Movement of Wastepaper and Woodpulp, November 28: The Federal Maritime Commission has instituted an investigation of Pacific Westbound Conference's (PWC) rates, rules and practices pertaining to the movement of wastepaper and woodpulp from United States west coast ports to the Far East, including ports in Japan, South Korea, Taiwan, Philippines, and Thailand. The conference's rates permit exporters of woodpulp to use the services of carriers having the lowest open rate of woodpulp while exporters of wastepaper must use only the conference contract rate on that commodity or resort to the use of non-conference lines (Docket No. 72 35). (EIS Order No. 81273.) Comments made by: DOE, EPA, DOC, DOI. Docket No. CP79-60]

GENERAL SERVICES ADMINISTRATION

Contact: Mr. Andrew E. Kauders, Executive Director, Environmental Affairs Division, General Services Administration, 18th and F Streets, N.W., Washington, D.C. 20405, (202) 566-0405.

Draft

Denver Federal Center, Lakewood, Jefferson County, Colo., November 27: Proposed is a master plan for future development of the Denver Federal Center (DFC) in Lakewood, Jefferson County, Colo. The plan provides for the orderly consolidation of Federal agency offices in the west Denver metro area. Development of the DFC would provide a significant increase in high density adminstrative and office space in the DFC core area, to be surrounded by lower density uses, including military, research, and industrial activities, as well as open space. In addition, non-governmental office and commercial uses are recommended for the northwest corner of the DFC. (ECO-78001) (EIS order No. 81261)

DEPARTMENT OF HUD

Contact: Mr. Richard H. Broun, Director, Office of Environmental Quality, Department of Housing and Urban Development, 451 7th Street, S.W., Washington, D.C. 20410, (202) 755-6308.

Draft

Eagle-Market Street Development Project (UDAG), Buncombe County, N.C., November 29: This proposal concerns an application for HUD funding through the Urban Development Action grant program by the city of Asheville, Buncombe County, N.C. The renewal plan as drafted includes project details such as land acquisition, relocation, land use, public works improvements, site plans, and financing. The purpose of this project is to attract private investment in an attempt to solve problems of migration and declining tax base. (EIS order No. 80777)

Cross Creek Community, Plano, Collin County, Tex. Proposed is the issuance of HUD home mortgage insurance for a portion of the Cross Creek Community in Plano, Collin County, Tex. The plan considers the development of 793 acres of the 1,214-acre project area with 3,612 dwelling units at a density of 4 units per acre—single family, and 12 per acre—multifamily units consisting of duplexes, apartments, townhouses, condominiums, or clusters. (HUD-R06-EIS-78-49D) (EIS order No. 81270)

Final

Muirfield Subdivision, Indianpolis, Marion County, Ind., November 30: The action of this proposal is the issuance by HUD of mortgage insurance funds for the proposed Muirfield Subdivision, Indianapolis, Marion County, Ind. Muirfield will be a subdivision of approximately 800 lots. The type of homes constructed will be single-family detached. The area will encompass 272 acres of land. Construction will be completed in approximately six months. (HUD-R05-EIS-78-05-F.) Comments made by: EPA, HEW, DOT, GSA, USDA, COE.

Hillshire Subdivision, Shelby County, Tenn., November 29: The project site of approximately 280 acres lies in northeast Shelby County, Tenn., along Fletcher Creek just east and north of the Memphis city limits. The project proposes to develop this site in single-family, multifamily, commercial and office land uses, in accordance with existing zoning regulations and Memphis and Shelby County (HUD-R04-EIS-77-26F.) Comments made by: GSA, DOC, DOI, USDA, COE, EPA, local agencies (EIS order No. 81282).

DEPARTMENT OF INTERIOR

Contact: Mr. Bruce Blanchard, Director, Environmental Project Review, Room 4256, Interior Bldg., Department of the Interior, Washington, D.C. 20240, (202) 343-3891.

BUREAU OF LAND MANAGEMENT

Final

Silver City, lease of public lands, Owyhee County, Idaho, November 27: This action is a proposal to retain and lease 70 tracts totaling approximately 5.5 acres of public land in Silver City, Idaho. The leases would be issued to resolve unauthorized occupany and land use problems discovered during the preparation of the 1972 West Owyhee Unit Management Framework Plan for the Silver City area. Although leases will be issued on an individual basis, they will all include provisions for the preservation and protection of archaeological and historical resources, public health, and the natural environment. General provisions will also be required concerning lease terms, transfers; inspection, water and sewage systems. (FES-78-33.) Comments made by: AHP, USDA, HEW, HUD, DOI, EPA, State and local agencies, groups and individuals (EIS Order No. 81262).

Final Supplement

Alaska national interest lands, several counties, Alaska, November 28: This statement supplements 28 final EIS's filed in December, 1974, and January and February, 1975, concerning various alternatives for protecting national interest lands in Alaska through inclusion within the national park, wildlife refuge, national forest, and wild and scenic river systems. This supplement discusses executive branch actions which include: 1) Presidential proclamation of national monuments under the Antiquities Act, 2) administrative segregation and/or withdrawal of national interest lands under the Federal Land Policy and Management Act, and 3) withdrawal of lands under the Alaskan Native Claims Settlement Act. (DES-78-34.) Comments made by: USCG, DOT, EPA, DOE, COE, USDA, State and local agencies, groups, individuals, and businesses (EPA Order No. 81276).

Challis Planning Unit, revised management program, Custer County, Idaho, December 1: Proposed is the implementation of an improved range management program on public lands of the Challis Planning Unit located in Custer County, Idaho. Components of the proposed action are: 1) Allocation of forage for the grazing livestock, horses and wildlife, and 2) implementing grazing treatment on public lands which will consist of rest-rotation grazing on 227,839 acres, deferred-rotation grazing on 21,495 acres, and seasonal-continuous grazing on 80,788 acres. Comments made by: AHP, DOI, EPA, State and local agencies, groups, individuals, and businesses (EPA Order No. 81291).

NUCLEAR REGULATORY COMMISSION

Contact: Mr. Voss A. Moore, Assistant Director for Environmental Projects, P-518, Washington, D.C. 20555, (301) 492-8446.

Draft

San Onofre Nuclear Generating Station, Units 2 and 3, San Diego County, Calif., November 30: Proposed is the issuance of operating licenses jointly to the Southern California Edison Co. and the San Diego Gas and Electric Co., for the start up and operation of Units 2 and 3 of the San Onofre Nuclear Generating Station, adjacent to San Onofre Unit 1, located in San Diego County, Calif. Both units will employ pressurized water reactors to produce up to 3,410 MWT each. Steam turbine-generators will use this heat to provide a net power output of 1,057 MWE each. (NUREG-0490) (EIS Order No. 81287)

Split Rock Mill, operation, Jeffrey City, Fremont County, Wyo., November 29: Proposed is the renewal of a source material license issued to Western Nuclear, Inc., for the operation of the Split Rock Uranium Mill near Jeffrey City and the Green Mountain Ion-Exchange facility, both in Fremont County, Wyo. The license also permits possession of material from past operations at

four ancillary facilities in the Gas Hills mining area. The Split Rock Mill is an acid-leach, ion-exchange and solvent-extraction uranium-ore processing mill. Five alternatives are considered. (NUREG-0451) (EIS Order No. 81277)

PENNSYLVANIA AVENUE DEVELOPMENT CORP.

Contact: Mr. W. Anderson Barnes, Executive Director, Pennsylvania Avenue Development Corp., 425 13th Street, NW., Suite 1148, Washington, D.C. 20004.

Final Supplement

Market Square Archives and Record Service Annex, District of Columbia, November 28: This statement supplements a final EIS filed in September 1974. Proposed is the construction of a National Archives and Records Service Annex in the Market Square area of Pennsylvania Avenue, Northwest, in the District of Columbia. The structure will encompass approximately 1.3 million square feet. The annex will include research, office, storage, exhibit, and dining areas in addition to a theater and a tunnel connecting it to the Archives building. (EIS Order No. 81268).

DEPARTMENT OF TRANSPORTATION

Contact: Mr. Martin Convisser, Director, Office of Environmental Affairs, U.S. Department of Transportation, 400 7th Street, SW., Washington, D.C. 20590, 202-426-4357.

FEDERAL HIGHWAY ADMINISTRATION

Final

Southwest loop thoroughfare, NC 18 to U.S. 321, Caldwell County, N.C., November 27: The proposed project consists of constructing approximately 4.5 miles of multilane highway from NC 18 Business to U.S. 321 in the city of Lenoir, Caldwell County. Several combinations of cross-section types are being considered for various segments of this project including five lane, four lane divided by one 16-foot median, and four lane divided by a 36 to 44-foot median. (FHWA-NC-EIS-77-06-F.) Comments made by: COE, EPA, DOI, HEW, HUD, State and local agencies, individuals and businesses (EIS Order No. 81264).

EIS WITHDRAWAL

The Department of Community Development in Honolulu, Hawaii, has notified the Environmental Protection Agency by letter dated November 27, 1978, of their action to withdraw the draft EIS entitled "Citron-Date Housing Project" located in McCully, Honolulu, Hawaii. The EPA published Notice of Availability for the Draft EIS in the FEDERAL REGISTER dated September 19, 1978 (EIS Order No. 80978). HUD will not sponsor the proposed project due to objections raised by local citizens during public hearings which were held on the proposal.

OFFICIAL RETRACTION

It has come to EPA's attention that the following EIS was not distributed to the public at the same time the official filing was made by the originating agency. Therefore, Notice of Availability is hereby republished. The official 30-day review period allocated to final EIS will hereby begin on the date stated below.

U.S. ARMY CORPS OF ENGINEERS

Contact: Dr. C. Grant Ash, Office of Environmental Policy Department, Attn: DAEN-CWP-P, Office of the Chief of Engineers, U.S. Army Corps of Engineers, 1000 Independence Avenue, SW., Washington, D.C. 20314, 202-693-6795.

Final

Saw Mill Run, Pittsburgh, Allegheny County, Pa., November 30: The statement refers to a proposed flood control project on the Saw Mill Run through the west end of the city of Pittsburgh. Project measures will include the widening and deepening and minor realignment of 5,600 feet of the channel. Project alternatives include channel modifications of different capacities, reservoirs, flood walls and dikes, tunnels, flood forecasting and warning system, flood plain management, flood insurance, flood proofing, permanent excavation and no action. (Pittsburgh District.) Comments made by: USDA, HEW, DOI, EPA, State and local agencies, groups and businesses (EPA Order No. 81212). Originally filed with EPA on November 9, 1978, and published in the FEDERAL REGISTER dated November 20, 1978.

[FR Doc. 78-34499 Filed 12-8-78; 8:45 am]

[6730-01-M]

FEDERAL MARITIME COMMISSION

NOTICE OF AGREEMENTS FILED

The Federal Maritime Commission hereby gives notice that the following agreements have been filed with the Commission for approval pursuant to section 15 of the Shipping Act, 1916, as amended (39 Stat. 733, 75 Stat. 763, 46 U.S.C. 814).

Interested parties may inspect and obtain a copy of each of the agreements and the justifications offered therefor at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10218; or may inspect the agreements at the Field Offices located at New York, N.Y.; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Interested parties may submit comments on each agreement, including requests for hearing, to the Secretary, Federal Maritime Commission, Washington, D.C. 20573, on or before January 2, 1979. Comments should include facts and arguments concerning the approval, modification, or disapproval of the proposed agreement. Comments shall discuss with particularity allegations that the agreement is unjustly discriminatory or unfair as between carriers, shippers, exporters, importers, or ports, or between exporters from the United States and their foreign competitors, or operates to the detriment of the commerce of the United States, or is contrary to the public interest, or is in violation of the Act.

A copy of any comments should also be forwarded to the party filing the agreements and the statement should indicate that this has been done.

Agreements Nos. 150-67 and 3103-68. Filing party: Charles F. Warren, Esq., Warren & Associates, P.C., 1100 Connecticut Avenue, NW., Washington, D.C. 20036. Summary: Agreement No. 150-67, filed on behalf of the Trans-Pacific Freight Conference of Japan/Korea, and Agreement No. 3103-68, filed on behalf of the Japan/Korea-Atlantic and Gulf Freight Conference, are identical in nature and modify the conference agreements by amending Article 25(d)(1) and (2) of each by extending the investigatory authority of the Conference's Neutral Body to permit calls by the Neutral Body on the offices of truckers/motor carriers to assist its investigation.

Agreement No. 9296-2. Filing party: J. D. Straton, Jr., Director-Rates & Conferences, Moore McCormack Lines, Incorporated, 2 Broadway, New York, New York 10004. Summary: Agreement No. 9296-2 amends the transshipment agreement between Navale Et Commerciale Havraise Peninsulaire (Navale) and Robin Line, a service of Moore McCormack Lines, Incorporated, to include the subsidiary companies of Navale, namely, Compagnie Malgache De Navigation, Societe Mauricienne De Navigation and Societe Comorienne De Navigation, and to add a new Article 5 clarifying the responsibility of the transporting carrier to the cargo.

Agreement No. T-3065-2. Filing party: Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801. Summary: Agreement No. T-3065-2, between City of Long Beach and Great Lakes Carbon Corporation (GLCC), modifies the basic agreement between the parties which provides for the 25-year lease of certain premises at Long Beach, California, to be used by GLCC to conduct a proprietary dry bulk petroleum derivative stockpiling and storage operation. The purpose of this modification is to increase the leased area from 86,019 square feet to 96,178 square feet to provide for the construction of certain improvements on the leased premises. In addition, a corresponding increase is made in the monthly ground rental for the leased premises from $1,935.43 to $2,164.00.

Agreement No. T-3315-3. Filing party: Richard L. Landes, Deputy City Attorney, Offices of the City Attorney of Long Beach, Harbor Administration Building, P.O. Box 570, Long Beach, California 90801. Summary: Agreement No. T-3315-3, between City of Long Beach and Metropolitan Stevedore Company (MSC), modifies the basic agreement between the parties which provides for the five-year non-

exclusive preferential assignment to MSC of Berths 212 to 215, inclusive, together with adjacent wharf premises and bulk loading/unloading equipment at the Port of Long Beach. The purpose of the modification is to make certain minor adjustments to the boundaries of the assigned premises to conform with construction of facilities on one of the adjacent parcels.

Agreement No. T-3745. Filing party: Marion S. Moore, Jr., Traffic Manager, South Carolina State Ports Authority, P.O. Box 817, Charleston, South Carolina 29402. Summary: Agreement No. T-3745, between South Carolina State Ports Authority and Port Royal Clay Company (PRC), provides for the five-year, exclusive use and occupancy of State Pier 21 at Port Royal, South Carolina, including the transit shed, wharf, warehouse, water tank, pump house, ramp, truck well, sewerage treatment plant and other designated areas. The premises will be used in the operation of a terminal facility, handling and storing and transshipping cargo in connection with waterborne commerce and other related activities. As compensation, PRC will pay $60,000 per annum for rent.

Dated: December 6, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34458 Filed 12-8-78; 8:45 am]

[6730-01-M]

WAIVER OF STATUTORY REQUIREMENTS FOR A CARRIER OPERATING IN THE U.S. NORTH PACIFIC-CANADA TRADE

Foss, Launch & Tug Company has applied for an exemption under section 35 of the U.S. Shipping Act, 1916, from the tariff filing requirements of that Act with respect to the movement of rail cars containing bulk cargo loaded into such cars without mark or count and carried by Foss barges on a port-to-port basis between North Vancouver, British Columbia, on the one hand, and Seattle/Tacoma, Washington, on the other.

Interested parties may inspect and obtain a copy of the application at the Washington Office of the Federal Maritime Commission, 1100 L Street, NW., Room 11101; or may inspect a copy of the application at the Field Offices, New York, New York; New Orleans, Louisiana; San Francisco, California; Chicago, Illinois; and San Juan, Puerto Rico. Comments on such applications, including requests for hearing, may be submitted to the Secretary, Federal Maritime Commission, Washington, D.C., 20573, on or before December 29, 1978. Any person desiring a hearing on the proposed application shall provide a clear, and concise statement of the matters upon which they desire to adduce evidence. An allegation of descrimination or that the approval of this application would substantially impair effective regulation by the Federal Maritime Commission shall be accompanied by a statement describing the discrimination or the impairment of effective regulation 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 facts 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 application (as indicated hereinafter) and the statement shoud indicate that this has been done.

Notice of application filed by:

David B. Ballash, President, Foss Launch & Tug Co., 660 West Ewing Street, Seattle, Washington 98119.

William Karas, Esquire, Galland, Kharasch, Calkins & Brown, 1054 31st Street, NW., Washington, D.C. 20007.

Dated: December 5, 1978.

By order of the Federal Maritime Commission.

FRANCIS C. HURNEY,
Secretary.

[FR Doc. 78-34459 Filed 12-8-78; 8:45 am]

[4110-35-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

PHARMACEUTICAL REIMBURSEMENT BOARD

Final Maximum Allowable Cost Determinations

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Maximum Allowable Cost Determinations.

SUMMARY: In accordance with 45 CFR S19.5, the Pharmaceutical Reimbursement Board announces the following final maximum allowable cost (MAC) determinations:

Drug	*MAC limit*
Meprobamate, 200 mg tablets	$.0108
Meprobamate, 400 mg tablets	.0117
Phenylbutazone, 100 mg capsules	.0750
Phenylbutazone Alka, 100 mg capsules	.0940
Doxepin HCl, 10 mg capsules	.0950
Doxepin HCl, 25 mg capsules	.1161
Doxepin HCl, 50 mg capsules	.1765
Penicillin G Potassium, 400 mu tablets	.0180
Penicillin G Potassium, 800 mu tablets	.0265
Ampicillin, 250 mg capsules	.0595
Ampicillin, 500 mg capsules	.1103
Erythromycin Stearate, 250 mg tablets	.0697
Erythromycin Stearate, 500 mg tablets	.1250
Acetominophen w/codeine, 30 mg tablets	.0780
Acetominophen w/codeine, 60 mg tablets	.1545
Probenecid, 0.5 gm tablets	.0644

These MAC limits do not apply to unit dose packaging.

DATES: The effective date of these MAC limits is January 25, 1979.

FOR FURTHER INFORMATION CONTACT:

Peter Rodler, Executive Secretary, Pharmaceutical Reimbursement Board, 3076 Switzer Building, 330 C Street SW., Washington, D.C. 20201, 202-472-3820.

SUPPLEMENTARY INFORMATION: In previous FEDERAL REGISTER Notices, the Pharmaceutical Reimbursement Board proposed 23 MAC limits. (See 43 FR 36698, August 18, 1978; 43 FR 38941, August 31, 1978; 43 FR 40547, September 12, 1978). Since those notices, the Board has received written comments and held two public hearings. The Board now announces final MAC determinations for 16 of those proposed MAC limits. These final MAC limits are specified above. A summary of the material on which the Board relied in determining each MAC limit together with the Board's reasons for its determinations follows:

I. MEPROBAMATE 200 MG AND 400 MG TABLETS

On October 5, 1977, in response to the Board's request, the Food and Drug Administration notified the Board that it found no reason to recommend against the establishment of a MAC limit for 200 mg and 400 mg meprobamate tablets. The Board then made an initial determination of the lowest unit price at which these two dosage strengths of meprobamate tablets were widely and consistently available. For the 200 mg tablets, the Board proposed a MAC limit of $.0108 per tablet. This figure was based on HCFA survey [1] prices, which showed that the Purepac, Aberdeen, and SKF products were at or below the proposed level, and based on advertised prices in the Redbook, which showed that the price of the product from 11 other distributors was at or below the proposed MAC level. SKF is the seventh largest drug manufacturer in the United States, and distributes nationwide through wholesalers. Additionally, nine of the ten existing state MAC limits were at or below the proposed MAC limit. For the 400 mg tablets, the Board proposed MAC limit of $.0117 per tablet. This figure was based on HCFA survey prices, which showed that the SKF, Purepac, McKesson,

[1] The HCFA survey is a survey of pharmacy invoice prices obtained by HCFA under contract with IMS America. The survey price is based on the 70th precentile of invoice prices. The survey is updated monthly.

and Aberdeen products were at or below the the proposed MAC level, and based on advertised prices in the Redbook, which showed that the price of the product from 11 other distributors was at or below the proposed MAC level. Additionally, seven of the eleven existing state MAC limits were below the proposed MAC limit.

We received three comments concerning the proposed MAC limits on 200 mg and 400 mg meprobamate tablets. The first, from a state health and welfare agency, supported the establishment of federal MAC's at the proposed levels, indicating their belief that quality products are currently available at or below the proposed limit to a preponderance of community pharmacies. The two other comments stated that meprobamate 200 mg and 400 mg tablets were not available in unit dose packaging at the proposed MAC level. The Board accepted these comments and has exempted unit dose packaging from the final MAC limit on meprobamate.

On October 16, 1978, the Board voted to establish proposed final MAC limits [2] of $.0108 per 200 mg tablet, and $.0117 per 400 mg tablet, but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

II. Phenylbutazone 100 mg Tablets

On October 5, 1977, in response to the Board's request, FDA notified the Board that phenylbutazone 100 mg tablets are manufactured by only one firm and distributed by only this firm and one other. Thus, FDA advised that there are no bioequivalence problems and no reason to recommend against the establishment of a MAC limit. On August 18, the Board proposed a MAC limit of $.0750 per 100 mg tablet. This figure was based on the HCFA survey, which showed that the USV product was at or below the proposed MAC limit, and in USV's advertised price in the Redbook. Additionally, two of the four existing state MAC limits were at the proposed MAC limit.

We received five comments concerning phenylbutazone 100 mg tablets. USV, the firm whose product was the basis for the proposed MAC limit, provided the following information. USV pharmacy and hospital audits show that USV has a 7% market share of tablets sold. USV distributes the product to 263 wholesalers across the country in addition to distributing the product to retail pharmacies. USV also provided information demonstrating that it distributes substantial amounts of the product, that it has substantial inventory on hand, and that it intends to become a manufacturer of the product.

A second comment, from a hospital, insisted that, since the drug is available from only two sources, it is not a "multiple-source drug". However, the MAC regulations define "multiple-source drug" as "a drug marketed or sold by *two or more* formulators or labelers * * *" (Emphasis added). *See* 45 CFR 19.2 (d).

A third comment, from an independent pharmacist, suggested that the product was unavailable to small pharmacies at the MAC level. This claim was supported by a change in the HCFA survey, when the 70th percentile rose from $.0750 to $.0783. In order to include this information as part of the record, we reopened the comment period for phenylbutazone 100 mg tablets until October 27, 1978. *See* 43 FR 47792. During this extended comment period, we received information from a regional wholesaler that the product was being offered for sale at $.0790 per tablet. However, USV assured the Board that the product could be purchased directly at $.0638 per capsule, and that the suggested wholesaler resale price was $.0750.

A fourth comment from an association of hospital pharmacists stated that phenylbutazone 100 mg tablets were not available in unit dose packaging at the proposed MAC limit. The Board accepted this comment and has exempted unit dose packaging from the final MAC limit on phenylbutazone 100 mg tablets.

On November 9, 1978, the Board voted to establish a proposed final MAC limit at $.0750 per 100 mg tablet but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

III. Phenylbutazone Alka 100 mg Capsules

On October 5, 1977, in response to the Board's request, FDA recommended against establishing a MAC for phenylbutazone alka because it anticipated that the NDA for the drug would be withdrawn within a year. The reason for the proposed withdrawal was a DESI finding that the drug was ineffective as a fixed combination. However, on July 27, 1978, FDA stated, "While we have not changed either our determination of less than effective or our general intent to pursue the regulatory action, it is clear from our contacts with the firm that the regulatory process will take considerably longer than we had anticipated. As our MAC Group 4 background memoranda indicated, the product is manufactured by only one firm and there are no quality problems that would preclude the establishment of a MAC. In light of the likelihood that phenylbutazone alka will be on the market for some time, we have reconsidered our earlier recommendation, and we now advise you that there are no bioequivalence or quality issues which would preclude the establishment of a MAC limit for phenylbutazone alka".

On August 18, the Board proposed a MAC limit of $.0940 per 100 mg phenylbutazone alka capsule. This figure was based on the HCFA survey, which showed the USV product was available at or below the MAC level and on USV's advertised price in the Redbook.

We received three comments concerning phenylbutazone alka 100 mg capsules. USV provided information indicating that it had an 11% market share of tablets sold, that it distributes the product to 419 wholesalers across the country, that its distribution and inventory levels were substantial, and that it intends to become a manufacturer of the drug. A second comment, from a hospital, again raised a question concerning the definition of "multiple-source drug", to which we responded in the above discussion of phenylbutazone 100 mg tablets. A third comment from an assocation of hospital pharmacists stated that phenylbutazone alka 100 mg capsules were not available in unit dose packaging at the proposed MAC level. The Board accepted the comment and has exempted unit dose packaging from the final MAC limit on phenylbutazone alka 100 mg capsules.

On October 16, 1978, the Board voted to establish a proposed final MAC limit at $.0940 per 100 mg capsule of phenylbutazone alka but exempted unit dose packaging.

The Administrator of HCFA concurred on December 4, 1978.

IV. Doxepin HCl 10 mg, 25 mg, and 50 mg Capsules

On October 5, 1977, in response to the Board's request, FDA advised that both firms engaged in marketing doxepin HCl 10 mg, 25 mg, and 50 mg capsules have approved full NDA's and that FDA knew of no problems with the bioequivalence or manufacturing of the products. FDA advised that there was no reason to recommend against the establishment of a MAC limit for 10, 25, and 50 mg doxepin HCl capsules. On August 18, 1978, the Board proposed the following MAC limits: 10 mg capsules—$.0940 per capsule; 25 mg capsules—$.1150 per capsule; 50 mg capsule—$.1765 per capsule. These figures were based on the HCFA survey, which showed that, for all three strengths, the Pennwalt product was available at or below the MAC level, and on Pennwalt's advertised Redbook price, which was at the MAC level. Additionally, for all three strengths, two of the three existing

[2] A proposed final MAC limit becomes final when the Administrator of HCFA has concurred. *See* 45 CFR S19.5 (i)

state MAC limits were at or below the proposed MAC's.

We received three written comments during the stated comment period. Pennwalt, the firm whose prices were used in proposing the MAC limits, provided the following information. The Pennwalt brand of doxepin HCl currently represents 13.6% of the 10, 25, and 50 mg doxepin market (based on an IMS drugstore purchase survey), and Pennwalt has the manufacturing capacity to provide two to three times that volume of this product. Pennwalt maintains a distribution network covering the United States and its possessions; the network provides Pennwalt products, through wholesalers and by direct sales to non-profit hospitals, to virtually every retail and hospital pharmacy.

A second comment, from a state department of health services supported the establishment of MAC limits at the proposed levels.

A third comment from an association of hospital pharmacists stated that doxepin HCl 10, 25, and 50 mg tablets were not available in unit dose packaging at the proposed MAC limit. The Board accepted this comment and has exempted unit dose packaging from the final MAC limits on doxepin HCl 10, 25, and 50 mg tablets.

After the close of the commnent period, a comment was received starting that doxepin HCl was not available to pharmacists at the proposed MAC limits. Although we would not ordinarily have considered comments received after the close of the comment period, we were concerned that the proposed MAC limit, if adopted, might unfairly burden practicing pharmacists, we contacted one of the major wholesalers distributing this drug. We were informed that their prices compared with the proposed MAC levels as follows:

PROPOSED MAC'S AND WHOLESALE PRICE

Doxepin HCl 10 mg—$.0940 to $.0999.
Doxepin HCl 25 mg—$.1150 to $.1222.
Doxepin HCl 50 mg—$.1765 to $.1875.

We published this information in the FEDERAL REGISTER on October 2, 1978 (43 FR 45477-8) and extended the comment period until October 11, 1978.

Pfizer Inc., the leading distributor of doxepin HCl, was the sole participant at the public hearing before the Board on October 4, 1978. A summary of Pfizer's comments, together with the Board's responses, follows.

Pfizer argued that a potential bioequivalence problem with doxepin HCl precluded the establishment of a MAC at the present time. Pfizer insisted that since doxepin HCl, together with other tricyclic anti-depressants, is the subject of a pending rulemaking proceeding at FDA to set a bioequivalence requirement, a bioequivalence problem existed. At the hearing, FDA stated that the commencement of a proceeding to establish bioequivalency equirements for a drug should not preclude consideration of a MAC for the drug. Only in the absence of certain data in the FDA files on certain firms already producing the drug would a bioequivalence problem exist. FDA stated that the two firms currently manufacturing doxepin HCl have already met the proposed bioequivalence requirements.

Pfizer also argued that bioavailability was not established since Pfizer's own tests had been based on blood level studies, while its competitor's tests used urine studies. FDA testified at the hearing that it had made a scientific judgement that the data submitted, by the competitor although it was strictly urinary excretion, when combined with dissolution rates, did in fact document that the product involved did no have a bioequivalence problem. FDA noted, that, although difficult, it is possible, from urinary excretion rate data, to arrive at a pseudo-absorption rate of a product as well as to determine the total extent of absorption. FDA found support for its finding of bioequivalence of the Pfizer and Pennwalt 10, 25, and 50 mg capsules in a later test of 100 mg capsules which did include blood level studies.

Pfizer also argued that doxepin HCl should not be MACed since there are no compendial standards for the drug. When FDA initially approved doxepin HCl for MAC purposes, it stated, "Although the question has been raised of whether a drug having no compendial specification should be the subject of a MAC limit, the NDA specifications for the two marketed products were reviewed and found adequate to assure the quality of these products. Future doxepin product approvals will be based on these specifications or later specifications which are developed and incorporated into the existing NDA's. Although FDA continues to support strongly the official compendia and although we are requesting the USP to consider adding a monograph for doxepin HCl capsules, we do not believe the absence of a USP monograph for doxepin HCl at this time should delay the establishment of a MAC".

It should be emphsized that the MAC regulations make no mention of compendial standards. The regulations envision that the bioequivalence of potential MAC drugs will be assured by the Food and Drug Administration and its regulatory processes, not necessarily through the United States Pharmacopeia and its compendial standards. At the public hearing, FDA reiterated its earlier position, stating, "while it is desirable to have public standards, (compendial standards for all drugs that are multi-source), it is not an absolute necessity to set a MAC limit, provided that there is adequate assurance from the new drug applications on file of the existing marketed products which show that they all have adequate standards". The Board accepts FDA's assertion that the two marketed doxepin HCl products do have adequate standards to assure bioequivalence.

Pfizer additionally argued that doxepin is not appropriate for MAC limits since it is under patent. The MAC regulations provide that the Board is to identify those multiple-source drugs for which significant amounts of Federal funds are expended and for which there are significant different prices. The Board is then to determine the lowest unit price at which the drug is widely and consistently available. The MAC regulations make no mention of patents. The Board, of course, could not MAC a patented drug where the patentholder had retained his legally protected monopoly and distributes only one form of the drug. In such a case, the drug product would not be a "multiple-source drug". Where, however, a patentholder has licensed another, and the licensee is producing and distributing the drug, the drug becomes "multiple-source" and thus becomes a candidate for MAC limits. In this instance, Pfizer has licensed Pennwalt, and it is the Pennwalt product upon which the MAC price is based.

Pfizer argued that the Board ought not to adopt a MAC on a drug that has only two suppliers. The MAC regulations indicate that the Board may establish MAC's on "multiple-source" drugs. "Multiple-source is defined, in relevant part, as available from *two or more* sources. (See 45 CFR S19.2 (d)). In determining the lowest price at which a drug is widely and consistently available, the Board takes into account the number of suppliers. Where, as here, availability is assured at or below the MAC level, the fact that there are only two suppliers does not preclude the establishment of a MAC.

Pfizer also argued that the Board is not authorized to establih a MAC limit for doxepin HCl unless it specifically concludes that the increased cost for Pfizer's doxepin HCl is not necessary for the efficient delivery of needed health services. Specifically, Pfizer indicated that the Board should consider not only the product itself, but also the ancillary services—including research and informational programs—provided by Pfizer but not by Pennwalt. The MAC regulations themselves have adopted the position that any price above the price at which a drug is widely and consistently available is not necessary to the efficient delivery of needed health services. The Depart-

ment, in establishing this upper limit, is acting as a prudent and cost-conscious buyer in the market place. Once the Board had determined the lowest unit price at which a particular drug is widely and consistently available, it need not then consider whether prices above that price are necessary to the efficient delivery of needed health services. It has already determined to the contrary.

Pfizer also argued that the establishment of a MAC on doxepin HCl would be a disincentive to drug research and development and thus contrary to HEW policy. While the Department does favor research, it was never the intent of the Department to fund research and development through the Medicare and Medicaid programs. Medicare and Medicaid are programs whose principal purpose is the financing of health care for the aged, the disabled, and the poor, not the financing of drug research and development.

Pfizer also argued that, without the advice of the Pharmaceutical Reimbursement Advisory Committee, the Board's procedure is inherently flawed. When we first proposed the abolition of the PRAC (*See* 43 FR 25450 (June 13, 1978)), we gave the public opportunity to comment on that proposed change. Pfizer did not comment at that time. The present proceeding is one to establish particular MAC's. We do not consider it necessary to reopen discussion of the MAC process itself. We have already responded to comments concerning the abolition of the PRAC at 43 FR 35310 (August 9, 1978).

Finally, Pfizer argued that, since FDA had not yet cleared 100 mg doxepin HCl capsules, the Board should postpone the adoption of MAC limits on 10, 25, and 50 mg capsules. FDA did not indicate that there were in fact bioequivalence problems with the 100 mg capsules, but merely that it had not yet completed its studies. FDA never retracted its original advice that there were no bioequivalence problems with the 10, 25, and 50 mg capsules. In any case, on October 25, 1978, FDA advised the Board that it had completed its review of 100 mg capsules and that there were no problems which should prevent or delay the establishment of a MAC limit for 100 mg capsules.

Before the close of the extended comment period (which had been additionally extended until October 27, 1978, *See* 43 FR 47792), we received information from a regional wholesaler indicating that doxepin HCl was being offered for sale at the following prices: 10 mg—$.0950 per capsule; 25 mg—$.1161 per capsule; 50 mg—$.1765 per capsule.

On November 9, 1978, the Board voted to establish proposed final MAC limits for doxepin HCl at $.0950 per 10 mg capsule, $.1161 per 25 mg capsule, and $.1765 per 50 mg capsule, but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

V. Pencillin G Potassium 400 and 800 mu Tablets

On July 27, 1978, in response to the Board's request, FDA notified the Board with regard to pencillin G potassium 400 and 800 mu tablets: "This drug is a certifiable antibiotic and is subject to the batch certification requirements of the Federal Food, Drug and Cosmetic Act. All but one of the eight approved manufacturers have submitted bioequivalence data. That manufacturer has been asked to submit such data, but we have no reason to believe that any of the marketed products has a bioequivalence problem. In the unlikely event that the bioequivalence study shows a problem, we will notify the Board immediately, but in the interim we see no reason to delay the establishment of MAC limits for this drug".

On August 31, the Board proposed MAC limits of $.0180 per 400 mu tablet and $.0265 per 800 mu tablet. The 400 mu tablet price was based on advertised Redbook prices, which showed that the McKesson and Wyeth products, along with the products of twenty-one other firms, were at or below the proposed MAC level. According to the IMS survey, Wyeth alone supplies 7.5% of the present market. The 800 mu tablet price was based on advertised Redbook prices, which showed that thirty-one firms were offering the product for sale at or below the proposed MAC level.

We received two comments concerning pencillin G potassium 400 and 800 mu tablets. In response to an inquiry from our staff, Wyeth responded that it would not assure us that it could supply 10% of the market. However, since the HCFA survey shows that Wyeth already supplies 7.5% of the market, and twenty-one other firms distribute the drug, we are confident that the drug is widely and consistently available at the MAC price.

A second comment, from a hospital, indicated that it was increasingly difficult to purchase unit dose drugs below the MAC limits. The Board has exempted unit dose packaging from the MAC limits on penicillin G potassium 400 and 800 mu tablets.

On October 27, 1978, the Board voted to establish a proposed final MAC limit at $.0180 per 400 mu tablet and $.0265 per 800 mu tablet but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

VI. Ampicillin 250 mg and 500 mg Capsules

On May 27, 1977, the Board announced the establishment of MAC limits of $.0725 per 250 mg capsule of ampicillin and $.1390 per 500 mg capsule of ampicillin. These MAC limits were effective on June 27, 1977. The Board now announces lower MAC limits on these drugs.

On July 27, 1978, in response to the Board's request, FEA notified the Board that it had checked with its reviewing offices and had determined that there had been no changes or problems occurring since its earlier MAC review that would alter its original recommendation in favor of a MAC limit on ampicillin 500 mg capsules. On August 22, 1978, FDA notified the Board that it knew of no problems that would alter its original recommendation in favor of a MAC limit on ampicillin 250 mg capsules.

On August 31, 1978, the Board proposed MAC limits of $.0595 per 250 mg capsule and $.1103 per 500 mg capsule. The 250 mg capsule price was based on HCFA survey prices, which showed that the Purepac, Pfipharmecs, and SKF prices, and the prices of fifteen other distributors, were at or below the proposed limit. The 500 mg capsule price was based on HCFA survey prices, which showed that the SKF, Upjohn, Pfipharmecs and Squibb prices, and the prices of thirteen other distributors, were at or below the proposed limit.

We received no comments concerning the proposed MAC limits on ampicillin. No one requested to appear at the public hearing.

On October 27, 1978, the Board voted to establish a proposed final MAC limit of $.0595 per 250 mg capsule and $.1103 per 500 mg capsule, but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

VII. Erythromycin Stearate 250 mg and 500 mg Tablets

On July 27, 1978, in response to the Board's request, FDA advised the Board that there were no bioequivalence or quality issues which should delay or prevent the establishment of MAC limits for 250 and 500 mg erythromycin stearate tablets. Although only one of the products includes labeling instruction that the drug can be taken with or after meals, FDA indicated that, when taken as directed, all the erythromycin stearate tablets deliver equivalent therapeutic blood levels. In those cases where patient acceptance or convenience dictate the administration of the product with or after meals, a physician may use the "medically necessary" exemption to the MAC limits.

On August 31, 1978, the Board proposed MAC limits of $.0697 per 250 mg tablet and $.1250 per 500 mg tablet. The 250 mg price was based on the HCFA survey, which showed that SKF and Parke Davis were at or below the proposed limit and that these two firms together accounted for 21% of the 250 mg erythromycin stearate market. Additionally, the advertised Redbook prices of twelve other firms were below the MAC limit. The 500 mg price was based on the HCFA survey, which showed that Parke Davis and Wyeth were at or below the proposed limit and together accounted for 15% of the 500 mg erythromycin stearate market. Two other firms had advertised Redbook prices below the proposed limit.

No comments were received concerning erythromycin stearate and no one requested to appear at the public hearing. On November 9, 1978, the Board voted to establish proposed final MAC limits of $.0697 per 250 mg tablet and $.1250 per 500 mg tablet, but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

VIII. Acetaminophen With Codeine 30 mg and 60 mg Tablets

On July 27, 1978, in response to the Board's request, FDA advised the Board that it knew of no bioequivalence or quality issues which should delay or prevent the establishment of MAC limits on acetaminophen with codeine. On September 12, 1978, the Board proposed MAC levels of $.0780 per 30 mg tablet and $.1545 per 60 mg tablets. The 30 mg price was based on the HCFA survey, which showed that Burroughs Wellcome and SKF were at or below the proposed level, and on the advertised Redbook prices of two other firms below the MAC level. The 60 mg price was based on the HCFA survey, which showed that Burroughs Wellcome was at the MAC limit, and on SKF's advertised Redbook price, which was below the MAC limit. Additionally, for both strengths, four of the seven existing state MAC limits were below the proposed MAC's.

We received one comment concerning the proposed limit on acetaminophen with codeine. Burroughs Wellcome, the firm whose product was the basis for the proposed MAC limit stated that it sells its product through wholesalers, that it has full distribution in the United States, and that it foresaw no problem in meeting the supply requirements for acetaminophen with codeine products.

On November 9, 1978, the Board voted to establish proposed final MAC limits on acetaminophen with codeine, 30mg tablets, at $.0780 per tablet, and on 60mg tablets at $.1545 per tablet, but exempted unit dose packaging. The Adminstrator of HCFA concurred on December 4, 1978.

IX. Probenecid 0.5 g Tablets

On July 27, 1978, in response to the Board's request, FDA notified the Board with regard to probenecid 0.5 g tablets. "All four of the currently approved manufacturers have submitted bioequivalence data, and we are aware of no bioequivalence or quality problems which should delay or prevent the establishment of a MAC limit for this drug". On September 12, 1978, the Board proposed a MAC limit of $.0644 per 0.5 g tablet. This price was based on the HCFA survey, which showed that Lederle, the eighteenth largest pharmaceutical manufacturer in the United States, was at the proposed limit and on advertised Red Book prices of eighteen other firms below the MAC limit. Additionally, four out of five existing state MAC limits were below the proposed MAC.

We received three written comments concerning the proposed MAC limit on probenecid. Lederle, the firm whose product was the basis for the proposed MAC limit indicated that it was able to distribute and supply adequately that portion of the probenecid market of those who wished to purchase the product of Lederle and that it was able to increase its capacity to distribute the product. A state department of health supported the establishment of a MAC for probenecid and informed us that any drug which is included in the federal MAC listing can automatically be included in the formulary of that state without lengthy state review procedures. While the Board is pleased to learn that the MAC process can assist a State in its formulary considerations, strictly speaking, it is not relevant to the Board's initial decision whether or not to set a MAC limit. A third comment, from a hospital, stated that probenecid in unit dose packaging was not available at the MAC limit. The Board has exempted unit dose packaging.

There was one presentation on probenecid at the public hearing. Merck Sharp and Dohme made the following arguments. Merck claimed that, since probenecid was included in a published FDA list of drugs for which the establishment of a bioequivalence requirement is currently anticipated, the Board was precluded from establishing a MAC limit. However, it has never been FDA's position that there is a bioequivalence problem with regard to probenecid. In the Federal Register Notice concerning the establishment of bioequivalence requirements, FDA stated, "Current evidence indicates that only 20 to 25 drug entities have had documented bioequivalence problems. Nevertheless, the following list is considerably longer because it includes those drugs with *potential* as well as previously documented bioequivalence problems". (40 FR 26168, June 20, 1975, Emphasis added). With regard to probenecid in particular, FDA assured the Board on July 27, 1978 that there were no bioequivalence problems. This assurance was based on data showing that all probenecid products currently being marketed under ANDA's met all of the following specifications: of biologic availability, USP content uniformity (not less than 93% nor more than 107% of the labeled amount), and USP dissolution (60% of the labeled amount should dissolve within 45 minutes). The Board is convinced that the currently marketed probenecid products do not pose bioequivalence problems.

Merck also argued that the Board is not authorized to establish a MAC limit for probenecid unless it specifically concludes that the identified cost spread is not necessary for the efficient delivery of needed health services. Specifically, Merck indicated that the Board should consider not only the product itself, but also the ancillary services—including research and informational programs—provided by Merck but not by its competitors. The MAC regulations themselves have adopted the position that any price above the price at which a drug is widely and consistently available is not necessary for the efficient delivery of needed health services. The Department in establishing this upper limit, is acting as a prudent and cost-conscious buyer in the market place. Once the Board had determined the lowest unit price at which a particular drug is widely and consistently available, it need not then consider whether prices above that price are necessary to the efficient delivery of needed health services. It has already determined to the contrary.

Merck also argued that the establishment of a MAC on probenecid would be a disincentive to drug research and development and thus contrary to HEW Policy. While the Department does favor research, it was never the intent of the Department to fund research and development through the Medicare and Medicaid programs. Medicare and Medicaid are programs whose principal purpose is the financing of health care for the aged, the disabled and the poor, not the financing of drug research and development.

Merck also argued that the Board was precluded from setting a MAC on probenecid by the decision of a Federal Court of Appeals in *United States vs Lannett* (3rd Cir., Civ. No. 77-2100, August 14, 1978). In that case, the court indicated that the FDA was not authorized to seize certain generic copies of approved prescription drugs

that had been manufactured without approved ANDA's. While the Board realizes that the *Lannett* case may have implications for the MAC program, it is confident that all currently marketed forms of probenecid are bioequivalent. FDA's original submission to the Board demonstrated that all four of the currently approved manufacturers had submitted satisfactory bioequivalence data. There is no evidence that any probenecid product is not being marketed without an approved drug application. The Merck representative at the Board's public hearing had no knowledge of any unapproved products on the market.

On November 9, 1978, the Board voted to establish proposed final MAC limits on probenecid .5g tablets at $.0644 per tablet, but exempted unit dose packaging. The Administrator of HCFA concurred on December 4, 1978.

X. ADDITIONAL INFORMATION

1. The entire administrative record for those drugs on which MAC limits have been set is available for public inspection at the Office of Pharmaceutical Reimbursement.

2. The Board has not yet voted concerning the establishment of MAC's for the following previously announced drugs: erythromycin 250mg tablets, hydrochlorothiazide 25 and 50mg tablets, and amoxicillin 250 and 500mg tablets and amoxicillin oral suspension 125mg per 5cc. Our reasons for the delay and the dates of the extended comment period are set forth at 43 FR 56102-3, November 30, 1978.

Dated: December 4, 1978.

LEONARD D. SCHAEFFER,
Administrator, HCFA.

PETER RODLER,
Executive Secretary, Pharmaceutical Reimbursement Board.

[FR Doc. 78-34502 Filed 12-8-78; 8:45 am]

[4110-08-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health

CARDIOLOGY ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Cardiology Advisory Committee, National Heart, Lung, and Blood Institute, January 24 and 25, 1979, National Institutes of Health, Building 31, Conference Room 9.

The entire meeting will be open to the public from 8:30 a.m. to 5:00 p.m. each day. Attendance by the public will be limited to space available. Topics for discussion will include a review of the programs in the Cardiology area and consideration of reports.

Mr. York Onnen, Chief, Public Inquires and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland 20014, phone (301) 496-4236, will provide summaries of the meeting and rosters of the Committee members.

Don Blount, Ph.D., Acting Associate Director for Cardiology, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, Federal Building, Room 320, Bethesda, Maryland 20014, phone (301) 496-5421, will furnish substantive program information upon request.

Dated: December 4, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-34379 Filed 12-8-78; 8:45 am]

[4110-08-M]

CLINICAL APPLICATIONS AND PREVENTION ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Clinical Applications and Prevention Advisory Committee, Division of Heart and Vascular Diseases, National Heart, Lung, and Blood Institute, January 12, 1979, Federal Building, Conference Room 6C01, Bethesda, Maryland.

This meeting will be open to the public on January 12, from 8:30 a.m. to 10:30 a.m. when the current progress of the Beta-Blocker Heart Attack Trial will be discussed. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public on January 12, from 10:30 a.m. to adjournment, for the review, discussion and evaluation of individual contract renewal proposals. The proposals and the discussions could reveal confidential trade secrets and personal information such as privileged unblinded medical data about individuals associated with the proposals.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, National Heart, Lung, and Blood Institute, Building 31, Room 5A03, National Institutes of Health, Bethesda, Maryland, 20014, phone (301) 496-4236, will provide summaries of meetings and rosters of committee members. Dr. William J. Zukel, Executive Secretary of the Committee, Federal Building, Room 4C10, Bethesda, Maryland 20014, phone (301) 496-2533, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: November 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-34378, Filed 12-8-78; 8:45 am]

[4110-08-M]

COMMITTEE ON CYTOLOGY AUTOMATION

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Committee on Cytology Automation, National Cancer Institute, February 8 and 9, 1979, Building 31C, Conference Room 8, 9000 Rockville Pike, Bethesda, Maryland 20014. Except as noted below, this meeting will be open to the public on February 8 and 9, 1979, from 8:30 a.m.-5:00 p.m., to review interagency agreements and contract progress reports from: Block Engineering, University of Chicago, Los Alamos Science Laboratory, Lawrence Livermore Laboratory, Georgetown University, Johns Hopkins University, University of Miami, Jet Propulsion Laboratory, Research Foundation, SUNY, University of Rochester, Temple University, and Pennsylvania State University. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Section 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public approximately twelve times during the two days for approximately twenty minutes each time to discuss personal information concerning individuals associated with each contract. The discussions of these contracts could reveal personal information concerning individuals associated with the contracts.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will provide a summary of the meeting and a roster of committee members, upon request.

Dr. Bill Bunnag, Executive Secretary, National Cancer Institute, Building 31, Room 3A10, National Institutes of Health, Bethesda, Maryland 20014 (301/496-1591) will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.394, National Institutes of Health.)

Dated: December 1, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-34383 Filed 12-8-78; 8:45 am]

[4110-08-M]

LIPID METABOLISM ADVISORY COMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the Lipid Metabolism Advisory Committee, National Heart, Lung, and Blood Institute, January 26, 1979, Building 31, Conference Room 9, National Institutes of Health, Bethesda, Md.

This meeting will be open to the public on January 26 from 8:30 a.m. to 12 noon and from 1 p.m. to 5 p.m. to discuss the Lipid Metabolism Branch Program Review. Attendance by the public will be limited to space available.

Mr. York Onnen, Chief, Public Inquiries and Reports Branch, NHLBI, National Institutes of Health, Building 31, Room 5A03, Bethesda, Md. 20014, (301) 496-4236, will provide summaries of the meeting and roster of the committee members. Dr. Basil M. Rifkind, Chief, Lipid Metabolism Branch, NHLBI, Federal Building, Room 302, (301) 496-1681, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program No. 13.837, National Institutes of Health.)

Dated: December 4, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-34380 Filed 12-8-78; 8:45 am]

[4110-08-M]

NATIONAL ADVISORY EYE COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Eye Council, National Eye Institute, January 29, 30, and 31, 1979, Building 31, Conference Room #8, National Institutes of Health, Bethesda, Maryland.

This meeting will convene each day at 9:00 a.m. and will be open to the public from 9:00 a.m. until noon on January 29 for opening remarks by the Director, National Eye Institute, discussion of procedural matters, and presentations by the extramural staff of the National Eye Institute. Attendance by the public will be limited to space available.

In accordance with provisions set forth in Sections 552b(c)(4) and 552b(c)(6), Title 5, U.S. Code and Section 10(d) of Public Law 92-463, the meeting will be closed to the public from 1:00 p.m. until adjournment on Monday, January 29, and the entire day on Tuesday and Wednesday, January 30 and 31, until adjournment for the review, discussion and evaluation of individual grant applications. These applications and the discussions could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

Mr. Julian Morris, Chief, Office of Scientific Reports and Program Planning, National Eye Institute, Building 31, Room 6A-25, AC 301/496-5248, will provide summaries of meetings and rosters of committee members.

Dr. Ronald G. Geller, Acting Associate Director for Extramural and Collaborative Programs, National Eye Institute, Building 31, Room 6A-04, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.867, 13.868, 13.869, 13.870, and 13.871, National Institutes of Health.)

Dated: November 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-34382, Filed 12-8-78; 8:45 am]

[4110-08-M]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL PLANNING SUBCOMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council Planning Subcommittee, January 11, 1979, at 8:30 a.m., in the Pennsylvania Room, The Holiday Inn, 8120 Wisconsin Avenue, Bethesda, Maryland. The meeting will be open to the public from 8:30 a.m. to 10:30 a.m. on January 11, 1979, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4) and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public from 10:30 a.m. on January 11, 1979, to adjournment on January 11, 1979. The portion of the meeting being closed involves the review, discussion, and evaluation of individual grant applications. These applications and the discussion could reveal confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the applications.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, Telephone: (301) 496-5751, will furnish summaries of the meeting and rosters of committee members.

Dr. O. Malcolm Ray, Executive Secretary of the Committee, Room 1020C, Federal Building, NIH, NINCDS, Bethesda, Maryland, Telephone: (301) 496-9234, will provide substantive program information.

(Catalog of Federal Domestic Assistance Programs Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

Dated: November 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-34377 Filed 12-7-78; 8:45 am]

[4110-08-M]

NATIONAL ADVISORY NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE COUNCIL

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of the National Advisory Neurological and Communicative Disorders and Stroke Council, National Institutes of Health, January 25, 26 and 27, 1979, at 9 a.m. in Building 31-C, Conference Room 6, Bethesda, Maryland 20014. The meeting will be open to the public from 9 a.m. until 11:30 a.m. on January 25, 1979, to discuss program planning and program accomplishments. Attendance by the public will be limited to space available. In accordance with the provisions set forth in Sections 552b(c)(4), and 552b(c)(6) of Title 5, U.S. Code and Section 10(d) of P.L. 92-463, the meeting will be closed to the public from 11:30 a.m. on January 25, 1979, until the conclusion of the meeting that day, and from 8:30 a.m. until 6 p.m. on January 26 and 27, 1979, for review, discussion and evaluation of Research Grant applications and applications for Teacher-Investigator Awards, Research Career Development Awards, Individual National Research Service Awards and Institutional National Research Service Awards. These applications and the discussion could reveal confidential trade secretes or commercial property such as patentable material and personal information concering individuals associated with the applications.

The Chief, Office of Scientific and Health Reports, Miss Sylvia Shaffer, Building 31, Room 8A06, NIH, NINCDS, Bethesda, Maryland, Telephone (301) 496-5751, will furnish

summaries of the meeting and rosters of committee members.

Dr. John C. Dalton, Executive Secretary, Federal Building, Room 1016, Bethesda, Maryland 20014, Telephone (301) 496-9248, will furnish substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 13.851, 13.852, 13.853, 13.854, National Institutes of Health.)

Dated: November 30, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, National Institutes of Health.

[FR Doc. 78-34381 Filed 12-8-78; 8:45 am]

[4110-08-M]

NATIONAL CANCER ADVISORY BOARD SUBCOMMITTEE

Meeting

Pursuant to Public Law 92-463, notice is hereby given of the meeting of an ad hoc subcommittee of the National Cancer Advisory Board, National Cancer Institute, January 5, 1979, Building 31, Conference Room 11A10, National Institutes of Health, 9000 Rockville Pike, Bethesda, Maryland 20014.

The entire meeting will be open to the public from 9:00 a.m. to adjournment, to review Board activities. Attendance by the public will be limited to space available.

Mrs. Marjorie F. Early, Committee Management Officer, National Cancer Institute, Building 31, Room 4B43, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5708) will provide summaries of the meeting and rosters of Board members, upon request.

Dr. Thomas J. King, Executive Secretary, National Cancer Institute, Building 31, Room 10A03, National Institutes of Health, Bethesda, Maryland 20014 (301/496-5147) will provide substantive program information.

Dated: December 4, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-34376 Filed 12-8-78; 8:45 am]

[4110-08-M]

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

Meeting

Notice is hereby given of a symposium on "Potentiation of Immune Response to Vaccines" sponsored by the National Institute of Allergy and Infectious Diseases, and the Bureau of Biologics, February 20 and 21, 1979, Wilson Hall, Building 1, National Institutes of Health, Bethesda, Md. 20014.

This meeting will be open to the public from 8:30 a.m. to 5:30 p.m. on February 20, 1979 and 8:30 a.m. to adjournment on February 21, 1979, to review the promising new synthetic adjuvants and how they modulate the immune response; to determine if the synthetic adjuvants are ready for testing in man, and if not, what additional research is required; and, if they are ready for use in clinical trials, to identify with which licensed and investigational vaccines they should be combined. Real and perceived safety problems attending the use of immunological adjuvants in man will be discussed and defined. Attendance by the public will be limited to space available.

Robert Edelman, Chief, Clinical Studies Branch, Building 31, Room 7A51, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, Md. 20014, phone 301/496-5893, will provide additional information.

(Catalog of Federal Domestic Assistance Program No. 13.856 and 13.857, National Institutes of Health.)

Dated: December 4, 1978.

SUZANNE L. FREMEAU,
Committee Management Officer, NIH.

[FR Doc. 78-34384 Filed 12-8-78; 8:45 am]

[4110-02-M]

Office of Education

INDIAN EDUCATION—GRANTS TO LOCAL EDUCATIONAL AGENCIES

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited from local educational agencies and certain tribes and tribal organizations for grants under Part A of the Indian Education Act, Title IV of Pub. L. 92-318, as amended.

Authority for this program is contained in the Indian Elementary and Secondary School Assistance Act, Title III of Pub. L. 81-874, as amended ("the Act"; 20 U.S.C. 241aa-241ff). Prospective applicants are advised that the Act has been amended as of October 1, 1978 by the Education Amendments of 1978 (Pub. L. 95-561, enacted November 1, 1978). The amendments which are relevant to applicants under this Notice are set out in the Appendix to this Notice. In addition, section 1146 of Pub. L. 95-561 provides that certain Indian tribes and tribal organizations are eligible under Part A as local educational agencies. The Commissioner will shortly publish in the FEDERAL REGISTER a notice that will describe those portions of the Act and Part A regulations that govern applications from those tribes and organizations.

The purpose of Part A is to assist local educational agencies in developing and carrying out projects to meet the special educational and culturally related academic needs of Indian students.

Public Law 95-561 also amended the Act to authorize grants, on a competitive basis, to local educational agencies to support demonstration projects and programs. The Commissioner has not requested, and the Congress has not appropriated, funds under this authority for Fiscal Year 1979. Therefore, the Commissioner is not inviting, and will not accept, applications under that authority.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Applications for awards must be mailed (postmarked) or hand delivered by February 15, 1979.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.534, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark, or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE: The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Regional Office Building Three, Room 5673, 7th & D Street, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Applications for assistance are being accepted from local educational agencies and certain tribes and tribal organizations with the required number of enrolled Indian students. The Act directs the Commissioner to make grants to eligible applicants to help them meet the special educational and culturally related academic needs of Indian chil-

dren. The amount of the grant is based upon the Indian student enrollment of the applicant local educational agency as certified by the State educational agency.

AVAILABLE FUNDS: Approximately $43,600,000 is available for grants to be awarded under this Notice.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing on or before December 13, 1978. They may be obtained by writing to the Division of LEA Assistance, Office of Indian Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2167, Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

SPECIAL PROCEDURES: These applications are exempt from an areawide clearinghouse review procedure under OMB Circular A-95, and need only be submitted to such agencies as a matter of cooperation, or in keeping with State requirements.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) General Provisions for office of Education Programs (45 CFR Parts 100 and 100a, and Appendices); and

(b) Regulations relating to the Indian Elementary and Secondary School Assistance Act (45 CFR Part 186).

Applications will be reviewed on the basis of these regulations except where they are inconsistent with the amendments to Part A of the Indian Education Act made by the Education Amendments of 1978. Those amendments are set out in the Appendix to this Notice.

FURTHER INFORMATION: For further information, contact the office of Indian Education, Division of Local Educational Agency Assistance, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2167, Washington, D.C. 20202, Telephone: (202) 245-2673, 245-2674. (20 U.S.C. 241aa-241ff).

(Catalog of Federal Domestic Assistance No. 13.534, Indian Education—Grants to Local Educational Agencies.)

Dated: December 6, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

APPENDIX

The Education Amendments of 1978 made changes in Part A of the Indian Education Act (also known as the Indian Elementary and Secondary School Assistance Act). Those changes took effect on October 1, 1978. The changes which are relevant to prospective applicants under this Notice are printed below. Material that has been deleted is enclosed in brackets; new material is printed in italics; prior law that was not changed is printed in roman type; and omitted material is indicated by asterisks.

INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

* * * * *

DECLARATION OF POLICY

Sec. 302. (a) In recognition of the special educational *and culturally related academic* needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational [needs] *or culturally related academic needs, or both.*

* * * * *

USES OF FEDERAL FUNDS

Sec. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

(1) Planning for and taking other steps leading to the development of programs specifically designed to meet the special educational [needs] *or culturally related academic needs, or both,* of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) The establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational [needs] *or culturally related academic needs, or both,* of Indian children.

APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

Sec. 305. (a) * * *

(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) Meets the requirements set forth in subsection (a);

(2) Provides that the program or project for which application is made—

(A) Will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) Has been developed—

(i) In open consultation with parents of Indian children (*including persons acting in loco parentis other than school administrators or officials*), teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon * * *

(ii) With the participation and approval of a committee composed of, and selected by, parents of children participating in the program (*including persons acting in loco parentis other than school administrators or officials*) for which assistance is sought, teachers, and, where applicable, secondary school students of which at least half the members shall be such parents;

(C) Sets forth such policies and procedures, *including policies and procedures relating to the hiring of personnel,* as will insure that the program for which assistance is sought will be operated and evaluated in consultation with, and the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of clause (2)(B)(ii)[,];

(3) Provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable by-laws for the conduct of the program for which assistance is sought.

* * * * *

PAYMENTS

Sec. 306. (a) The Commissioner shall, subject to the provisions of section 307, from time to time pay to each local educational agency which has had an application approved under section 305, an amount equal to the amount *estimated to be* expended by such agency in carrying out activities under such application.

* * * * *

[FR Doc. 78-34409 Filed 12-8-78; 8:45 am]

[4110-02-M]

INDIAN EDUCATION—GRANTS TO NON-LOCAL EDUCATIONAL AGENCIES

Closing Date for Transmittal of Applications for Fiscal year 1979

Applications are invited from shools on or near reservations which are not local educational agencies or have not been local educational agencies for more than three years, for new and non-competing continuation awards under Part A of the Indian Education Act, Title IV of Pub. L. 92-318, as amended.

Authority for this program is contained in section 303(b) of the Indian Elementary and Secondary School Assistance Act, Title III of Pub. L. 81-874, as amended ("the Act"; 20 U.S.C. 241bb(b)). Prospective applicants are advised that the Act has been amended as of October 1, 1978 by the Education Amendments of 1978 (Pub. L. 95-561enacted November 1, 1978). The amendments which are relevant to applicants under this Notice are set out in the Appendix to this Notice.

The purpose of Part A grants is to assist qualifying schools in developing and carrying out projects to meet the special educational and culturally related academic needs of Indian students.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Competing applications for new awards must be mailed (postmarked) or hand delivered by January 26, 1979.

To be assured to consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 26, 1979. If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, application Control Center, Attention: 13.551, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Regional Office Building Three, Room, 5673, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Staturdays, Sundays, and Federal holidays.

Applications for new awards that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Applications for assistance are being accepted from schools located on or near reservations which are not local educational agencies, or have not been local educational agencies for more than three years. A nonlocal educational agency for purposes of the Part A program is defined at 45 CFR 186.2 as "the governing body of a non-profit institution or organization of an Indian tribe which operates for Indian children an elementary or secondary school or school system, located on or near a reservation, and which is not a local educational agency . . .". Under 45 CFR 186.32, eligibility is determined on the basis of such factors as:

(1) Whether the governing body of the school or school system was selected by, is representative of, and is solely responsible to the Indian tribe or Indian community which that school or school system serves; and

(2) Whether the governing body derives authority from that community to carry out such functions as: (i) employing, managing, and terminating personnel; (ii) developing and revising curricula; (iii) establishing attendance, academic, and other relevant standards; (iv) developing and approving budgets; (v) establishing operational policies; and (vi) raising funds.

The Act authorizes the Commissioner to provide financial assistance for projects designed to meet the special educational and culturally related academic needs of Indian students. Projects may be for up to three years duration, but multi-year projects will be supported by annual grant awards.

AVAILABLE FUNDS: Approximately $4,400,000 is available for grants to be awarded under this Notice. Approximately $1,000,000 of this amount has been reserved to continue present multi-year projects. It is estimated that with the remainder of the Fiscal Year 1979 funds, approximately 30 new grants will be awarded.

This statement of the availability of funds does not bind the U.S. Office of Education to any particular pattern of distribution except as required by the Indian Education Act, applicable regulations and appropriations. Rather, actual figures may vary widely from those given.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing on or about November 27, 1978. They may be obtained by writing to the Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, Room 2158, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) General Provisions for Office of Education Programs (45 CFR Parts 100 and 100a, and Appendices); and

(b) regulations governing financial assistance under section 303(b) of the Act (45 CFR Part 186 Subpart D).

Applications will be reviewed on the basis of these regulations except where they are inconsistent with the amendments to Part A of the Indian Education Act made by the Education Amendments of 1978. Those amendments are set out in the Appendix to this Notice.

FURTHER INFORMATION: For further information, contact the Office of Indian Education, Division of Special Projects and Programs, Elementary and Secondary Special Projects Branch, U.S. Office of Education, 400 Maryland Avenue SW., Room 2158, Washington, D.C. 20202, telephone: (202) 245-8298.

(20 U.S.C. 241bb(b))

(Catalog of Federal Domestic Assistance No. 13.551, Indian Education Grants to Non-Local Educational Agencies)

Dated: December 6, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

APPENDIX

The Education Amendments of 1978 made changes in Part A of the Indian Education Act (also known as the Indian Elementary and Secondary School Assistance Act). Those changes took effect on October 1, 1978. The changes which are relevant to prospective applicants under this Notice are printed below. Material that has been deleted is enclosed in brackets; new material is printed in italics; prior law that was not changed is printed in roman type; and omitted material is indicated by asterisks.

INDIAN ELEMENTARY AND SECONDARY SCHOOL ASSISTANCE ACT

* * * * *

DECLARATION OF POLICY

Sec. 302. (a) In recognition of the special educational *and culturally related academic* needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and carry out elementary and secondary school programs specially designed to meet these special educational [needs] *or culturally related academic needs, or both.*

* * * * *

USES OF FEDERAL FUNDS

Sec. 304. Grants under this title may be used, in accordance with applications approved under section 305, for—

(1) planning for and taking other steps leading to the development of programs specifically designed to meet the special educational [needs] *or culturally related academic needs, or both,* of Indian children, including pilot projects designed to test the effectiveness of plans so developed; and

(2) the establishment, maintenance, and operation of programs, including, in accordance with special regulations of the Commissioner, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment, specially designed to meet the special educational [needs] *or culturally related academic needs, or both,* of Indian children.

APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL

Sec. 305.(a) * * *

(b) An application by a local educational agency or agencies for a grant under this title may be approved only if it is consistent with the applicable provisions of this title and—

(1) Meets the requirements set forth in subsection (a);

(2) Provides that the program or project for which application is made—

(A) Will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) Has been developed—

(i) In open consultation with parents of Indian chidren (*including persons acting in loco parentis other than school administrators or officials*), teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon * * *

[FR Doc. 78-34408 Filed 12-8-78; 8:45 am]

[4110-02-M]

INDIAN EDUCATION—INDIAN FELLOWSHIP PROGRAM

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new and non-competing continuation awards under the Indian Fellowship Program.

Authority for this program is contained in section 423 of the Indian Education Act (20 U.S.C. 887c-2).

Prospective applicants are advised that section 423 has been amended as of October 1, 1978, by the Education Amendments of 1978 (Pub. L. 95-561, enacted November 1, 1978). The amendments to section 423 are set out in the Appendix to this Notice.

Eligible applicants are qualified Indian students or prospective students. Grant awards are made in the name of the students to the institutions of higher education which they attend.

The purpose of the awards is to enable Indian students to pursue a course of study of not more than four academic years leading toward a postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Competing allocations for new awards must be mailed (postmarked) or hand delivered by January 31, 1979.

To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 31, 1979. If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.569, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.— The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that his or her application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Regional Office Building Three, Room 5673, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications for new awards that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Applications are evaluated according to factors such as academic record, the likelihood that an applicant will provide services to Indians upon graduation, financial need, and other evidence of potential success in the applicant's chosen profession. Priority points are awarded for each year of postsecondary study completed by the applicant.

To receive and retain a fellowship, an awardee must be a full time student.

More specific information regarding these awards is contained in the program regulations (Subpart H of 45 CFR Part 187) and the program information package.

AVAILABLE FUNDS: Approximately $1,500,000 is available for the fellowship program in Fiscal Year 1979.

It is estimated that these funds will support approximately 150 continuation and 100 new fellowships.

This statement on the availability of funds does not bind the U.S. Office of Education except as required by the Indian Education Act, applicable regulations, and appropriations.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing by November 27, 1978. They may be obtained by writing to Indian Fellowship Program, Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2158, Washington, D.C. 20202. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to this program are regulations governing awards under Part B of the Indian Education Act (45 CFR Part 187) and, in particular, Subpart H of those regulations.

Applications will be reviewed on the basis of these regulations except where they are inconsistent with the amendments to section 423 of the Indian Education Act contained in the Education Amendments of 1978. Those amendments are set out in the Appendix to this Notice.

FURTHER INFORMATION: For further information contact Indian Fellowship Program, Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2158, Washington, D.C. 20202, Telephone: (202) 245-2975.

(20 U.S.C. 887c-2)

(Catalog of Federal Domestic Assistance No. 13.569, Indian Education—Indian Fellowship Program)

Dated: December 6, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

APPENDIX

The second sentence of Section 423(a) of the Indian Education Act previously read:

Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not less than three, nor more than four, academic years leading toward a professional or graduate degree in engineering, medicine, law, business, forestry, and related fields.

The Education Amendments of 1978 changed the sentence to read as follows:

Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than four academic years leading toward a postbaccalaureate degree in medicine, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

[FR Doc. 78-34406 Filed 12-8-78; 8:45 am]

[4110-02-M]

INDIAN EDUCATION—SPECIAL PROGRAMS AND PROJECTS TO IMPROVE EDUCATIONAL OPPORTUNITIES FOR INDIAN STUDENTS

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new and non-competing continuation awards under Subparts B, C, D, F, and G of the regulations at 45 CFR Part 187 relating to Part B of the Indian Education Act, Title IV of Pub. L. 92-318, as

amended. Applications are also invited for non-competing awards under Subpart E of Part 187.

Authority for this program is contained in section 1005 (previously 810) of the Elementary and Secondary Education Act of 1965, as amended, and in Section 422 of the Indian Education Act (20 U.S.C. 887c, 887c-1).

Prospective applicants are advised that these statutory authorities have been amended as of October 1, 1978 by the Education Amendments of 1970 (Pub. L. 95-561, enacted November 1, 1978). The amendments that are relevant to applicants under this Notice are set out in the Appendix to this Notice.

The purpose of the awards is to support projects for the improvement of educational opportunities for Indian children and projects to prepare persons to serve Indian students as teachers, administrators or other educational personnel.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Competing applications for new awards must be mailed (postmarked) or hand delivered by January 26, 1979.

To be assured of consideration for funding, applications for non-competing continuation awards should be mailed or hand delivered by January 26, 1979. If the application is late, the Office of Education may lack sufficient time to review it with other non-competing continuation applications and may decline to accept it.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.535, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted withoug a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Regional Office Building Three, Room 5673, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications for new awards that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Applications are being accepted from eligible applicants for purposes of the programs described below:

(1) *Subpart B awards* (CFDA No. 13.535A). Under section 187.11 of the regulations, State and local educational agencies, federally supported elementary and secondary schools for Indian children, and Indian tribes, Indian organizations, and Indian institutions may apply for grants to support planning, pilot, and demonstration projects for improving educational opportunities for Indian children. Criteria for this program are set forth in 45 CFR 187.12. Priorities are set forth in 45 CFR 187.13.

(2) *Subpart C awards* (CFDA No. 13.535A). Under section 187.21 of the regulations, State and local educational agencies, and tribal, and other Indian community organizations may apply for grants to provide educational services to improve educational opportunities for Indian children. Criteria for this program are set forth in 45 CFR 187.22. Priorities are set forth in 45 CFR 187.23.

(3) *Subpart D awards* (CFDA No. 13.535A). Under section 187.31 of the regulations, State and local educational agencies, and tribal and other Indian community organizations may apply for grants to provide exemplary and innovative programs and centers to improve educational opportunities for Indian children. Criteria for this program are set forth in 45 CFR 187.32. Priorities are set forth in 45 CFR 187.33.

(4) *Subpart E awards* (CFDA No. 13.535A). (Non-competing continuations only). Under section 187.41 of the regulations, public agencies and institutions, Indian tribes, Indian institutions, and Indian organizations may apply or grants for:

(a) The dissemination of information relating to education programs, services and resources available to Indian children. Examples of authorized activities include, but are not limited to:

(1) Operating delivery systems to encourage the use of educational materials; and

(2) Providing training and technical assistance; and

(b) The evaluation of the effectiveness of federally assisted education programs in which Indian children may participate. Criteria for this program are set forth in 45 CFR 187.42. Priorities are set forth in 45 CFR 187.43.

(5) *Subpart F awards* (CFDA No. 13.535B). Under section 187.51 of the regulations, institutions of higher education and State and local educational agencies in combination with those institutions, may apply for grants to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, or ancillary educational personnel, or to improve the qualifications of those persons serving Indian students in those capacities. Criteria for this program are set forth in 45 CFR 187.53. Priorities are set forth in 45 CFR 187.54.

(6) *Subpart G awards* (CFDA No. 13.535B). Under section 187.61 of the regulations, institutions of higher education, Indian organizations, and Indian tribes may apply for grants to prepare individuals for teaching in or administering special programs and projects designed to meet the special educational needs of Indian people, or to provide in-service training for persons already teaching in those projects. (Applications from individuals under 45 CFR 187.66 will not be accepted.) Criteria for this program are set forth in 45 CFR 187.63. Priorities are set forth in 45 CFR 187.64.

(7) *Subpart H awards* (Indian Fellowship Program) (CFDA No. 13.569). Applications for awards under that program require a different application form than that used for applications invited by this Notice. Procedures for applying under the fellowship program are explained in a separate Notice of Closing Date.

(8) *Multi-year projects.* Applications invited by this Notice, except for those under Subpart E, may describe projects which will require more than one year for completion. The Commissioner will provide support for projects of two to three years duration on a case-by-case basis, as described in 45 CFR 187.6(b). Where a multi-year project is supported, the first grant award will be made for a budget period of one year. A continuation award shall be made on a non-competitive basis subject to the conditions in 45 CFR 187.6.

AVAILABLE FUNDS: Approximately $14,000,000 is available for grants to be awarded under this Notice. Approximately $8,000,000 of this amount has been reserved to continue present multi-year projects.

It is estimated that with the remainder of the Fiscal Year 1979 funds ($6,000,000) approximately 39 new grants will be awarded.

This statement on the availability of funds does not bind the U.S. Office of Education to any particular pattern of distribution except as required by the Indian Education Act, applicable regulations, and appropriations. Rather, actual figures may vary widely from those given.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mail-

ing on or about November 27, 1978. They may be obtained by writing to the Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2158, Washington, D.C. 20202. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) General Provisions for Office of Education Programs (45 CFR Parts 100 and 100a, except 45 CFR 100a.26(b), and Appendices); and

(b) Regulations governing awards under Part B of the Indian Education Act (45 CFR Part 187).

Applications will be reviewed on the basis of these regulations except where they are inconsistent with the amendments to Part B of the Indian Education Act made by the Education Amendments of 1978. Those amendments are set out in the Appendix to this Notice.

FURTHER INFORMATION: For further information contact the Office of Indian Education, Division of Special Projects and Programs, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2158, Washington, D.C. 20202, Telephone: (202) 245-8298.

(20 U.S.C. 887c, 887c-1)

(Catalog of Federal Domestic Assistance No. 13.535, Indian Education—Special Programs and Projects to Improve Educational Opportunities for Indian Students)

Dated: December 6, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

APPENDIX

The Education Amendments of 1978 made changes in Part B of the Indian Education Act. Those changes took effect on October 1, 1978. The changes which are relevant to prospective applicants under this Notice are printed below. Material that has been deleted is enclosed in brackets; new material is printed in italics; prior law that has not changed is printed in roman type; and omitted material is indicated by asterisks.

ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965

* * * * *

IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN [CHILDREN] STUDENTS

Sec. [810]. *1005*

* * * * *

(c) The Commissioner is also authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist and stimulate them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Grants may be used—

(1) to provide educational services not available to such children in sufficient quantity or quality, including—

(A) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(B) comprehensive academic and vocational instruction;

(C) instructional materials (such as library books, textbooks, and other printed or published or audiovisual materials) and equipment;

(D) comprehensive guidance, counseling, and testing services;

(E) special education programs for handicapped *and gifted and talented Indian children;*

[(F) preschool programs;] *(F) early childhood programs, including kindergarten;*

(G) bilingual and bicultural education programs; and

(H) other services which meet the purposes of this subsection; and

(2) for the establishment and operation of exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(d) The Commissioner is also authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(1) to prepare persons to serve Indian [children] *students* as teachers, *administrators,* teacher aides, social workers, and ancillary educational personnel;

(2) to improve the qualifications of such persons who are serving Indian [children] *students* in such capacities.

* * * * *

INDIAN EDUCATION ACT

Sec. 422. (a) The Commissioner is authorized to make grants to and enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for the purpose of preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian [children] *people* and to provide in-service training for persons teaching in such programs. Priority shall be given to Indian institutions and organizations. In carrying out his responsibilities under this section, the Commissioner is authorized to award fellowships and traineeships to individuals and to make grants to and to enter into contracts with institutions of higher education, Indian organizations, and Indian tribes for cost of education allowances. In awarding fellowships and traineeships under this section, the Commissioner shall give preference to Indians.

* * * * *

[FR Doc. 78-34405 Filed 12-8-78; 8:45 am]

[4110-02-M]

INDIAN EDUCATION—SPECIAL PROGRAMS RELATING TO INDIAN ADULT EDUCATION

Closing Date for Transmittal of Applications for Fiscal Year 1979

Applications are invited for new and non-competing continuation awards under Part C of the Indian Education Act, Title IV of Pub. L. 92-318, as amended.

Authority for this program is contained in Section 316 of the Adult Education Act (20 U.S.C. 1211a). Prospective applicants are advised that this section has been amended as of October 1, 1978 by the Education Amendments of 1978 (Pub. L. 95-561, enacted November 1, 1978). The amendments to that section are described in the Appendix to this Notice.

The purpose of Part C grants is to assist State educational agencies; local educational agencies; public agencies and institutions, and Indian tribes, institutions, and organizations in carrying out projects relating to Indian adult education.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: Competing applications for new awards must be mailed (postmarked) or hand delivered by January 29, 1979.

To be assured of consideration for funding, applications for noncompeting continuation awards should be mailed or hand delivered by January 29, 1979. If the application is late, the Office of Education may lack sufficient time to review it with other noncompeting continuation applications and may decline to accept it.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.536, Washington, D.C. 20202.

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applications should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Regional Office Building Three, Room 5673, 7th and D streets, S.W., Washington, D.C.

The Application Control Center will accept hand delivered applications between 8:00 a.m. and 4:00 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

Applications for new awards that are hand delivered will not be accepted after 4:00 p.m. on the closing date.

PROGRAM INFORMATION: Activities supported by this program are limited to the following:

(1) Planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) The establishment and operation of programs which are designed to stimulate (A) the provision of basic literacy opportunities to all nonliterate Indian adults, and (B) the provision of opportunities to all Indian Adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) Research and development programs to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) Basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians;

(5) The dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults;

(6) The development and establishment of educational services and programs specifically designed to improve educational opportunities for Indian adults;

(7) The dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(8) The evaluation of the effectiveness of federally assisted programs in which Indian adults may participate in achieving the purposes of such programs with respect to such adults.

Indian tribes, institutions, and organizations may apply to carry out the activities listed in paragraphs (1) through (8); State and local educational agencies may apply for all activities except those described in paragraph (6); other public agencies and institutions may apply for those listed in paragraphs (7) and (8).

AVAILABLE FUNDS: Approximately $5,930,000 is available for grants to be awarded under this Notice. Approximately $2,000,000 of this amount has been reserved to continue present multi-year projects.

It is estimated that with the remainder of the Fiscal Year 1979 funds, approximately 35 new grants will be awarded.

This statement on the availability of funds does not bind the U.S. Office of Education to any particular pattern of distribution except as required by the Indian Education Act, applicable regulations, and appropriations. Rather, actual figures may vary widely from those given.

APPLICATION FORMS: Application forms and program information packages are expected to be ready for mailing on or about November 27, 1978. They may be obtained by writing to the Division of Special Projects and Programs, Office of Indian Education, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2158, Washington, D.C. 20202. Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to this program are:

(a) General Provisions for Office of Education Programs (45 CFR Parts 100 and 100a, except 100a.26(b), and Appendices); and

(b) Regulations governing financial assistance under Part C of the Indian Education Act (45 CFR Part 188).

Applications will be reviewed on the basis of these regulations except where they are inconsistent with the amendments of Part C of the Indian Education Act made by the Education Amnendments of 1978, Pub. L. 95-561. Those amendments are described in the Appendix to this Notice.

FURTHER INFORMATION: For further information contact the Office of Indian Education, Division of Special Projects and Programs, Elementary and Secondary Special Projects Branch, U.S. Office of Education, 400 Maryland Avenue, S.W., Room 2158, Washington, D.C. 20202, Telephone (202) 245-8298.

(20 U.S.C. 1211a)

(Catalog of Domestic Assistance No. 13.536, Indian Education—Special Programs Relating to Indian Adult Education)

Dated: December 6, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

APPENDIX

The following are the amendments to Part C of the Indian Education Act. Those amendments were made by the Education Amendments of 1978.

(1) The Adult Education Act section that contains Part C of the Indian Education Act is changed from 314 to 316.

(2) Subsection (a)(4), which previously read, "to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion on Indian reservations" now reads "to provide for basic surveys and evaluations thereof to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians".

(3) A new subsection (b) has been added. It provides "The Commissioner is also authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults".

(4) Subsections (b), (c), and (d) have been redesignated as (c), (d), and (e), respectively.

[FR Doc. 78-34407, Filed 12-8-78; 8:45 am]

[4110-02-M]

STATE STUDENT INCENTIVE GRANT PROGRAM AND STATE STUDENT FINANCIAL ASSISTANCE TRAINING PROGRAM

Closing Dates for Receipt of State Applications for Fiscal Year 1979

This notice specifies closing dates for receipt of State applications for Fiscal Year 1979 funds under the State Student Incentive Grant Program (SSIG) and the State Student Financial Assistance Training Program (SSFAT). These two programs are separately authorized under the Higher Education Act of 1965, as amended: SSIG by Title IV-A, Section 415 (20 U.S.C. 1070c-1070c-4) to assist States in providing initial and continuation grants to undergraduate students with substantial financial need; and SSFAT by Section 493C (20 U.S.C. 1088b-3) to help States design and develop programs to increase the proficiency of institutional and State financial aid administrators in all aspects of student financial assistance. Both authorizations specify that applications must be submitted by the designated agency in each State responsible for State scholarship/grant programs; thus, applications for both programs must be submitted by the same agency in each State.

As specified in the authorizations, applications will be accepted from the 50 States, the District of Columbia, Guam, American Samoa, the Virgin Islands, Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. Requests for Fiscal Year 1979 SSIG funds must be received by the Office of Education on or before January 15, 1979; requests for SSFAT funds must be received on or before March 15, 1979.

CLOSING DATE: January 15, 1979 for SSIG and March 15, 1979 for SSFAT.

A. *APPLICATION FORMS AND INFORMATION:* Required application forms for SSIG and SSFAT will be mailed to officials of designated State agencies at least 30 days before the due date for submission. These forms contain tables showing basic allotment amounts for individual States under each program, together with specific instructions for requesting the Federal funds.

Applications must be prepared and submitted in accordance with program regulations and pertinent instructions.

B. *APPLICATIONS SENT BY MAIL:* Applications sent by mail should be addressed to the Bureau of Student Financial Assistance, U.S. Office of Education, Regional Office Building 3, 7th and D Sts., S.W., Washington, D.C. SSIG applications should be marked for the attention of Dr. Richard L. McVity, Acting Chief, State Programs Branch, Room 4002; SSFAT applications should be marked for the attention of Ms. Patricia Hopson, Acting Director, Division of Training and Dissemination, Room 4654. Applications must be received in the Office of Education on or before the closing date. The Office of Education suggests that applicants consider the use of registered or certified mail as explained below, to assure meeting the established deadlines.

An application sent by mail will be considered to be received on time by the Office of Education if:

(1) The application was sent by registered or certified mail not later than January 10, 1979, for SSIG and not later than March 10, 1979, for SSFAT, as evidenced by the U.S. Postal Service postmark on the wrapper or envelope, or on the original receipt from the U.S. Postal Service; or

(2) The application is received on or before the closing date by either the Department of Health, Education, and Welfare, or the U.S. Office of Education mail rooms in Washington, D.C. In establishing the date of receipt, the Commissioner will rely on the time-date stamp of these mail rooms or other documentary evidence of receipt maintained by the Department of Health, Education, and Welfare, or the U.S. Office of Education.

C. *HAND-DELIVERED APPLICATION:* An application to be hand delivered must be taken to the U.S. Office of Education, Bureau of Student Financial Assistance (Room 4002 for SSIG, and Room 4654 for SSFAT), Regional Office Building No. 3, 7th & D Streets SW, Washington, D.C. hand delivered applications will be accepted daily between the hours of 8 a.m. and 4 p.m., except Saturdays, Sundays, and Federal holidays. Applications will not be accepted after 4 p.m. on the closing date.

D. *PROGRAM INFORMATION:* Applications are required annually for both SSIG and SSFAT. In formulating applications, the designated State agencies will be guided by the allotment tables provided with the application forms. In each program, basic State allotments are determined by formula and are not subject to negotiation. For SSIG, States may also request a share of reallotments, in addition to their basic allotments, contingent upon the availability of such funds through release by any States unable to use all their basic allotments. In FY 1978, all 50 States, the District of Columbia, and 6 outlying areas participated in the SSIG student assistance delivery network.

Out of the $76.750 million FY 1979 SSIG appropriation, only $50 million is authorized for initial student awards. As provided in 45 CFR 192.3(f), States may divide their applications for SSIG basic allotments between initial and continuation student awards to meet their individual requirements; however, if the total of all State requests for initial student awards exceeds the $50 million authorized for these awards, the Office of Education reserves the right to adjust State requests in order to conform with the overall initial awards authorization. State scholarship agencies should note that the reference in SSIG regulations, 45 CFR 192.10(b), to "45 CFR 100b.92" (alternative matching procedures for States) should be changed to read "45 CFR 74.52."

States which operate student loan insurance programs under the provisions of Section 428(b), Higher Education Act, as amended, or which will have agreements with the Office of Education for the conduct of such programs by July 1, 1979, may also apply for SSIG "bonus" funds for making additional student grants in 1979–80, as provided in Section 415E, Higher Education Act, as amended. Bonus funds not earned by any States will be reallotted to States which are eligible for the bonus.

Amounts available to individual States for SSFAT for FY 1979 will be based on State allotments in the Supplemental Educational Opportunity Grant, College Work-Study, and National Direct Student Loan programs. SSFAT application forms, to be supplied to agency officials in February, will contain lists of State entitlements. States in the second or third year of this program should focus their applications on continuation and expansion of activities already under way, including provisions for program evaluation. For States not participating in FY 1978 (Louisiana, New Hampshire, and Pacific and Virgin Islands), FY 1979 applications should indicate plans for beginning SSFAT programs.

E. *FOR FURTHER INFORMATION:* Regarding SSIG, contact Dr. Richard L. McVity, Acting Chief, State Programs Branch, Bureau of Student Financial Assistance, U.S. Office of Education, Washington, D.C. 20202, Telephone (202) 472-4265. Regarding SSFAT, contact Ms. Patricia Hopson, Acting Director, Division of Training and Dissemination, Bureau of Student Financial Assistance, U.S. Office of Education, Washington, D.C. 20202, Telephone (202) 472-4265.

F. *APPLICABLE REGULATIONS:* Final regulations applicable to these programs were published in the FEDERAL REGISTER on September 14, 1977; regulations for SSIG (45 CFR Part 192) appear beginning at page 46049, and SSFAT regulations (45 CFR Part 178a) appear beginning at page 46047. (SSIG–20 U.S.C. 1070c–1070c–4; SSFAT–20 U.S.C. 1088b–3)

(Catalog of Federal Domestic Assistance Numbers: 13.548, State Student Incentive Grant Program; and 13.582, State Student Financial Assistance Training Program)

Dated: December 5, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-34403 Filed 12-11-78; 8:45 am]

[4110-02-M]

SUPPLEMENTAL EDUCATIONAL OPPORTUNITY GRANT, COLLEGE WORK-STUDY, AND NATIONAL DIRECT STUDENT LOAN PROGRAMS

Revised Closing dates for Corrections and Appeals and for Establishing Eligibility

The Commissioner gives notice that:

1. He is extending two of the closing dates that were announced in the September 15 FEDERAL REGISTER for institutions of higher education applying for funds under the campus-based Federal programs of student financial aid (Supplemental Educational Opportunity Grant (SEOG), College Work-Study (CWS), and National Direct Student Loan (NDSL).

2. The procedure for institutions seeking eligibility status will change in fiscal year 1980, and

3. The procedure for area vocational schools seeking eligibility status will change in fiscal year 1980.

These programs allocate to institutions funds to assist students who need financial aid to meet the cost of postsecondary education.

The programs are authorized by the Higher Education Act of 1965. (20 U.S.C. 1070b-3(b), 42 U.S.C. 2756, and 20 U.S.C. 1087bb(b).)

a. *Closing dates.* Applications shall observe the following closing dates:

1. For submitting corrections to applications or to fiscal-operations reports, December 1, 1978.

2. For submitting appeals, January 15, 1979.

3. For establishing institutional eligibility, January 15, 1979.

b. *Application forms and information.* The Commissioner reviews and edits, by computer, applications and accompanying fiscal-operations reports. The Commissioner mails to each institution:

1. A notice of the recommended funding levels by program; and

2. Instructions for making any necessary corrections.

In accordance with instuctions provided, an institution shall return corrected versions of edited applications and fiscal-operations reports.

The U.S.C Office of Education, Washington, D.C., must receive all corrections with a postmark date no later than December 1, 1978.

The notice of recommended funding levels also includes instructions to an institution that may wish to appeal one or more recommended amounts. An institution that filed an appeal shall file in accordance with these instructions.

The U.S. Office of Education, Washington, D.C., must receive all appeals with a postmark date not later than January 15, 1979.

c. *Items sent by mail.* Corrections and appeal requests must have a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service by the closing date.

Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. An applicant should check with its local post office before relying on this method.

The Office of Education encourages an applicant to use registered or at least first-class mail.

d. *Items delivered by hand.* An application that is hand-delivered must be taken to: The U.S. Office of Education, campus and State Grant Branch, Room 4621, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Campus and State Grant Branch will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

e. *Eligibility deadline.* The Commissioner accepts, processes, and reviews applications from institutions that have not qualified as eligible institutions of higher education under section 491(b) or 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1085(b), 114(a)).

For an institution to receive an allocation of fiscal year 1979 funds, the Division of Eligibility and agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, must have received by January 15, 1979, all materials and documents necessary for the Commissioner to determine whether that institution is an eligible institution of higher education.

Similarly, the Commissioner accepts applications from area vocational schools whose eligibility to participate in the CWS Program has not been established.

For an area vocational school to receive an allocation of fiscal year 1979 funds, the Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, must have received by January 15, 1979, all materials necessary for the Commissioner to determine whether that school is an eligible area vocational school.

f. *Eligibility deadline for fiscal year 1980.* The Commissioner is giving institutions of higher education and area vocational schools advanced notice that to receive an allocation of fiscal year 1980 funds, they must establish eligibility with the Division of Eligibility and Agency Evaluation, Bureau of Higher and Continuing Education, U.S. Office of Education, by the date applications are due.

g. *Further information.* For further information contact Mr. Robert Coates, Acting Chief, Campus and State Grant Branch, Division of Program Operations, Room 4621, Regional Office Building 3, 400 Maryland Avenue, S.W., Washington, D.C. 20202; telephone (202) 472-2840.

h. *Applicable regulations.* The regulations applicable to these programs are:

1. SEOG: 45 CFR Part 176;
2. CWS: 45 CFR Part 175; and
3. NDSL: 45 CFR Part 144.

All of these program regulations were published in the FEDERAL REGISTER on August 24, 1978 (43 FR 37896-37956).

(20 U.S.C. 1070b-3; 45 U.S.C. 2756; 20 U.S.C. 1087aa-ff)

(Catalog of Federal Domestic Assistance No. 13.418, Supplemental Educational Opportunity Grant Program; 13.463, College Work-Study Program; and 13.471, National Direct Student Loan Program)

Dated: December 5, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-34402 Filed 12-8-78; 8:45 am]

[4110-02-M]

UPWARD BOUND PROGRAM—VETERANS PROJECTS ONLY—NEW ONLY

Extension of Deadline Date for Transmittal of Applications for Fiscal Year 1979

The November 27, 1978 deadline date, for transmittal of new applications under the Upward Bound-Veterans Projects is extended because of a recent amendment to the authorizing legislation for the Special Programs for Students from Disadvantaged Backgrounds. On November 1, 1978, President Carter signed the Middle Income Student Assistant Act. Included in this legislation is a provision which affects the age limitation for veterans' eligibility to participate in Upward Bound-Veterans Projects. Prior to this amendment veterans could not be older than 27 years. With the new amendment, veterans, if they are otherwise eligible, may be served regardless of their age. *The new deadline date is January 8, 1979.*

Authority for this program is contained in section 417 of the Higher Education Act of 1965, as amended.

(20 U.S.C. 1070d-1070d-1)

This program issues awards to institutions of higher education, combinations of institutions of higher education, public and private agencies and organizatiions, and in exceptional cases, secondary schools, secondary vocational schools.

The purpose of the awards for the Upward Bound projects for veterans is to assist applicants to identify *qualified* veterans and to prepare them for a program of postsecondary education by generating the skills and motivation necessary for success in education beyond high school.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.492 (Upward Bound)-project for veterans, Washington, D.C. 20202. (Applications for National Demonstration projects use the suffix "A" with the number, all other applications should use the Suffix "B").

Proof of mailing must consist of a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of mailing stamped by the U.S. Postal Service. Private metered postmarks or mail receipts will not be accepted without a legible date stamped by the U.S. Postal Service.

NOTE.—The U.S. Postal Service does not uniformly provide a dated postmark. Applicants should check with their local post office before relying on this method.

Applicants are encouraged to use registered or at least first-class mail.

Each late applicant will be notified that its application will not be considered in the current competition.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept hand-delivered applications between 8 a.m. and 4 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, or Federal holidays.

Applications will not be accepted after 4 p.m. on the closing date.

PROGRAM INFORMATION: The applications for new grants will be evaluated competitively under the published funding criteria for new awards (Upward Bound—45 CFR 155.8(c)).

Applicants may apply for only 1 year of funding since program year 1979–80 (Fiscal Year 1979) is the final year of the current authorization.

AVAILABLE FUNDS: It is estimated that $10,800,000 will be available for all Upward Bound grants. The Commissioner may fund Upward Bound projects for veterans. However, of the $10,800,000, no percentage has been specifically allotted for Upward Bound projects for veterans. These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

APPLICATION FORMS: Application forms may be obtained by contacting Mr. David D. Johnson, Director, Division of Student Services and Veterans Programs, Regional Office Building 3, Room 3042, 7th and D Streets SW., Washington, D.C. 20202. Telephone (202) 245-6664.

Application forms were mailed September 25, 1978, to the presidents of those institutions which participate in the campus-based Federal student financial aid programs. The contracts and grants officers at those institutions might have a copy readily available for immediate use.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information packages.

APPLICABLE REGULATIONS: The regulations applicable to these programs are:

(a) Office of Education General Provisions Regulations (45 CFR Parts 100 and 100a), and

(b) Regulations governing the Upward Bound Program (45 CFR Part 155).

FURTHER INFORMATION: For further information contact the Program Development Branch of the Division of Student Services and Veterans Programs. Telephone: (202) 245-2511.

(20 U.S.C. 1070d-1070d-1)

(Catalog of Federal Domestic Assistance No. 13.492; Upward Bound)

Dated: December 5, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

[FR Doc. 78-34404 Filed 12-8-78; 8:45 am]

[4310-02-M]

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Law and Order Determination

DECEMBER 1, 1978.

This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secrtary—Indian Affairs by 230 DM 1 and 2.

Section 601(d), Title I of the Omnibus Crime Control and Safe Streets Act of 1968, places responsibility on the Secretary of the Interior to determine those Indian tribes which perform law and order functions. The listing published beginning on page 13758 of the May 25, 1973 issue of the FEDERAL REGISTER (38 FR 13758) identified all eligible Indian tribes and the specific law enforcement functions they have responsibility to exercise. Determination and certification of those tribes not listed will be made on an individual basis upon application by such tribes.

It has been determined by the Assistant Secretary—Indian Affairs that the Eastern Band of Cherokee Indians, North Carolina, has responsibility to perform the functions listed below.

Therefore, the listing published beginning on page 13758 of the May 25, 1973 FEDERAL REGISTER (38 FR 13758), and last amended at page 43932 of the September 24, 1975 FEDERAL REGISTER (40 FR 43932), is further amended by changing the listing for the Eastern Band of Cherokee Indians of North Carolina to read as follows:

Tribal entities recognized by the Federal Government and listed by State	Employ Tribal Police	Establish a Tribal Court	Adopt a Tribal Law and Order Code	Undertake correction function	Undertake program for prevention of adult crime and juvenile deliquency	Undertake juvenile and adult rehabilitation program
North Carolina:						
Eastern Band of Cherokee Indians	X	X	X	X	X	X

RICK C. LAVIS,
Acting Assistant Secretary,
Indian Affairs.

[FR Doc. 78-34432 Filed 12-8-78; 8:45 am]

[4310-84-M]

Bureau of Land Management

[AA-6703-B]

ALASKA NATIVE CLAIMS SELECTION

On November 8, 1974, The Tatitlek Corporation, for the Native village of Tatitlek, filed selection application AA-60703-B, under the provisions of Sec. 12 of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 701; 43 U.S.C. 1601, 1611 (Supp. V, 1975)), for the surface estate of certain lands in the Tatitlek area, including lands within the Chugach National Forest (Proclamation, July 23, 1907, as amended).

As to the lands described below, the application, as amended, is properly filed and meets the requirements of the Alaska Native Claims Settlement Act and of the regulations issued pursuant thereto. These lands do not include any lawful entry perfected under or being maintained in compliance with Federal laws leading to acquisition of title.

This decision approves approximately 1,140 acres of national forest lands for conveyance to The Tatitlek Corporation, for a cumulative total of approximately 65,019 acres. This does not exceed the 69,120 acres permitted under Sec. 12(a)(1).

In view of the foregoing, the surface estate of the following described lands, selected pursuant to Sec. 12(a), aggregating approximately 1,140 acres, is considered proper for acquisition by The Tatitlek Corporation and is hereby approved for conveyance pursuant to Sec. 14(a) of the Alaska Native Claims Settlement Act:

LANDS WITHIN CHUGACH NATIONAL FOREST

COPPER RIVER MERIDIAN, ALASKA (UNSURVEYED)

T. 10 S., R. 9 W.,
Sec. 35 (fractional), all.
Containing approximately 5 acres.

T. 10 S., R. 10 W.,
Secs. 20 and 21 (fractional), all;
Secs. 28 to 32 (fractional), inclusive, all.
Containing approximately 1,135 acres.

Aggregating approximately 1,140 acres.

The conveyance issued for the surface estate of the lands described above shall contain the following reservations to the United States:

1. The subsurface estate therein, and all rights, privileges, immunities and appurtenances, of whatsoever nature, accruing unto said estate pursuant to the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 704; 43 U.S.C. 1601, 1613(f) (Supp. V, 1975)); and

2. Pursuant to Sec. 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 708; 43 U.S.C. 1601, 1616(b) (Supp. V, 1975)), the following public easements, referenced by easement identification number (EIN) on the easement maps in case file AA-6703-EE, are reserved to the United States and subject to further regulation thereby:

a. (EIN 9 D9) A continuous linear easement twenty-five (25) feet in width upland of and parallel to the mean high tide line in order to provide access to and along the marine coastline and use of such shore for purposes such as beaching of watercraft or aircraft, travel along the shore, recreation and other similar uses. Deviations from the waterline are permitted when specific conditions so require, e.g., impassable topography or waterfront obstruction. This easement is subject to the right of the owner of the servient estate to build upon such easement a facility for public or private purposes, such right to be exercised reasonably and without undue or unnecessary interference with or obstruction of the easement. When access along the marine coastline easement is to be obstructed, the owner of the servient estate will be obligated to convey to the United States an acceptable alternate access route, at no cost to the United States, prior to the creation of such obstruction.

b. (EIN 41 C) The right of the United States to enter upon the lands hereinabove granted for cadastral, geodetic or other survey purposes is reserved, together with the right to do all things necessary in conection therewith.

These reservations have not bee conformed to the Departmental easement policy announced March 3, 1978. Conformance is contingent upon resolution of the litigation *Calista, et al* v. *Andrus* and implementation of the Secretary's new easement policy.

The grant of lands shall be subject to:

1. Issuance of a patent confirming the boundary description of the lands hereinabove granted after approval and filing by the Bureau of Land Management of the official plat of survey covering such lands;

2. Valid existing rights therein, if any, including but not limited to those created by any lease (including a lease issued under Sec. 6(g) of the Alaska Statehood Act of July 7, 1958 (72 Stat. 339, 341; 48 U.S.C. Ch. 2, Sec. 6(g) (1970))), contract, permit, right-of-way or easement, and the right of the lessee, contractee, permittee or grantee to the complete enjoyment of all rights, privileges and benefits thereby granted to him;

3. Requirements of Sec. 22(k) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 715; 43 U.S.C. 1601, 1621(k) (Supp. V, 1975)), that, as to the portion of the above-described lands located within the boundaries of a national forest (a) until December 18, 1976, the sale of any timber from such lands is subject to the same restrictions relating to the export of timber from the United States as are applicable to national forest lands in Alaska under rules and regulations of the Secretary of Agriculture and (b) until December 18, 1983, such lands shall be managed under the principles of sustained yield and under management practices for protection and enhancement of environmental quality no less stringent than such management practices on adjacent national forest lands;

4. Requirements of Sec. 14(c) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688, 703; 43 U.S.C. 1601, 1613(c) (Supp. V, 1975)), that the grantee hereunder convey those portions, if any, of the lands hereinabove granted, as are prescribed in said section; and

5. The terms and conditions of the agreement dated January 18, 1977, between the Secretary of the Interior, Chugach Natives, Inc., The Tatitlek Corporation, and other Chugach village corporations. A copy of the agreement shall be attached to and become a part of the conveyance document and shall be recorded therewith. A copy of the agreement is located in the Bureau of Land Management easement case file for The Tatitlek Corporation, serialized AA-6703-EE. Any person wishing to examine this agreement may do so at the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Anchorage, Alaska 99501.

The Tatitlek Corporation is entitled to conveyance of 115,200 acres of land selected pursuant to Sec. 12(a) of the Alaska Native Claims Settlement Act. to date, approximately 65,417 acres of this entitlement have been approved for conveyance; the remaining entitlement of approximately 49,783 acres will be conveyed at as later date.

Pursuant to Sec. 14(f) of the Alaska Native Claims Settlement Act, conveyance of the subsurface estate of the lands described above will be granted to Chugach Natives, Inc., when conveyance is granted to The Tatitlek Corporation for the surface estate, and shall be subject to the same conditions as the surface conveyance.

There are no inland water bodies considered to be navigable within the lands described.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice of this decision is being published once in the FEDERAL REGISTER and once a week, for four (4) consecutive weeks, in both the ANCHORAGE TIMES and THE CORDOVA TIMES. Any party claiming a property interest in lands affected by this decision may appeal the decision to the Alaska Native Claims Appeal Board, P.O. Box 2433, Anchorage, Alaska 99510, with a copy served upon both the Bureau of Land Management, Alaska State Office, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510 and the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage, Alaska 99501, also:

1. Any party receiving service of this decision shall have 30 days from the receipt of this decision to file an appeal.

Any unknown parties, any parties unable to be located after reasonable efforts have been expended to locate, and any parties who failed or refused to sign the return receipt shall have until January 10, 1979, to file an appeal.

3. Any party known or unknown who may claim a property interest which is adversely affected by this decision shall be deemed to have waived those rights which were adversely affected unless an appeal is timely filed with the Alaska Native Claims Appeal Board.

4. If The Tatitlek Corporation or Chugach Natives, Inc., objects to any easment which is identified herein for reservation in the conveyance, which is subject to the discretion of the State Director and not reserved pursuant to an express Secretarial directive, a petition for reconsideration must be filed within 30 days from receipt of service with the State Director, Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510. A copy of the petition should be served upon the Regional Solicitor, Office of the Solicitor, 510 L Street, Suite 408, Anchorage Alaska 99501. If a petition for reconsideration

is not filed, it will be deemed that the right to contest any such easement has been waived.

To avoid summary dismissal of the appeal, there must be strict compliance with the regulations governing such appeal. Further information on the manner of and requirements for filing an appeal may be obtained from the Bureau of Land Management, 555 Cordova Street, Pouch 7-512, Anchorage, Alaska 99510.

If an appeal is taken, the adverse parties to be served are:

The Tatitlek Corporation, P.O. Box 758, Cordova, Alaska 99574.
Chugach Natives, Inc., 912 East 15th Avenue, Anchorage, Alaska 99501.

SUE A. WOLF,
Chief, Branch of Adjudication.

[FR Doc. 78-34442 Filed 12-8-78; 8:45 am]

[4310-84-M]

AA-6707-B and [AA-6707-C]

ALASKA NATIVE CLAIMS SELECTION

Notice of the decision to issue conveyance to Tyonek Native Corporation, Inc., was published in the July 21, 1978 issue of the FEDERAL REGISTER (43 FR 31438).

On August 30, 1978, Tyonek Native Corporation, Inc., filed with the Alaska State Director, a request for reconsideration of the easements reserved pursuant to Sec. 17(b)(3) of the Alaska Native Claims Settlement Act (85 Stat. 688, 708; 43 U.S.C. 1616(c) (Supp. V, 1975)).

The above decision was temporarily suspended on September 12, 1978, as published in the FEDERAL REGISTER (43 FR 42820). The easements were reconsidered and two were modified. The decision stands as published, as to the Sec. 17(b) easement reservations, with the following modifications:

(EIN 7 D9) A site easement upland of the ordinary high water mark in Sec. 24, T. 12 N., R. 11 W., Seward Meridian, on the east shore of Chuitbuna Lake. The site is two (2) acres in size with an additional 25-foot wide easement on the bed of the lake along the entire waterfront of the site. The site is for camping, staging, and vehicle use.

(EIN 8 C5) An easement sixty (60) feet in width for an existing road from the Beluga airstrip southerly and westerly for access to public lands and resources. The usage of roads and trails will be controlled by applicable State or Federal law or regulation.

This modified decision is being published once in the FEDERAL REGISTER in accordance with the agreement dated January 18, 1977, between the Secretary of the Interior, Cook Inlet Region, Inc., and Tyonek Native Corporation, Inc.

SUE A. WOLF,
Chief, Branch of Adjudication.

[FR Doc. 78-34443 Filed 12-8-78; 8:45 am]

[4310-84-M]

ALASKA

New Native Land Easement Procedures

Section 17(b) of the Alaska Native Claims Settlement Act of December 18, 1971 (85 Stat. 688), authorizes the Secretary of the Interior, after consultation with the State of Alaska and the Joint Federal-State Land Use Planning Commission, to reserve such public easements across lands selected under ANCSA as he determines are necessary to guarantee access to public lands and major waterways and to guarantee international treaty obligations.

Following litigation, new easement regulations setting forth new criteria were issued on November 27, 1978, (43 FR 55326). Existing easement reservations and recommendations must be conformed to the new criteria. Among other things, the new criteria provides for site easements rather than continuous linear easements along the marine coastline and many inland waterways, and for the elimination of easements based solely on recreational use. Easement reservations and recommendations previously submitted for specified villages will be considered in the conformance process.

The purpose of this notice is to inform the public that the Bureau of Land Management is currently conforming existing easement reservations and recommendations to the new regulations. All interested parties should contact the appropriate District Office to obtain the schedule for conformance so that new information can be addressed as a part of the District Office easement conformance activity. Any additional information concerning access related easements may be submitted to the District Manager, at the Bureau of Land Management, Anchorage District Office, 4700 E. 72nd Avenue, Anchorage, Alaska 99507 or the Bureau of Land Management, Fairbanks District Office, P.O. Box 1150, Fairbanks, Alaska 99707.

In most cases, as specific Native selection areas are being reconsidered under the new regulations, a second opportunity will be provided for public recommendations for access related easements. This will be extended through a 30 day notice issued at the discretion of the authorized officer.

CURTIS V. MCVEE,
State Director.

[FR Doc. 78-34444 Filed 12-8-78; 8:45 am]

[4410-09-M]

DEPARTMENT OF JUSTICE

Office of the Attorney General

[AAG/A Order No. 21-78]

PRIVACY ACT OF 1974

Amended System of Records

On Friday, September 30, 1977, notice of a system of records maintained by the Drug Enforcement Administration (DEA) entitled Automated Intelligence Records System (Pathfinder), JUSTICE/DEA-INS-111 was published in the FEDERAL REGISTER pursuant to 5 U.S.C. 552a(e)(4).

Notice is hereby given that pursuant to the Privacy Act of 1974, 5 U.S.C. 552a, the Drug Enforcement Administration, Department of Justice, proposes to further refine this system. The new system, Automated Intelligence Records System (Pathfinder), will include commercially available flight plan information concerning pilots and aircraft known, suspected, or alleged to be involved in criminal smuggling activities. This additional information will enable DEA to provide timely information to DEA offices and, where appropriate, to cooperating foreign governments that an individual or airplane known, suspected, or alleged to be involved in criminal smuggling activity is operating in a particular area.

The amended system notice is reprinted below. Minor editorial changes have been made. Substantive changes have been italicized.

Title 5 U.S.C. 552a(e) (4) and (11) provides that the public be provided a 30-day period in which to comment on the routine uses of records in the system; the Office of Management and Budget (OMB), which has oversight responsibility under the provisions of the Act, requires a 60-day period in which to review the amended system before it is implemented. Therefore, the public, OMB, and the Congress are invited to submit written comments. Comments should be addressed to the Administrative Counsel, Office of Management and Finance, Room 1118, Department of Justice, 10th and Constitution Avenue, NW., Washington, D.C. 20530. If no comments are received from either the public, OMB, or the Congress on or before February 9, 1979, the system will be implemented without further notice in the FEDERAL REGISTER. No oral hearings are contemplated.

Appropriate reports have been filed with the Congress and OMB.

Dated: December 1, 1978.

KEVIN D. ROONEY,
Assistant Attorney General for Administration.

JUSTICE/DEA-INS-111

System name:

Automated Intelligence Records System (Pathfinder).

System location:

U.S. Department of Justice, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537 and El Paso Intelligence Center (EPIC), El Paso, Texas 79902.

Categories of individuals covered by the system:

(1)Those individuals who are known, suspected, or alleged to be involved in (a) narcotic trafficking, (b) narcotic-arms trafficking, (c) alien smuggling or transporting, (d) illegally procuring, using, selling, counterfeiting, reproducing, or altering identification documents relating to status under the immigration and nationality laws, (e) terrorist activities (narcotic-arms or alien trafficking/smuggling related), (f) crewman desertions and stowaways, and (g) arranging or contracting a marriage to defraud the immigration laws; (2) In addition to the categories of individuals listed above, those individuals who (a) have had citizenship or alien identification documents put to fraudulent use or have reported them as lost or stolen, (b) arrive in the United States from a foreign territory by private aircraft, and (c) are informants or witnesses (including non-implicated persons) who have pertinent knowledge of some circumstances or aspect of a case or suspect may be the subject of a file within this system; and (3) In the course of criminal investigation and intelligence gathering, DEA and INS may detect violation of non-drug or non-alien related laws. In the interest of effective law enforcement, this information is retained in order to establish patterns of criminal activity and to assist other law enforcement agencies that are charged with enforcing other segments of criminal law. Therefore, under certain limited circumstances, individuals known, suspected, or alleged to be involved in non-narcotic or non-alien criminal activity may be the subject of a file within this system.

Categories of records in the system:

In general, this system contains computerized and manual intelligence information gathered from DEA and INS investigative records and reports. Specifically, intelligence information is gathered and collated from the following DEA and INS records and reports: (1) DEA Reports of Investigation (DEA-6), (2) DEA and INS Intelligence Reports, (3) INS Air Detail Office Index (1-92A), (4) INS Anti-Smuggling Indices (G-170), (5) INS Marine Intelligence Index, (6) INS Fraudulent Document Center Index, (7) INS Terrorist Index, (8) INS Reports of Investigation and Apprehension (I-44, 1-213, G-166). *In addition, data is obtained from commercially available flight plan information concerning individuals known, suspected or alleged to be involved in criminal smuggling activities using private aircraft.*

Authority for maintenance of the system:

This system has been established in order for DEA and INS to carry out their law enforcement, regulatory, and intelligence functions mandated by the Comprehensive Drug Abuse Prevention and Control Act of 1970 (84 Stat. 1236), Reorganization Plan No. 2 of 1973, the Single Convention on Narcotic Drugs, (18 UST 1407), and Sections 103, 265, and 290 and Title III of the Immigration and Nationality Act, as amended, (8 U.S.C. 1103, 1305, 1360, 1401 *et seq.*). Additional authority is derived from Treaties, Statutes, Executive Orders and Presidential Proclamations which DEA and INS have been charged with administering.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

This system will be used to produce association and link analysis reports and such special reports as required by intelligence analysts of DEA and INS. The system will also be used to provide 'real-time' responses to queries from Federal, State, and local agencies charged with border law enforcement responsibilities.

Information from this system will be provided to the following categories of users for law enforcement and intelligence purposes provided a legitimate and lawful 'need to know' is demonstrated: (a) Other Federal law enforcement agencies, (b) State and local law enforcement agencies, (c) foreign law enforcement agencies with whom DEA and INS maintain liaison, (d) U.S. intelligence and military intelligence agencies involved in border criminal law enforcement, (e) clerks and judges of courts exercising appropriate jurisdiction over subject matter maintained within this system, and (f) in the event there is an indication of a violation or potential violation of law whether civil, criminal, regulatory, or administrative in nature, the relevant information may be referred to the appropriate agency, whether Federal, State, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute or rule, regulations, or order issued pursuant thereto.

Release of information to the National Archives and Records Service: A record from a system of records may be disclosed as a routine use to the National Archives and Records Service (NARS) in records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Manual subsets of the Pathfinder System are maintained on standard index cards and in manual folders. Standard security formats are employed. The automated information in the Pathfinder System is stored on digital computers in the Drug Enforcement Administration, Office of Intelligence, secured computer facilities located at DEA Headquarters in El Paso, Texas.

Retrievability:

Access to individual records can be accomplished by reference to either the manual indices or the automated information system. Access is achieved by reference to personal identifiers, other data elements, or any combination thereof.

Safeguards:

The Pathfinder system of records is protected by both physical security methods and dissemination and access controls. Fundamental in all cases is that access to intelligence information is limited to those persons or agencies with a demonstrated and lawful need to know in order to perform assigned functions.

Physical security when intelligence files are attended is provided by responsible DEA and INS employees. Physical security when files are unattended is provided by the secure locking of material in approved containers or facilities. The selection of containers or facilities is made in consideration of the sensitivity or national security classification, as appropriate, of the files, and the extent of security guard and/or surveillance afforded by electronic means.

Protection of the automated information system is provided by physical, procedural, and electronic means. The master file resides in the DEA Office of Intelligence secured computer system and is physically attended or safeguarded on a full-time basis. Access to or observation of active telecommunications terminals is limited to those with a demonstrated need to know. Surreptitious access to an unattended terminal is precluded by a complex authentication procedure. The

procedure is provided only to authorized DEA and INS employees. Transmission from DEA Headquarters to El Paso, Texas, is accomplished via a dedicated secured line.

An automated log of queries is maintained for each terminal. Improper procedure results in no access and under certain conditions completely locks out the terminal pending restoration by the master controller at DEA Headquarters after appropriate verification. Unattended terminals are otherwise located in locked facilities after normal working hours.

The dissemination of intelligence information to an individual outside the Department of Justice is made in accordance with the routine uses as described herein and otherwise in accordance with conditions of disclosure prescribed in the Privacy Act. The need to know is determined in both cases by DEA and INS as a prerequisite to the release of information.

Retention and disposal:

Records maintained within this system are retained for fifty-five (55) years.

System manager(s) and address:

Assistant Administrator for Intelligence, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537 and Associate Commissioner, Management, Immigration and Naturalizaton Service, 425 I Street, NW., Washington, D.C. 20536.

Notification procedure:

Inquiries should be addressed to Freedom of Information Division, Drug Enforcement Administration, 1405 I Street, NW., Washington, D.C. 20537.

Record access procedures:

Same as notification procedure.

Contesting record procedures:

Same as notification procedure.

Record source categories:

Commercially available flight plan information source; DEA intelligence and investigative records/reports; INS investigative, intelligence and statutory mandated records/reports; records and reports of other Federal, State and local agencies; and reports and records of foreign agencies with whom DEA maintains liaison.

Systems exempted from certain provisions of the act:

The Attorney General has proposed exemption of this system from subsections (c)(3) and (4), (d), (e)(1), (2), and (3), (e)(4)(G), (H) and (I), (e)(5) and (8), (f), (g), and (h) of the Privacy Act pursuant to 5 U.S.C. 552a(j) and (k). Regulations have been promulgated in accordance with the requirements of 5 U.S.C. 553(b), (c) and (e) and have been published in the FEDERAL REGISTER.

[FR Doc. 78-34516 Filed 12-8-78; 8:45 am]

[7510-01-M]

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 78-66]

DIRECT AWARDS OF $10 MILLION OR MORE

List of Aerospace Contractors

The following is a list of aerospace contractors which received direct NASA awards totaling $10 million or more during Fiscal Year 1978. This list is published pursuant to section 6 of Public Law 91-119, as amended by section 7 of Public Law 91-303 (84 Stat. 372; 42 U.S.C. 2462, 1970 Supp.) and Public Law 94-273 (90 Stat. 375). For related NASA reporting requirements, see 14 CFR Part 1208.

Air Products & Chemicals, Inc., P.O. Box 538, Allentown, PA 18105.
Ball Corporation, 345 South High Street, Muncie, IN 47305.
The Bendix Corporation, Executive Offices, Bendix Center, 20650 Civic Center Drive, Southfield, MI 48076.
The Boeing Company, P.O. Box 3707, Seattle, WA 98124.
Boeing Services International, Inc., P.O. Box 3707, Seattle, WA 98124.
Frank Brisco Co., Inc., 141 South Harrison, East Orange, NJ 07018.
California Institute of Technology, 1201 E. California Blvd., Pasadena, CA 91125.
Chicago Bridge & Iron Company, 800 Jorie Blvd., Oak Brook, IL 60521.
Computer Sciences Corporation, 650 N. Sepulveda Blvd., El Segundo, CA 90245.
Computer Sciences—Technicolor Assoc. (JV), 10210 Greenbelt Road, Seabrook, MD 20801.
Fairchild Industries, Inc., Sherman Fairchild Technology Center, 20301 Century Blvd., Germantown, MD 20767.
Ford Aerospace & Communications Corporation, 300 Renaissance Center, 20th Floor, P.O. Box 43342, Detroit, MI 48243.
General Dynamics Corporation, Pierre Laclede Center, 7733 Forsyth Blvd., St. Louis, MO 63105.
General Electric Company, 3135 Easton Turnpike, Fairfield, CT 06431.
Global Associates, Suite 300, 2010 Webster Street, Oakland, CA 94612.
Hughes Aircraft Company, Centinela Ave., & Teale Street, Culver City, CA 90230.
International Business Machines Corporation, Old Orchard Road, Armonk, NY 10504.
Lockheed Electronics Co., Inc., U.S. Highway 22, Plainfield, NJ 07061.
Lockheed Missiles & Space Co., Inc., P.O. Box 504, Sunnvale, CA 94086.
Martin Marietta Corporation, 6801 Rockledge Drive, Bethesda, MD 20034.
McDonnell Douglas Corporation, P.O. Box 516, St. Louis, MO 63166.
Northrop Services Inc., 500 E. Orangethrope Avenue, Anaheim, CA 92801.
Pan American World Airways, Inc., 200 Park Avenue, New York, NY 10017.
Perkin-Elmer Corporation, 761 Main Avenue, Norwalk, CT 06856.
Planning Research Corporation, Suite 1100, 1850 K Street, N.W., Washington, DC 20016.
RCA Corporation, 30 Rockefeller Plaza, New York, NY 10020.
Raytheon Service Company, 2 Wayside Road, P.O. Box 503, Burlington, MA 01804.
Rockwell International Corporation, 600 Grant Street, Pittsburgh, PA 15219.
The Singer Company, 30 Rockefeller Plaza, New York, NY 10020.
Sperry Rand Corporation, 1290 Avenue of the Americas, New York, NY 10019.
TRW, Incorporated, 23555 Euclid Avenue, Cleveland, OH 44117.
Thiokol Corporation, P.O. Box 1000, Newtown, PA 18940.
United Space Boosters, Inc., 220 Wynn Drive, NW, P.O. Box 1626, Huntsville, AL 35807.
United Technologies Corporation, One Financial Plaza, Hartford, CT 06101.
Vought Corporation, P.O. Box 225907, Dallas, TX 75265.
Westinghouse Electric Corporation, Westinghouse Bldg., Gateway Center, Pittsburgh, PA 15222.

S. J. EVANS,
Director of Procurement, National Aeronautics and Space Administration.

[FR Doc. 78-34386 Filed 12-8-78; 8:45 am]

[7590-01-M]

NUCLEAR REGULATORY COMMISSION

[Docket No. 50-219]

JERSEY CENTRAL POWER & LIGHT CO.

Notice of Issuance of Amendment to Provisional Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 34 to Provisional Operating License No. DPR-16, issued to Jersey Central Power & Light Company (the licensee), which revised the Technical Specifications for operation of the Oyster Creek Nuclear Generating Station (the facility) located in Ocean County, New Jersey. The amendment is effective as of its date of issuance.

The amendment modifies the provisions of the Technical Specifications to specify the augmentation of inservice inspection for the core spray systems and will redefine the definition of operability for core spray system 2.

The application for amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are

set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR § 51.5(d)(4) an environmental impact statement or negative declaration and environmental impact appraisal need not be prepared in connection with issuance of this amendment.

For further details with respect to this action, see (1) the application for amendment dated November 15, 1978, (2) Meeting Summary with documents, dated November 22, 1978 for the November 3, 1978 meeting, (3) Amendment No. 34 to License No. DPR-16, and (4) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C., and at the Ocean County Library, Brick Township Branch, 401 Chambers Bridge Road, Brick Town, New Jersey 08723. A copy of items (3) and (4) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland, this 24th day of November, 1978.

For the Nuclear Regulatory Commission,

RICHARD D. SILVER,
Acting Chief, Operating Reactors Branch No. 2, Division of Operating Reactors.

[FR Doc. 78-34388 Filed 12-8-78; 8:45 am]

[3110-01-M]

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 December 4, 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 name of the agency sponsoring the proposed collection of information;

The title of each request received;

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 thru this release.

Further information about the items on this daily list may be obtained from the clearance office, Office of Management and Budget, Washington, D.C. 20503, (202-395-4529), or from the reviewer listed.

NEW FORMS

NATIONAL SCIENCE FOUNDATION

Survey of IIASA Alumni (SIA)
Single-time
US scientists formerly on IIASA staff, 100 responses; 50 hours
Laverne V. Collins, 395-3214

DEPARTMENT OF ENERGY

Prohibition Orders Followup Letter
ERA-120
Single-time
MFBI's issued prohibition orders, 18 responses; 5 hours
Hill, Jefferson B., 395-5867

TENNESSEE VALLEY AUTHORITY

Heat Pump Financing Program Forms
TVA 623OC, D, E, G, H, & J
Single-time
Electric customers installing heat pumps, 5,000 responses; 3,750 hours
Ellett, C. A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Anti-Friction Bearings (shipments)
MA-35Q
Annually
Anti-friction bearings manufacturing establishments, 135 responses; 135 hours
Off. of Federal Statistical Policy and Standard, 673-7956

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institutes of Health
Case-Control Study of Diabetes Mellitus
Single-time
Women who have diabetes mellitus and controls, 304 responses; 176 hours
Richard Eisinger, 395-3214

DEPARTMENT OF LABOR

Bureau of Labor Statistics
Digest of Selected Pension Plans, 1976-78 Edition
User's survey
BLS 3114
Single-time
Persons concerned with private pension plan provisions, 1,200 responses; 100 hours
Strasser, A., 395-6132

REVISIONS

DEPARTMENT OF ENERGY

Annual Report for Natural Gas companies (class A and B)
FPC-2
Annually
Nat. gas com. with oper. rev. of $1 million or greater, 82 responses; 173,184 hours
Hill, Jefferson B., 395-5867

DEPARTMENT OF AGRICULTURE

Federal Crop Insurance Corporation
Claim for Peach Indemnity
FCI-3
On occasion
Farmers, 500 responses; 125 hours
Ellett, C. A., 395-6132

DEPARTMENT OF COMMERCE

Bureau of Census
Inorganic Chemicals (shipments and production)
MA-28A
Annually
Chemical manufactures, 1,000 responses; 1,000 hours,
Off. of Federal Statistical Policy and Standard, 673-7956

Bureau of Census
Women's, Misses', and Junior' Apparel (cuttings)
M-23H
Monthly
Women's apparel manufacturers, 9,600 responses; 2,400 hours
C. Louis Kincannon, 395-3211

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Social Security Administration
Statement for Determining Continuing Eligibility for SSI payments
SSA-8200
On occasion
Aged, blind and disabled SSI recipients, 1,777,300 responses; 888,650 hours
Reese, B. F., 395-3211

EXTENSIONS

DEPARTMENT OF ENERGY

Entitlements Program Transaction Report
ERA-116
Monthly
Petroleum refiners and eligible firms, 2,400 responses; 14,400 hours
Hill, Jefferson B., 395-5867

DEPARTMENT OF COMMERCE

Bureau of Census
Mattresses, Foundations, and Dual Purpose Sleep Furniture (shipments)
M-25E
Monthly
Producers of bedding products, 5,400 responses; 1,150 hours
C. Louis Kincannon, 395-3211

DAVID R. LEUTHOLD,
Budget and Management Officer.

[FR Doc. 78-344431 Filed 12-8-78; 8:45 am]

[4710-07-M]

DEPARTMENT OF STATE

[Public Notice CM-8/134]

SHIPPING COORDINATING COMMITTEE SUBCOMMITTEE ON SAFETY OF LIFE AT SEA

Meeting

The working group on safety of navigation of the Subcommittee on Safety

of Life at Sea, a subcommittee of the Shipping Coordinating Committee, will hold an open meeting at 9:30 a.m. on Wednesday, January 3, 1979, in Room 7202, of the Department of Transportation, 400 Seventh Street SW., Washington, D.C.

The purpose of the meeting is to:

Consider matters for the forthcoming SUB NAV XXII, scheduled for January 8 to 12, 1979, in particular:

Carriage requirements and performance standards for collision avoidance systems and associated equipment;

Routing of ships;

Matters related to the 1972 Collision Regulations;

Ship movement reporting systems;

Omega differential correction systems;

Operational performance standards for shipborne navigational aids and related equipment;

Accuracy requirements for and harmonization of radionavigation systems; and

Any other business.

Requests for further information on the meeting should be directed to Captain D. B. Charter, Jr., c/o Commandant (G-WLE/73), United States Coast Guard, 400 Seventh Street SW., Washington, D.C. 20590, Telephone (202) 426-1934.

The Chairman will entertain comments from the public as time permits.

RICHARD K. BANK,
Chairman, Shipping Coordinating Committee.

[FR Doc. 78-34433 Filed 12-8-78; 8:45 am]

[4710-07-M]

[Public Notice CM-8/135]

STUDY GROUP 1 OF THE U.S. ORGANIZATION FOR THE INTERNATIONAL TELEGRAPH AND TELEPHONE CONSULTATIVE COMMITTEE (CCITT)

Meeting

The Department of State announces that Study Group 1 of the U.S. Organization for the International Telegraph and Telephone Consultative Committee (CCITT) will meet on January 4, 1979 at 10:00 a.m. in Room A-110 (Training Room) of the Federal Communications Commission, 1229 20th Street, NW., Washington, D.C. This Study Group deals with U.S. Government regulatory aspects of international telegraph and telephone operations and tariffs.

The Study Group will discuss international telecommunications questions relating to telegraph and telex services, videotex, facsimile and maritime matters in order to develop U.S. positions to be taken at international CCITT meetings to be held during 1979 in Geneva, Switzerland.

Members of the general public are invited to attend the meeting and join in the discussion subject to instructions of the Chairman. Admittance of public members will be limited to the seating available.

Requests for further information should be directed to Mr. Richard H. Howarth, State Department, Washington, D.C. 20520, telephone (202) 632-1007.

ARTHUR L. FREEMAN,
Director, Office of International Communications Policy.

DECEMBER 4, 1978.

[FR Doc. 78-34434 Filed 12-8-78; 8:45 am]

[4710-02-M]

Agency for International Development

[Nos. 5.23.1; 23.7.1; 38.20.1; 40.9.1; 113.7.1]

DIVISION CHIEFS, OFFICE OF PROJECT DEVELOPMENT, BUREAU FOR NEAR EAST

Redelegation of Authority

Pursuant to the authority delegated to me by Redelegation of Authority No. 162-10, dated September 20, 1978, from the Assistant Administrator, Bureau for Near East, I hereby redelegate to the Chief, Near East/North Africa Division; Chief, Egypt Division; and Chief, Syria/Jordan/Israel/Lebanon Division, for the programs, projects or activities within their responsibility, authority to exercise any of the following functions, retaining for myself concurrent authority to exercise any of the functions here redelegated:

1. Authority to negotiate loan and grant agreements (including project agreements) and amendments thereto, with respect to loans and grants authorized under the Foreign Assistance Act of 1961, as amended (the "Act") in accordance with the terms of the authorization of such loans or grants.

2. Authority to implement loan and grant agreements (including project agreements) (hereinafter referred to as "such agreements") in accordance with Regulations, Policies, and Procedures now or hereafter established or modified and promulgated within A.I.D. with respect to loans and grants authorized under the Act and Loans authorized by the Board of Directors of the corporate Development Loan Fund and under Section 104(e) of the Agricultural Trade Development and Assistance Act of 1954, as amended (Pub. L. 480), to the following extent:

(a) Authority to prepare and negotiate letters of implementation;

(b) Authority to review and approve documents and other evidence submitted by borrowers or grantees in satisfaction of conditions precedent to financing under such agreements;

(c) Authority to review and approve the selection of host country contractors, amendments and modifications to country contracts of up to a 10% increase in total price, and invitations for bids and requests for proposals with respect to country contracts financed by funds made available under such agreements; and

(d) Authority to negotiate and implement documents ancillary to such agreements.

3. The authorities herein redelegated to the officers named above may not be further redelegated by such officers, but may be exercised by the persons who are performing the functions of such officer in an "acting" capacity.

4. This Redelegation of Authority is effective immediately.

Dated: November 7, 1978.

SELIG A. TAUBENBLATT,
Director, Office of Project Development, Bureau for Near East.

[FR Doc. 78-34435 Filed 12-8-78; 8:45 am]

[4710-02-M]

JOINT COMMITTEE FOR AGRICULTURAL DEVELOPMENT OF THE BOARD FOR INTERNATIONAL FOOD AND AGRICULTURAL DEVELOPMENT

Meeting

Pursuant to Executive Order 11769 and the provisions of Section 10(a), (2), Pub. L. 92-463, Federal Advisory Committee Act, notice is hereby given of the eighteenth meeting of the Joint Committee on Agricultural Development (JCAD) of the Board for International Food and Agricultural Development (BIFAD) on January 18 and 19, 1979.

The purpose of the meeting is to make detailed plans and proceed with the development of a source book on agricultural education and training resources in the U.S. and to discuss the need and availability of special training programs for the developing country personnel. This information will be used by AID country missions in the implementation of training programs under Title XII projects.

The JCAD will meet on January 18 and 19, 1979, from 9:00 a.m. to 5:00 p.m., at the Kellog-West Continuing Education Center, California State polytechnic Institute Campus, 3801 West Temple Avenue, Pomona, California, 91768. The meeting is open to the public. Any interested person may attend, may file written statements with the Committee before or after the meeting, or may present oral statements in accordance with procedures established by the Committee, and to the extent the time available for the meeting permits.

Dr. Carl E. Ferguson, Office of Title XII Coordination and University Relations, Development Support Bureau, is designated A.I.D. Advisory committee Representative at the meeting. It is suggested that those desiring further information write to him in care of the agency for International Development, State Department, Washington, D.C. 20523, or telephone him at (703) 235-9054.

Dated: November 30, 1978.

CARL E. FERGUSON,
A.I.D. Advisory Committee Representative, Joint Committee on Agricultural Development, Board for International Food and Agricultural Development.

[FR Doc. 78-34436 Filed 12-8-78; 8:45 am]

[4910-14-M]

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 78-164]

CHEMICAL TRANSPORTATION ADVISORY COMMITTEE

Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 USC App. I), notice is hereby given of a meeting of the Chemical Transportation Advisory Committee's Subcommittee on Breakbulk, Container, and Bulk Solid Facilities to be held on Wednesday, January 10, 1979, beginning at 10 a.m., World Trade Institute, Conference Rooms 3 and 4, 55th Floor, One World Trade Center, New York, N.Y. 10048. The agenda for this meeting is as follows:

1. To receive reports and drafts of input as assigned at the 15 November 1978 meeting of the subcommittee in Washington, D.C.
2. To determine the status of subcommittee work to date.
3. To determine future work assignments for subcommittee efforts in the areas of breakbulk, container and bulk solid facilities.
4. To discuss the Coast Guard draft Notice of Proposed Rulemaking for general Waterfront Facilities and preamble and their impact on the subcommittee.

Attendance is open to the interested public. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to attend and persons wishing to present oral statements should notify, not later than the day before the meeting, LT(JG) D. G. Dickman, c/o Commandant (G-WLE-1/73), U.S. Coast Guard, Washington, D.C. 20590, (202) 426-1927. Any member of the public may present a written statement to the subcommittee at any time. Issued in Washington, D.C. on: December 6, 1978.

F. P. SCHUBERT,
Captain, U.S. Coast Guard, Acting Chief, Office of Marine Environment and Systems.

[FR Doc. 78-34456 Filed 12-8-78; 8:45 am]

[4910-14-M]

[CGD 78-166]

NATIONAL BOATING SAFETY ADVISORY COUNCIL

Renewal

This is to give notice in accordance with the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. 1) of October 6, 1972, that the National Boating Safety Advisory Council has been renewed by the Secretary of Transportation for a two-year period beginning December 20, 1978 through December 20, 1980.

The National Boating Safety Advisory Council was established under Section 33 of the Federal Boat Safety Act of 1971 (46 U.S.C. 1482) to advise the Secretary on any policy matters relating to recreational boating safety.

Interested persons may seek additional information by writing: CDR Neal Mahan, USCG, Executive Director, National Boating Safety Advisory Council, U.S. Coast Guard (G-BA), Washington, D.C. 20590, or by calling: 202-426-1080.

Dated: November 30, 1978.

B. E. THOMPSON,
Rear Admiral, U.S. Coast Guard, Chief, Office of Boating Safety.

[FR Doc. 78-34457 Filed 12-8-78; 8:45 am]

[4910-13-M]

Federal Aviation Administration

AIR CARRIER DISTRICT OFFICES AT DALLAS, AND FORT WORTH, TEX.

Notice of Change

Notice is hereby given that on or about January 5, 1979, the Air Carrier District Offices at Dallas, Texas, and Fort Worth, Texas, will be combined into one Air Carrier District Office, located at Dallas-Fort Worth Airport, Texas. Services to the air carrier activities in the Dallas-Fort Worth area formerly provided by these two offices, will be provided by the Air Carrier District Office at Dallas-Fort Worth Airport, Texas. This information will be reflected in the FAA Organization Statement the next time it is issued.

Issued in Fort Worth, Texas, on December 4, 1978.

HENRY L. NEWMAN,
Director, Southwest Region.

[FR Doc. 78-34367 Filed 12-8-78; 8:45 am]

[4910-62-M]

Office of the Secretary

PRIVACY ACT OF 1974

Changes and Deletions to Notices of Systems of Records

The Department of Transportation herewith deletes two systems of records, and republishes four system notices which have been substantially changed.

Any person or agency may submit written comments on the proposed systems changes to the Privacy Act Officer (M-30), Room 10319, U.S. Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590. Comments must be received by January 10, 1979, to be considered.

If no comments are received, the proposed new system will become effective on January 11, 1979. If comments are received, the comments will be considered and where adopted, the system will be republished with the changes.

Issued in Washington, D.C., on December 1, 1978.

BROCK ADAMS,
Secretary of Transportation.

DELETIONS OF NOTICES

The following Notices of Systems of Records should be deleted from the Notices previously published by the Department and compiled in the FEDERAL REGISTER publication "Privacy Act Issuances, Annual Publication" Part IV, Volume 42, No. 181, September 19, 1977, (pages 47036-47151). The reason for deletion is shown with each system listed:

DOT/FAA 836 Citizens Advisory Committee on Aviation was disbanded in 1976.

DOT/OST 036 Planning Officials for Emergency Functions has been discontinued.

CHANGED SYSTEMS OF RECORDS

The following four systems are republished totally because of substantial changes:

DOT/CG 678

System name:

Reserve Personnel Management Information System (Automated).

System location:

Department of Transportation (DOT), United States Coast Guard (CG), Commandant (G-RA/82), 400 7th Street SW., Washington, D.C. 20590.

Categories of individuals covered by the system:

Reserve officers and enlisted personnel in an active or inactive status, including retired reservist, and those reservists released from extended active duty to fulfill a specific term of inactive obligated service.

Categories of records in the system:

Included in RPMIS are the following data concerning each Coast Guard Reservist in this system which are necessary to administer the Coast Guard program: name, social security number, present and last five grades or rates, educational background, civilian and military, foreign language and proficiency, history of unit assignments and dates assigned, duty status, date of birth, date of enlistment, appointment or extension, AFQT scores, source of entry, date of commission, prior service, date of expiration of obligation, anniversary data on pay base date, aviation pay and administrative pay, training rating, reserve category and class, training/pay category, data on ADT for last five years, number of dependents, Federal withholding exemptions, Selective Service induction certification, date of completion of Ready obligation, officer experience indicator, last screening date and result, civilian occupation, date of last National Agency Check, Background Investigation and security clearance, domestic emergency volunteer, date of last physical and immunization, data on special active duty for training and extended active duty, annual training date, total retirement points and satisfactory years of service for retirement purpose, current year retirement point accounting data, including inactive duty training participation, correspondence course activity, taxable wages paid and withholdings, uniform allowances, Servicemens Group Life Insurance (SGLI) information, mailing address, and work and home phone number.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

The RPMIS is used for the personnel administration of individual reservists and the overall management of the reserve program. See prefatory Statement of General Routine Uses. The Master Personnel File provides status and qualification listings, expiration of enlistment and physical reports, strength management reports, unit and district roster, and advancement and promotion reports. The Pay and Point File provides point count statements, earning statements, budgeting reports, inactive duty and active duty pay, and retirement eligibility listings. The addresses of individual reservists are used for mailing paychecks, earning statements, "The Reservist," and Annual Screening Questionnaires.

Records in this system are routinely disclosed to the Treasury Department to complete payroll checks. Used by: Authorized personnel from the Office of Reserve and the Office of Comptroller, authorized personnel on the staff of the various district commanders in the normal performance of their official duties, the Deputy Assistant Secretary of Defense for Manpower, Logistics and Reserve Affairs and others as authorized by Chief, Office of Reserve or his representative.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

The storage is on computer disks with magnetic tape backups. The file is updated weekly.

Retrievability:

Individual records in the system are retrieved by Social Security Number.

Safeguards:

Magnetic tapes are stored in locked storage areas when not in use and are accounted for at all times during actual use. Personnel screening is employed prior to granting access.

Retention and disposal:

Magnetic tapes are used, corrected and updated until the tapes become physically deteriorated after which they are destroyed. A reservist's address is maintained on file for approximately one year after discharge, to allow for processing of annual point statements and W-2 forms. Audit trails are maintained indefinitely and the Master Personnel file and Pay and Points file are continually updated.

System manager(s) and address:

Chief, Office of Reserve, Department of Transportation, United States Coast Guard Headquarters, Commandant (G-R), 400 7th Street SW., Washington, D.C. 20590.

Notification procedure:

Requests to determine if this system contains information on any individual should be made in person or in writing to: Department of Transportation, United States Coast Guard Headquarters, Commandant (G-CMA), 400 7th Street, SW., Washington, D.C. 20590. Written request must be signed by the individual.

Record access procedures:

Procedures for access to records may be obtained by writing to or visiting Commandant (G-CMA) at the address in "Notification Procedures". Prior written notification of personal visit will insure that the record will be available at the time of visit. Proof of identity will be required prior to release of records. A military identification or similar document will be considered suitable identification.

Contesting record procedure:

Same as "Record Access Process".

Record source categories:

Information contained in the system is obtained from the individual, Coast Guard Headquarters and district offices, and the various operating units of the Coast Guard.

DOT/FAA 811

System name:

Employee Health Record System DOT/FAA.

System location:

These records are maintained at DOT regional, center and Washington medical facilities or other government health units servicing the employees' geographic locations.

Categories of individuals covered by the system:

This system of records contains information regarding DOT employees.

Categories of records in the system:

This system of records contains documents constituting the basic medical record of a DOT employee, including medical examination reports, laboratory findings, correspondence, retirement, fitness for duty examinations, health and physical training records, and related papers.

Routine uses maintained in the system, including categories of users and the purposes of such uses:

To document employee health unit visits and nature of complaint or physical examination findings, treatment rendered and case disposition. To be used by agency officials and consultants to determine employee fitness for duty or employment. To monitor the physical condition of employees enrolled in the DOT Employee Fitness Program. To prepare analytical and statistical studies and reports. See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

These records are maintained in approved security files and containers, on magnetic tape and magnetic disk.

Retrievability:

These records are indexed by name and social security number.

Safeguards:

Access to and use of these records in manual or automated form is limited to those persons whose official duties require such access. This record management principle is reinforced by appropriate physical, technical and administrative safeguards as prescribed by FAA Security directives applicable to both manual and automated record systems.

Retention and disposal:

These records are destroyed 20 years after the date of last entry.

System manager(s) and address:

Regional Flight Surgeon within region where examination was conducted.

Chief, Aeromedical Clinical Branch, AAC-160, Aeronautical Center, Oklahoma City, Oklahoma.

Chief, Aeromedical Services Division, Washington, D.C. 20591.

Manager, DOT Employee Fitness Center, Washington, D.C. 20590.

Chief, Occupational Health Division, AAM-400, Washington, D.C. 20591.

Notification procedure:

Individuals wishing to know if their records appear in this system of records may inquire in person or in writing to the System Manager.

Record access procedures:

Individuals who desire access to the information about themselves in this system of records should contact or address their inquiries to the System Manager.

Contesting record procedures:

Individuals who desire to contest information about themselves contained in this system of records should contact or address their inquiries to the Administrator or his delegatee, 800 Independence Avenue SW., Washington, D.C. 20591 or the Assistant Secretary for Administration or his delegatee, Department of Transportation, 400 Seventh Street SW., Washington, D.C. 20590.

Record source categories:

Information contained in this system comes from the employee and from attending physicians and nurses and from associated medical reports.

DOT/OST 024

System name:

Parking Permit Application File, and Vanpooling Application Files, DOT/OST.

System location:

Department of Transportation (DOT), Office of the Secretary (OST), Parking Management Office, M-444.3, 400 7th Street SW., Room 2322, Washington, D.C. 20590.

Federal Highway Administration, Ridesharing Branch, HHP-33, 400 7th Street SW., Room 3311 Washington, D.C. 20590.

Categories of individuals covered by the system:

DOT parking permit holders (Washington, D.C.), DOT carpool members and DOT vanpooling applicants.

Categories of records in the system:

Parking permit application forms and vanpool application forms.

Routine uses of records maintained in the system including categories of users and the purposes of such uses:

Determine criteria for permit issuance, record change data, record garage violations and periodic review and revalidation. Used by parking management office personnel only, See Prefatory Statement of General Routine Uses. Vanpooling applicants are matched up as to area and work hours and records of vanpools are maintained.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Stored in lockable visible edge file in a security locked workroom.

Retrievability:

Indexed sequentially by permit number; vanpool applications are alphabetical by name and organized for retrieval by "home-cell" numbers for areas.

Safeguards:

Only Parking Management Office personnel have access to these records; for vanpools only Public Transportation Management Office personnel have access to applications.

Retention and disposal:

Record cards are retained for 3 years locally, sent to the Federal Records Center for 2 more years, and then destroyed.

System manager(s) and address:

For Parking Permit File: Chief, Transportation Branch, M—444, Department of Transportation, Office of the Secretary, Office of Administration Operations, 400 7th Street SW., Room 2318, Washington, D.C. 20590.

For Vanpooling Application File: Chief, Ride Sharing Branch, HHP-33, Federal Highway Administration, 400 7th Street SW., Room 3311, Washington, D.C. 20590.

Notification procedure:

Individual may review only his own application card upon presentation of valid DOT ID card at the addresses given under "System Location".

Record access procedures:

Same as Notification Procedure.

Contesting record procedures:

No contest—individual can change recorded data at will.

Record source categories:

Submitted by individual.

DOT/OST 050

System name:

Emergency Alerting Schedules DOT/OST.

System location:

These records are located in the national headquarters of the Offices of the Secretary; the heads of operating elements, regional offices of the Regional Emergency Transportation Coordinators, the Regional Administrators, Directors and Commanders of the operating elements and in headquarters of operating element divisions, district commands, and other field offices of the Department.

Categories of individuals covered by the system:

Professional and clerical employees and military members of the U.S. Government, Directors-designate and Deputy Directors-designate and members of the National Defense Executive Reserve who have been given emergency billet assignments within the Department of Transportation Emergency Structure.

Categories of records in the system:

The Alerting Charts and Schedules show names and office and home telephone numbers of individuals in calling sequence and are listed by national headquarters and by regional offices; also contains similar listings designed for management convenience within DOT and the operating elements.

Routine uses of records maintained in the system, including categories of users and the puroses of such uses:

For identification of individuals required to insure viability of DOT in the immediate preattack-transattack-immediate postattack period of a national defense emergency. Available to the Secretarial Officers, heads of operating administrations or designated subordinates (national and regional) and to individuals listed. See Prefatory Statement of General Routine Uses.

Policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system:

Storage:

Publication is maintained in stock, in listings in each office of record, and in standard filing equipment in locked file rooms.

Retrievability:

Manually by position listing.

Safeguards:

Metal file containers or other standard office equipment secured in a locked file room during office duty hours.

Retention and disposal:

Retained until republished then destroyed.

System manager(s) and address:

Director of Emergency Transportation, DPB-30, Department of Transportation, Office of the Secretary, 400 7th Street SW., Washington, D.C. 20590.

Notification procedure:

Inquiries may be addressed to any of the offices listed under "System Locations". Individuals requesting such information must sign the request personally and include in the text of the request card number of his or her Federal Emergency Assignee Identification Card (CD Card) (SF 138) or other official identification card.

Alternatively, personal visits to the above locations with presentation of the above credentials will enable individual to learn of and have access to his or her record.

Record access procedures:

Individual may secure or obtain information on procedures for gaining access to records by (1) referral to the information sheet issued to him or (2) addressing a written query to the offices cited under System Location (except the Facility Manager, FAA Records Center, West King Street and Maple Avenue, Martinsburg, WV 25401 who maintains duplicate files in storage only) or (3) presenting himself to those offices.

Contesting record procedures:

Same as "Record Access Procedures".

Record source categories:

Office or Agency of employment.

[FR Doc. 78-34515 Filed 12-8-78; 8:45 am]

[4910-62-M]
[6450-01-M]

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

DEPARTMENT OF ENERGY

Office of the Secretary

[OST File No. 61; Notice 78-17]

NATIONAL ENERGY TRANSPORTATION STUDY

Public Meetings with Industry

AGENCIES: Department of Transportation (DOT) and Department of Energy (DOE).

ACTION: Notice of public meetings with industry.

SUMMARY: As part of the President's national energy plan, DOT and DOE are conducting a joint study to determine if the Nation's transportation system is adequate to accommodate the future energy needs of the United States. A meeting among representatives of DOT, DOE, and the water transport industry will be held to discuss the capability of this industry to transport the energy materials that will be needed in the period 1985-2000. The public is invited to this meeting.

DATE: Friday, December 15, 1978, 10 AM to 12 noon eastern time. The meeting will be held at DOT Headquarters (Nassif) Building, 400 Seventh Street, SW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

Thomas E. Marchessault, Staff Member, National Energy Transportation Study (NETS), Office of Intermodal Transportation, DOT (202-426-4168). Since available space for the public is limited, those wishing to attend should contact Mr. Marchessault not later than the day before the meeting.

SUPPLEMENTARY INFORMATION: By 1985 and beyond it appears likely that the Nation will experience numerous changes in the historical patterns of energy supply and demand which in turn will require changes in the way energy is transported. The changing energy patterns include dwindling domestic oil and natural gas production, regional shifts in supply and demand, and shifts in national and regional fuel use, including new energy sources.

The joint DOT-DOE study team will look at important aspects of the movement of coal, crude oil and petroleum products, natural gas, nuclear fuel, and electrical power to 1985 and beyond. This will be done to determine what adjustments are needed in the present transportation network.

In the first phase of the study, DOE is to select alternative national energy scenarios based on different assumptions about future energy supply and demand. These scenarios will be broken down into 173 geographical regions for the fuels listed above.

In the second phase of the study, DOT is to determine how energy would be moved from supply areas to energy-consuming areas by all modes of the transportation network. DOT will use the assistance of a computer model to compare the present capacity with future needs and identify potential bottlenecks.

In the third phase of the study, the joint study team is to examine a number of issues that may affect the transportation of energy. While the major emphasis of the study is transportation needs in 1985, the study team will also look at 1990 and 2000.

The final report is expected to identify constraints on the efficient transportation of energy and to recommend any Federal actions that may be necessary.

To gain the widest possible range of information and opinion concerning this undertaking, DOT and DOE have established an "open file" for the submission of comments from interested groups and individuals. (See 43 FR 38795; August 30, 1978.) To provide more detailed information in certain areas, representatives of DOT and DOE will be holding a number of meetings with representatives of industries affected by the study. The one with water transport industry representatives will be held from 10 AM to 12 noon eastern time Friday, December 15, 1978 at DOT Headquarters (Nassif) Building, 400 Seventh Street, SW., Washington, D.C.

The topics for discussion at this meeting will include the capability of the water transport industry to transport increased amounts of energy materials.

These meetings will be open to the public on a space available basis. Anyone who wishes to attend should contact the NETS staff member identified above. There will be an opportunity at the conclusion of each meeting for the public to make comments. Minutes of each meeting will be available for public inspection and copying in the NETS open file in the office of the Assistant General Counsel for Regulation and Enforcement, room 10421, Department of Transportation Headquarters (Nassif) Building, 400 Sev-

enth Street, SW., Washington, D.C. 20590 (202-426-4723), from 9 AM to 5:30 PM eastern time, Monday through Friday, except Federal holidays.

Issued in Washington, D.C., on December 4, 1978.

CHESTER DAVENPORT,
Chairman, NETS, Assistant Secretary for Policy and International Affairs, Department of Transportation.

ALVIN ALM,
Deputy Chairman, NETS, Assistant Secretary for Policy and Evaluation, Department of Energy.

[FR Doc. 78-34437 Filed 12-8-78; 8:45 am]

[4810-22-M]

DEPARTMENT OF THE TREASURY

Customs Service

[T.D. 78-489]

TARIFF CLASSIFICATION—WIDE ANGLE BICYCLE REFLECTORS

Notice That Wide Angle Bicycle Reflectors Are Reclassified as Bicycle Parts

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

ACTION: Decision concerning an American manufacturer's petition.

SUMMARY: The Customs Service has reviewed a petition filed by an American manufacturer of wide angle bicycle reflectors, requesting that wide angle bicycle reflectors, currently classifiable under the provision for other articles of rubber or plastics not specially provided for, in item 774.60, Tariff Schedules of the United States (TSUS), be reclassified under the provision for parts of bicycles, in item 732.37, TSUS. The Customs Service has examined the wide angle bicycle reflectors and determined that, by their design and function, the reclassification requested by the petitioner is proper.

DATES: This decision will be effective with respect to merchandise entered or withdrawn from warehouse for consumption on or after 30 days from the date of publication of this notice in the Customs Bulletin.

FOR FURTHER INFORMATION CONTACT:

Donald F. Cahill, Classification and Value Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8181).

SUPPLEMENTARY INFORMATION:

BACKGROUND

On April 6, 1978, a notice was published in the FEDERAL REGISTER (43 FR 14562) indicating that the Customs Service had received a petition from an American manufacturer requesting the reclassification of wide angle bicycle reflectors as parts of bicyles, in item 732.37 of the Tariff Schedules of the United States. The reflectors are currently classifiable under the provision for other articles of rubber or plastics not specially provided for, in item 774.60, TSUS.

Under General Headnote 10 (ij), TSUS, a provision for parts of an article covers a product solely or chiefly used as a part of the article, but does not prevail over a specific provision for such part. There is no specific provision for reflectors in the TSUS. The American manufacturer contends that, because the wide angle bicycle reflectors are specially designed for use as parts of bicycles, and are made to conform with Federal safety standards for required bicycle equipment, the chief use of the wide angle bicycle reflectors is as parts of bicycles, which results in their proper classification in item 732.37, TSUS.

DISCUSSION OF COMMENTS

Several comments were received concerning the request for reclassification. The commenters contend that:

(1) Wide angle bicycle reflectors have more than one use, and can be used as part of a tricycle, motorcycle, motocross vehicle, or automobile, or as a highway marking, safety tunnel or guard rail reflector; and

(2) There is no basis for separating wide angle bicycle reflectors from other wide angle reflectors, also classifiable under the provision for other articles of rubber or plastics not specially provided for, in item 774.600, TSUS, because each reflector has similar reflecting components and differs only slightly in mounting equipment.

DETERMINATION

The Customs Service has determined that wide angle bicycle reflectors constitute a class or kind of merchandise which is distinct from conventional or angled reflectors. The conventional reflector contains prisms with axes that are parallel and perpendicular to the front surface of the reflector, and is capable of effectively reflecting light within 20 degrees of a line perpendicular to the surface. The angled reflector contains prisms with axes that are all tilted at the same angle to the front surface, and are parellel to each other, and also has a 20 degree reflecting capability. The wide angle reflector has several sections. In one section the prism axes are parallel and perpendicular to the front surface, and in the other sections the prism axes are tilted either to the left or to the right of the incident light. As a result, the wide angle reflector is able to reflect light which is incident upon it from a wider angle than the conventional or angled reflectors.

Under Part 1512 of the Federal bicycle Regulations (16 CFR 1512), all bicycles introduced into interstate commerce must be equipped at the point of sale to the consumer with wide angle reflectors. The reflectors, designed to permit recognition of the bicycle when illuminated by motor vehicle headlamps, are required to reflect incident light up to 50 degrees to the left or right of a line perpendicular to the reflector surface. An examination of the wide angle bicycle reflectors submitted by petitioner demonstrates that by their design and function, the wide angle reflector and the various mounting assemblies, which may only be used to attach the reflectors to the front, rear, or spokes of a bicycle as required by Federal standards, are specifically intended for use on a bicycle.

The Customs Service has determined that the wide angle bicycle reflectors are necessary for the safe use of bicycles and are chiefly used in the United States on bicycles. Accordingly, the wide angle bicycle reflectors are properly classifiable under the provision for parts of bicycles, in item 732.37, TSUS.

Dated: December 4, 1978.

G. R. DICKERSON,
Acting Commissioner of Customs.

[FR Doc. 78-34441 Filed 12-8-78; 8:45 am]

[4810-22-M]

Office of the Secretary

VISCOSE RAYON STAPLE FIBER FROM AUSTRIA

Antidumping; Discontinuance of Antidumping Investigation

AGENCY: Department of the Treasury.

AGENCY: Final discontinuance of antidumping investigation.

SUMMARY: This notice is to advise the public that it has been determined to discontinue the antidumping investigation of viscose rayon staple fiber from Austria. The case, originally discontinued in January 1978, was reopened to conduct a detailed analysis of the production costs of the sole Austrian exporter in order to determine if sales in the home market are being made at prices below the cost of production. It has been determined that the home market sales are not being made at prices below the cost of production and that the exporter is

adhering to the terms of the prior discontinuance. Therefore, the present reopened investigation is also being discontinued.

EFFECTIVE DATE: December 8, 1978.

FOR FURTHER INFORMATION CONTACT:

Mary S. Clapp, Duty Assessment Division, United States Customs Service, 1301 Constitution Avenue NW., Washington, D.C. 20229, telephone (202) 566-5492.

SUPPLEMENTARY INFORMATION: On January 23, 1978, a notice of "Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER (43 FR 3234) with respect to viscose rayon staple fiber, except solution dyed, from Austria. Subsequent to that action, the petitioner therein, Avtex Fibers, Inc., Valley Forge, Pennsylvania, filed a submission alleging that the home market prices charged by the sole Austrian manufacturer, Chemiefaser Lenzing A.G. (Lenzing), as of November 1, 1977, were below the cost of producing that merchandise, and therefore, pursuant to section 205(b), Antidumpting Act, 1921, as amended (19 U.S.C. 164(b)) (referred to in this Notice as "the Act"), such prices provided an inadequate basis for the determination of foreign market value. Avtex requested a reopening of the investigation and simultaneous issuance of a "Withholding of Appraisement".

On March 7, 1978, a notice of "Reopening of Discontinued Investigation" was published in the FEDERAL REGISTER (43 FR 9403) with respect to the subject merchandise. A notice of "Tentative Discontinuance of Antidumping Investigation" was published in the FEDERAL REGISTER on September 8, 1978 (43 FR 40095).

The merchandise covered by this Notice is "viscose rayon staple fiber, except solution dyed, in noncontinuous form, not carded, not combed, and not otherwise processed, wholly filaments (except laminated filaments or plexiform filaments)."

DISCONTINUANCE OF ANTIDUMPING INVESTIGATION

On the basis of the information developed in the Customs investigation and for the reasons stated below, pursuant to section 201(b)(3) of the Act (19 U.S.C. 160(b)(3)) and section 153.33(d) of the Customs Regulations (19 CFR 153.33(d)), I hereby determine that the antidumping investigation concerning viscose rayon staple fiber from Austria should be discontinued.

STATEMENT OF REASONS ON WHICH THIS DISCONTINUANCE IS BASED

The reasons and basis for the above determination are as follows:

a. *Scope of Investigation.* This investigation was reopened to determine whether home market sales made by Lenzing, the sole Austrian manufacturer and exporter of viscose rayon staple fiber, are being made at prices less than the cost of producing that merchandise as set forth in section 153.5 of the Customs Regulations (19 CFR 153.5).

b. *Basis of Comparison.* For purposes of considering whether the merchandise in question was sold in the home market at less than the cost of production, the proper basis of comparison is between home market price (as defined in section 153.2, Customs Regulations (19 CFR 153.2)) and cost of production (as defined in section 153.5, Customs Regulations (19 CFR 153.5)).

c. *Home Market Price.* The home market price has been calculated on the basis of sales to unrelated purchasers of rayon staple fiber in Austria, net of all discounts and inland freight. Data regarding home market prices was collected for the period from November 1, 1977 through March 31, 1978. November 1, 1977 was chosen as the start of the investigatory period because Lenzing adopted the allegedly below cost home market price on that date.

In determining whether sales had been made at less than cost, an adjustment was made to the home market selling price for the reduced price received on the sale of off-quality production before comparison was made to the cost to produce.

d. *Cost of Producting.* The cost of producing the merchandise was determined from the books and records of Lenzing maintained by that company in the ordinary course of its business, reflecting Lenzing's production costs, including the cost of materials, fabrication and general expenses. In order to determine whether sales below the cost of production are being made pursuant to section 153.5, Customs Regulations (19 CFR 153.5), cost information was obtained, verified, and analyzed for the period January 1, 1977 through March 31, 1978.

The petitioner requested that cost data be obtained for the most current period available. Cost data was obtained through March 31, 1978. This date was chosen as representing the end of an accounting period, and the last full quarter for which data was available. In addition, it was determined that these costs covered the relevant time period since the only sale to the United States during the period of investigation was made in November 1977 for shipment during the period December 1977-May 1978.

The petitioner further claimed that since Lenzing produces certain raw materials internally, all costs incurred in the production of these materials should be verified and that market prices for these materials should be used as a test for purposes of determining whether the full cost to produce was accounted for. All costs were fully verified and all elements of cost were found to be included. It was determined that any comparison to market prices was unnecessary. These and all other costs were calculated in accordance with generally accepted accounting principles. Claims by petitioner that the cost of producing include an imputed cost of invested and working capital and capital invested in inventory, as well as determining depreciation on the replacement value of fixed assets have been rejected. Section 153.5 of the Customs Regulations (19 CFR 153.5) contemplates the calculation of the cost of production by reference to actual costs incurred, as determined in accordance with generally accepted accounting principles in the country of manufacture (unless these artificially distort the results, in which case accounting principles in the United States may be applied). It is noted that actual interest costs incurred by Lenzing have been included. In the absence of any evidence that imputed costs of capital would be regarded as a cost of production under generally accepted accounting principles, no adjustment for these costs has been allowed. The straight line method of depreciating fixed assets valued at historic cost, used by Lenzing, is well accepted in both Austria and the United States, revolving assets at replacement cost is not.

A claim was made that Lenzing benefited from artificially low interest rates. The rate of interest paid by Lenzing on its indebtedness was found to be consistent with interest charged on similar loans generaly available to Austrian industry. Therefore, this claim was found to be without merit.

It was determined that all social service payments and wage increases during the period under consideration were included in the costs furnished by the respondent. In addition, all overhead costs, including administrative salaries and dues, were included.

An adjustment was granted for additional costs incurred in the production of dyed fibers since only the cost of regular white fiber was under investigation. These costs were for down time in cleaning lines, changing of spindles, and quality control on dyed fiber. All records maintained by Lenzing include costs incurred on the manufacture of all types of viscose rayon staple fiber, not just white, and therefore, those

costs associated with only the nonwhite fibers are properly disregarded in determining the cost of producing white fiber.

It was detemined that the adjustment for the by-product, sodium sulfate, was appropriately limited to the profit incurred in the sale of that product. It was further determined that due to the extremely brief storage time for the sodium sulfate, no adjustment for possible moisture contamination should be made.

It was determined that although Lenzing has incurred an overall loss in the recent year, this loss was attributable to other products of the firm, and that the rayon fiber operation was profitable over the investigatory period.

e. *Results of Comparison.* The cost of producing the merchandise was compared to the home market price, net of all discounts and inland freight. Using these criteria, it has been determined that Lenzing's home market sales of viscose rayon staple fiber are not being made at prices less than the cost of producing the merchandise within the meaning of section 153.5, Customs Regulations, (19 CFR 153.5). Moreover, no violations have been detected of the assurances previously supplied by Lenzing, that no future "sales at less than fair value" would be made subsequent to the adoption of a new home market price in November 1977.

For the reasons stated above, there is no evidence to indicate that the bases upon which a discontinuance in this case was originally granted on January 23, 1978 (43 FR 3234) are invalid or have subsequently changed. Therefore, this antidumping investigation of viscose rayon staple fiber from Austria is discontinued in accordance with section 201(b)(3) of the Antidumping Act (19 U.S.C. 160(b)(3)) and section 153.33(d) of the Custom Regulations (19 CFR 153.33(d)).

The Secretary has provided an opportunity to known interested persons to present written and oral views pursuant to section 153.40, Customs Regulations (19 CFR 153.40).

This Notice is being published pursuant to section 153.33(d), Customs Regulations (19 CFR 153.33(d)).

HENRY C. STOCKELL, Jr.,
Acting General Counsel
of the Treasury.

DECEMBER 1, 1978.

[FR Doc. 78-34389 Filed 12-8-78; 8:45 am]

[7035-01-M]

INTERSTATE COMMERCE COMMISSION

[Notice No. 753]

ASSIGNMENT OF HEARINGS

DECEMBER 6, 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. No amendments will be entertained after December 11, 1978.

No. MC 139495 (Sub No. 346F), National Carriers, Inc., now assigned February 6, 1979, at St. Louis, Missouri is cancelled transfered to Modified Procedure.

No. MC 61264 (Sub No. 30F), Pilot Freight Carriers, Inc., now assigned February 6, 1979, at Charlotte, NC; February 12, 1979, at Atlanta, GA; March 20, 1979, at Tampa, FL; March 26, 1979, at Richmond, VA; May 1, 1979, at Allentown or Reading, PA; May 7, 1979, at Wilkes Barre or Scranton, PA, and July 23, 1979 at Washington, D.C. is cancelled transfered to Modified Procedure.

No. MC-2202 (Sub-No. 560F), Roadway Express, Inc., now being assigned for hearing on January 11, 1979 (2 days), at Lake Charles, Louisiana in a hearing room to be later designated.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34496 Filed 12-8-78; 8:45 am]

[7035-01-M]

[Ex Parte No. 356]

CONFIDENTIALITY OF FINANCIAL DATA

Proposed Policy Statement

AGENCY: Interstate Commerce Commission.

ACTION: Issuance of Policy Statement.

SUMMARY: The Commission proposes to issue a general policy statement regarding the confidentiality of financial data. The Commission believes that the confidentiality of cost information or other financial data must be decided on a case-by-case basis. Since the necessity for disclosure or non-disclosure of sensitive information will vary according to different circumstances, the Commission considers it appropriate to review issues of confidentiality in such a manner. Interested persons will be permitted to file comments before a final policy statement is adopted and issued.

COMMENTS: All interested persons are invited to comment. Comments should be filed with the Section of Rates, Office of Proceedings, Room 5342, Interstate Commerce Commission, Washington, D.C. 20423.

DATES: Comments must be received on or before January 10, 1979.

FOR FURTHER INFORMATION CONTACT:

Janice M. Rosenak or Harvey Gobetz, Interstate Commerce Commission, Washington, D.C. 20423 (202-275-7693).

SUPPLEMENTARY INFORMATION: The Commission has received several requests for a statement concerning the confidentiality of cost information or other financial data. By petition filed in Ex Parte No. 290, *Procedures Governing Rail Carrier General Increase Proceedings*, the nations' railroads requested that the proceeding be reopened in order to focus the Commission's attention on disclosure problems of confidential cost data. Petitioners also desired that the Commission examine a proposed rule of confidentiality,[1] originally submitted by the railroads in their February 10, 1978, response to the Final Report (Project II) by outside consultants on the Development of an Improved Regulatory Costing Methodology for Common Carriers by Railroad, dated December 5, 1977. Other parties have raised the issue of confidentiality in various proceedings before the Commission.

It is the Commission's view that the confidentiality of cost information or other financial data must be decided on a case-by-case basis. In rail proceedings as well as proceedings involving other modes of transportation, the Commission is mindful of the requisite balance between the shippers' need to obtain cost data for a reasonable presentation on their behalf, and the carriers' need under some competitive situations to keep certain information confidential from shippers and other

[1]The proposed rule is as follows: "Where information concerning the costs of a railroad company or other information that is by its nature confidential is obtained from the railroad by the Commission as a result of any regulation or requirement of the Commission or in the course of any investigation under the Interstate Commerce Act, such information shall not be published or revealed in such a manner as to be available for the use of any other person, unless and until the Commission finds that such publication is necessary in the public interest."

competing carriers. Since the necessity for disclosure or non-disclosure of sensitive information will vary according to the nature of the information, the purposes for which it is sought, and the area of regulation involved, it would be inappropriate for the Commission to exercise its judgment in a manner other than a case-by-case review.

It is unnecessary, therefore, that any rule of confidentiality be adopted at this time. Section 20(3)(c) of the Interstate Commerce Act (as amended by section 307 of the 4-R Act) requires in part that the Commission "should attempt, to the extent possible, to require that [railroad accounting] data be reported or otherwise disclosed only for essential regulatory purposes * * *". This statutory standard offers sufficient guidance with respect to railroad accounting data.

The question of disclosure or non-disclosure for other cost or financial data, however, appears to remain within the discretion of the regulatory agency.[2] Such exercise of discretion, of course, is subject to judicial review and any other statutory proscription regarding the confidentiality of the information in question. Thus, in either adjudicatory or rulemaking proceedings, the Commission will give due regard to the interest of all parties. Similarly, in a situation where the Commission may desire to publish information which is asserted to be confidential by the submitting party, the Commission will notify the involved party that such publication is imminent. Any petition to prevent such disclosure will be given due consideration.

Comments by any interested party regarding the preceding policy statement are requested by the Commission.

Dated: November 15, 1978.

By the Commission, Chairman O'Neal, Vice Chairman Christian, Commissioners Brown, Stafford, Gresham, and Clapp. Vice Chairman Christian and Commissioner Stafford were absent and did not participate.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-34511 Filed 12-8-78; 8:45 am]

[2] See, e.g., *Chrysler Corp.* v. *Schlesinger*, 565 F. 2d 1172 (3rd Cir. 1977), cert. granted, *Chrysler Corp.* v. *Brown*, 46 U.S.L.W. (U.S. March 6, 1978) (The Circuit Court, after noting that several Circuits disagree, concluded that the exemptions in the Freedom of Information Act are a discretionary exception to the mandatory duty of disclosure).

[7035-01-M]

EVALUATION OF INTERCORPORATE HAULING REGULATION

Request for Comments

INTRODUCTION

The Interstate Commerce Commission, in its decision in *Petition for Declaratory Order Regarding Intercorporate Parent-Subsidiary Transportation*, 123 M.C.C. 268 (1975), declined as a matter of policy to pierce the corporate veil and recognize as private transportation compensated* operations performed by one related corporate entity for another. Numerous shippers, private carrier organizations, the United States Department of Transportation, and the Council on Wage and Price Stability supported, while regulated carriers, their organizations, and Pennsylvania opposed the petition. Then Vice Chairman O'Neal stressed the need further to evaluate how granting the petition would affect small shippers, regulated motor carriers, the private carrier backhaul problem, and overall transportation cost savings.

In June 1977, Chairman O'Neal appointed a task force of senior staff members of the Commission for the purpose of recommending to the Commission ways in which regulation of entry into the interstate motor carrier industry could be improved. The task force developed 39 recommendations which were presented in a report submitted on July 6, 1977.

In Recommendation 39, the task force called for a comprehensive study of motor carrier entry and suggested further study of some more limited questions. The task force asked, "Should (compensated) intercorporate hauling be allowed between or among companies that are 100 percent commonly controlled? Some lesser degree of control?" As a result of strong public response to this question, Chairman O'Neal has asked the staff to develop a study plan for a current evaluation of the potential effects of reversing or modifying its 1975 decision.

The development of the study plan revealed that neither previous research on private carriage and intercorporate hauling nor specific examples of such activities provide enough information from which overall impacts on all parties and systems affected may be soundly inferred.

ALTERNATIVES TO THE INTERCORPORATE HAULING ISSUE

Alternative policy considerations include the following (there may be others):

*Gratuitous intercorporate hauling is recognized as being legal.

1. RETAIN THE STATUS QUO

Retention of the *status quo* implies that the Commission is precluded by statute from permitting compensated intercorporate hauling or, if such intercorporate hauling were found to be authorized, that net social and economic benefits accrue from the present system. This request for comments reflects the Commission's purpose to evaluate the need to reconsider the issues and questions raised in MC-C-8506.

2. PIERCE THE CORPORATE VEIL AND ALLOW COMPENSATED HAULING BY PRIVATE CARRIERS

This alternative implies that, on balance, potential net benefits would flow from such intercorporate hauling opportunities and that authority exists or should be legislated.

3. PIERCE THE VEIL ONLY WHERE SPECIFIED CRITERIA ARE MET SUCH AS PERCENT OF SUBSIDIARY OWNERSHIP BY THE PARENT COMPANY, NUMBER AND SIZE OF CORPORATE AFFILIATES, TRANSPORTATION REQUIREMENTS, AND SERVICE AVAILABILITY

Consideration of piercing the corporate veil at 100 percent subsidiary ownership or some lower percent was raised, as discussed earlier, by the Chairman's task force on motor carrier entry. Also, the ATA proposed policy would require 100 percent ownership. Restricting compensated intercorporate hauling to ownership or other limiting criteria would have the advantage of authorizing compensated intercorporate hauling on a somewhat limited basis and provide the opportunity to evaluate actual impacts before consideration of more widespread intercorporate hauling. The Private Truck Council of America is opposed to the 100 percent ownership requirement and wants the minimum ownership requirement to be only 50 percent.

Further research and evaluation of degree of ownership, company size, number of affiliates, and other limiting criteria are essential to determining which course of action appears most favorable.

4. SAME AS NO. 3, BUT SUBJECT TO REASONABLE TERMS, CONDITIONS, AND LIMITATIONS CONSISTENT WITH THE SPECIAL CHARACTER OF INTERCORPORATE HAULING

This provides for review of any criteria that might develop from public comment or during research that appear worthy of evaluation, examples of which might include registration, certain reporting requirements, and fitness standards.

5. GRANT CONTRACT AUTHORITY TO PRIVATE CARRIERS FOR INTERCORPORATE HAULING UNDER SECTION 209(5)(b)

This alternative may have potential for eliminating most of the backhaul and fleet utilization problems of shippers that stem from current restrictions on intercorporate hauling, while minimizing detrimental impacts on the for-hire carriers. It would also have the advantage of developing data essential to evaluating the real impact of change. Legislative action might be required to adopt this alternative.

6. ALLOW CONTRACT CARRIERS TO SERVE AFFILIATES OF THE COMPANIES THEY ARE AUTHORIZED TO SERVE

Adoption of this alternative may have potential for moving closer to an optimal combination of cost and services that shippers realize from contract carriers and may provide an incentive for economical substitution of contract for private carriage. The potential improvements could be in improved coordination, scheduling, reliability, balancing of inbound and outbound shipments, equipment, and general managerial efficiency—as a result of serving a greater number of locations.

7. ALLOW PRIVATE CARRIERS TO TRIP LEASE EQUIPMENT UNDER THEIR CONTROL

This alternative has potential for improving utilization of both private and regulated carrier fleets as a result of reducing empty mileage and making greater use of available capacity. Consideration of this alternative reflects a continuation of previous evaluations of its merits.

8. PERMIT PRIVATE CARRIERS TO LEASE OWNER-OPERATORS

Under this alternative, firms could lease vehicles with drivers.

PLANS FOR PUBLIC MEETINGS AND COMMISSION SURVEYS

To develop further information about the effects of policy alternatives outlined above, the Commission's staff plans to hold public meetings during January 1979 at several cities located as conveniently as possible to shippers, carriers, and other interested parties throughout the U.S. Meeting dates and locations will be announced by press release and by letter to shipper and carrier trade associations. Comments received at those meetings will supplement written public comment received in response to this statement.

The staff plans also to conduct surveys by mailed questionnaire to randomly selected shippers and carriers that appear from this statement to be affected in some manner by policy changes. In addition, in-depth interviews of several shippers and carriers are contemplated. Results of the surveys and interviews would serve to augment public comment arising from the public meetings and in response to this statement. After analysis of the information thus obtained, the staff will prepare a report with its findings and conclusions. It is planned that this report will serve as a basis for staff recommendations for Commission action to resolve the intercorporate hauling issue.

REQUEST FOR PUBLIC COMMENT

The Commission's staff desires to have comments on this statement as a part of the research contemplated for the development of its recommendation to this Commission on the resolution of the intercorporate hauling issue. Responses are particularly desired from the following:

- Regulated motor common and contract carriers of property.
- Railroads.
- Multi-corporate firms which might be directly affected by a policy revision.
- Private carriers in general.
- Firms not presently using private transportation.
- Owner-operators.
- Government agencies.
- Regional and community economic development organizations.
- Trade associations and other interested groups representing the above.
- Academics and research organizations.
- Environmental and energy interested groups.

To be of greatest assistance in the development of the study results, responses should be oriented to the following inquiries and, to the extent possible, accompanied by data and examples from the respondents' experiences:

1. Why do shippers enter into or expand private fleet operations?

2. (a) How would a change of policy to permit unrestricted intercorporate hauling affect the respondent?

(b) Explain how a limitation of the unrestricted right to engage in intercorporate hauling, such as 100 percent ownership, would modify the expected impacts.

3. Do you believe that any of the alternatives mentioned in the statement would result in effects different from those expected from simply lifting the ban on compensated intercorporate hauling and reducing the asserted inefficiencies attributed to the ban? Why? (Please comment specifically in terms of operations, fuel economy, and the environment.)

4. To what extent would lifting the ban, or adoption of any of the alternatives, cause freight to be diverted from regulated carriers?

5. What are the implications of such diversions upon:

- Shippers?
- Carriers?
- Communities?

6. To what extent would distribution practices be altered through adoption of any of the alternatives?

7. What are the likely effects on market prices arising from altering the intercorporate hauling rules? (This refers to both shippers' product prices and carriers' freight rates.)

8. Has this report accurately identified important issues and alternatives?

Respondents are encouraged to offer any additional comments or data which they feel will add to staff insight on this subject.

These questions are intentionally board to encourage comment on all relevant factors, rather than on a more limited number of designated factors which might be construed as the only ones to be considered by the Commission.

SUBMISSION OF COMMENTS

Public comments should be received on or before January 26, 1979. They should be mailed to:

Steering Committee on Improving Motor Carrier Entry. Attn: Assistant Director Rhodes, Interstate Commerce Commission, Room 5355, 12th & Constitution Ave., NW., Washington, D.C. 20423.

A background paper entitled, "Status Report, Intercorporate Hauling Regulation," reviews the legislative history, recent events, and research relevant to the intercorporate hauling issue. Single copies may be obtained upon request to: Publications Room No. 1333 at the above address.

ROBERT G. RHODES,
Assistant Director,
Bureau of Economics.

[FR Doc. 78-34493 Filed 12-8-78; 8:45 am]

[7035-01-M].

FOURTH SECTION APPLICATION FOR RELIEF

DECEMBER 6, 1978

This application for long-and-short-haul relief has been filed with the I.C.C.

Protests are due at the I.C.C. on or before December 28, 1978. FSA NO. 43637, Southwestern Freight Bureau, Agent's No. B-790, rates on Slag, from Mt. Pleasant and Siglo, Tenn. to Rogers, Tex., in Sup. 26 to its Tariff 162-Z, ICC 5339, to become effective January 1, 1979. Grounds for relief—market competition and rate relationship.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34490 Filed 12-8-78; 8:45 am]

[7035-01-M]

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DECEMBER 6, 1978.

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FSA No. 43638, Southwestern Freight Bureau, Agent's No. B-786, rates on cinders, clay, shale or slate, from, to and within Southwestern Territory, in Sups. 26 and 348 to its Tariffs 162-Z and 270-F, ICC 5339 and 4832, respectively, to become effective January 1, 1979. Grounds for relief—revised rate structure.

By the Commission.

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34491 Filed 12-8-78; 8:45 am]

[7035-01-M]

[Notice No. 229]

MOTOR CARRIER TEMPORARY AUTHORITY APPLICATIONS

DECEMBER 4, 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 "NC" 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.

Note.—All applications seek authority to operate as a common carrier over irregular routes except as otherwise noted.

MOTOR CARRIERS OF PROPERTY

MC 2960 (Sub-24TA), filed October 23, 1978. Applicant: ENGLAND TRANSPORTATION CO. OF TEXAS, 2301 McKinney Street, P.O. Box 18333, Houston, TX 77023. Representative: E. Larry Wells, Winkle and Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To transport *Kitchen cabinets, vanities and related articles* used in the installation thereof from the facilities of Triangle Pacific at or near McKinney, TX to points in OK, AR, and LA, for 180 days. SUPPORTING SHIPPER(S): Triangle Pacific Corp., 4255 LBJ Freeway, Dallas, TX 75234. SEND PROTESTS TO: District Supervisor, John F. Mensing, 8610 Federal Bldg., 515 Rusk Ave., Houston, TX 77002.

MC 2202 (Sub-569TA), filed September 12, 1978. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. (1) *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 all intermediate points and all points located in Hardin, Orange, Jefferson, Chambers, Liberty, Harris, Galveston, Fort Bend, Brazoria, Colorado, Wharton, Guadalupe, Bexar, Wilson, Karnes, Goliad, Refugio, Aransas, Atascosa, Frio, La Salle, McMullen, Live Oak, Bee, San Patricio, Nueces, Kleberg, Jim Wells, Duval, Webb, Zapata, Jim Hogg, Brooks, Kenedy, Willacy, Dameron, Hidalgo, Starr, Dewitt, Calhoun, Matagora, Jackson, Lavaca, Gonzales, Victoria, Waller, Austin, Fayette, and Caldwell Counties, TX, as off-route points (a) between Beaumont, TX and Las Cruces, NM: From Beaumont over U.S. Hwy 90 to Houston, TX, then over U.S. Hwy 290 to junction U.S. Hwy 80, then over U.S. Hwy 80 to Las Cruces, and return over the same route; (b) between McAllen, TX and Kingman, AZ: From McAllen over U.S. Hwy 281 to San Antonio, TX, then over U.S. Hwy 87 to Amarillo, TX, then over U.S. Hwy 66 to Kingman, and return over the same route; (c) between Houston, TX and Brownsville, TX: (1) From Houston over U.S. Hwy 90 to San Antonio, TX, then over U.S. Hwy 81 to junction U.S. Hwy 83, then over U.S. Hwy 83 to Brownsville, and return over the same route; (2) From Houston over U.S. Hwy 59 to junction U.S. Hwy 77, then over U.S. Hwy 77 to Brownsville, and return over the same route; (d) between Victoria, TX and Laredo, TX: From Victoria over U.S. Hwy 59 to Laredo, and return over the same route; (e) between junction TX Hwy 9 and U.S. Hwy 281, at or near Three Rivers, TX, and Corpus Christi, TX: From junction TX Hwy 9 and U.S. Hwy 281, over TX Hwy 9 to Corpus Christi, and return over the same route; (f) between junction U.S. Hwys 60 and 87 and Las Cruces, NM: From junction U.S. Hwys 87 and 60 over U.S. Hwy 60 to Clovis, NM, then over U.S. Hwy 70 to Las Cruces, and return over the same route; (g) between junction U.S. Hwys 87 and 283 and Brady TX: From junction U.S. Hwys 87 and 283, over U.S. Hwy 283 to junction U.S. Hwy 84, then over U.S. Hwy 84 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 183, then over U.S. Hwy 183 to junction U.S. Hwy 377, then over U.S. Hwy 377 to Brady and return over the same route; (h) between Victoria, TX and San Antonio, TX: From Victoria over U.S. Hwy 87 to San Antonio and return over the same route; (i) between San Antonio, TX and Del Rio, TX: From San Antonio over U.S. Hwy 90 to Del Rio and return over the same route; (j) between Del Rio, TX and Laredo, TX: From Del Rio over U.S. Hwy 277 to junction U.S. Hwy 83, then over U.S. Hwy 83 to Laredo and return over the same route; (k) between Eagle Pass, TX and junction TX Hwy 57 and U.S. Hwy 81 at or near Moore, TX: From Eagle Pass over TX Hwy 57 to junction U.S. Hwy 81 and return over the same route; (l) between Lamesa, TX and Midland, TX: From Lamesa over TX Hwy 349 to Midland and return over the same route; (m) between Fort Worth, TX and Lubbock, TX: (1) From Fort Worth over U.S. Hwy 180 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Lubbock and return over the same route, and (2) From Fort Worth over U.S. Hwy 80 to junction U.S. Hwy 84, then over U.S. Hwy 84 to Lubbock and return over the same route; (n) between Abilene, TX and Anson, TX: From Abilene over U.S. Hwy 83 to Anson and return over the same route; (o) between Comfort, TX and junction TX Hwy 27 and U.S. Hwy 290: From Comfort over TX Hwy 27 to junction U.S. Hwy 290, and return over the same route; and (2)

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 Shreveport, LA and Beaumont, TX serving no intermediate points and serving Shreveport for purposes of joinder only: From Shreveport over U.S. Hwy 171 to junction LA Hwy 5, then over LA Hwy 5 to junction U.S. Hwy 84, then over U.S. Hwy 84 to junction TX Hwy 7, then over TX Hwy 7 to junction U.S. Hwy 96, then over U.S. Hwy 96 to Beaumont and return over the same route, for 180 days. SUPPORTING SHIPPER(S): There are approximately (1,492) statements of support attached to this application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: ICC, 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH. 44199.

MC 25798 (Sub-338TA), filed October 23, 1978. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, P.O. Box 1186, Auburndale, FL 33823. *Frozen foods* (except in bulk), from the facilities of Rich Products Corporation at Appleton, WI to the facilities of Rich Products Corporation at Murfreesboro, TN. There is no environmental impact involved in this application, for 180 days. An underlying ETA seeks 90 days authority. Supporting shipper(s): Rich Products Corporation, 1145 Niagara Street, Buffalo, NY 14240. Send protests to: Donna M. Jones, Trans. Asst., ICC, Monterey Bldg., Suite 101, 8410 N.W. 53rd Terrace, Miami, FL 33166.

MC 29990 (Sub-13TA), filed October 23, 1978. Applicant: BADGER LINES, INC., 3109 W. Lisbon, Milwaukee, WI 53208. Representative: Wm. C. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. *Malt beverages,* from the facilities of C. Schmidt & Sons, Inc., at Cleveland, OH to Alsip, Aurora, Calumet City, Chicago, Kankakee, Lincolnwood, Riverdale, Sycamore, Villa Park, Waukegan and Wheeling, IL, for 180 days. An underlying ETA seeks 90 days authority. There are approximately (9) statement of support attached to this application which may be examined at the I.C.C., in Wash. D.C., or copies thereof which may be examined at the field office named below. Send protests to: Gail Daugherty, Trans. Asst. ICC, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 52460 (Sub-224TA), filed October 17, 1978. Applicant: ELLEX TRANSPORTATION, INC., 1420 West 35th Street, Tulssa, OK 74107. Representative: Wilburn L. Williamson, 280 National Foundation Life Building, Oklahoma City, OK 73112. *(1) Paper and paper products* (except commodities in bulk), from the facilities of Interanl Paper Co., at or near Pittsburgh, KS to points in the United States, *(2) Equipment, materials and supplies* used in the manufacuture or distribution of paper and paper products (except commodities in bulk) from points in the United States to the facilities of International Paper Co., at or near Pittsburgh, KS, for 180 days. Supporting shipper(s): International Paper Company, 220 E. 42nd Street, New York, NY 10017. Send protests to: Connie Stanley, Transportation, Room 240 Old Post Office & Courthouse Building, 215 N.W. 3rd, Oklahoma City, OK 73101.

MC 53841 (Sub-18TA), filed October 17, 1978. Applicant: W. H. CHRISTIE & SONS, INC., Box 517, East State Street, Knox, PA 16232. Representative: John A. Pillar, Attorney-at-Law, 205 Ross Street, Pittsburgh, PA 15219. *Pillows, pads and paddings,* from the facilities of Chemical Specialties Division of Hoover Universal, Inc., at or near Farwell, MI to Jersey City, NJ, Chicago, IL and Rocky Mount. An underlying ETA seeks 90 days authority. Supporting shipper(s): Chemical Specialties Division of Hoover Universal, Inc., Route 2, Triport Road, Georgetown, KY 40324. Send protest to: John J. England, District Supervisor, ICC, 2111 Federal Building, 1000 Liberty Avenue, Pittsburgh, PA 15222,

MC 55889 (Sub-49TA), filed October 17, 1978. Applicant: AAA COOPER TRANSPORTATION, P.O. Box 2207, Dothan, AL 36301. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. 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 Birmingham, AL and points within 15 miles of Birmingham, on the one hand, and, on the other, Andalusia, Athens, Auburn, Brundidge, Citronelle, Clayton, Cullman, Decatur, Demopolis, Dothan, Elba, Enterprise, Eufaula, Eutaw, Fairhope, Fayette, Flomaton, Florala, Foley, Greensboro, Hayleyville, Hartselle, Headland, Huntsville, Jasper, Linden, Luverne, Monroeville, Opp, Ozark, Robertsdale, Russellville, Samson, Stevenson, Troy, Tuscaloosa, Union Springs, Uniontown, AL, and points in their respective commercial zones; irregular routes. Between Montgomery and Opp, AL over U.S. Hwy 331, serving no intermediate points but serving points in the commercial zones of Montgomery and Opp; regular routes. Applicant intends to tack the authority here applied for to the authority it presently holds. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): There are approximately 91 statements of support attached to the application which may be examined at the Interstate Commerce Commission in Washington, D.C., or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Mabel E. Holston, Transportation Assistant, ICC, Room 1616, 2121 Building, Birmingham, AL 35203.

MC 59655 (Sub-17TA), filed October 17, 1978. Applicant: SHEEHAN CARRIERS, INC., 62 Lime Kiln Road, Suffern, NY 10901. Representative: George A. Olsen, POB 357, Gladstone, NJ 07934. *Containers and materials and supplies,* used in the manufacture, distribution or sale of containers (except commodities in bulk), between Danbury, CT, on the one hand, and, on the other, Eden and Clemmons, NC, for 180 days. An underlying ETS seeks 90 days authority. SUPPORTING SHIPPER(S): National Can Corporation, Route 287 and So. Randolphville, Road, Piscataway, NJ 08854. SEND PROTESTS TO: Maria B. Kejss, Transportation Assistant, ICC, 26 Federal Plaza, New York, NY 10007.

MC 105159 (Sub-37TA), filed October 17, 1978. Applicant: KNUDSEN TRUCKING, INC., 1320 West Main Street, Red Wing, MN 55066. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. *Feed and feed ingredients; grain, soybean and seed products and by-products,* except commodities in bulk in tank vehicles, from plant and storage facilities of Archer Daniels Midland Company, Red Wing, MN to points in CO, KS, NE, MO, SD, ND, LA, WI, and IL, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Archer Daniels Midland Company, P.O. Box 1470, Decatur, IL 62625. SEND PROTESTS TO: Delores A. Poe, Transportation Assistant, ICC, 414 Federal Building & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 107107 (Sub-471TA), filed October 23, 1978. Applicant: ALTERMAN TRANSPORT LINES, INC., 12805 N. W. 42nd Avenue, Opa Locka, FL 33054. Representative: Ford W. Sewell, 12805 N. W. 42nd Avenue, Opa Locka, FL 33054. *Meats, meat products, meat by-products and articles distributed by meat packing houses,* as defined by the Commission (except commodities in bulk), from Montgomery, AL to

points in the United States in and east of the States of TX, OK, KS, NE, SD, and ND. Restricted to the transportation of traffic originating at the facilities of John Morrell & Co., for 180 days. SUPPORTING SHIPPER(S): John Morrell & Co., 208 South LaSalle Street, Chicago, IL 60604. SEND PROTESTS TO: Donna M. Jones, Trans. Asst., ICC, Bureau of Operations, Monterey Bldg., Suite 101, 8410 N. W. 53rd Terrace, Miami, FL 33166.

MC 107496 (Sub-1171TA), filed October 23, 1978. Applicant: RUAN TRANSPORT CORP., 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check (same as applicant). *Petroleum* and *petroleum products,* in bulk, in tank vehicles, from Robinson, IL to Lake and Porter Counties IN, for 180 days. SUPPORTING SHIPPER(S): Marathon Oil Company, 539 S. Main Street Findlay, OH 45840. SEND PROTESTS TO: Herbert W. Allen, DS Bureau of Operations ICC, 518 Federal Building Des Moines, IA 50309.

MC 111545 (Sub-260TA), filed October 23, 1978. Applicant: HOME TRANSPORTATION CO., INC., P.O. Box 6426 Station A. 1425 Franklin Road, Marietta, GA 30067. Representative: Robert E. Born, P.O. Box 6426, Station A, Marietta, GA 30065. *Steel* tubing, from Union, MO to points in CA and points in and east of MN, IA, NE, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Maverick Tube Corp., 311 N. Lindbergh Blvd., St. Louis, MO 63141. SEND PROTESTS TO: T/A Sara K. Davis, ICC, 1252 West Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 111812 (Sub-595TA), filed October 17, 1978. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, 1600 East Benson Road, Sioux Falls, SD 57101. Representative: David Peterson, P.O. Box 1233, Sioux Falls, SD 57101. *Meats, meat products, meat by-products and articles* distributed by meat packinghouses as described in Sections A and C of Appendix I to the report in Descriptions in Motor Carrier Certificates, 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from the facilities of Farmland Foods, Inc. at or near Denison, Carroll, Iowa Falls, Sioux City, Ft. Dodge and Des Moines, IA and Crete, Omaha and Lincoln, NE to points in FL and GA, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Farmland Foods, Inc., P.O. Box 403, Denison, IA 51442. SEND PROTESTS TO: Mr. James L. Hammond, District Supervisor, ICC, 455 Federal Building, Pierre, SD 57501.

MC 113861 (Sub-70TA), filed October 23, 1978. Applicant: WOOTEN TRANSPORTS, INC., 153 Gaston Avenue, P.O. Box 725, Memphis, TN 38106. Representative: Mr. James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. *Petroleum* and *petroleum products,* in bulk, in tank vehicles from Nashville, TN to points in MS, for 180 days. SUPPORTING SHIPPER(S): Gulf Oil Company, U.S. P.O. Box 3706, Houston, TX. 77001. SEND PROTESTS TO: Mr. Floyd A. Johnson, District Supervisor, ICC, 100 North Main Bldg. Suite 2006, 100 North Main Street, Memphis, TN. 38103.

MC 115311 (Sub-321TA), filed October 23, 1978. Applicant: J & M TRANSPORTATION CO., INC., P.O. Box 488, Milledgeville, GA 31061. Representative: Kim G. Meyer, P.O. Box 488, Atlanta, GA 30301. *Plastic articles and polystyrene products* from the facilities of U.C. Industries at Tallmadge, Ohio to points in and east of the states of ND, SD, NB, KS, OK, and TX, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): United States Gypsum Company, 101 South Wacker Drive, Chicago, IL 60606. SEND PROTESTS TO: T/A Sara K. Davis ICC, 1252 West Peachtree St., N.W., Room 300, Atlanta, GA 30309.

MC 115841 (Sub-651TA), filed October 23, 1978. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler, Same. *Steel shot, machinery* and *machinery parts, abrasive compounds* and *media, automotive series supplies* and *equipment,* from the plantsite and facilities of Wheelabrator-Frye, Inc., located at or near Mishawaka, IN and Bedford, VA, to points in AL, GA, TN, MS, LA, FL, NC, SC, AR, OK, TX, CA, OR, WA, NV, AZ, NM, and UT, for 180 days. SUPPORTING SHIPPER(S): Wheelabrator-Frye, Inc., 400 S. Byrkit, Mishawaka, IN 46544. SEND PROTESTS TO: Glenda Kuss, Trans. Asst., Bureau of Operations, ICC, Suite A-422 U.S. Courthouse, 801 Broadway, Nashville, TN 37203.

MC 116947 (Sub-61TA), filed October 23, 1978. Applicant: SCOTT TRANSFER CO., INC., 920 Ashby Street S.W., Atlanta, GA 30310. Representative: William Addams, Suite 212, 5299 Rosewall Road, NE, Atlanta, GA 30342. Authority sought to operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting: *Such merchandise* as is dealt in by wholesale, retail and chain grocery and food business houses and, also discount and drug stores (except frozen commodities and commodities in bulk), for 180 days. An underlying ETA seeks 90 authority. SUPPORTING SHIPPER(S): The Clorox Company, 1221 Broadway Oakland, CA 94612. SEND PROTESTS TO: T/A Sara K. Davis, ICC, 1252 West Peachtree, St., N.W., Room 300 Atlanta, Ga 30309.

MC 118142 (Sub-191TA), filed October 23, 1978. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. *Boxed beef,* from Great Bend, KS to points in FL & NC, restricted to transportation originating at the facilities of Theis Packing Co., Inc., Great Bend, KS and destined to the named destination states, for 180 days. SUPPORTING SHIPPER(S): Theis Packing Co., Inc. P.O. Box 49, Great Bend, KS 67530. SEND PROTESTS TO: M. E. Taylor, District Supervisor ICC, 101 Litwin Bldg. Wichita, KS 67202.

MC 118263 (Sub-74TA), filed October 23, 1978. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. *Foodstuffs* (except in bulk), in vehicles equipped with mechanical refrigeration, from the facilities of Continental Freezers of Illinois at or near Chicago, IL, to points in IN, KY, and OH, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Continental Freezer of Illinois, 4220 S. Kildare Blvd. Chicago, IL 60632. SEND PROTESTS TO: Beverly J. Williams, Trans. Asst. ICC, Federal Bldg. & U.S. Courthouse, 46 East Ohio St., Room 429 Indianapolis, IN 46204.

MC 123233 (Sub-86TA), filed October 23, 1978. Applicant: PROVOST CARTAGE INC., 7887 rue Grenache, Ville d'Anjou, PQ, Canada H1J 1C4. Representative: Gilbert G. Beriault, same address as applicant. *Liquid polymer,* in bulk, in tank vehicles, from Garyville, LA to the port of entry on the International Boundary Line between the United States and Canada located at Alexandria Bay, NY, for 90 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Alchem Ltd, 1055 Truman Street, Burlington, ON, Canada. SEND PROTESTS TO: Dist. Supervisor David A. Demers, ICC, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 124251 (Sub-54TA), filed October 23, 1978. Applicant: JACK JORDAN, INC., P.O. Box 689, Dalton, GA 30720. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. *Alumina hydrate,* in bags or containers, and in bulk, from Murray County, GA to

points in OK, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Kaiser Aluminum & Chemical Corporation, 10001 Lake Forest Boulevard, Suite 615, New Orleans, LA 70127. SEND PROTESTS TO: T/A Sara K. Davis, Transportation Assistant, Bureau of Operations, Interstate Commerce Commission, 1252 West Peachtree Street, NW., Room 300, Atlanta, GA 30309.

MC 124579 (Sub-25 TA), filed October 23, 1978. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron OH 44839. Representative: James Duvall, Attorney at Law, P.O. Box 97, 220 West Bridge Street, Dublin, OH 43017. *Tomato Paste*, in bulk, between Perrysburg, OH, Bridgeton, N.J., Davis and Oakdale CA, and all points within the United States, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Hunt-Wesson Foods, Inc. 1645 West Valencia Dr. Fullerton, CA. SEND PROTESTS TO: Bureau of Operations ICC, Room 313 Federal Office Building, 234 Summit Street, Toledo, OH. 43604.

MC 127049 (Sub-17 TA), filed October 23, 1978. Applicant: KRUEPKE TRUCKING, INC., 2881 Highway 45, Jackson, WI 53037. Representative: Richard C. Alexander, 710 N. Plankinton Avenue, Milwaukee, WI 53203. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Fans, heaters, heat recyclers, vacuum cleaners, household compactors, door chimes, range hoods and range spash plates, roof cappings, and parts and accessories and exhibition booths* for the foregoing commodities, (a) From Hartford, WI to Clearwater and Tampa, FL, Atlanta, GA, Wilkesboro, NC, (b) Between Hartford, WI and Old Forge, PA and (2) Parts used in the manufacture of the commodities in (1) except in bulk in tank trailers, (a) From Jacksonville and Jonesboro, AR, Gainesville, GA, Chicago, IL, Ft. Wayne, IN, Detroit and Owosso, MI and Columbus and West Lafayette, OH to Hartford, WI. Under a continuing contract or contracts with Broan Manufacturing Co., Inc. of Hartford, WI, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Broan Manufacturing Co., Inc., 926 W. State Street, Hartford, WI 53027. SEND PROTESTS TO: Mrs. Gail Daugherty, Transportation Assitant, ICC, Bureau of Operations, U.S. Federal Building & Courthouse, 517 East Wisconsin Avenue, Room 619, Milwaukee, WI 53202.

MC 128746 (Sub-44 TA), filed October 23, 1978. Applicant: D'AGATA NATIONAL TRUCKING CO., 3224-44 61st Street, Philadelphia, PA 19153. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, DC 20036. *Malt beverages*, in containers, from the Falstaff Brewery at or near Cranston, RI, to points in NY, PA, DE, MD, VA and Washington, DC, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Falstaff Brewing Corp., P.O. Box 6848, Providence, RI 02904. SEND PROTESTS TO: T. M. Esposito, Transportation Assistant, 600 Arch Street, Room 3238, Philadelphia, PA 19106.

MC 134387 (Sub-58TA), filed October 23, 1978. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Avenue, South Gate, CA 90280. Representative: Patricia M. Schnegg, Knapp, Stevens, Grossman & Marsh, 1800 United California Bank Building, 707 Wilshire Boulevard, Los Angeles, CA 90017. *Paper and paper products* from Halsey, OR, to all points in California, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): American Can Company, Serramonte Plaza, 333 Gellert Blvd., Daly City, CA 94015. SEND PROTESTS TO: ICC, Walter W. Strakosch Dist. Supervisor, Room 1321 Federal Bldg., 300 N. Los Angeles Street, Los Angeles, CA 90012.

MC 134806 (Sub-53TA), filed October 23, 1978. Applicant: B-D-R TRANSPORT, INC., P.O. Box 1277, Brattleboro, VT 05301. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, DC 20014. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *such commodities* as are used in the manufacturer of ski and tennis equipment from Orange County, CA, and points in CT, NY and NJ, to Boulder County, CO, and, (2) *such commodities* as are dealt in by retailer of ski equipment and tennis equipment from Boulder County, CO, to points in CA. The authority sought in (1) and (2) to be under continuing contract or contracts with AMF Head Division, for 180 days. SUPPORTING SHIPPER(S): AMF Head Division, 4801 North 63rd Street, Boulder, CO 80301. SEND PROTESTS TO: District Supervisor David A. Demers, ICC, P.O. Box 548, 87 State Street, Montpelier, VT 05602.

MC 135962 (Sub-3TA), filed October 23, 1978. Applicant: MAR-KAY CARTAGE, INC., 5275 Naiman Parkway, Solon, OH 44139. Representative: Earl N. Merwin, 85 East Gay Street, Columbus, OH 43215. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Merchandise* dealt in by retail stores, between Cuyahoga and Mahoning Counties, OH, on the one hand, and, on the other, points in Lawrence, Mercer, and Venango counties, PA, and Hancock County, WV, restricted to retail deliveries, for 90 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): J. C. Penney Company, Inc., 5400 Naiman Parkway, Solon, OH 44139. SEND PROTESTS TO: Mary Wehner, District Supervisor ICC, 731 Federal Bldg., 1240 East Ninth Street, Cleveland, OH 44199.

MC 139482 (Sub-67TA), filed October 23, 1978. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. *Cheese* from Paynesville, MN to Clinton, MO, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Associated Milk Producers, Inc., P.O. Box 455, New Ulm, MN 56073. SEND PROTESTS TO: Delores A. Poe, Trans. Asst., ICC, Bureau of Operations, 414 Federal Bldg., & U.S. Courthouse, 110 South 4th Street, Minneapolis, MN 55401.

MC 140846 (Sub-9TA), filed October 23, 1978. Applicant: CENTRAL DELIVERY SERVICE OF MASSACHUSETTS, INC., 125 Magazine Street, Boston, MA 02119. Representative: Jeremy Kahn, Attorney at Law, Kahn & Kahn, 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Advertising matter*, consisting of *camera-ready paste-ups* and *layouts*. From the facilities of First National Supermarkets at or near Windsor Locks, Connecticut to Westerly, Rhode Island, and Catskill, Mt. Kisco, Poughkeepsie, Staten Island, Yonkers, West Hampton, and New York, New York. *RESTRICTIONS:* The services authorized herein are subject to the following conditions: (1) No service shall be rendered in the transportation of any package or article weighing more than 10 pounds or exceeding 72 inches in length and girth combined, and each package or article shall be considered as a separate and distinct shipment. (2) No service shall be provided in the transportation of packages or articles weighing in the aggregate more than 30 pounds from one consignor at one location to one consignee at one location on any one day. (3) Service shall be performed under a continuing contract or contracts with First National Supermarkets, Inc., for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): First National Supermarkets, 500 North Street, Windsor Locks, CT 06082. SEND PROTESTS TO: John B. Thomas, District Supervisor ICC, 150 Causeway Street, Boston, MA 02114.

MC 143127 (Sub-15TA), filed October 23, 1978. Applicant: K. J. TRANS-

PORTATION, INC., P.O. Box 9764, Rochester, NY 14623. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. *Sugar, beet* or *cane*, other than raw, except in bulk in tank vehicles, from the facilities of Food Packaging, Inc., at or nea Xenia, OH, to points in the following New counties; Broome, Cayuga, Chautauqua, Cattaraugus, Chemung, Chenango, Erie, Courtland, Monroe, Onondaga and Oswego, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): National Sugar Refining Co. 1037 N. Delaware Ave., Philadelphia, PA 19125. SEND PROTESTS TO: ICC, U.S. Courthouse & Federal Bldg. Room 1259 100 S. Clinton St., Syracuse, NY 13260.

MC 143605 (Sub-2TA), filed October 23, 1978. Applicant: B & M EXPRESS, INC., 500 South Western, Oklahoma City, OK 73109. Representative: C. L. Phillips, 1411 North Classen, Room 248, Classen Terrace Buiding., Oklahoma City, OK 73106. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: (1) *Folded, noncorrugated boxes* and *cartons* in truckload and LTL shipments, from the facilities of Rock-Tenn Company, at or near Conway and Harrison, AR and Greenville, TX to points in AR, KS, NE, OK and TX. (2) *Equipment, materials* and *supplies*, used in the manufacture and distribution of the commodities described in (1) above, (ex. commodities in bulk and commodities which because of size or weight require the use of special, equip.) from points in AR, KS, NE, OK & TK to the facilities of Rock-Tenn Company, at or near Conway and Harrison, AR and Greenville, TX. Restriction: The service authorized herein is limited to a transportation service to be performed under a continuing contract(s) with Rock-Tenn Company of Norcross, GA, for 180 days. SUPPORTING SHIPPER(S): Rock-Tenn Company, 3650 Southwest 29th Street, Oklahoma City, OK 73119. SEND PROTESTS TO: Connie Stanley, Trans. Asst., Room 240 Old Post Office & Courthouse Bldg., 215 N. W. 3rd, Oklahoma City, OK 73102.

MC 143616 (Sub-13TA), filed October 23, 1978. Applicant: M & S TRANSPORT LINES, INC., P.O. Box 417, Sultana, CA 93666. Representative: Dwight L. Koerber, Jr., 666 11th Street NW., Suite 805, Washington, DC 20001. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Ironing tables, bed frames, ironing caddies, clothes racks, shopping carts, laundry carts and laundry sorters*, from the facilities of Lear Siegler, Inc., at or near Seymour, Indiana, to points in Nevada, Washington, Oregon, California, Arizona, Idaho, Utah, and Colorado, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Lear Siegler, Inc., 9th and Chestnut, Seymour, IN 47274. SEND PROTESTS TO: ICC, Walter W. Strakosch, District Supervisor, Room 1321 Federal Building., 300 N. Los Angeles Street, Los Angeles, CA 90012.

MC 144543 (Sub-1TA), filed October 23, 1978. Applicant: INTERNATIONAL CONSOLIDATORS, INC., 1335 Darlington Street, Upland, CA 91768. Representative: Richard C. Celio, 1415 West Garvey Avenue, Suite 102, West Covina, CA 91790. *Lumber*, and *wooden shakes, shingles* and *fencing material* from ports of entry on the United States-Canadian border in Washington to points in AZ, CA, CO, NV, NM, TX, and UT, for 120 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPERS(S): Ronan Wood, Inc., 74720 Old Prospector Trail, Palm Desert, CA 92260. SEND PROTESTS TO: ICC, Walter W. Strakosch DS, Room 1321 Federal Building, 300 N. Los Angeles Street, Los Angeles, CA 90012.

MC 145471 (Sub-1TA), filed October 23, 1978. Applicant: JOHN K. GRAY TRUCKING, 30 South "G" Street, Arcata, CA 95521. Representative: As above. *Lumber, wood pulp* and *wood products* (including flakeboard), from the plants and facilities of Louisiana-Pacific Corporation in Humboldt County, California to rail reload operations located at their plants and facilities in Mendocino and Sonoma Counties California, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(S): Louisiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564. SEND PROTESTS TO: DS, A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105

MC 145065 (Sub-3TA), filed October 23, 1978. Applicant: WESTERN CARRIERS, INC., 2100 Alaskan Way, Seattle, WA 98121. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. *Frozen* and *perishable foodstuffs* when moving in vehicles equipped with mechanical refrigeration, from points in Los Angeles and Orange Counties, CA to points in OR and WA, for 180 days. There are approximately (15) statement of support attached to this application which may be examined at the I.C.C., in Washington, DC, or copies thereof which may be examined at the field office named below. SEND PROTESTS TO: Hugh E. Chaffee, District Supervisor, Bureau of Operations, I.C.C. 858 Federal Building, 915 Second Avenue, Seattle, WA 98174.

MC 145472 (Sub-1TA), filed October 23, 1978. Applicant: HOWARD L. & M. ELAINE KIME, d.b.a. K & K Transport, P.O. Box 4906, Eureka, CA 95501. Representative: Same as above. *Lumber, wood pulp* and *wood products* (including flakeboard), from the plants and facilities of Louisiana-Pacific Corporation in Humboldt County, California to the plants and facilities of Louisiana-Pacific Corporation in Mendocino and Sonoma Counties in California, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING ,SHIPPER(S): Louisiana-Pacific Corporation, P.O. Box 158, Samoa, CA 95564. SEND PROTESTS TO: District Supervisor A. J. Rodriguez, 211 Main Street, Suite 500, San Francisco, CA 94105.

MC 145597 (Sub-1TA), filed October 23, 1978. Applicant: JAMES H. EDWARDS, SR., JAMES H. EDWARDS, JR., d.b.a. E & E Trucking Co., 202 Randy Circle, Warner Robins, GA 31093. Representative: James H. Edwards, Jr., 202 Randy Circle, Warner Robins, GA 31093. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Textile Waste—Clips* and *Scraps*, between points in the states of AL, GA, MS, FL, under a continuing contract or contracts with O'Neill Bros. Inc., for 180 days. An underlying ETA seeks 90 authority. SUPPORTING SHIPPER(S): O'Neill Bros. Inc., 1514 E. Cleveland Avenue, East Point, GA 30344. SEND PROTESTS TO: T/A Sara K. Davis, ICC, 1252 West Peachtree Street, Room 300, Atlanta, GA 30309.

MC 145619TA, filed October 23, 1978. Applicant: PAUL E. MARLOWE, d.b.a. NATIONAL WAREHOUSE & DISTRIBUTION CO., P.O. Box 3561, Kingsport, TN 37664. Representative: Harry W. Asquith, attorney, 810 Bank of Knoxville Building, Knoxville, TN 37902. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Books-rolled paper-plastic, wood, corrugated materials, carboard boxes, wood pallets, display racks of wire and steel for the displaying of books.* In other words, any and all items used for the manufacture and shipping of books and the displaying of books, from Binghamton, NY to Canton, OH, Harwood Heights, IL, Melrose Park, IL, Chicago, IL, Crawfordsville, IN, Milwaukee, WI, Saddle Brook, NJ, Secaucus, NJ, New York, NY, Lancaster, PA, Philadelphia, PA, Dallas, PA, Fairfield, NY, Kingsport, TN, Weber City, VA, and Greenville, TN, on the one hand and from Canton, OH, Harwood Heights, IL, Melrose Park, IL, Chicago, IL, Crawfordsville, IN, Milwaukee, WI, Saddle Brook, NJ, Secaucus, NJ, New York, NY, Lancaster, PA,

Philadelphia, PA, Dallas, PA, Fairfield, NY (Essex County), Kingsport, TN, Weber City, VA, Greeneville, TN, to Binghamton, NY, for 180 days. SUPPORTING SHIPPER(s): Grosset & Dunlap, 51 Madison Avenue, New York, NY 10010. SEND PROTESTS TO: Dist. Supervisor Joe J. Tate, Room A422, Federal Building, 801 Broadway, Nashville, TN 37203.

MC 145622TA, filed October 23, 1978. Applicant: DONALD R. SIMMONS AND JERRY G. HARRIS, d.b.a., S & H Transportation, 3400 Mount Pleasant Street, Burlington, IA 52601. Representative: Frank W. Taylor, Jr., 1221 Baltimore Avenue, Kansas City, MO 64105. Authority sought to operate as a *contract carrier*, by motor vehicle, over irregular routes, transporting: *Dry grocers* in shiper-owned trailers between Burlington, IA, on the one hand and on the other, points in IL, MO, IN, KS, NE, OH, TN and KY, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(s): ALDI, Inc., 3400 Mt. Pleasant Street, Burlington, IA 52601. SEND PROTESTS TO: Herbert W. Allen, DS Bureau of Operations ICC, 518 Federal Bldg., Des Moines, IA 50309.

MC 145624TA, filed October 23, 1978. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974. Representative: Mezzacca, Guida, and Maddalena, Esq's., P.O. Box 265, Highway 27, Edison, NJ 08817. *Slag* and *slag products* in bulk in dump trailers, from Falls Township, PA to points in New Jersey and New York, for 180 days. An underlying ETA seeks 90 days authority. SUPPORTING SHIPPER(s): Warner Company, 1721 Arch Street Philadelphia, PA 19103. SENDER PROTESTS TO: Robert E. Johnston, District Supervisor ICC, 9 Clinton Street Newark, New Jersey 07102.

By the Commission.

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

[FR Doc. 78-34495 Filed 12-8-78; 8:45 am]

[7035-01-M]

[Notice No. 30]

SPECIAL PROPERTY BROKERS

December 5, 1978.

The following applicants seek to participate in the property broker special licensing procedure under 49 CFR Part 1045A authorizing operations as a broker at any location, in arranging for the transportation by motor vehicle, in interstate or foreign commerce, of property (except household goods), between all points in the United States including AK and HI. Any interested person shall file an original and (1) copy of a verified statement in oppostion limited in scope to matters regarding applicant's fitness on or before January 11, 1979. Statements must be mailed to:

Broker Entry Staff, Room 2379, Interstate Commerce Commission, Washington, D.C. 20423.

Opposing parties shall serve (1) copy of the statement in opposition concurrently upon applicant's representative, or applicant if no representative is named.

If an applicant is not otherwise informed by the Commission, it may commence operation 45 days after this notice.

B078-121, filed September 28, 1978. Applicant: JOHN H. TILLOTSON & DUNCAN S. KIMBALL, d.b.a. CENTURY BROKERAGE, 18420 South Santa Fe Avenue, P.O. Box 923, Long Beach, CA 90801. Representative: Kim G. Meyer, P.O. Box 872, Atlanta, GA 30301.

B-78-127, filed October 22, 1978. Applicant: CHARLES McALPIN, 1420 Danville Road, Decatur, AL 35601. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

B-78-130, filed October 26, 1978. Applicant: THE A. W. FENTON CO., INC., 6565 Eastland Road, Cleveland, OH 44142. Representative: John C. Albrecht (same address as applicant).

B-78-133, filed October 31, 1978. Applicant: HARRY EARL NEWLON, JR., d.b.a. NEWLON'S TRANSFER, 1511 North Nelson Street, Arlington, VA 22201. Representative: Robert J. Gallagher, 1000 Connecticut Avenue NW., Suite 1200, Washington, DC 20036.

By the Commission.

H. G. Homme, Jr.,
Secretary.

[FR Doc. 78-34492 Filed 12-8-78; 8:45 am]

[7035-01-M]

[Notice No. 140]

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 request for oral hearing, must be filed with the Commission on or before January 11, 1979. 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.

MC-FC-77886, filed October 17, 1978. Transferee: DONALD ESTRIN, JOHN TILLOTSON and ELDON R. CLAWSON, P.O. Box 306, Glendora, CA 91740. Transferor: EADS TRANSFER & STORAGE CO., a corporation, 901 North Columbia Boulevard, Portland, OR 97217. Representative: ELDON R. CLAWSON, attorney, 333 West Foothill Boulevard, Glendora, CA 91740. Authority sought to acquire control by transferee of the operating rights of transferor to engage in operations as a broker in Portland, OR, as set forth in License No. MC-12429 issued August 20, 1948, as follows: Household goods as defined in *Practices of Motor Common Carriers of Household Goods*, 17 M.C.C. 467, between points in the United States. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77897, filed October 9, 1978. Transferee: ALLAN G. MILLER and BEVERLEE J. MILLER, d.b.a. Miller Transfer, 618 East First Street, Minden, NE 68959. Transferor: ARTHUR G. MILLER, Clara C. Miller, Personal Representative, Estate of Arthur G. Miller, Deceased, d.b.a. Miller Transfer, 317 South Brown, Minden, NE 68959. Representative: Allan G. Miller and Beverlee J. Miller, 618 East First Street, Minden, NE 68959. Authority sought for purchase by transferee of the operating rights of transferor as set forth in Certificate No. MC-96757 (Sub-No. 2), issued December 15, 1965, as fol-

lows: *General commodities,* except Classes A and B explosives, commodities, in bulk, commodities of unusual value, and those requiring special equipment, between Minden, NE and junction unnumbered county road (immediately east of Roseland, NE), and U.S. Hwy. 6, serving all intermediate points, over Nebraska Hwy. 4 and unnumbered county road; Between Minden, NE and Hastings, NE, serving all intermediate points, and the off-route points of Kenesaw and Juniata, NE, over U.S. Hwy. 6. *General commodities,* except household goods, as defined by the Commission, Classes A and B explosives, commodities in bulk, commodities of unusual value, and those requiring special equipment, between points within 20 miles of Kenesaw, NE, including Kenesaw, on the one hand, and, on the other, Grand Island, Omaha, and Lincoln, NE, restricted under the second general commodities description to the transportation of shipments which either originate at or are destined to points within 20 miles of Kenesaw, NE. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

MC-FC-77937, filed November 21, 1978. Transferee: NORTHEAST DISPATCH, INC., 852 South Main Street, Old Forge, PA 18518. Transferor: BAIR TRANSPORT, INC., North Creek Road, Delanco, NJ 08075. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Authority sought for purchase by transferee of a portion of the operating rights of transferor, as set forth in Certificate No. MC-116810, issued September 12, 1960, as follows: General commodities, except those of unusual value, Class A and B explosives, household goods as defined by the Commission, commodities in bulk, commodities requiring special equipment, and those injurious or contaminating to other lading: Between points in Sussex County, N.J., on the one hand, and, on the other, Providence, R.I., Corning, N.Y., points in that part of Pennsylvania east of the Susquehanna River, points in that part of New York within 150 miles of Newark, N.J., points in that part of Massachusetts on and east of U.S. 5, points in that part of Connecticut on and east of U.S. 5, and those on U.S. 1 between the N.Y.-Conn. State line and New Haven, Conn. Transferee presently holds no authority from this Commission. Application has not been filed for temporary authority under Section 210a(b).

H. G. HOMME, Jr.,
Secretary.

[FR Doc. 78-34494 Filed 12-8-78; 8:45 am]

[70-35-01-M]

[Notice No. 139]

MOTOR CARRIER TRANSFER PROCEEDINGS

DECEMBER 11, 1978.

Application filed for temporary authority under Section 210a(b) in connection with transfer application under Section 212(b) and Transfer Rules, 49 CFR Part 1132:

MC-FC 77942. By application filed November 27, 1978, EDWARD SCHMIDT, AN INDIVIDUAL, d/b/a ED SCHMIDT MOVING COMPANY, Second and Redbank Avenues, Thorofare, NJ, seeks temporary authority to transfer the operating rights of PARK STORAGE WAREHOUSE CO. OF CAMDEN, NEW JERSEY, 1021 Pine Street, Camden, NJ, under section 210a(b). The transfer to EDWARD SCHMIDT, AN INDIVIDUAL, d/b/a/ ED SCHMIDT MOVING COMPANY of the operating rights of PARK STORAGE WAREHOUSE CO. OF CAMDEN, NEW JERSEY, is presently pending.

By the Commission

H. G. HOMME, Jr.
Secretary.

[FR Doc. 78-34497 Filed 12-8-78; 8:45 am]

[7035-01-M]

[Docket No. AB-55 (Sub-No. 22F)]

SEABOARD COAST LINE RAILROAD CO. ABANDONMENT NEAR CHERAW, SC, AT NC STATE LINE, IN CHESTERFIELD COUNTY, SC

Findings

Notice is hereby given pursuant to Section 1a of the Interstate Commerce Act (49 U.S.C. 1a) that by a Certificate and Decision decided November 28, 1978, a finding, which is administratively final, was made by the Commission, Review Board Number 5, stating that, subject to the conditions for the protection of railway employees prescribed by the Commission in *Oregon Short Line R. Co.—Abandonment Goshen,* 354 I.C.C. 584 (1978), and for public use as set forth in said decision, the present and future public convenience and necessity permit the abandonment by the Seaboard Coast Line Railroad Company of a portion of a line of railroad known as the Wadesboro Subdivision, extending from railroad milepost AJ-335.00 near Cheraw, SC, to milepost AJ-342.16 at the North Carolina State Line, a distance of 7.16 miles, in Chesterfield County, SC. A certificate of public convenience and necessity permitting abandonment was issued to the Seaboard Coast Line Railroad Company. Since no investigation was instituted, the requirement of § 1121.38(a) of the Regulations that publication of notice of abandonment decisions in the FEDERAL REGISTER be made only after such a decision becomes administratively final was waived.

Upon receipt by the carrier of an actual offer of financial assistance, the carrier shall make available to the offeror the records, accounts, appraisals, working papers, and other documents used in preparing Exhibit I (§ 1121.45 of the Regulations). Such documents shall be made available during regular business hours at a time and place mutually agreeable to the parties.

The offer must be filed and served no later than December 28, 1978. The offer, as filed, shall contain information required pursuant to § 1121.38(b) (2) and (3) of the Regulations. If no such offer is received, the certificate of public convenience and necessity authorizing abandonment shall become effective January 25, 1979.

H. G. HOMME, Jr.,
Acting Secretary.

[FR Doc. 78-34498 Filed 12-8-78; 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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[6712-01-M]

1

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, December 7, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, item number and subject

Safety and Special Radio Services—2—License Assignment Plans—Land Mobile Trunked Systems at 800 MHz, et al.

Additional information concerning this meeting may be obtained from FCC Public Information Office, telephone (202) 632-7260.

Issued: December 5, 1978.

[S-2487-78 Filed 12-7-78; 11:49 am]

[6712-01-M]

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, December 7, 1978.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting.

CHANGES IN THE MEETING: The following item has been deleted:

Agenda, item no., and subject

Complaints and Compliance—1—Field investigation of Stations WDAS and WDAS-FM, Philadelphia, Pennsylvania.

Additional information concerning this meeting may be obtained from FCC Public Information Office, telephone (202) 632-7260.

Issued: December 6, 1978.

[S-2488-78 Filed 12-7-78; 11:49 am]

[6740-02-M]

3

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 10 a.m., December 13, 1978.

PLACE: 825 North Capitol Street NE., Washington, D.C., Room 9306.
STATUS: Open.

MATTER TO BE CONSIDERED: Agenda.

Note.—Items listed on the agenda may be deleted without further notice.

CONTACT PERSON FOR MORE INFORMATION:

Kenneth F. Plumb, Secretary, telephone 202-275-4166.

This is a list of matters to be considered by the Commission. It does not include a listing of all papers relevant to the items on the agenda. However, all public documents may be examined in the Office of Public Information.

GAS AGENDA—211TH MEETING, DECEMBER 13, 1978, REGULAR MEETING

CAG-1. Docket No. RP73-13-DCA No. 78-2a, Michigan Pipe Line Co.
CAG-2. Docket No. RP72-149, Mississippi River Transmission Corp.
CAG-3. Docket No. RP73-8 (PGA Nos. 79-1, 79-1a, and 79-1b), North Penn Gas Co.
CAG-4. Docket No. RP73-8 (PGA 72-2, and 72-2a), North Penn Gas Co.
CAG-5. Docket No. RP77-54 and RP77-55, Arkansas Louisiana Gas Co.
CAG-6. Docket No. CI78-549, Shell Oil Co., Docket No. CI78-487, Texaco, Inc.; Docket No. CI78-479, Texaco, Inc.; Docket No. CI78-478, Texaco, Inc.; Docket No. CI78-435, Texaco, Inc.; Docket No. CI78-484, Texaco, Inc.; Docket No. CI78-483, Texaco, Inc.; Docket No. CI78-488, Texaco, Inc.; Docket No. CI78-441, Phillips Petroleum Co.; Docket No. CI78-750, Chevron U.S.A., Inc.; Docket No. CI75-605, Cities Service Co.; and Docket No. CI78-565, Sohio Natural Resources Co.
CAG-7. Docket No. CP78-406, Transcontinental Gas Pipe Line Corp.
CAG-8. Docket No. CP75-140 et al., Pacific Alaska LNG Co. et al. and Docket Nos. CP74-160 et al., Pacific Indonesia LNG Co. et al.
CAG-9. Docket No. CP78-86, Columbia Gas Transmission Corp. and Texas Eastern Transmission Corp.
CAG-10. Docket No. CP78-355, Colorado Interstate Gas Co.
CAG-11. Docket No. CP70-7 (Phase II), Southern Natural Gas Co.
CAG-12. Docket No. CP78-539, Columbia Gulf Transmission Co., Columbia Gas Transmission Corp., and Tennessee Gas Pipeline Co., a division of Tenneco, Inc.
CAG-13. Docket No. CP78-400, The Inland Gas Co., Inc.
CAG-14. Docket No. CP78-83, Panhandle Eastern Pipe Line Co.
CAG-15. Docket No. CP78-387, Sea Robin Pipeline Co.
CAG-16. Docket No. CP78-487, Panhandle Pipe Line Co.
CAG-17. Docket No. CP79-26, Consolidated Gas Supply Corp. and Docket No. CP79-85, Texas Eastern Transmission Corp.
CAG-18. Docket No. CP78-440, Northern Natural Gas Co. and Docket No. CP79-33, Iowa Power & Light Co.
CAG-19. Docket No. CP78-379, Trunkline Gas Co., Docket No. CP78-458, Columbia Gulf Transmission Co., and Columbia Gas Transmission Corp.
CAG-20. Docket No. CP72-182, Transcontinental Gas Pipe Line Corp. and Texas Gas Transmission Corp.

I. PIPELINE RATE MATTERS

RP-1. Docket No. RP78-87, Texas Eastern Transmission Corp.

II. PRODUCER MATTERS

CI-1. Docket No. CI78-1179. Dorchester Gas Producing Co.
CI-2. Docket No. RI66-117, H. N. Burnett.
CI-3. Docket Nos. AR64-2, et al., Ginter, Warren & Co. (Texas Gulf Coast Area)
CI-4. CS78-509, J. Walter Duncan, Jr. et al.

III. PIPELINE CERTIFICATE MATTERS

CP-1. Docket No. CP78-327, Mid-Continent Gas Storage Co. and Southern Natural Gas Co.; Docket No. G-10632, Northern Illinois Gas Co.; and Docket No. CP78-349, Tennessee Gas Pipeline, Co., a Division of Tenneco, Inc., Midwestern Gas Transmission Co., and Southern Natural Gas Co.
CP-2. Docket No. CP78-237, Northern Natural Gas Co. and Docket No. CP66-110, et al., Great Lakes Gas Transmission Co.
CP-3. Docket Nos. CP70-196 and CP74-227, Distrigas Corp. and Docket Nos. CP73-135 and CP74-137, Distrigas Corp. of Massachusetts.
CP-4. Docket No. RP72-99, Transcontinental Gas Pipe Line Corp.
CP-5. Docket No. CP75-93, Black Marlin Pipeline Co.

MISCELLANEOUS AGENDA—211TH MEETING—DECEMBER 13, 1978, REGULAR MEETING

M-1. Docket No. RM78-17, Procedures for Review by the Federal Energy Regulatory Commission of Adjustment Requests Denials by the Secretary of Energy.
M-2. Docket No. RM78-23, State of Louisiana First Use Tax In Pipeline Rate Case.
M-3. Docket Nos. R-478 and RM75-14, Arkansas Louisiana Gas Co. (re: Oklahoma Conservation Excise Tax.)

POWER AGENDA—211TH MEETING—DECEMBER 13, 1978, REGULAR MEETING

CAP-1. Docket No. EL79-2, Central Vermont Public Service Corp. and Green Mountain Power Corp.
CAP-2. Docket No. ES76-34, Idaho Power Co.
CAP-3. Docket No. ES78-56, El Paso Electric Co.

I. ELECTRIC RATE MATTERS

ER-1. Docket No. ER76-285 (Phase II), Public Service Co. of New Hampshire.
ER-2. Docket No. ER78-360, Connecticut Yankee Atomic Power Co.
ER-3. Docket No. ER78-526 and ER77-331, Central Power & Light Co.

KENNETH F. PLUMB,
Secretary.

[S-2490-78 Filed 12-7-78; 11:45 am]

[6750-01-M]

4

FEDERAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: FR 43, December 4, 1978, Page No. 56757.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Friday, December 8, 1978.

CHANGES IN THE AGENDA: The Federal Trade Commission has deleted an item from the agenda of its previously announced open meeting of December 8, 1978. Because this was the only item scheduled, the meeting has been cancelled.

[S-2491-78 Filed 12-7-78; 11:49 am]

[6750-01-M]

5

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Wednesday, December 13, 1978.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Consideration of proposed amendments to the Rules of Practice concerning handling of advisory opinions.
2. Consideration of Promulgation of Proposed Trade Regulation Rule Concerning Proprietary Vocational and Home Study Schools and Statement of Basis and Purpose.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information (202) 523-3830; Recorded message: (202) 523-3806.

[S-2492-78 Filed 12-7-78; 11:49 am]

[6750-01-M]

6

FEDERAL TRADE COMMISSION

TIME AND DATE: 2 p.m., Thursday, December 14, 1978.

PLACE: Room 532, (open); Room 540 (closed), Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Parts of this meeting will be open to the public. The rest of the meeting will be closed to the Public.

MATTERS TO BE CONSIDERED:

Portions open to Public:

1. Oral Argument in Coca-Cola Bottling Company of New York, Inc. Docket 8992.

Portions closed to the Public:

2. Executive Session to Discuss Oral Argument in Coca-Cola Bottling Company of New York, Inc. Docket 8992.

CONTRACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information (202) 523-3830; Recorded message: (202) 523-3806.

[S-2493-78 Filed 12-7-78; 11:49 am]

[6750-01-M]

7

FEDERAL TRADE COMMISSION.

TIME AND DATE: 10 a.m., Friday, December 15, 1978.

PLACE: Room 432, Federal Trade Commission Building, Sixth Street and Pennsylvania Avenue NW., Washington, D.C. 20580.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Monthly Policy Review Session: Discussion of Drug and Medical Device Policies.

CONTACT PERSON FOR MORE INFORMATION:

Ira J. Furman, Office of Public Information (202) 523-3830; Recorded message: (202) 523-3806.

[S-2494-78 Filed 12-7-78; 11:49 am]

[8010-01-M]

8

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 December 11, 1978, in Room 825, 500 North Capitol Street, Washington, D.C.

Closed meetings will be held on Tuesday, December 12, 1978 at 10 a.m. and on Wednesday, December 13, 1978 at 2:30 p.m. An open meeting will be held on Wednesday, December 13, 1978 at 10 a.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 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).

Chairman Williams and Commissioners Loomis, Evans, Pollack, and Karmel determined to hold the aforesaid meetings in closed session.

The subject matter of the closed meeting scheduled for Tuesday, Decmeber 12, 1978, at 10 a.m., will be:

Access to investigative files by Federal, state or self-regulatory authorities.
Chapter X proceeding.
Freedom of Information Act appeals.
Institution and settlement of administrative proceeding of an enforcement nature.
Institution of administrative proceedings of an enforcement nature.
Institution of injunctive actions.
Personnel security matters.
Regulatory matter bearing enforcement implications.
Settlement of injunctive action.
Subpoena enforcement action.

The subject matter of the open meeting scheduled for Wednesday, December 13, 1978, at 10 a.m., will be:

1. Consideration of whether to adopt certain technical amendments to Regulation S-X [17 CFR Part 210] concerning financial accounting and reporting practices for oil and gas producing activities. For further information, please contact James L. Russell at (202) 755-0222.
2. Consideration of whether to adopt as part of Regulation S-X [17 CFR Part 210 rules establishing requirements for the full cost method of accounting for oil and gas producing activities, as proposed in Release No. 33-5968 (August 31, 1978). For further information, please contact James L. Russell at (202) 755-0222.
3. Consideration of whether to adopt amendments to the disclosure requirements of Regulation S-K relating to oil and gas reserves and operations, as proposed in Release No. 33-5967 (August 31, 1978). For further information, please contact Joseph H. Schmitt at (202) 376-2380.
4. Consideration of two releases proposing to: (1) amend the uniform net capital rule (17 CFR 240.15c3-1) as it pertains to the minimum financial requirements for brokers or dealers that are also futures commission merchants; and (2) amend Part II and IIA of Form X-17A-5 (§ 249.617) to adopt the Schedule of Segregation Requirements

and Funds on Deposit in Segregation, currently being used by the Commodity Futures Trading Commission for futures commission merchants. For further information, please contact Gary Miller at (202) 376-8137.

5. Consideration of a proposed rule change by the Municipal Securities Rulemaking Board to provide a comprehensive arbitration code for the municipal securities industry. For further information, please contact Anne E. Chafer at (202) 755-1374.

6. Consideration of Cincinnati Stock Exchange ("CSE") rule filing (File No. SR-CSE-78-2) that would authorize the CSE to extend the termination date of its multiple dealer trading system from January 31, 1979, to January 31, 1980. For further information, please contact Theodore W. Urban at (202) 755-1378.

7. Consideration of New York Stock Exchange, Inc. ("NYSE") rule filing (File No. SR-NYSE-78-21) to amend the NYSE disciplinary rules to establish a uniform set of exchange disciplinary and procedural provisions. For further information, please contact Joel Worshtil at (202) 376-2173.

8. Consideration of an Freedom of Information Act ("FOIA") appeal of Louis Goodman, Esq. from the denial of access to certain documents concerning the Commission's investigation of and enforcement action against Ashland Oil Co. For further information, please contact Linda Schneider at (202) 755-1339.

9. Consideration of whether to extend the comment period on the existing Form 10-K and the revised Form 10-K recommended by the Advisory Committee on Corporate Disclosure from December 15, 1978 to January 15, 1979. For further information, please contact William H. Carter at (202) 376-8090.

The subject matter of the closed meeting scheduled for Wednesday, December 13, 1978, at 2:30 p.m., will be:

Reports of investigation.

FOR FURTHER INFORMATION, PLESE CONTACT:

Gregg Radetsky at (202) 755-1133.

DECEMBER 7, 1978.

[S-2489-78 Filed 12-7-78; 11:49 am]

federal register

MONDAY, DECEMBER 11, 1978
PART II



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

■

LOCAL EDUCATIONAL AGENCIES

Financial Assistance

[4110-02-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

[45 CFR Part 115]

LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITY

Proposed Requirements Governing Federal Assistance Awards

AGENCY: Office of Education, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: This document establishes certain requirements governing the awarding of Federal assistance to school districts that enroll certain categories of children receiving free public education in areas affected by Federal activities, and arrangements made by the Commissioner under Section 6 of Pub. L. 81-874. These proposed amendments incorporate into the current regulations recommendations suggested in GAO Report HRD-76-116 and other changes considered necessary for the improved administration of the program. The regulations will eliminate several unclear areas that have caused applicants concern and establish uniform determination of eligibility for those who work on Federal property.

DATES: Comments must be received on or before January 25, 1979. Public meetings will be held in three cities. The sites will be a meeting room of a local school in each area. The date and time for each meeting follows:

Atlanta, Georgia, January 16, 1979—9:00 a.m. to 1:00 p.m.

Denver, Colorado, January 17, 1979—9:00 a.m. to 1:00 p.m.

Washington, D.C., January 25, 1979—9:00 a.m. to 1:00 p.m.

ADDRESSES: Comments should be addressed to Mr. William L. Stormer, United States Office of Education, Room 2107-A, FOB-6, 400 Maryland Avenue, SW., Washington, D.C. 20202.

Written comments received in response to this notice will be available for public inspection at the office indicated above on Mondays through Fridays between 8:30 a.m. and 4:00 p.m., except on Federal holidays.

The public meetings will be held at the following locations

Atlanta, Georgia—King Middle School, 218 Pryor Street, S.W.

Denver, Colorado—Gove Junior High School, 4050 East 14th Avenue at Colorado Boulevard

Washington, D.C.—Board Room Presidential Building, 415 12th Street, N.W.

FOR FURTHER INFORMATION:

William L. Stormer, (202)245-8427.

SUPPLEMENTARY INFORMATION:

BACKGROUND

The amendments to section 3 of Pub. L. 81-874 made by Pub. L. 93-380 created subcategories of "A" and "B" children. These subcategories are used in computing various amounts to which local educational agencies (LEAs) are entitled. Computations are based upon determinations of a local contribution rate (LCR) in § 115.30 of the current regulations.

A State educational agency, in recommending to the Commissioner a LCR, may group local educational agencies on the basis of their comparability. The proposed regulations list more complete criteria for selecting comparable LEAs. By such groupings various contribution rates may be calculated that more nearly reflect the local effort toward the education of a child than a Statewide calculation would.

These proposed regulations amend the procedures for selecting comparable districts and require that all LEAs using the comparable method approach to calculate their LCR must submit data on at least five of the criteria, two of which must be legal classification or grade levels maintained, and economic characteristics. These proposed regulations permit States to use an alternate method of establishing comparable group rates for cases in which a limited number of the local educational agencies claim federally-connected pupils, and where a majority of the local educational agencies provide free public education in a majority of public elementary and secondary schools in the State. The process of selecting comparable LEAs and the process of calculating the local contribution rate are two distinct processes. While the former may have a bearing on the actual rate calculated, the method of calculating the rate is established in Section 3(d)(3) of Pub. L. 81-874.

The GAO Assessment of the Impact Aid Program, HRD-76-116, October 15, 1976, contains several recommendations that would help insure that Federal impact payments to local educational agencies are equitable; e.g., regulations to minimize the chance of local educational agencies overstating or understating claims for Impact Aid funds.

Pub. L. 81-874 does not define "employed on" Federal property. While the Office of Education uses the terms "working on" and "employed on" synonymously, it has accepted claims for children whose parents may have been working temporarily on Federal property on the day of the parent-pupil survey. However, as stated in House Report No. 2287, 81st Congress 2d Session (1950), the law attempts to reimburse LEAs for the burden imposed upon them because of the tax-exempt status of the Federal property. It was not intended to include those children whose parents are temporarily employed on Federal property.

The LEAs interpretations of the term "employed on" Federal property may have varied slightly. Some LEAs have stated in their instructions that parents who operated routes, such as milk, newspaper, or soft drink routes, may be eligible if they are on the Federal property on the survey date; other LEAs have omitted such references. The proposed definition provides precise guidance as to the meaning of the term "employed on" Federal property and complies with the recommendation from the GAO report.

The definition would exclude personnel employed by private companies or businesses subject to local taxation, that are engaged in providing services on Federal property; i.e., milk, soft drink and other delivery persons, funeral directors, and individuals in similar employment situations. Public agency employees such as itinerant teachers, and nurses providing intermittent services also would be excluded. Among those eligible under this definition would be a number of privately employed construction workers, shipbuilders, and loggers working on Federal property, if they are working there other than on an intermittent basis, or those providing service for the Federal Government, and spending a majority of their work time on Federal property.

The Commissioner has determined to clarify the standards for the Commissioner's use of section 6 authority in arranging for free public education for children residing on Federal property or for children of members of the uniformed services. As the racial desegregation problems which were paramount in the fifties and sixties are resolved, and different legal and economic considerations become important, the need is for clearer guidance on what is meant by "able" and "suitable" in the phrase able to provide a suitable free public education. Without more definite criteria by which to evaluate the terms "able" and "suitable" the status of the existing 24 section 6 schools may continue.

A comparable free public education is to be provided by the Commissioner when the Commissioner determines, after consulting with the State educational agency, that no LEA is able to provide a suitable free public education for children of members of the Armed Forces on active duty. This broad directive from Congress (Section 6(a) of Pub. L. 81-874) suggests more specific criteria in order to evaluate present situations.

Whether free public education is suitable or not is governed generally by State standards, except that English must be the primary language of instruction. The Commissioner does have discretion to consider whether a Section 6 arrangement would, because of political and social factors, be detrimental to the children to be served.

A local educational agency is generally considered able to provide suitable free public education to children residing on Federal property if it has the legal authority and actual or potential financial resources to do so.

The proposed regulations add explicit wording to § 115.52 clearly requiring Federal employing agencies serving Puerto Rico to document an employee's being normally subject to transfer or reassignment to areas where English is the primary language of instruction. This clarifies an ongoing Office of Education policy that concerns eligibility to attend section 6 schools for children of a parent employed by the United States in Puerto Rico.

These regulations will be entirely rewritten with improved style and clarity, and will conform to anticipated new legislation affecting assistance to education in federally affected areas. Another Notice of Proposed Rulemaking reflecting those changes is planned for early 1979.

Comments: All written comments must be received on or before January 25, 1979.

(Catalog of Federal Domestic Assistance Program No. 13.478, School Assistance in Federally Affected Areas—Maintenance and Operation.)

Dated: August 23, 1978.

ERNEST L. BOYER,
U.S. Commissioner of Education.

Approved: November 28, 1978.

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

The Table of Contents for Part 115 is revised as follows:

PART 115—ASSISTANCE FOR LOCAL EDUCATIONAL AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES

Subpart A—Scope and Definitions

Sec.
115.1 Scope.
115.3 Definitions.

Subpart B—Applications

115.10 Applications.
115.11 Final date for filing applications.
115.12 [Reserved]
115.13 Notification to applicants.
115.14 Assurances and parental participation with respect to Indian children for applications under section 3.
115.16 Civil Rights.

* * * * *

Subpart D—Generally Comparable Local Educational Agencies; Local Contribution Rate

Sec.
115.30 Determination of generally comparable local educational agencies.
115.31 Computation of local contribution rate.
115.32 Increase in or special local contribution rate.

Subpart E—Records and Reports Required by the Commissioner

115.40 Records and reports required of applicants.
115.41 Final reports by applicants under sections 2, 3, and 4.
115.42 Retention of records.
115.43 Reports from other Federal agencies.

Subpart F—Arrangements Under Section 6 of the Act

115.49 Ability to provide a suitable free public education.
115.50 Arrangements under section 6(a).
115.51 Arrangements under section 6(b).
115.52 Arrangements under section 6(c).
115.53 Proposal for arrangements under section 6.
115.54 Determinations by the Commissioner pursuant to section 6.
115.55 Notice of Commissioner's action.
115.56 Arrangements under section 402(a).
115.57 Expenditures.
115.58 Reports.
115.59 Termination of arrangements.

AUTHORITY: Sec. 2, 3, 4, 5, 6, 403(1) of Pub. L. 81-874 (20 U.S.C. 238, 239, 240, 241).

Part 115 of Title 45 of the Code of Federal Regulations is amended as follows:

1. Section 115.3 is amended by revising paragraph (o) and by adding paragraph (r) to read as follows:

§ 115.3 Definitions.

* * * * *

(o)(1) A parent is "employed on" Federal property if on the basis of the parent-pupil survey described in § 115.3(e) and (j) the Commissioner determines that:

(i) The parent normally reports to work on Federal property;

(ii) The parent normally receives work instructions on Federal property; and

(iii) The parent normally has work attendance initially recorded while on Federal property.

(2) The Commissioner maintains a list of properties owned only in part by the Federal Government. For each such property, the Commissioner determines the number of parents employed on the Federal portion. That number the Commissioner divides by the number of all employees working on all portions of the property on a specific date. The Commissioner multiplies this ratio by the number of children claimed against the property to determine the number of children that are eligible to be counted for payment under the Act.

(r) Free public education is considered "suitable" for purposes of Section 6 of the Act if:

(1) The primary language of instruction is English; and

(2) The school which a pupil attends or would attend is within the State's established maximum commuting distance from a pupil's home; and

(3) The programs of instruction offered or which can be offered with combined local, State, and Federal resources meet minimum standards for State accreditation or approval. If the particular State has not established minimum standards for accreditation or approval, the Commissioner applies appropriate accreditation associations' standards to assess suitability of the local educational agency's program of instruction; or

(4) Social, political or other factors to support a determination that free public education is suitable.

(20 U.S.C. 238 (a) and (b), 244(1); H.R. No. 703, 83d Cong., 1st Sess., (July 3, 1953), 26, H.R. 1532, 85th Cong., 2d Sess., (March 19, 1958), 51)

CROSS REFERENCE: Certain other pertinent definitions may be found in the "General Provisions for Office of Education Programs" § 100.1 (45 CFR 100.1)

Subparts B, D, and E are revised as follows:

Subpart B—Applications

§ 115.10 Applications.

Any local educational agency seeking financial assistance under sections 2, 3, or 4 of the Act shall, as a condition of entitlement, file with the Commissioner of Education an application for financial assistance. Such application shall be transmitted through and certified by the appropriate State educational agency, on Form RSF-1 (entitled "Application for School Assistance in Federally Affected Areas (Title I of Pub. L. 874)") and shall show the basis for entitlement under the Act and regulations. Copies of all application forms may be obtained from that State educational agency which serves the applicant local educational agency.

(20 U.S.C. 240(a))

§ 115.11 Final date for filing applications.

(a) Except as otherwise provided in this section, the final date for filing an application for financial assistance under sections 2, 3, or 4 of the Act shall be January 31st of the fiscal year for which such assistance is sought; except that, whenever such a final date falls on a Saturday, Sunday, or other Federal holiday, the final date for filing an application shall be the

next succeeding business day. Each application must be received by the Commissioner on or before the final filing date, after transmittal through and certification by the State educational agency. The applicant is responsible for obtaining the certification of the State educational agency and for securing a timely transmittal of the application to the Commissioner. In order to give the State educational agency time in which it may process the application, the applicant should file its application with the State educational agency by January 2 of the fiscal year for which assistance is sought.

(b) With respect to an applicant whose eligibility for financial assistance under the Act is established during the fiscal year by initiation or reactivation of an activity of the United States, or by the acquisition of Federal property, the filing date shall be extended 60 days beyond the date of such initiation, reactivation, or acquisition.

(c) With respect to an applicant whose eligibility for financial assistance is established pursuant to an amendment to the Act which is enacted during the fiscal year for which assistance is sought, the filing date shall be extended 60 days beyond the effective date of such amendment.

(d) With respect to a local educational agency which, during the fiscal year for which assistance is sought, acquired administrative control and direction of free public education in all or any portion of an area of a previously existing local educational agency (under the circumstances described in § 115.20(b)), the filing date of an application under sections 3 and 4 of the Act shall be extended to the extent necessary to allow 60 days beyond the effective date of such change in district organization.

(e) A timely filed application may be amended to apply for additional or alternative financial assistance based upon (1) the initiation or reactivation of a Federal activity, (2) the acquisition of property by the United States after the application was initially filed, (3) an amendment to the Act after the application was filed, or (4) a determination of the Commissioner first communicated to the applicant that property is or is not "Federal property" under section 403(1) of the Act. Such amendment must be filed within 60 days of such occurrence or communication and no later than on or before the 30th day of September following the fiscal year for which payment is requested

(f) A timely filed application may be amended to apply for additional or alternative financial assistance under sections 3(d)(2)(B), 3(d)(3)(B)(ii), 3(e) or section 4(d) of the Act, or section 305(b)(2) of Pub. L. 93-380, if such an amendment is:

(1) Filed no later than September 30 of the fiscal year following that for which assistance is sought; and

(2) Accompanied by a detailed statement setting forth the basis of the claim and a justification for the requested entitlement.

(20 U.S.C. 240(a)(1)

§ 115.12 [Reserved]

§ 115.13 Notification to applicants.

Each applicant will be notified of the results of the review of its application under one or more of the sections or subsections of the Act, and the estimated amount of the payment, if any to be made.

(20 U.S.C. 240)

§ 115.14 Assurances and parental participation with respect to Indian children for applications under section 3.

(a) Each application for payment under section 3(a) or section 3(b) of the Act which is based upon children who reside on or reside with a parent employed on Indian lands (as included within the definition of Federal property under section 403(1)(A) of the Act) shall set forth adequate assurance that Indian children will participate on an equitable basis in the school program of the applicant local educational agency.

(Pub. L. 92-318, section 411(a); (20 U.S.C. 240 (a)(2)))

(b) Each application based upon children as described in paragraph (a) of this section shall:

(1) Set forth such policies and procedures as will ensure that programs and projects assisted under the application have been planned and developed, and will be operated in consultation with, and with the involvement of parents of, the children to be served by such programs and projects. Applicants must submit a brief statement describing such policies and procedures with each application;

(2) Be submitted with assurance that such parents have had an opportunity to present their views with respect to the application; and

(3) Set forth policies and procedures for adequate dissemination of program plans and evaluations to such parents and the public. Applicants must submit a brief statement describing such policies and procedures with each application.

(c) It shall be the responsibility of the applicant local educational agency to provide to the parents of such children:

(1) Opportunity to make recommendations to the local educational agency concerning the needs of the Indian children;

(2) Opportunity to consult with the local educational agency concerning the ways in which such parents can assist their children in realizing the benefits to be derived from the educational program of the local educational agency; and

(3) Opportunity to present their views to the appropriate school personnel concerning the educational program and parental participation.

(20 U.S.C. 1231d; Pub. L. 92-318, section 411(a))

§ 115.16 Civil rights.

(a) Federal financial assistance is subject to the regulations in Part 80 of this title, issued by the Secretary of Health, Education, and Welfare and approved by the President to effectuate the provisions of Title VI of the Civil Rights Act of 1964 (Pub. L. 88-352).

(42 U.S.C. 2000d)

(b) Federal financial assistance is also subject to the provisions of Title IX of the Education Amendments of 1972 (prohibition of sex discrimination), and any regulations issued thereunder.

(Pub. L. 92-318, Title IX)

* * * * *

Subpart D—Generally Comparable Local Educational Agencies; Local Contribution Rate

§ 115.30 Determination of generally comparable local educational agencies.

(a) In the case of a local educational agency in a State (other than Puerto Rico, Guam, American Samoa, the Virgin Islands, or any State in which a substantial portion of the land is an unorganized territory for which a State agency is the local educational agency or any State in which there is only one local educational agency) the Commissioner will, after consultation with the State educational agency and the applicant, determine those local educational agencies which, in his judgment, are generally comparable to the applicant. For this purpose, the Commissioner will, based upon the recommendation of the State educational agency, classify all local educational agencies in such State into groups of agencies generally comparable to one another. In recommending to the Commissioner the classification of all local educational agencies in the State into generally comparable groups, the State educational agency shall initially establish proposed groups based upon legal classifications or justify the use of another factor as the principal factor. Unless the State educational agency can establish to the satisfaction of the Commissioner that the consideration of additional factors will not result in greater com-

parability, division into further groups will be required. For the purposes of such further division, consideration shall be given to grade level span maintained, economic characteristics, total number of pupils in ADA, cost per pupil in ADA paid from local sources and paid from all sources, percent of pupils transported, pupil-teacher ratio, assessed local property valuation per pupil in ADA, ratio of assessed value to true value, tax rate levied on real estate for school purposes for current expenses only and for current expenses, debt service and capital outlay, teacher salary schedule, curricula offered, and any other relevant factors. In making its recommendations in that regard to the Commissioner, the State educational agency will furnish such information as he may require, including information justifying the factors used and financial and attendance data necessary for the computation of per pupil expenditure and local contribution rate. On the basis of the recommendation by the State educational agency, the data furnished and other information which the Commissioner may obtain, and applying the above criteria, he will determine whether all local educational agencies in the State shall be classified into generally comparable groups and, if so, will determine such groups. The pupil, financial, and other data specified above for the establishment of group rates for a fiscal year are to be submitted to the Commissioner by the State educational agency by September 1 of the fiscal year for which such rates will be applicable. These data must include the following:

(1) Number of local educational agencies in the State and in each proposed group;

(2) Total ADA for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(3) Total revenue receipts from local sources for current expenditures for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(4) Total revenue receipts from all sources (excluding monies received under Titles I, II, III, and IV of the Elementary and Secondary Education Act of 1965) for current expense purposes for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(5) Total current expenditures (excluding expenditures from funds granted under Titles I, II, III, and IV of the Elementary and Secondary Education Act of 1965) for (i) all local educational agencies in the State and (ii) all local educational agencies in each proposed group;

(6) Total current expenditures from local source revenues for (i) all educational agencies in the State and (ii) all local educational agencies in each proposed group;

(7) Average local contribution rate for the State and for each proposed group (paragraph (a)(6) of this section divided by paragraph (a)(2) of this section);

(8) Average current expenditure per pupil for the State and for each proposed group (paragraph (a)(5) of this section divided by paragraph (a)(2) of this section);

(9) Total number, the actual ADA, and the total allowable current expenditures for the second preceding fiscal year of children enrolled in grades 13 and 14 of all local educational agencies of States which offer these grades as free public education; and

(10) Estimated current fiscal year per pupil cost for the State (in those States in which an applicant requests an entitlement under section 3(c)(4) or 4 of the Act). The actual per pupil costs shall be submitted by the applicant to the Commissioner at such time as they become available for each group.

(20 U.S.C. 238(d), 255(5))

(b) An alternate method of determining group local contribution rates may be used in States in which the majority of local educational agencies: (1) Are not applicants under the program; and (2) provide free public education to the majority of public elementary and secondary pupils in the State. In these cases, each group established under paragraph (a) of this section may be divided further into applicants and non-applicants. In each group the non-applicant school districts must number at least 5. The data for non-applicant school districts determines the LCR for applicant school districts in each group.

(c) In a State for which group classifications of generally comparable school districts cannot, in the judgment of the Commissioner, be appropriately established pursuant to paragraph (a) of this section.

(1) An applicant may submit to the Commissioner in its application the names of districts (approximately five in number) in the State which it deems generally comparable to the local educational agency of the applicant (together with all other pertinent data requested in the application by the Commissioner); *Provided*, That the applicant include in that data its legal classification or grade span maintained, its economic characteristics and a minimum of any three additional criteria from the following:

(i) Total number of pupils in average daily attendance;

(ii) Cost per pupil in average daily attendance paid from local source funds only and cost paid from all source funds;

(iii) Percent of pupils transported;

(iv) Pupil-teacher ratio;

(v) Assessed local property valuation per pupil in average daily attendance;

(vi) Ratio of assessed value to true value;

(vii) Tax rate levied on real estate for school purposes for current expenses only and for current expenses, debt service and capital outlay;

(viii) Teacher salary schedule; and

(ix) Curricula offered;

(2) The selection by the applicant of such local educational agencies shall be based upon the criteria set forth in paragraphs (a)(1) through (a)(10) of this section and shall be submitted through the State educational agency for review and comment. The Commissioner's determination will be based upon such criteria and any other relevant factors. The financial, attendance, and other data of the selected local educational agencies must be sufficient to justify the selection of such local educational agencies as generally comparable and to determine the per pupil expenditures and the local contribution rates in such agencies. On the basis of the data furnished by the applicant, or information otherwise obtained, and applying the above criteria, the Commissioner will select those local educational agencies which he determines to be generally comparable to the applicant. Such data must be submitted to the Commissioner by the State educational agency for each local educational agency deemed to be generally comparable by September 1 of the fiscal year for which application is made. Data must include the following:

(i) Comparable local educational agency data for the second preceding fiscal year compiled by the State educational agency for use by applicants in completing the comparable district table in the application for the year of application;

(ii) ADA and the current expenditures for the second preceding fiscal year of children under twenty-one years of age who are enrolled in grades 13 and 14 for all local educational agencies in States that offer these grades as free public education; and

(iii) The estimated percent of change in per pupil cost for all local educational agencies in the State, in the aggregate, for the current fiscal year from the second preceding fiscal year, for each State wherein an applicant requests an entitlement under section 3(c)(4) or section 4. Since comparable district data are submitted for the second year preceding, the estimated percent of increase factor for adjusting the per pupil cost to the cur-

rent year will suffice for all purposes prior to the final payment. However, the State shall submit actual data to the Commissioner for the purpose of computing final payments (except those final payments made pursuant to section 238(c)(4) and 239 of the Act).

(20 U.S.C. 238(d), 244(5))

(d) The State agency shall not distribute group rate data or comparable district data to applicants for inclusion in applications prior to the receipt of notice that such data have been approved by the Commissioner.

(20 U.S.C. 238(d), 244(5))

§ 115.31 Computation of local contribution rate.

The local contribution rate for an applicant for any fiscal year, except as otherwise specified in section 3(d) of the Act, will be computed by the Commissioner in the following manner: He shall divide (a) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which he is making a computation, which the local educational agencies determined pursuant to § 115.30 to be generally comparable to that of the applicant, made from revenues derived from local sources by (b) the aggregate number of children in average daily attendance to whom such agencies provided free public education during such second preceding fiscal year. The local contribution rate shall be an amount equal to the quotient so obtained.

(20 U.S.C. 238(d).

§ 115.32 Increase in or special local contribution rate.

Notwithstanding the provision in § 115.31, if the current expenditures in the local educational agencies which the Commissioner determined to be generally comparable to that of the applicant, in his judgment, are not reasonably comparable because of unusual geographical factors which affect the current expenditures necessary to maintain a level of education equivalent to that maintained in such other local educational agencies, then the Commissioner will increase the local contribution rate for such an applicant by the amount he determines will compensate the applicant for the increase in current expenditures necessitated by such unusual geographical factors.

(20 U.S.C. 238(d))

Subpart E—Records and Reports Required by the Commissioner

§ 115.40 Records and reports required of applicants.

(a) Each applicant shall maintain adequate written records to substantiate the Federal connection of pupils forming the basis for claim for financial assistance under sections 3 or 4 of the Act and shall make its records available to the Commissioner upon request for the purpose of examination or audit.

(b) Each applicant shall submit such reports and information as the Commissioner may reasonably require to determine the amount which the applicant may be paid under section 2, 3, or 4 of the Act.

(20 U.S.C. 237, 238, 239, 240(a))

§ 115.41 Final reports by applicants under sections 2, 3, and 4.

(a) *Submission of final reports.* Each applicant shall for each fiscal year submit through the State educational agency on Form RSF-3 a final report to enable the Commissioner to determine the amount to which the applicant is entitled under the Act. Copies of this form may be obtained from the appropriate State educational agency. Such final reports must be received by the Commissioner on or before the 30th day of September following the fiscal year for which payment is requested; except that, whenever that date falls on a Saturday, Sunday, or Federal holiday, the final date for filing such final reports shall be the next succeeding business day. No certification of payment will be made after the applicable date for filing the final report for any fiscal year until the final report for that fiscal year has been received. Until all such reports for each year for which an applicant has received a payment have been received in proper form, no further payment to such applicant will be made under the Act for any subsequent year, unless the Commissioner is satisfied from other information that the payments already made for the year for which a final report is lacking do not exceed the net amount due that applicant out of the appropriations for that year.

(b) *Failure to submit final report when appropriations are insufficient.* In addition to the limitation in paragraph (a) of this section for any year for which the Commissioner is required to reduce the amounts which he certifies for payment because the funds appropriated are insufficient to pay in full the total amounts to which all applicants are entitled, unless the final report has been received by the Commissioner on or before the applicable date for filing that final report, an applicant will not be entitled to any further payment out of funds available for that fiscal year. However, an applicant which has not received its regular initial payment for that year will have its application processed for that regular initial payment.

(c) *Excessive entitlement.* The Commissioner may, for a fiscal year for which no final report has been received, disallow any portion of the estimated entitlement which he may determine to be excessive on the basis of such information as is available. On the basis of all available information and whether or not such a report has been submitted after the applicable date for filing a final report following the close of the fiscal year, if an applicant is found to have received funds in excess of its entitlement or prorated portion of its entitlement for that fiscal year, that excess will be deducted in computing amounts subsequently certified for payment to the applicant for the current or subsequent fiscal year. Where no such payments are due, the applicant will be required to refund such excess to the United States through the Commissioner.

(d) *Information submitted after deadline date.* No effect will be given to any report or information filed by the applicant after the applicable date for filing a final report to increase the amount computable on the basis of information filed on such date, except that, where clarifying information has been solicited in writing by the Commissioner for the purpose of processing applications and final reports, such information may be given effect if received in writing by the Commissioner.

(20 U.S.C. 240(a))

§ 115.42 Retention of records.

Each recipient shall comply with the requirements in Subpart D of Part 74 of this title with respect to records that a recipient must keep. However, Section 434(a) of the General Provisions Act requires that a recipient must keep records for a five-year period, rather than the three-year period set in § 74.21.

(20 U.S.C. 1232c(a))

* * * * *

Subpart F—Arrangements Under Section 6 of the Act

§ 115.49 Ability to provide a suitable free public education for the purposes of Section of the Act.

The Commissioner considers a local educational agency (LEA) able to provide a suitable free public education if the local educational agency has (a) the authority under the State law to provide a suitable free public education to pupils residing on Federal

property, (b) has not refused to provide that education, and (c) has the actual or potential financial resources to provide that education.

(20 U.S.C. 241)

§ 115.50 Arrangements under section 6(a).

(a) Children who reside on Federal property shall be educated whenever possible in schools operated and controlled by local educational agencies (in accordance with State laws and standards).

(b) Insufficient funding under section 3 of the Act does not provide adequate justification for the making of arrangements under section 6(a) of the Act.

(c) In appropriate instances, when arrangements are made under section 6(a) of the Act, the provisions of section 6(f) shall be applied.

(d) To the extent practicable, the Commissioner will limit such payments to that of the per pupil cost provided for children in comparable communities in the State. In order to establish such cost, the agency or department proposing the arrangements must submit the per pupil cost data for the following agencies:

(1) The local educational agency in which all or part of the Federal property where the children reside and for which a proposal is being submitted is located, or, if the Federal property is not located within a local educational agency, one of the local educational agencies contiguous to such Federal property;

(2) The local educational agency in which the capital city of the State is located; and

(3) From one to three additional local educational agencies thought to be generally comparable to that of the schools affected by the proposal.

(20 U.S.C. 241(a); House Report No. 81-2287, June 20, 1950, 22-23)

§ 115.51 Arrangements under section 6(b).

(a) When the Commissioner makes arrangements under section 6(a) of the Act, he will under appropriate circumstances also make arrangements for those children for whose education he is authorized to make provisions under section 6(b) of the Act.

(b) Where a parent residing on the Federal property is transferred and the family moves from housing on Federal property to housing in an area adjacent to the Federal property, the dependent children will be permitted, as determined by the Commissioner, to continue in attendance at the section 6 school for the remainder of the fiscal year: *Provided*, That they continue to reside in such adjacent area. Where a parent is assigned to a Federal property on which there is a section 6 school and is assigned family housing on Federal property which the operating Federal agency certifies will be available for occupancy and will be occupied within ninety (90) days from the official reporting date of such parent, the dependent children may be permitted to attend the section 6 school while residing in an area adjacent to such Federal property for the portion of the ninety-day period as required by such residence.

(50 U.S.C. 241(b))

§ 115.52 Arrangements under section 6(c).

(a) When the Commissioner makes arrangements under section 6(a) of the Act, he will under appropriate circumstances also make arrangements in connection therewith for those children for whose education he is authorized to make provision under section 6(c) of the Act.

(b) Children may be permitted to attend the section 6 schools under the provisions of section 6(c) upon submission of a proper proposal approved by the Commissioner. Such children may include only:

(1) Children of a parent employed by the United States in Puerto Rico under the following conditions:

(i) The employing Federal agency documents that it has a policy of transfer or reassignment of personnel who occupy the same or similar grade, position, or classification of the parent and the parent is subject to such policy;

(ii) Such agency normally makes reassignments or transfers of such employees to places where English is the language of instruction in the school normally attended by children of Federal employees;

(iii) The head of the employing Federal agency documents that employees occupying the same grade, position, or classification have been transferred or reassigned to areas where English is the primary language of instruction;

(2) Children of a federally employed parent if:

(i) Such parent, with his family, has been stationed in an area in which English is the language of instruction in the schools generally attended by the children of such employees;

(ii) Such parent has been assigned to a location where the family is not authorized by the employing agency to go; and

(iii) Either of the following conditions exists:

(*a*) Such parent's home of record is Puerto Rico; or

(*b*) The home of such parent or such parent's spouse was Puerto Rico prior to their marriage; and

(3) Children of a parent who is employed as a supervisor, administator or instructional personnel in a facility for which arrangements are made pursuant to section 6 of the Act, if both of the following conditions exist:

(i) Such parent was hired in a country in which English is the primary language; and

(ii) The family of such parent migrated to Puerto Rico from an area in which English is the language of instruction in schools generally attended by children of such employees.

(20 U.S.C. 241(c); Sen. Rept. No. 311, 89th Cong., 1st Sess., June 9, 1965, 2; H. Rept. No. 703, July 3, 1953, 83d Cong., 1st Sess., 24, 28, 67)

[FR Doc. 78-33882 Filed 12-8-78; 8:45 am]

federal register

MONDAY, DECEMBER 11, 1978
PART III



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

■

LIST OF ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Republication

[4310-55-M]

Title 50—Wildlife and Fisheries

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

PART 17—ENDANGERED AND THREATENED WILDLIFE AND PLANTS

Republication of the List of Species

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Republication of the U.S. List of Endangered and Threatened Wildlife and Plants.

SUMMARY: The Service hereby issues a republication of the list of Endangered and Threatened Wildlife and Plants. An annual publication of this list is required under the Endangered Species Act of 1973 (16 U.S.C. 1531-1543; 87 Stat. 884).

DATE: This list is inclusive of September 30, 1978.

ADDRESSES: Comments concerning this republication should be sent to the Director (OES), U.S. Fish and Wildlife Service, U.S. Department of the Interior, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT:

Mr. Keith M. Schreiner, Associate Director—Federal Assistance, Washington, D.C. 20240, telephone 202-343-4646.

SUPPLEMENTARY INFORMATION: The list incorporates species officially listed as Endangered or Threatened since the republication of the list in the FEDERAL REGISTER, July 14, 1977 (42 FR 36420). These new species are African elephant, San Clemente loggerhead shrike, San Clemente sage sparrow, giant anole, Mona boa, Mona ground iguana, island night lizard, New Mexican ridge-nosed rattlesnake, Atlantic salt marsh snake, eastern indigo snake, green sea turtle, loggerhead turtle, Olive (Pacific) Ridley sea turtle, pine barrens tree frog, golden coqui, Alabama cavefish, slender chub, spotfin chub, leopard darter, slackwater darter, yellowfin madtom, little kern golden trout, greenback cutthroat trout, Chittenango ovate amber snail, flat-spired three-toothed snail, Iowa Pleistocene snail, noonday snail, painted snake coiled forest snail, Stock Island tree snail, Virginia fringed mountain snail, tan riffle shell, Socorro isopod, Virginia round-leaf birch, Contra Costa wallflower, McDonald's rock cress, Santa Barbara Island live forever, Rydberg milkvetch, hairy rattleweed, San Clemente broom, Hawaiian wild broadbean, unnamed *Phacelia*, San Diego pogogyne, persistent trillium, San Clemente Island bushmallow, Eureka evening-primrose, Antioch Dunes evening primrose, Crampton's orcutt grass, Eureka dune grass, Texas wild-rice, northern wild monkshood, San Clemente Island Larkspur, salt marsh bird's-beak, San Clemente Island Indian paintbrush, and Furbish lousewart. Populations of both the gray wolf and the bald eagle have been reclassified. The Mexican duck has been removed from the list as directed by the rulemaking published in the July 25, 1978, FEDERAL REGISTER (43 FR 32258-32261). Errors detected in the FEDERAL REGISTER, July 14, 1977 (42 FR 36420) list have been corrected, and some scientific names have been changed to reflect current usage.

Dated: November 20, 1978.

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

1. The table in 50 CFR 17.11 is revised to read as follows:

17.11 - Endangered and Threatened wildlife

SPECIES		RANGE					
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
MAMMALS:							
Anoa	Bubalus (Anoa) depressicornis	N/A	Indonesia	Entire	E	3	N/A
Anoa, mountain	Bubalus (Anoa) quarlesi	N/A	Indonesia	Entire	E	15	N/A
Anteater, scaly	Manis temminckı	N/A	Africa	Entire	E	15	N/A
Antelope, bontebok	Damaliscus dorcas dorcas	N/A	South Africa	Entire	E	15	N/A
Antelope, giant sable	Hippotragus niger varianı	N/A	Angola	Entire	E	15	N/A
Antelope, Mongolian saiga	Saiga tatarica mongolica	N/A	Mongolia	Entire	E	15	N/A
Argali,	Ovis ammon hodgsoni	N/A	China (Tibet)	Entire	E	15	N/A
Armadillo, giant	Priodontes giganteus (=maximus)	N/A	Venezuela and Guyana to Argentina	Entire	E	15	N/A
Armadillo, pink fairy	Chlamyphorus truncatus	N/A	Argentina	Entire	E	3	N/A
Ass, African wild	Equus asinus	Somalia, Sudan, Ethiopia	Somalia, Sudan, Ethiopia	Entire	E	3	N/A
Ass, Asian wild	Equus hemionus	N/A	Southwestern and Central Asia	Entire	E	3	N/A
Avahis	Avahi spp (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Aye-Aye	Daubentonia madagascariensis	N/A	Malagasy Republic (Madagascar)	Entire	E	3	N/A
Babirousa	Babyrousa babyrussa	N/A	Indonesia	Entire	E	15	N/A
Bandicoot, barred	Perameles bougainville	N/A	Australia	Entire	E	4	N/A
Bandicoot, desert	Perameles eremiana	N/A	Australia	Entire	E	6	N/A
Bandicoot, lesser rabbit	Macrotis leucura	N/A	Australia	Entire	E	4	N/A
Bandicoot, pig-footed	Chaeropus ecaudatus	N/A	Australia	Entire	E	4	N/A
Bandicoot, rabbit	Macrotis lagotis	N/A	Australia	Entire	E	4	N/A
Banteng	Bos banteng	N/A	Southeast Asia	Entire	E	4	N/A
Bat, gray	Myotis grisescens	N/A	Central and Southeastern USA	Entire	E	13	N/A
Bat, Hawaiian hoary	Lasiurus cinereus semotus	N/A	USA (Hawaii)	Entire	E	2	N/A
Bat, Indiana	Myotis sodalis	N/A	Eastern and Middle-	Entire	E	1	N/A
Bear, brown	Ursus arctos pruinosus	China (Tibet)	China (Tibet)	Entire	E	15	N/A
Bear, brown	Ursus arctos	Italy	Holarctic	Entire	E	15	N/A
Bear, brown or grizzly	Ursus arctos horribilis	USA - 48 conterminous States	Holarctic	Entire	T	9	17.40(b)
Bear, Mexican grizzly	Ursus arctos nelsoni	Mexico	Mexico	Entire	E	3	N/A
Beaver	Castor fiber birulai	N/A	Mongolia	Entire	E	15	N/A
Bison, wood	Bison bison athabascae	N/A	Canada	Entire	E	3	N/A
Bobcat	Felis (Lynx) rufus escuninapae	N/A	Central Mexico	Entire	E	15	N/A
Camel, bactrian	Camelus bactrianus	N/A	Mongolia, China	Entire	E	15	N/A
Cat, Andean	Felis jacobita	N/A	Chile, Peru, Bolivia, Argentina	Entire	E	15	N/A
Cat, black-footed	Felis nigripes	N/A	Southern Africa	Entire	E	15	N/A
Cat, flat-headed	Felis planiceps	N/A	Malaysia	Entire	E	15	N/A
Cat, leopard	Felis bengalensis bengalensis	N/A	Eastern Asia	Entire	E	15	N/A
Cat, marbled	Felis marmorata	N/A	Nepal, Burma, Malaysia, Indonesia (Sumatra, Borneo)	Entire	E	15	N/A
Cat, Temminck's	Felis temmincki	N/A	China (Tibet) Malaysia, (Sumatra)	Entire	E	15	N/A
Cat, tiger	Felis tigrina	N/A	Costa Rica to Northern South America	Entire	E	4	N/A
Chamois, Apennine	Rupicapra rupicapra ornata	N/A	Italy	Entire	E	15	N/A
Cheetah	Acinonyx jubatus	N/A	Africa to India	Entire	E	3,5	N/A
Chimpanzee	Pan troglodytes	N/A	Western and Central Africa	Entire	T	16	17.40(b)
Chimpanzee, Pigmy	Pan paniscus	N/A	Zaire	Entire	T	16	17.40(b)
Chinchilla	Chinchilla brevicaudata boliviana	N/A	Bolivia	Entire	E	15	N/A
Colobus, black	Colobus satanas	N/A	Cameroon, Equatorial Guinea, Gabon, Congo (Brazzaville)	Entire	E	16	N/A
Colobus, red	Colobus badius rufomitratus	N/A	Kenya	Entire	E	16	N/A
Colobus, Zanzibar red	Colobus kirkii	N/A	Tanzania	Entire	E	4	N/A
Cougar, eastern	Felis concolor couguar	N/A	Eastern North America	Entire	E	6	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Deer, bawean	Axis (Hyelaphus) porcinus kuhli	N/A	Indonesia	Entire	E	3	N/A
Deer, Cedros Island mule	Odocoileus hemionus cedrosensis	N/A	Mexico (Cedros Island)	Entire	E	10	N/A
Deer, Columbian white-tailed	Odocoileus virginianus leucurus	N/A	USA (Washington, Oregon)	Entire	E	1	N/A
Deer, Eld's brow-antlered	Cervus eldi	N/A	India, Southeast Asia	Entire	E	4	N/A
Deer, hog	Axis (Hyelaphus) porcinus annamiticus	N/A	Thailand, Cambodia, Laos, India, Vietnam	Entire	E	15	N/A
Deer, key	Odocoileus virginianus clavium	N/A	USA (Florida)	Entire	E	1	N/A
Deer, marsh	Blastocerus dichotomus	N/A	Argentina, Uruguay, Paraguay, Brazil	Entire	E	4	N/A
Deer, McNeill's	Cervus elaphus macneilli	N/A	China	Entire	E	4	N/A
Deer, musk	Moschus moschiferus moschiferus	N/A	Southcentral Asia	Entire	E	15	N/A
Deer, pampas	Ozotoceras bezoarcticus	N/A	Brazil, Paraguay, Uruguay, Argentina	Entire	E	15	N/A
Deer, Persian fallow	Dama dama mesopotamica	N/A	Iraq, Iran	Entire	E	3	N/A
Deer, Philippine	Axis (Hyelaphus) calamianensis	N/A	Philippines (Calamian Islands)	Entire	E	15	N/A
Deer, swamp	Cervus duvaucelli	N/A	India, Nepal	Entire	E	4	N/A
Dibbler	Antechinus apicalis	N/A	Australia	Entire	E	4	N/A
Dog, asiatic wild (dhole)	Cuon alpinus	N/A	Soviet Union, India	Entire	E	4	N/A
Drill	Papio leucophaeus	N/A	Western Cameroon, eastern Nigeria	Entire	E	10	N/A
Dugong	Dugong dugon	N/A	East Africa to Ryukyu Islands including USA (Trust territories)	Entire	E	4	N/A
Elephant, African	Loxodonta africana	N/A	Africa	Entire	T	40	17.40(c)
Elephant, Asian	Elephas maximus	N/A	India, Burma, Laos, Thailand, Cambodia, Malaysia, Sri Lanka, Vietnam	Entire	E	15	N/A
Ferret, black-footed	Mustela nigripes	N/A	USA (Western), Western Canada	Entire	E	1,3	N/A
Forester, Tasmanian (kangaroo)	Macropus giganteus tasmaniensis	N/A	Australia	Entire	E	6	N/A
Fox, Northern swift	Vulpes velox hebes	N/A	USA (Northern Plains), Canada	Entire	E	3	N/A
Fox, San Joaquin kit	Vulpes macrotis mutica	N/A	USA (California)	Entire	E	1	N/A
Gazelle, Clark's (dibetag)	Ammodorcas clarkei	N/A	Somalia, Ethiopia	Entire	E	3	N/A
Gazelle, Cuvier's	Gazella cuvieri	N/A	Morocco, Tunisia	Entire	E	4	N/A
Gazelle, Mhorr	Gazella dama mhorr	N/A	Morocco	Entire	E	4	N/A
Gazelle, Moroccan (dorcas)	Gazella dorcas massaesyla	N/A	Morocco, Algeria	Entire	E	4	N/A
Gazelle, rio de oro dama	Gazella dama lozanoi	N/A	Spanish Sahara	Entire	E	4	N/A
Gazelle, slender-horned (Rhim)	Gazella leptoceros	N/A	Sudan, Algeria, Egypt, Libya	Entire	E	4	N/A
Gelada	Theropithecus gelada	N/A	Northern Ethiopia	Entire	T	10	17.40(c)
Gibbons	Hylobates spp.	N/A	China, India, and S.E. Asia	Entire	E	15	N/A
Goral	Nemorhaedus goral	N/A	East Asia	Entire	E	15	N/A
Gorilla	Gorilla gorilla	N/A	Central and western Africa	Entire	E	4	N/A
Hare, hispid	Caprolagus hispidus	N/A	India, Nepal	Entire	E	15	N/A
Hartebeest, Swayne's	Alcelaphus buselaphus swayneï	N/A	Ethiopia	Entire	E	4	N/A
Hog, pygmy	Sus salvanius	N/A	India, Nepal, Bhutan, Sikkim	Entire	E	4	N/A
Horse, Przewalski's	Equus przewalskii	N/A	Mongolia	Entire	E	15	N/A
Huemul, North Andean	Hippocamelus antisiensis	N/A	Ecuador, Peru, Chile, Bolivia, Argentina	Entire	E	15	N/A
Huemul, South Andean	Hippocamelus bisulcus	N/A	Chile, Argentina	Entire	E	15	N/A
Hyena, Barbary	Hyaena hyaena barbara	N/A	Morocco	Entire	E	4	N/A
Hyena, brown	Hyaena brunnea	N/A	South Africa	Entire	E	4	N/A
Ibex, Pyrenean	Capra pyrenaica pyrenaica	N/A	Spain	Entire	E	3	N/A
Ibex, walia	Capra walie	N/A	Ethiopia	Entire	E	3	N/A
Impala, black-faced	Aepyceros melampus petersi	N/A	Namibia, Angola	Entire	E	4	N/A
Indris	Indris spp. (all species)	N/A	Malagasy Republic (Madagascar), Comoro I. sd.	Entire	E	3,4	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Jaguar	Panthera onca	N/A	U.S. (Southwestern) to South America	Entire	E	4	N/A
Jaguar	Panthera onca	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Jaguarundi	Felis yagouaroundi cacomitli	N/A	USA (Texas), Mexico	Entire	E	15	N/A
Jaguarundi	Felis yagouaroundi fossata	N/A	Mexico, Nicaragua	Entire	E	15	N/A
Jaguarundi	Felis yagouaroundi panamensis	N/A	Nicaragua, Costa Rica, Panama	Entire	E	15	N/A
Jaguarundi	Felis yagouaroundi tolteca	N/A	USA (Arizona), Mexico	Entire	E	15	N/A
Kangaroo, eastern gray (see also Forester, Tasmanian)	Macropus giganteus (all subspecies except tasmaniensis)	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, red	Megaleia rufa	N/A	Australia	Entire	T	7	17.40(a)
Kangaroo, western gray	Macropus fuliginosus	N/A	Australia	Entire	T	7	17.40(a)
Kouprey	Bos sauveli	N/A	Cambodia	Entire	E	3	N/A
Langur, capped	Presbytis pileatus	N/A	India, Burma	Entire	E	15	N/A
Langur, entellus	Presbytis entellus	N/A	China (Tibet), India, Nepal, Sri Lanka, Pakistan, Kashmir, Sikkim, Bangladesh	Entire	E	15	N/A
Langur, Douc	Pygathrix nemaeus	N/A	Cambodia, Laos, China, Vietnam	Entire	E	4	N/A
Langur, golden	Presbytis geei	N/A	Assam, Bhutan	Entire	E	15	N/A
Langur, long-tailed	Presbytis potenziani	N/A	Mentawi Islands, Indonesia	Entire	T	16	17.40(a)
Langur, Pagi Island	Simias concolor	N/A	Indonesia	Entire	E	4	N/A
Langur, purple-faced	Presbytis senex	N/A	Sri Lanka (Ceylon)	Entire	T	16	17.40(c)
Lechwe	Kobus leche	N/A	Southern Africa	Entire	E	15	N/A
Lemurs	Lemuridae; all members of the genera Lemur, Hapalemur, Lepilemur, Cheirogaleus, Allocebus, Microcebus, Phaner	N/A	Malagasy Republic (Madagascar) and Comoro Islands	Entire	E	3,4,15	N/A
Lemur, black	Lemur macaco	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Lemur, ring-tailed	Lemur catta	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Leopard	Panthera pardus	N/A	Africa and Asia	Entire	E	3,5	N/A
Leopard	Panthera pardus	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Leopard, clouded	Neofelis nebulosa (all subspecies except brachyurus)	N/A	Southeast Asia	Entire	E	15	N/A
Leopard, Formosan clouded	Neofelis nebulosa brachyurus	N/A	Taiwan	Entire	E	4	N/A
Leopard, snow	Panthera uncia	N/A	Central Asia	Entire	E	5	N/A
Linsang, spotted	Prionodon pardicolor	N/A	Nepal, Assam, Burma, Cambodia, Laos, Vietnam	Entire	E	15	N/A
Lion, Asiatic	Panthera leo persica	N/A	India	Entire	E	3	N/A
Loris, lesser slow	Nycticebus pygmaeus	N/A	Vietnam, Laos	Entire	T	16	17.40(c)
Lynx, Spanish	Felis (Lynx) lynx pardina (Felis pardina)	N/A	Spain	Entire	E	3	N/A
Macaque, Formosan rock	Macaca cyclopis	N/A	Taiwan	Entire	T	16	17.40(c)
Macaque, Japanese	Macaca fuscata	N/A	Japan (Shikoku, Kyushu, and Honshu Islands)	Entire	T	16	17.40(c)
Macaque, lion-tailed	Macaca silenus	N/A	India	Entire	E	3	N/A
Macaque, stump-tailed	Macaca arctoides	N/A	Assam (India), to southern China and	Entire	T	16	17.40(c)
Macaque, Toque	Macaca sinica	N/A	Sri Lanka (Ceylon)	Entire	T	16	17.40(c)
Manatee, Amazonian	Trichechus inunguis	N/A	South America; Amazon River Basin	Entire	E	3	N/A
Manatee, West Indian (Florida)	Trichechus manatus	N/A	USA (Southeastern), Caribbean Ocean, South America	Entire	E	1,3	N/A
Mandrill	Papio sphinx	N/A	Central West Africa	Entire	E	16	N/A
Mangabey, Tana River	Cercocebus galeritus	N/A	Kenya	Entire	E	3	N/A
Mangabey, white-collared	Cercocebus torquatus	N/A	Senegal to Ghana; Nigeria to Gabon	Entire	E	16	N/A
Margay	Felis wiedii	N/A	Central and South America	Entire	E	5	N/A
Markhor, Chiltan	Capra falconeri chiltanensis	N/A	Pakistan	Entire	E	15	N/A
Markhor, Kabul	Capra falconeri megaceros	N/A	Afghanistan, Pakistan	Entire	E	15	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Markhor, straight-horned	Capra falconeri jerdoni	N/A	Pakistan, Afghanistan border	Entire	E	15	N/A
Marmoset, cotton-top	Saguinus oedipus	N/A	Panama, Costa Rica, Colombia	Entire	E	16	N/A
Marmoset, Goeldi's	Callimico goeldii	N/A	Brazil, Colombia, Ecuador, Peru	Entire	E	4	N/A
Marsupial, eastern jerboa	Antechinomys laniger	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, large desert	Sminthopsis psammophila	N/A	Australia	Entire	E	4	N/A
Marsupial-mouse, long-tailed	Sminthopsis longicaudata	N/A	Australia	Entire	E	4	N/A
Marten, Formosan yellow-throated	Martes flavigula chrysospila	N/A	Taiwan	Entire	E	4	N/A
Monkey, black howler	Alouatta pigra	N/A	Mexico, Guatamala, Belize	Entire	T	16	17.40(c)
Monkey, Diana	Cercopithecus diana	N/A	Coastal West Africa	Entire	E	16	N/A
Monkey, Francois' leaf	Presbytis francoisi	N/A	Kwangsi (People's Republic of China), Indochina	Entire			
Monkey, howler	Alouatta villosa (=palliata)	N/A	Mexico to Ecuador	Entire	E	15	N/A
Monkey, L'hoest's	Cercopithecus lhoesti	N/A	Upper eastern Congo Basin, Cameroon	Entire	E	16	N/A
Monkey, proboscis	Nasalis larvatus	N/A	Borneo	Entire	E	15	N/A
Monkey, red-backed squirrel	Saimiri oerstedii (Saimiri sciureus oerstedii)	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, red-bellied	Cercopithecus erthrogaster	N/A	Western Nigeria	Entire	E	16	N/A
Monkey, red-eared nose spotted	Cercopithecus erythrotis	N/A	Nigeria, Fernando Po, Cameroon	Entire	E	16	N/A
Monkey, spider	Ateles geoffroyi frontatus	N/A	Costa Rica, Nicaragua	Entire	E	3	N/A
Monkey, spider	Ateles geoffroyi panamensis	N/A	Costa Rica, Panama	Entire	E	3	N/A
Monkey, Tonkin snub-nosed	Rhinopithecus avunculus	N/A	Vietnam	Entire	T	16	17.40(c)
Monkey, woolly spider	Brachyteles arachnoides	N/A	Brazil	Entire	E	4	N/A
Monkey, yellow-tailed woolly	Lagothrix flavicauda	N/A	Andes of northern Peru	Entire	E	16	N/A
Mouse, Australian native	Zyzomys pedunculatus	N/A	Australia	Entire	E	15	N/A
Mouse, Australian native	Notomys aquilo	N/A	Australia	Entire	E	15	N/A
Mouse, Field's	Pseudomys fieldi	N/A	Australia	Entire	E	4	N/A
Mouse, Gould's	Pseudomys gouldii	N/A	Australia	Entire	E	6	N/A
Mouse, New Holland	Pseudomys novaehollandiae	N/A	Australia	Entire	E	4	N/A
Mouse, salt marsh harvest	Reithrodontomys raviventris	N/A	USA (California)	Entire	E	2	N/A
Mouse, Shark Bay	Pseudomys praeconis	N/A	Australia	Entire	E	4	N/A
Mouse, shortridge's	Pseudomys shortridgei	N/A	Australia	Entire	E	4	N/A
Mouse, Smoky	Pseudomys fumeus	N/A	Australia	Entire	E	4	N/A
Mouse, Western	Pseudomys occidentalis	N/A	Australia	Entire	E	4	N/A
Native-cat, Eastern	Dasyurus viverrinus	N/A	Australia	Entire	E	6	N/A
Numbat	Myrmecobius fasciatus	N/A	Australia	Entire	E	6	N/A
Ocelot	Felis pardalis	N/A	Central and South America	Entire	E	5	N/A
Orangutan	Pongo pygmaeus	N/A	Indonesia, Malaysia, Brunei	Entire	E	3	N/A
Oryx, Arabian	Oryx leucoryx	N/A	Arabian Peninsula	Entire	E	3	N/A
Otter, Cameroon clawless	Paraonyx microdon	N/A	Cameroon	Entire	E	4	N/A
Otter, giant	Pteronura brasiliensis	N/A	South America	Entire	E	3	N/A
Otter, La Plata	Lutra platensis	N/A	Uruguay, Argentina, Bolivia, Brazil	Entire	E	4	N/A
Otter, long-tailed	Lutra longicaudis	N/A	South America	Entire	E	15	N/A
Otter, marine	Lutra felina	N/A	Peru, Chiloe Island, Straits of Magellan	Entire	E	15	N/A
Otter, Southern River	Lutra provocax	N/A	Chile, Argentina	Entire	E	15	N/A
Otter, Southern Sea	Enhydra lutris nereis	N/A	California	Entire	T	21	N/A
Panther, Florida	Felis concolor coryi	N/A	Florida	Entire	E	1	N/A
Planigale, little	Planigale subtilissima	N/A	Australia	Entire	E	4	N/A
Planigale, Southern	Planigale tenuirostris	N/A	Australia	Entire	E	4	N/A
Porcupine, thin-spined	Chaetomys subspinosus	N/A	Brazil	Entire	E	3	N/A
Possum, mountain pygmy	Burramys parvus	N/A	Australia	Entire	E	4	N/A
Possum, scaly-tailed	Wyulda squamicaudata	N/A	Australia	Entire	E	4	N/A
Prairie Dog, Mexican	Cynomys mexicanus	N/A	Mexico	Entire	E	4	N/A
Prairie Dog, Utah	Cynomys parvidens	N/A	USA (Utah)	Entire	E	6	N/A

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Pronghorn, peninsular	Antilocapra americana peninsularis	N/A	Mexico (Baja California)	Entire	E	10	N/A
Pronghorn, Sonoran	Antilocapra americana sonoriensis	N/A	USA (Arizona), Mexico	Entire	E	1,3	N/A
Pudu	Pudu pudu	N/A	Southern South America	Entire	E	15	N/A
Puma, Costa Rican	Felis concolor costaricensis	N/A	Nicaragua, Panama, Costa Rica	Entire	E	15	N/A
Quokka	Setonix brachyurus	N/A	Australia	Entire	E	6	N/A
Rabbit, volcano	Romerolagus diazi	N/A	Mexico	Entire	E	4	N/A
Rat, false water	Xeromys myoides	N/A	Australia	Entire	E	4	N/A
Rat, stick-nest	Leporillus conditor	N/A	Australia	Entire	E	6	N/A
Rat, Morro Bay kangaroo	Dipodomys heermanni morroensis	N/A	USA (California)	Entire	E	2	N/A
Rat-kangaroo, brush-tailed	Bettongia penicillata	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Gaimard's	Bettongia gaimardi	N/A	Australia	Entire	E	6	N/A
Rat-kangaroo, Lesuer's	Bettongia lesueur	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, plain	Caloprymnus campestris	N/A	Australia	Entire	E	4	N/A
Rat-kangaroo, Queensland	Bettongia tropica	N/A	Australia	Entire	E	4	N/A
Rhinoceros, great Indian	Rhinoceros unicornis	N/A	India, Nepal	Entire	E	4	N/A
Rhinoceros, Javan	Rhinoceros sondaicus	N/A	Indonesia, Burma, Thailand	Entire	E	3	N/A
Rhinoceros, northern white	Ceratotherium simum cottoni	N/A	Zaire, Uganda, Sudan Central African Republic	Entire	E	4	N/A
Rhinoceros, Sumatran	Didermoceros sumatrensis	N/A	Bangladesh to Vietnam to Indonesia (Borneo)	Entire	E	3	N/A
Saki, white-nosed	Chiropotes albinasus	N/A	Brazil	Entire	E	4	N/A
Seal, Hawaiian monk	Monachus schauinslandi	N/A	Hawaiian Archipelago	Entire	E	18	N/A
Seal, Mediterranean monk	Monachus monachus	N/A	Mediterranean, Northwest African Coast and Black Sea	Entire		3	N/A
Seledang (Gaur)	Bos gaurus	N/A	India, Southeast Asia, Bangladesh	Entire	E	4	N/A
Serow, Sumatran	Capricornis sumatraensis	N/A	Sumatra	Entire	E	15	N/A
Serval, Barbary	Felis serval constantina	N/A	Algeria	Entire	E	4	N/A
Shapo	Ovis vignei	N/A	Kashmir	Entire	E	15	N/A
Shou	Cervus elaphus wallichi	N/A	Tibet, Bhutan	Entire	E	4	N/A
Siamang	Symphalangus syndactylus	N/A	Thailand, Malaysia, (Malay Peninsula, Sumatra)	Entire	E	15	N/A
Sifakas	Propithecus spp. (all species)	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Sloth, Brazilian three-toed	Bradypus torquatus	N/A	Brazil	Entire	E	4	N/A
Solenondon, Cuban	Atopogale cubana	N/A	Cuba	Entire	E	4	N/A
Solenondon, Haitan	Solenodon paradoxus	N/A	Dominican Republic, Haiti	Entire	E	4	N/A
Squirrel, Delmarva Peninsula fox	Sciurus niger cinereus	N/A	USA (Maryland)	Entire	E	1	N/A
Stag, Barbary	Cervus elephus barbarus	N/A	Tunisia, Algeria	Entire	E	3	N/A
Stag, Kashmir	Cervus elephus hanglu	N/A	Kashmir	Entire	E	3	N/A
Tamaraw	Bubalus (Anoa) mindorensis	N/A	Philippines	Entire	E	4	N/A
Tamarin, golden-rumped (golden-headed Tamarin; golden-lion Marmoset)	Leontideus spp. (all species)	N/A	Brazil	Entire	E	3	N/A
Tamarin, pied	Saguinus bicolor	N/A	Northern Brazil	Entire	E	16	N/A
Tamarin, white-footed	Saguinus leucopus	N/A	Northern Colombia	Entire	T	16	17.44(c)
Tapir, Asian	Tapirus indicus	N/A	Burma, Thailand, Cambodia, Laos, Vietnam, Malaysia (Sumatra)	Entire	E	15	N/A
Tapir, Brazilian	Tapirus terrestris	N/A	Venezuela, Argentina, Brazil, Colombia	Entire	E	4	N/A
Tapir, Central American	Tapirus bairdii	N/A	Southern Mexico to Colombia and Ecuador	Entire	E	4	N/A
Tapir, mountain	Tapirus pinchaque	N/A	Colombia, Ecuador	Entire	E	4	N/A
Tarsier, Philippine	Tarsius syrichta	N/A	Philippines	Entire	T	16	17.44(c)
Tiger	Panthera tigris	N/A	Temperate & Tropical Asia	Entire	E	3,5	N/A
Tiger	Panthera tigris	In captivity in U.S.	N/A	Entire	T(C/P)	24	N/A
Tiger, Tasmanian (Thylacine)	Thylacinus cynocephalus	N/A	Australia	Entire	E	3	N/A

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Uakari	Cacajao spp. (all species)	N/A	Peru, Colombia, Brazil, Venezuela, Ecuador	Entire	E	3	N/A
Urial	Ovis orientalis ophion	N/A	Cyprus	Entire	E	15	N/A
Vicuna	Vicugna vicugna	N/A	Peru, Bolivia, Argentina	Entire	E	3	N/A
Wallaby, banded hare	Lagostrophus fasciatus	N/A	Australia	Entire	E	4	N/A
Wallaby, brindled	Onychogalea frenata	N/A	Australia	Entire	E	4	N/A
Wallaby, crescent nail-tailed	Onychogalea lunata	N/A	Australia	Entire	E	4	N/A
Wallaby, Parma	Macropus parma	N/A	Australia	Entire	E	4	N/A
Wallaby, western hare	Lagorchestes hirsutus	N/A	Australia	Entire	E	4	N/A
Wallaby, yellow-footed rock	Petrogale xanthopus	N/A	Australia	Entire	E	6	N/A
Whale, blue	Balaenoptera musculus	N/A	Oceanic	Entire	E	4	N/A
Whale, bowhead	Balaena mysticetus	N/A	Oceanic	Entire	E	4	N/A
Whale, finback	Balaenoptera physalus	N/A	Oceanic	Entire	E	4	N/A
Whale, gray	Eschrichtius gibbosus	N/A	Oceanic	Entire	E	4	N/A
Whale, humpback	Megaptera novaeangliae	N/A	Oceanic	Entire	E	4	N/A
Whale, right	Eubalaena spp. (all species)	N/A	Oceanic	Entire	E	4	N/A
Whale, Sei	Balaenoptera borealis	N/A	Oceanic	Entire	E	4	N/A
Whale, sperm	Physeter catodon	N/A	Oceanic	Entire	E	4	N/A
Wolf, gray	Canis lupus	USA (48 conterminous States other than MN), Mexico	AZ,ID,MI,MT,NM,ND, OR,TX,WA,WI,WY,MX	Entire	E	1,6,13 15,35	N/A
Wolf, gray	Canis lupus	MN	Northern Minnesota	Entire	T	35	17.40(d)
Wolf, maned	Chrysocyon brachyurus	N/A	Argentina, Bolivia, Brazil, Paraguay	Entire	E	4	N/A
Wolf, red	Canis rufus	N/A	Texas, Louisiana	Entire	E	2	N/A
Wombat, barnard's	Lasiorhinus barnardi	N/A	Australia	Entire	E	4	N/A
Wombat, Queensland hairy-nosed	Lasiorhinus gillespiei	N/A	Australia	Entire	E	6	N/A
Yak, wild	Bos grunniens mutus	N/A	China (Tibet), India	Entire	E	4	N/A
Zebra, mountain	Equus zebra zebra	N/A	Southern Africa	Entire	E	15	N/A

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BIRDS:							
Akepa, Hawaii (honeycreeper)	Loxops coccinea coccinea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akepa, Maui (honeycreeper)	Loxops coccinea ochracea	N/A	USA (Hawaii)	Entire	E	2	N/A
Akialoa, Kauai (honeycreeper)	Hemignathus procerus	N/A	USA (Hawaii)	Entire	E	1	N/A
Akiapolaau (honeycreeper)	Hemignathus wilsoni	N/A	USA (Hawaii)	Entire	E	1	N/A
Albatross, short-tailed	Diomedea albatrus	N/A	North Pacific Ocean: Japan, Soviet Union, USA	Entire	E	3	N/A
Blackbird, yellow-shouldered	Agelaius xanthomus	N/A	Puerto Rico & Mona Island	Entire	E	17	N/A
Bobwhite, masked (quail)	Colinus virginianus ridgwayi	N/A	USA (Arizona), Mexico (Sonora)	Entire	E	1,3	N/A
Booby, Abbott's	Sula abbotti	N/A	Indian Ocean: Christmas Island	Entire	E	15	N/A
Bristlebird, western	Dasyornis brachypterus longirostris	N/A	Australia	Entire	E	4	N/A
Bristlebird, western rufous	Dasyornis broadbenti littoralis	N/A	Australia	Entire	E	15	N/A
Bulbul, Mauritius olivaceous	Hypsipetes borbonicus olivaceus	N/A	Mauritius	Entire	E	3	N/A
Bullfinch, Sao Miguel (finch)	Pyrrhula pyrrhula murina	N/A	Eastern Atlantic Ocean: Azores	Entire	E	3	N/A
Bushwren, New Zealand	Xenicus longipes	N/A	New Zealand	Entire	E	3	N/A
Bustard, great Indian	Choriotis nigriceps	N/A	India, Pakistan	Entire	E	3	N/A
Cahow (Bermuda Petrel)	Pterodroma cahow	N/A	Western Atlantic Ocean: Bermuda	Entire	E	4	N/A
Condor, Andean	Vultur gryphus	N/A	Colombia to Chile and Argentina	Entire	E	4	N/A
Condor, California	Gymnogyps californianus	N/A	USA (OR,CA), Mexico (Baja California)	Entire	E	1	N/A
Coot, Hawaiian	Fulica americana alai	N/A	USA (Hawaii)	Entire	E	2	N/A
Cotinga, banded	Cotinga maculata	N/A	Brazil	Entire	E	15	N/A
Cotinga, white-winged	Xipholena atropurpurea	N/A	Brazil	Entire	E	15	N/A
Crane, black-necked	Grus nigricollis	N/A	China (Tibet)	Entire	E	15	N/A
Crane, Cuba sandhill	Grus canadensis nesiotes	N/A	West Indies: Cuba (Isle of Pines)	Entire	E	15	N/A
Crane, hooded	Grus monacha	N/A	Japan, Soviet Union	Entire	E	4	N/A
Crane, Japanese	Grus japanensis	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Crane, Mississippi sandhill	Grus canadensis pulla	N/A	USA (Mississippi)	Entire	E	6	N/A
Crane, Siberian white	Grus leucogeranus	N/A	Soviet Union (Siberia) to India	Entire	E	4	N/A
Crane, white-naped	Grus vipio	N/A	Mongolia	Entire	E	15	N/A
Crane, whooping	Grus americana	N/A	Canada, USA, Mexico	Entire	E	1,3	N/A
Creeper, Hawaiian	Loxops maculata mana	N/A	USA (Hawaii)	Entire	E	10	N/A
Creeper, Molokai (Kakawahie)	Loxops maculata flammea	N/A	USA (Hawaii)	Entire	E	2	N/A
Creeper, Oahu (Alauwahio)	Loxops maculata maculata	N/A	USA (Hawaii)	Entire	E	2	N/A
Crow, Hawaiian (Alala)	Corvus tropicus	N/A	USA (Hawaii)	Entire	E	1	N/A
Cuckoo-shrike, Mauritius	Coquus (=Coracina) typicus	N/A	Indian Ocean, Mauritius	Entire	E	3	N/A
Cuckoo-shrike, Reunion	Coquus (=Coracina) newtoni	N/A	Indian Ocean: Reunion Island	Entire	E	3	N/A
Curassow, razor-billed	Mitu mitu mitu	N/A	Brazil (Eastern)	Entire	E	15	N/A
Curassow, red-billed	Crax blumenbachii	N/A	Brazil	Entire	E	4	N/A
Curassow, Trinidad white-headed	Pipile pipile pipile	N/A	West Indies: Trinidad	Entire	E	3	N/A
Curlew, Eskimo	Numenius borealis	N/A	Alaska to Argentina	Entire	E	1,3	N/A
Dove, cloven-feathered	Drepanoptila holosericea	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	4	N/A
Dove, Grenada	Leptotila wellsi	N/A	West Indies: Grenada	Entire	E	4	N/A
Dove, Palau ground	Gallicolumba canifrons	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Duck, Hawaiian (Koloa)	Anas wyvilliana	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, Laysan	Anas laysanensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Duck, pink-headed	Rhodonessa caryophyllacea	N/A	India	Entire	E	15	N/A
Duck, white-winged wood	Cairina scutulata	N/A	India, Burma, Thailand, Malaysia, Indonesia	Entire	E	3	N/A

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Eagle, Greenland white-tailed	Haliaeetus albicilla groenlandicus	N/A	Greenland and adjacent Atlantic Islands	Entire	E	15	N/A
Eagle, harpy	Harpia harpyja	N/A	Mexico south to Argentina	Entire	E	15	N/A
Eagle, Philippine	Pithecophaga jefferyi	N/A	Philippines	Entire	E	3	N/A
Eagle, bald	Haliaeetus leucocephalus	N/A	North America south to northern Mexico	USA (conterminous States other than WA,OR,MN,WI,MI)	E	1,34	
Eagle, bald	Haliaeetus leucocephalus	N/A	North America south to northern Mexico	USA (WA,OR, MN,WI,MI)	T	1,34	17.41(a)
Eagle, Spanish imperial	Aquila heliaca adalberti	N/A	Spain, Morocco, Algeria	Entire	E	4	N/A
Egret, Chinese	Egretta eulophotes	N/A	China, Korea	Entire	E	4	N/A
Falcon, American peregrine	Falco peregrinus anatum	N/A	Canada, USA, Mexico	Entire	E	2,3	N/A
Falcon, Arctic peregrine	Falco peregrinus tundrius	N/A	Alaska to Greenland, south to South America	Entire	E	2,4	N/A
Falcon, Eurasian peregrine	Falco peregrinus peregrinus	N/A	Europe, Soviet Union	Entire	E	15	N/A
Finch, Laysan (honeycreeper)	Telespyza (=Psittirostra) cantans	N/A	USA (Hawaii)	Entire	E	1	N/A
Finch, Nihoa (honeycreeper)	Telespyza (=Psittirostra) ultima	N/A	USA (Hawaii)	Entire	E	1	N/A
Flycatcher, Euler's	Empidonax euleri johnstonei	N/A	West Indies: Grenada	Entire	E	3	N/A
Flycatcher, Palau fantail	Rhipidura lepida	N/A	West Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Flycatcher, Seychelles paradise	Terpsiphone corvina	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Flycatcher, Tahiti	Pomarea nigra nigra	N/A	South Pacific Ocean: Tahiti	Entire	E	3	N/A
Flycatcher, Tinian monarch	Monarcha takatsukasae	N/A	Western Pacific Ocean: USA (Marianas Islands)	Entire	E	3	N/A
Fody, Seychelles (weaver-finch)	Foudia sechellarum	N/A	Indian Ocean	Entire	E	3	N/A
Frigatebird, Andrew's	Fregata andrewsi	N/A	East Indian Ocean	Entire	E	15	N/A
Gallinule, Hawaiian	Gallinula chloropus sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goose, Aleutian Canada	Branta canadensis leucopareia	N/A	Western USA (AK,WA, OR,CA), Japan	Entire	E	1,4	N/A
Goose, Hawaiian (Nene)	Branta sandvicensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Goshawk, Christmas Island	Accipiter fasciatus natalis	N/A	Indian Ocean: Australia (Christmas Island)	Entire	E	3	N/A
Grackle, slender-billed	Cassidix palustris	N/A	Mexico	Entire	E	4	N/A
Grasswren, Eyrean (Flycatcher)	Amytornis goyderi	N/A	Australia	Entire	E	4	N/A
Grebe, Atitlan	Podilymbus gigas	N/A	Guatemala	Entire	E	3	N/A
Greenshank, Nordmann's	Tringa guttifer	N/A	Bangladesh, Japan, Sakhalin Island, Korea, Thailand, Malaysia, Burma	Entire	E	15	N/A
Guan, horned	Oreophasis derbianus	N/A	Guatemala, Mexico	Entire	E	3	N/A
Gull, Audouin's	Larus audouinii	N/A	Mediterranean Sea and adjacent islands	Entire	E	3	N/A
Gull, relict	Larus relictus	N/A	India, China	Entire	E	15	N/A
Hawk, mauge's [illegible]	Accipiter francesii pusillus	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Hawk, Galapagos	Buteo galapagoensis	N/A	Ecuador (Galapagos Islands)	Entire	E	3	N/A
Hawk, Hawaiian (Io)	Buteo solitarius	N/A	USA (Hawaii)	Entire	E	1	N/A
Heron, Agami, Rufous-bellied (Agamia)	Agamia (=Kaiphodon) gonnrii	N/A	Brazil	Entire	E	15	N/A
Honeycreeper, Crested (Akohekohe)	Palmeria dolei	N/A	USA (Hawaii)	Entire	E	1	N/A
Honeyeater, helmeted	Meliphaga cassidix	N/A	Australia	Entire	E	4	N/A
Ibis, white-shouldered	Rhinoplax vigil	N/A	Thailand, Malaysia	Entire	E	15	N/A
Ibis, Japanese crested	Nipponia nippon	N/A	China, Japan, Korea, Soviet Union	Entire	E	3	N/A
[illegible]	Rhynochetos jubatus	N/A	Southwest Pacific Ocean: New Caledonia	Entire	E	3	N/A
[illegible] owl, Rock	Strigis rabroptilus	N/A	New Zealand	Entire	E	4	N/A
[illegible], Mauritius	Falco punctatus	N/A	Indian Ocean: Mauritius	Entire	E	3	N/A

SPECIES			RANGE				
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Kestrel, Seychelles	Falco araea	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Kite, Cuba hook-billed	Chondrohierax wilsonii	N/A	Cuba	Entire	E	4	N/A
Kite, Grenada hook-billed	Chondrohierax uncinatus mirus	N/A	West Indies: Grenada	Entire	E	4	N/A
Kite, Everglade (snail kite)	Rostrhamus sociabilis plumbeus	N/A	USA (Florida)	Entire	E	1	N/A
Kokako (Wattlebird)	Callaeas cinerea	N/A	New Zealand	Entire	E	3	N/A
Macaw, glaucous	Anodorhynchus glaucus	N/A	Paraguay, Uruguay, Brazil	Entire	E	15	N/A
Macaw, indigo	Anodorhynchus leari	N/A	Brazil	Entire	E	15	N/A
Macaw, little blue	Cyanopsitta spixii	N/A	Brazil	Entire	E	15	N/A
Magpie-robin, Seycnelles (thrush)	Copsychus sechellarum	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Malkoha, red-faced (cuckoo)	Phaenicophaeus pyrrhocephalus	N/A	Sri Lanka	Entire	E	3	N/A
Mallard, Marianas	Anas oustaleti	N/A	Guam, Marianas Islands (Rota, Saipan, Tinian)	Entire	E	23	N/A
Megapode, La Perouse's	Megapodius laperouse	N/A	Western Pacific Ocean: USA (Palau Islands, Marianas Islands)	Entire	E	4	N/A
Megapode, Maleo	Macrocephalon maleo	N/A	Indonesia (Celebes)	Entire	E	4	N/A
Millerbird, Nihoa (willow warbler)	Acrocephalus familiaris kingi	N/A	USA (Hawaii)	Entire	E	1	N/A
Nukupuu (honeycreeper)	Hemignathus lucidus	N/A	USA (Hawaii)	Entire	E	2	N/A
Oo, Kauai (Oo Aa) (honeyeater)	Mono braceatus	N/A	USA (Hawaii)	Entire	E	1	N/A
Ostrich, Arabian	Struthio camelus syriacus	N/A	Jordan, Saudi Arabia	Entire	E	3	N/A
Ostrich, West African	Struthio camelus spatzi	N/A	Spanish Sahara	Entire	E	4	N/A
Oo (honeycreeper)	Psittirostra psittacea	N/A	USA (Hawaii)	Entire	E	1	N/A
Owl, Anjouan scops	Otus rutilus capnodes	N/A	Indian Ocean: Comoro Islands	Entire	E	3	N/A
Owl, giant scops	Otus gurneyi	N/A	Islands of Marinduque and Minda	Entire	E	15	N/A
Owl, Palau	Otus podargina	N/A	Western Pacific Ocean: USA (Palau Islands)	Entire	E	4	N/A
Owl, Seychelles	Otus insularis	N/A	Indian Ocean: Seychelles Islands	Entire	E	3	N/A
Owlet, Mrs. Morden's	Otus ireneae	N/A	Kenya	Entire	E	3	N/A
Palila (honey-creeper)	Psittirostra bailleui	N/A	USA (Hawaii)	Entire	E	1	N/A
Parakeet, Forbes'	Cyanoramphus auriceps forbesi	N/A	New Zealand	Entire	E	15	N/A
Parakeet, golden	Aratinga guarouba	N/A	Brazil	Entire	E	4	N/A
Parakeet, golden-shouldered	Psephotus chrysopterygius	N/A	Australia	Entire	E	4	N/A
Parakeet, Mauritius ring-neck	Psittacula krameri echo	N/A	Indian Ocean: Mauritius	Entire	E	4	N/A
Parakeet, ochre-marked	Pyrrhura cruentata	N/A	Brazil	Entire	E	4	N/A
Parakeet, orange-bellied	Neopheme chrysogaster	N/A	Australia	Entire	E	4	N/A
Parakeet, paradise	Psephotus pulcherrimus	N/A	Australia	Entire	E	4	N/A
Parakeet, scarlet-chested	Neophema splendida	N/A	Australia	Entire	E	4	N/A
Parakeet, turquoise	Neophema pulchella	N/A	Australia	Entire	E	4	N/A
Parrot, Bahaman or Cuban	Amazona leucocephala	N/A	West Indies (Cuba, Bahamas, Cayman)	Entire	E	15	N/A
Parrot, ground	Pezoporus wallicus	N/A	Australia	Entire	E	6	N/A
Parrot, imperial	Amazona imperialis	N/A	West Indies: Dominica	Entire	E	4	N/A
Parrot, Australian night	Geopsittacus occidentalis	N/A	Australia	Entire	E	-	N/A
Parrot, Puerto Rican	Amazona vittata	N/A	USA (Puerto Rico)	Entire	E	1	N/A
Parrot, red-browed	Amazona rhodocorytha	N/A	Brazil	Entire	E	4	N/A
Parrot, red-capped	Pionopsitta pileata	N/A	Brazil	Entire	E	15	N/A
Parrot, red-spectacled	Amazona pretrei pretrei	N/A	Brazil, Argentina	Entire	E	15	N/A
Parrot, St. Lucia	Amazona versicolor	N/A	West Indies: St. Lucia	Entire	E	4	N/A
Parrot, St. Vincent	Amazona guildingii	N/A	West Indies: St. Vincent	Entire	E	3	N/A
Parrot, thick-billed	Rhynchopsitta pachyrhyncha	N/A	Mexico, USA (Arizona, New Mexico)	Entire	E	3	N/A
Parrot, vinaceous-breasted	Amazona vinacea	N/A	Brazil	Entire	E	15	N/A

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Parrotbill, Maui (honeycreeper)	Pseudonestor xanthophrys	N/A	USA (Hawaii)	Entire	E	1	N/A
Pelican, brown	Pelecanus occidentalis	N/A	USA, West Indies, Central and South America: Coastal	Entire	E	2,4	N/A
Penguin, Galapagos	Spheniscus mendiculus	N/A	Ecuador (Galapagos Islands)	Entire	E	2,4	N/A
Petrel, Hawaiian dark-rumped	Pterodroma phaeopygia sandwichensis	N/A	USA (Hawaii)	Entire	E	1	N/A
Pheasant, bar-tailed	Symaticus humiae	N/A	Burma, China	Entire	E	3	N/A
Pheasant, bar-tailed	Symaticus humiae	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Blyth's tragopan	Tragopan blythii	N/A	Burma, China, India	Entire	E	3	N/A
Pheasant, brown eared	Crossoptilon mantchuricum	N/A	China	Entire	E	3	N/A
Pheasant, brown eared	Crossoptilon mantchuricum	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Cabot's tragopan	Tragopan caboti	N/A	China	Entire	E	3	N/A
Pheasant, Chinese monal	Lophophorus lhuysii	N/A	China	Entire	E	3	N/A
Pheasant, Edward's	Lophura edwardsi	N/A	Vietnam	Entire	E	3	N/A
Pheasant, Edward's	Lophura edwardsi	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Elliot's	Syrmaticus ellioti	N/A	China	Entire	E	15	N/A
Pheasant, imperial	Lophura imperialis	N/A	Vietnam	Entire	E	3	N/A
Pheasant, Mikado	Syrmaticus mikado	N/A	Taiwan	Entire	E	4	N/A
Pheasant, Mikado	Syrmaticus mikado	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Palawan peacock	Polyplectron emphanum	N/A	Philippines	Entire	E	3	N/A
Pheasant, Palawan peacock	Polyplectron emphanum	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, Sclater's monal	Lophophorus sclateri	N/A	Burma, China, India	Entire	E	3	N/A
Pheasant, Swinhoe's	Lophura swinhoii	N/A	Taiwan	Entire	E	3	N/A
Pheasant, Swinhoe's	Lophura swinhoii	In captivity in U.S.	N/A	Entire	T(C/P)	22	N/A
Pheasant, western tragopan	Tragopan melanocephalus	N/A	India, Pakistan	Entire	E	3	N/A
Pheasant, white eared	Crossoptilon crossoptilon	N/A	China (Tibet), India	Entire	E	4	N/A
Pigeon, Azores wood	Columba palumbus azorica	N/A	East Atlantic Ocean: Portugal (Azores)	Entire	E	3	N/A
Pigeon, Chatham Island	Hemiphaga novaeseelandiae chathamensis	N/A	New Zealand	Entire	E	4	N/A
Pigeon, Mindoro zone-tailed	Ducula mindorensis	N/A	Philippines	Entire	E	15	N/A
Pigeon, Puerto Rican plain	Columba inornata wetmorei	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Piping-guan, black fronted	Pipile jacutinga	N/A	Argentina	Entire	E	15	N/A
Pitta, Koch's	Pitta kochi	N/A	Philippines	Entire	E	15	N/A
Plover, New Zealand Shore	Thinornis novaseelandiae	N/A	New Zealand	Entire	E	4	N/A
Poo-uli	Melamprosops phaeosoma	N/A	USA (Hawaii)	Entire	E	10	N/A
Prairie chicken, Attwater's greater	Tympanuchus cupido attwateri	N/A	USA (Texas)	Entire	E	1	N/A
Quail, Merriam's Montezuma	Cyrtonyx montezumae merriami	N/A	Mexico (Vera Cruz)	Entire	E	15	N/A
Quetzel, northern resplendent	Pharomachrus mocinno mocinno	N/A	Mexico to Nicaragua	Entire	E	15	N/A
Quetzel, central resplendent	Pharomachrus mocinno costaricensis	N/A	Costa Rica to Panama	Entire	E	15	N/A
Rail, Auklan Island	Rallus pectoralis muelleri	N/A	New Zealand	Entire	E	3	N/A
Rail, California clapper	Rallus longirostris obsoletus	N/A	USA (California)	Entire	E	2	N/A
Rail, light-footed clapper	Rallus longirostris levipes	N/A	USA (California) Mexico (Baja Calif.)	Entire	E	2	N/A
Rail, Lord Howe wood	Tricholimnas sylvestris	N/A	Lord Howe Island	Entire	E	15	N/A
Rail, Yuma clapper	Rallus longirostris yumanensis	N/A	Mexico (Sonora), USA (Arizona, California)	Entire	E	1	N/A
Rhea, Darwin's	Pterocnemia pennata	N/A	Argentina, Bolivia, Peru, Uruguay	Entire	E	4	N/A
Robin, Chatham Island	Petroica traversi ultima	N/A	New Zealand	Entire	E	4	N/A
Robin, scarlet-breasted flycatcher	Petroica multicolor multicolor	N/A	Australia (Norfolk Island)	Entire	E	3	N/A
Ruffowl, grey-necked	Picathartes oreas	N/A	Cameron	Entire	E	3	N/A
Ruffowl, white-necked	Picathartes gymnocephalus	N/A	Africa: Togo to Sierra Leone	Entire	E	3	N/A

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Roller, long-tailed ground	Uratelornis chimaera	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Scrub-bird, noisy	Atrichornis clamosus	N/A	Australia	Entire	E	3	N/A
Shama, Cebu black (thrush)	Copsychus niger cebuensis	N/A	Philippines	Entire	E	3	N/A
Shearwater, Newell's Manx	Puffinus puffinus newelli	N/A	USA (Hawaii)	Entire	T	10	N/A
Shrike, San Clemente loggerhead	Lanius ludovicianus mearnsi	N/A	USA (California)	Entire	E	26	N/A
Siskin, red	Carduelis (=Spinus) cucullatus	N/A	South America	Entire	E	15	
Sparrow, Cape Sable	Ammospiza maritima mirabilis	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, dusky seaside	Ammospiza maritima nigrescens	N/A	USA (Florida)	Entire	E	1	N/A
Sparrow, San Clemente sage	Amphispiza belli clementae	N/A	USA (California)	Entire	T	26	N/A
Sparrow, Santa Barbara song	Melospiza melodia graminea	N/A	USA (California)	Entire	E	6	N/A
Starling, Ponape mountain	Aplonis pelzelni	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
Starling, Rothchild's (Myna)	Leucopsar rothschildi	N/A	Indonesia (Bali)	Entire	E	4	N/A
Stilt, Hawaiian	Himantopus himantopus knudseni	N/A	USA (Hawaii)	Entire	E	2	N/A
Stork, oriental white	Ciconia ciconia boyciana	N/A	China, Japan, Korea, Soviet Union	Entire	E	4	N/A
Teal, Campbell Island flightless	Anas aucklandica nesiotis	N/A	New Zealand (Campbell Island)	Entire	E	15	N/A
Tern, California least	Sterna albifrons browni	N/A	Mexico, USA (California)	Entire	E	2,4	N/A
Thrasher, white-breasted	Rampnocinclus brachyurus	N/A	West Indies: Martinique, St. Lucia	Entire	E	3	N/A
Thrush, large Kauai	Phaeornis obscurus myadestina	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, Molokai (Olomau)	Phaeornis obscurus rutha	N/A	USA (Hawaii)	Entire	E	2	N/A
Thrush, New Zealand (wattlebird)	Turnagra capensis	N/A	New Zealand	Entire	E	3	N/A
Thrush, small Kauai (Puaiohi)	Phaeornis palmeri	N/A	USA (Hawaii)	Entire	E	1	N/A
Tinamou, solitary	Tinamus solitarius	N/A	Brazil, Paraguay, Argentina	Entire	E	15	N/A
Trembler, Martinique brown (thrasher)	Cinclocerthia ruficauda gutturalis	N/A	West Indies: Martinique	Entire	E	3	N/A
Wanderer, plain	Pedionomus torquatus	N/A	Australia	Entire	E	6	N/A
Warbler (wood), bachman's	Vermivora bachmanii	N/A	Cuba, USA (Southeastern)	Entire	E	1,4	N/A
Warbler (wood), barbados yellow	Dendroica petechia petechia	N/A	West Indies: Barbados	Entire	E	4	N/A
Warbler (wood), Kirtland's	Dendroica kirtlandii	N/A	USA, West Indies: Bahama Islands	Entire	E	1,4	N/A
Warbler, reed	Acrocephalus luscinia	N/A	Western Pacific Ocean: Marianas Islands	Entire	E	3	N/A
Warbler, Rodrigues	Bebrornis rodericanus	N/A	Mauritius (Rodrigues Island)	Entire	E	3	N/A
Warbler, Semper's	Leucopeza semperi	N/A	West Indies: St. Lucia	Entire	E	3	N/A
Warbler, Seychelles	Bebrornis sechellensis	N/A	Indian Ocean: Seychelles Island	Entire	E	3	N/A
Whipbird, Western	Psophodes nigrogularis	N/A	Australia	Entire	E	4	N/A
Whip-poor-will, Puerto Rican	Caprimulgus noctitherus	N/A	USA (Puerto Rico)	Entire	E	6	N/A
White-eye, Norfolk Island	Zosterops albogularis	N/A	Indian Ocean: Norfolk Island	Entire	E	15	N/A
White-eye, Ponape great	Rukia sanfordi	N/A	Western Pacific Ocean: USA (Caroline Islands)	Entire	E	4	N/A
White-eye, Seychelles	Zosterops modesta	N/A	Indian Ocean: Seychelles	Entire	E	4	N/A
Woodpecker, imperial	Campephilus imperialis	N/A	Mexico	Entire	E	3	N/A
Woodpecker, ivory billed	Campephilus principalis	N/A	Cuba, USA (South-central and south-eastern)	Entire	E	1,3	N/A
Woodpecker, red-cockaded	Picoides (=Dendrocopos) borealis	N/A	USA (Southcentral and Southeastern)	Entire	E	3	N/A
Woodpecker, Tristam's	Dryocopus javensis richardsi	N/A	Korea	Entire	E	3	N/A
Wren, Guadeloupe house	Troglodytes aedon guadeloupensis	N/A	West Indies: Guadeloupe	Entire	E	3	N/A
Wren, St. Lucia house	Troglodytes aedon mesoleucus	N/A	West Indies: St. Lucia	Entire	E	3	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
REPTILES:							
Alligator, American	Alligator mississippiensis	Wherever found in the wild, except in those areas where it is listed as Threatened, as set forth below.	Southeastern United States	Entire	E	11	N/A
Alligator, American	Alligator mississippiensis	In the wild in FL and in certain areas of GA, LA (except in Cameron, Vermillion, and Calcasieu Parishes), SC and TX, as set forth in Sec. 17.42(a)(2)(iv).	U.S. FL and certain areas of GA, LA (except in Cameron, Vermillion and Calcasieu Parishes), SC and TX	Entire	T	20	17.42(a)
Alligator, American	Alligator mississippiensis	In the wild in Cameron, Vermillion & Calcasieu Parishes in LA.	U.S. (Cameron, Vermillion, and Calcasieu Parishes in LA).	N/A	T(S/A)	11	17.42(a)
Alligator, American	Alligator mississippiensis	In captivity wherever found	Worldwide	N/A	T(S/A)	11	N/A
Alligator, Chinese	Alligator sinensis	N/A	China	Entire	E	15	N/A
Anole, giant	Anolis roosevelti	N/A	Culebra Island	Entire	E	25	N/A
boa, Jamaican	Epicrates subflavus	N/A	Jamaica	Entire	E	4	N/A
boa, Mona	Epicrates monensis monensis	N/A	USA (Puerto Rico)	Entire	T	33	N/A
Boa, Puerto Rico	Epicrates inornatus	N/A	USA (Puerto Rico)	Entire	E	2	N/A
Caiman, Apaporis River	Caiman crocodilus apaporiensis	N/A	Colombia	Entire	E	15	N/A
Caiman, black	Melanosuchus niger	N/A	Amazon basin	Entire	E	15	N/A
Caiman, broad-snouted	Caiman latirostris	N/A	Brazil, Uruguay Argentina, Paraguay	Entire	E	15	N/A
Crocodile, African dwarf	Osteolaemus tetraspis tetraspis	N/A	West Africa	Entire	E	15	N/A
Crocodile, African slender-snouted	Crocodylus cataphractus	N/A	Western and Central Africa	Entire	E	5	N/A
Crocodile, American	Crocodylus acutus	Florida	USA (South Florida and Florida keys)	Entire	E	10	N/A
Crocodile, Ceylon mugger	Crocodylus palustris kimbula	N/A	Sri Lanka, Africa	Entire	E	15	N/A
Crocodile, Congo dwarf	Osteolaemus tetraspis osborni	N/A	Congo River drainage	Entire	E	15	N/A
Crocodile, Cuban	Crocodylus rhombifer	N/A	Cuba	Entire	E	3	N/A
Crocodile, Morelet's	Crocodylus moreletii	N/A	Mexico, Belize, Guatemala	Entire	E	4	N/A
Crocodile, mugger	Crocodylus palustris palustris	N/A	India, Pakistan, Bangladesh, Iran	Entire	E	15	N/A
Crocodile, Nile	Crocodylus niloticus	N/A	Africa	Entire	E	4	N/A
Crocodile, Orinoco	Crocodylus intermedius	N/A	South America: Orinoco River Basin	Entire	E	4	N/A
Crocodile, Philippine	Crocodylus novaeguineae mindorensis	N/A	Philippine Islands	Entire	E	15	N/A
Crocodile, Siamese	Crocodylus siamensis	N/A	Southeast Asia, Malay Peninsula	Entire	E	15	N/A
Gavial (Gharial)	Gavialus gangeticus	N/A	Pakistan, India, Burma, Bangladesh	Entire	E	4	N/A
Gecko, Gay	Phelsuma newtoni	N/A	Mauritius	Entire	E	4	N/A
Gecko, Round Island Gay	Phelsuma guentheri	N/A	Mauritius	Entire	E	4	N/A
Iguana, Anegada ground	Cyclura pinguis	N/A	West Indies: Virgin Islands (Anegada Island)	Entire	E	3	N/A
Iguana, Barrington land	Conolophus pallidus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Iguana, Mona ground	Cyclura stejnegeri	N/A	USA (Puerto Rico: Mona Island)	Entire	T	33	N/A
Lizard, blunt-nosed leopard	Crotaphytus silus	N/A	USA (California)	Entire	E	1	N/A
Lizard, Island night	Xantusia riversiana	N/A	USA (California)	Entire	T	36	N/A
Lizard, St. Croix ground	Ameiva polops	N/A	Virgin Islands: Green Cay, Protestant Cay	Entire	E	24	N/A

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Monitor, Bengal	Varanus bengalensis	N/A	Iran, Iraq, India, Afganistan, Burma, Sri Lanka, Vietnam, Thailand, Malaysia	Entire	E	15	N/A
Monitor, desert	Varanus griseus	N/A	North Africa to Near-east, Caspian Sea through Soviet Union to Pakistan, North-west India	Entire	E	15	N/A
Monitor, Komodo Island	Varanus komodensis	N/A	Indonesia (Komodo, Rintja, Padar, and Western Flores Islands)	Entire	E	15	N/A
Monitor, yellow	Varanus flavescens	N/A	West Pakistan through India to Bangladesh	Entire	E	15	N/A
Python, Indian	Python molurus molurus	N/A	Sri Lanka and India	Entire	E	15	N/A
Rattlesnake, New Mexican ridge-nosed	Crotalus willardi obscurus	N/A	USA (New Mexico); Mexico	Entire	T	43	N/A
Snake, Atlantic salt marsh	Nerodia fasciata taeniata	N/A	USA (Florida)	Entire	T	30	N/A
Snake, eastern indigo	Drymarchon corais couperi	N/A	USA (FL,GA,MS,SC,AL)	Entire	T	32	N/A
Snake, San Francisco garter	Thamnophis sirtalis tetrataenia	N/A	USA (California)	Entire	E	1	N/A
Terrapin, river (Tuntony)	Batagur baska	N/A	Burma, India, Indonesia, Malaysia, Bangladesh	Entire	E	4	N/A
Tomistoma	Tomistoma schlegelii	N/A	Malaysia, Indonesia	Entire	E	15	N/A
Tortoise, angulated	Geochelone yniphora	N/A	Malagasy Republic (Madagascar)	Entire	E	15	N/A
Tortoise, Galapagos	Geochelone elephantopus	N/A	Ecuador: Galapagos Islands	Entire	E	4	N/A
Tortoise, Indian flap-shell	Lissemys punctata punctata	N/A	India, Pakistan, and Bangladesh	Entire	E	15	N/A
Tortoise, Madagascar radiated	Geochelone radiata	N/A	Malagasy Republic (Madagascar)	Entire	E	4	N/A
Tortoise, short-necked or swamp	Pseudemydura umbrina	N/A	Australia	Entire	E	4	N/A
Tuatara	Sphenodon punctatus	N/A	New Zealand	Entire	E	4	N/A
Turtle, aquatic box	Terrapene coahuila	N/A	Mexico	Entire	E	6	N/A
Turtle, black softshell	Trionyx nigricans	N/A	Bangladesh	Entire	E	15	N/A
Turtle, Burmese peacock	Morenia ocellata	N/A	Burma	Entire	E	15	N/A
Turtle, Cuatro Cienegas softshell	Trionyx ater	N/A	Mexico	Entire	E	15	N/A
Turtle, geometric	Geochelone geometrica	N/A	Union of South Africa	Entire	E	15	N/A
Turtle, green sea	Chelonia mydas	Wherever found except in those areas where it is listed as Endangered as set forth below	Circumglobal in tropical and temperate seas and oceans	Entire	T	42	17.42(b) and Part 220 and 227
Turtle, green sea	Chelonia mydas	Breeding colony populations in Florida and on the Pacific coast of Mexico	All State waters of Florida including Hutchison and Jupiter Islands and Pacific Coast of Mexico including the Gulf of California	Entire	E	42	17.42(b) and Part 220 and 227
Turtle, hawksbill sea	Eretmochelys imbricata	N/A	Tropical Seas	Entire	E	3	N/A
Turtle, Indian Sawback	Kachuga tecta tecta	N/A	India	Entire	E	15	N/A
Turtle, Indian softshell	Trionyx gangeticus	N/A	Pakistan, India	Entire	E	15	N/A
Turtle, Kemp's (Atlantic) Ridley Sea	Lepidochelys kempii	N/A	Tropical & Temperate Seas	Entire	E	4	N/A
Turtle, leather-back Sea	Dermochelys coriacea	N/A	Tropical and Temperate Seas	Entire	E	3	N/A
Turtle, loggerhead Sea	Caretta caretta	N/A	Circumglobal in tropical and temperate seas and oceans	Entire	T	42	17.42(b)
Turtle, Olive (Pacific) Ridley Sea	Lepidochelys olivacea	Wherever found except in those areas where it is listed as Endangered as set forth below	Circumglobal in tropical and temperate seas and oceans	Entire	T	42	17.42(b) and Part 220 and 227
Turtle, Olive (Pacific) Ridley Sea	Lepidochelys olivacea	Breeding colony population in Pacific Coast of Mexico	Pacific coast of Mexico including the Gulf of California	Entire	T	42	17.42(b) and Part 220 and 227

SPECIES			RANGE				
Common name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
Turtle, peacock softshell	Trionyx hurum	N/A	India and Bangladesh	Entire	E	15	N/A
Turtle, South American	Podocnemis expansa	N/A	South America: Orinoco and Amazon River basins	Entire	E	3	N/A
Turtle, South American	Podocnemis unifilis	N/A	South America: Orinoco and Amazon River basins	Entire	E	4	N/A
Turtle, spotted pond	Geoclemys (=Damonia) hamiltonii	N/A	Northern India, Pakistan	Entire	E	15	N/A
Turtle, three-keeled Asian	Geoemyda (=Nicoria) tricarinata	N/A	Central India to Bangladesh and Burma	Entire	E	15	N/A
Yacare (C'iman)	Caiman yacare	N/A	Bolivia, Peru, Argentina, Brazil	Entire	E	3	N/A

SPECIES			RANGE				
Common name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
AMPHIBIANS:							
Coqui, golden	Eleutherodactylus jasperi	N/A	USA (Puerto Rico)	Entire	T	29	N/A
Frog, Israel painted	Discoglossus nigriventer	N/A	Israel	Entire	E	4	N/A
Frog, Panamanian golden	Atelopus varius zeteki	N/A	Panama	Entire	E	15	N/A
Frog, Stephen Island	Leiopelma hamiltoni	N/A	New Zealand	Entire	E	4	N/A
Salamander, Chinese giant	Andrias davidianus davidianus	N/A	Western China	Entire	E	15	N/A
Salamander, desert slender	Batrachoseps aridus	N/A	USA (California)	Entire	E	6	N/A
Salamander, Japanese giant	Andrias davidianus japonicus	N/A	Japan	Entire	E	15	N/A
Salamander, red hills	Phaeognathus hubrichti	N/A	USA (Alabama)	Entire	T	19	N/A
Salamander, Santa Cruz long-toed	Ambystoma macrodactylum croceum	N/A	USA (California)	Entire	E	1	N/A
Salamander, Texas blind	Typhlomolge rathbuni	N/A	USA (Texas)	Entire	E	1	N/A
Toad, African viviparous	Nectophrynoides spp.	N/A	Tanzania, Guinea	Entire	E	15	N/A
Toad, Houston	Bufo houstonensis	N/A	USA (Texas)	Entire	E	2	N/A
Toad, Monte Verde	Bufo periglenes	N/A	Costa Rica	Entire	E	15	N/A
Treefrog, Pine Barrens	Hyla andersonii	FL	USA (Florida)	Entire	E	29	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
FISHES:							
Ala Balik	Salmo platycephalus	N/A	Turkey	Entire	E	3	N/A
Ayumodoki	Hymenophysa curta	N/A	Japan	Entire	E	3	N/A
Blindcat, Mexican	Prietella phreatophila	N/A	Mexico	Entire	E	3	N/A
Bonytail, Panranayat	Gila robusta jordani	N/A	USA (Nevada)	Entire	E	2	N/A
Bonytongue, Asian	Scleropages formosus	N/A	Thailand, Indonesia, Malaysia	Entire	E	15	N/A
Catfish	Pangasius sanitwongsei	N/A	Thailand	Entire	E	3	N/A
Catfish, giant	Pangasianodon gigas	N/A	Thailand	Entire	E	3	N/A
Cavefish, Alabama	Speoplatyrhinus poulsoni	N/A	USA (Alabama)	Entire	T	28	N/A
Chub, humpback	Gila cypha	N/A	USA (AZ,UT,WY)	Entire	E	1	N/A
Chub, Mohave	Gila mohavensis	N/A	USA (California)	Entire	E	2	N/A
Chub, slender	Hybopsis cahni	N/A	USA (TN,VA)	Entire	T	28	17.4
Chub, spotfin	Hybopsis monacha	N/A	USA (VA,TN,NC)	Entire	T	2[illegible]	7.44
Cicek	Acanthorutilus handlirschi	N/A	Turkey	Entire	E	3	N/A
Cisco, longjaw	Coregonus alpenae	N/A	USA (Lakes Michigan, Huron and Erie)	Entire	E	1	N/A
Cui-ui	Chasmistes cujus	N/A	USA (Nevada)	Entire	E	1	N/A
Dace, Kendall Warm Springs	Rhinichthys osculus thermalis	N/A	USA (Wyoming)	Entire	E	2	N/A
Dace, Moapa	Moapa coriacea	N/A	USA (Nevada)	Entire	E	1	N/A
Darter, Bayou	Etheostoma rubrum	N/A	USA (Mississippi)	Entire	T	10	17.44
Darter, fountain	Etheostoma fonticola	N/A	USA (Texas)	Entire	E	2	N/A
Darter, leopard	Percina pantherina	N/A	USA (AR,OK)	Entire	T	31	17.44
Darter, Maryland	Etheostoma sellare	N/A	USA (Maryland)	Entire	E	1	N/A
Darter, Okaloosa	Etheostoma okaloosae	N/A	USA (Florida)	Entire	E	6	N/A
Darter, slackwater	Etheostoma boschungi	N/A	USA (AL,TN)	Entire	T	28	17.44
Darter, snail	Percina tanasi	N/A	USA (Tennessee)	Entire	E	12	N/A
Darter, watercress	Etheostoma nuchale	N/A	USA (Alabama)	Entire	E	2	N/A
Gambusia, Big Bend	Gambusia gaigei	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Clear Creek	Gambusia heterochir	N/A	USA (Texas)	Entire	E	1	N/A
Gambusia, Pecos	Gambusia nobilis	N/A	USA (Texas)	Entire	E	2	N/A
Killifish, Pahrump	Empetrichthys latos	N/A	USA (Nevada)	Entire	E	1	N/A
Madtom, Scioto	Noturus trautmani	N/A	USA (Ohio)	Entire	E	10	N/A
Madtom, yellowfin	Noturus flavipinnis	N/A	USA (TN,VA)	Entire	T	28	17.44(c)
Mekogigi	Coreobagrus ichikawai	N/A	Japan	Entire	E	3	N/A
Pike, blue	Stizostedion vitreum glaucum	N/A	USA (Lakes Erie and Ontario)	Entire	E	1	N/A
Pupfish, Comanche Springs	Cyprinodon elegans	N/A	USA (Texas)	Entire	E	1	N/A
Pupfish, Devil's Hole	Cyprinodon diabolis	N/A	USA (Nevada)	Entire	E	1	N/A
Pupfish, Owens River	Cyprinodon radiosus	N/A	USA (California)	Entire	E	1	N/A
Pupfish, Tecopa	Cyprinodon nevadensis calidae	N/A	USA (California)	Entire	E	2	N/A
Pupfish, Warm Springs	Cyprinodon nevadensis pectoralis	N/A	USA (Nevada)	Entire	E	2	N/A
Squawfish, Colorado River	Ptychocheilus lucius	N/A	USA (AR, CA, CO, NM, UT, WY)	Entire	E	1	N/A
Stickleback, unarmored three-spine	Gasterusterus aculeatus williamsoni	N/A	USA (California)	Entire	E	2	N/A
Sturgeon, shortnose	Acipenser brevirostrum	N/A	USA (Atlantic Coast of US and Canada)	Entire	E	1	N/A
Tango, Miyako	Tanakia tanago	N/A	Japan	Entire	E	3	N/A
Temolek, Ikan	Probarbus jullieni	N/A	Thailand, Laos, Vietnam, Cambodia, Malaysia	Entire	E	15	N/A
Topminnow, Gila	Poeciliopsis occidentalis	N/A	USA (Arizona), Mexico	Entire	E	1	N/A
Trout, Arizona	Salmo apache	N/A	USA (Arizona)	Entire	T	8	17.44(a)
Trout, Gila	Salmo gilae	N/A	USA (New Mexico)	Entire	E	1	N/A
Trout, greenback cutthroat	Salmo clarki stomias	N/A	USA (Colorado)	Entire	T	1,3[illegible]	N/A
Trout, Lahontan cutthroat	Salmo clarki henshawi	N/A	USA (California, Nevada)	Entire	T	[illegible]	17.44(e)
Trout, little kern golden	Salmo aguabonita whitei	N/A	USA (California)	Entire	T	37	17.44(e)
Trout, Paiute cutthroat	Salmo clarki seleniris	N/A	USA (California)	Entire	T	8	17.44(e)
Woundfin	Plagopterus argentissimus	N/A	USA (Arizona, Nevada, Utah)	Entire	E	2	N/A

SPECIES			RANGE				
Common name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
SNAILS:							
Snail, Chittenango ovate amber	Succinea chittenangoensis	N/A	USA (New York)	New York	T	41	N/A
Snail, flat-spired three-toothed	Triodopsis platysayoides	N/A	USA (West Virginia)	Entire	T	41	N/A
Snail, Iowa Pleistocene	Discus macclintocki	N/A	USA (Iowa)	Entire	E	41	N/A
Snail, Manus Island tree	Papustyla pulcherrima	N/A	Admiralty Islands (Manus Islands)	Entire	E	4	N/A
Snail, noonday	Mesodon clarki nantahala	N/A	USA (North Carolina)	Entire	T	41	N/A
Snail, painted snake coiled forest	Anguispira picta	N/A	USA (Tennessee)	Entire	T	41	N/A
Snail, Stock Island tree	Orthalicus reses	N/A	USA (Florida)	Entire	T	41	N/A
Snail, Virginia fringed mountain	Polygyriscus virginianus	N/A	USA (Virginia)	Entire	E	41	N/A

SPECIES			RANGE				
Common name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
CLAMS:							
Pearly mussel, Alabama lamp	Lampsilis virescens	N/A	USA (Alabama)	Entire	E	15	N/A
Pearly mussel, Appalachian monkey-face	Quadrula sparsa	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, birdwing	Conradilla caelata	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, Cumberland bean	Villosa (=Micromya) trabalis	N/A	USA (Kentucky)	Entire	E	15	N/A
Pearly mussel, Cumberland monkey-face	Quadrula intermedia	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, Curtis'	Epioblasma (=Dysnomia) florentina curtisi	N/A	USA (Missouri)	Entire	E	15	N/A
Pearly mussel, dromedary	Dromus dromas	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, green-blossom	Epioblasma (=Dysnomia) torulosa gubernaculum	N/A	USA (VA,TN)	Entire	E	15	N/A
Pearly mussel, Higgin's eye	Lampsilis higginsi	N/A	USA (MN,WI,IL,MO)	Entire	E	15	N/A
Pearly mussel, Hicklin's	Megalonaias nicklineana	N/A	Mexico	Entire	E	15	N/A
Pearly mussel, orange-footed	Plethobasis cooperianus	N/A	USA (AL,TN)	Entire	E	15	N/A
Pearly mussel, pale lilliput	Toxolasma (=Carunculina) cylindrella	N/A	USA (AL,TN)	Entire	E	15	N/A
Pearly mussel, pink mucket	Lampsilis orbiculata orbiculata	N/A	USA (AL,WV,TN)	Entire	E	15	N/A
Pearly mussel, Sampson's	Epioblasma (=Dysnomia) sampsoni	N/A	USA (IN,IL)	Entire	E	15	N/A
Pearly mussel, Tampico	Cyrtonaias tampicoensis tecomatensis	N/A	Mexico	Entire	E	15	N/A
Pearly mussel, tubercled-blossom	Epioblasma (=Dysnomia) torulosa torulosa	N/A	USA (KY,IL,TN,WV)	Entire	E	15	N/A
Pearly mussel, turgid-blossom	Epioblasma (=Dysnomia) turgidula	N/A	USA (Tennessee)	Entire	E	15	N/A
Pearly mussel, white cat's eye	Epioblasma (=Dysnomia) sulcata delicata	N/A	USA (OH,KI,IN)	Entire	E	15	N/A
Pearly mussel, white wartyback	Plethobasis cicatricosus	N/A	USA (AL,TN)	Entire	E	15	N/A
Pearly mussel, yellow-blossom	Epioblasma (=Dysnomia) florentina florentina	N/A	USA (Tennessee)	Entire	E	15	N/A
Pigtoe, fine-rayed	Fusconaia cuneolus	N/A	USA (VA,AL,TN)	Entire	E	15	N/A
Pigtoe, Rough	Pleurobema plenum	N/A	USA (KY,VA,TN)	Entire	E	15	N/A
Pigtoe, Shiny	Fusconaia edgariana	N/A	USA (VA,AL,TN)	Entire	E	15	N/A
Pocketbook, fat	Potamilus (=Proptera) capax	N/A	USA (AR,MS)	Entire	E	15	N/A
Turtle shell cle , [illegible]	Epioblasma walkeri	N/A	USA (TN,VA,KY)	Entire	E	15	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
CRUSTACEANS:							
Isopod, Socorro	Exosphaeroma thermophilus	N/A	USA (New Mexico)	Entire	E	36	N/A

SPECIES			RANGE				
Common Name	Scientific Name	Population	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
INSECTS:							
Butterfly, Bahama swallowtail	Papilio andraemon bonnotei	USA	USA (Florida), Bahamas	USA	T	13	17.47
Butterfly, El Segundo blue	Shijimiaeoides battoides allyni	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Lange's metalmark	Apodemia mormo langei	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Lotis blue	Lycaeides argyrognomon lotis	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Mission blue	Icaricia icarioides missionensis	N/A	USA (California)	Entire	E	14	N/A
Butterfly, San Bruno elfin	Callophrys mossii bayensis	N/A	USA (California)	Entire	E	14	N/A
Butterfly, Schaus swallowtail	Papilio aristodemus ponceanus	N/A	USA (Florida)	Entire	T	13	17.47
Butterfly, Smith's blue	Shijimiaeoides enoptes smithi	N/A	USA (California)	Entire	E	14	N/A

2. The table at the end of § 17.12 is revised to read as set forth below:

17.12 - Endangered and Threatened Plants

SPECIES		RANGE				
Scientific Name	Common Name	Known Distribution	Portion of range where threatened or endangered	Status	When Listed	Special rules
PLANTS:						
Betulaceae, Birch family:						
Betula uber	Virginia round-leaf birch	USA (Virginia)	Entire	E	39	N/A
Brassicaceae, Mustard family:						
Arabis macdonaldiana	McDonald's rock cress	USA (California)	Entire	E	44	N/A
Erysimum capitatum var. angustatum	Contra Costa wallflower	USA (California)	Entire	E	39	N/A
Crassulaceae, Stonecrop family:						
Dudleya traskiae	Santa Barbara Island liveforever	USA (California)	Entire	E	39	N/A
Fabaceae, Pea family:						
Astragalus perianus	Rydberg milk-vetch	USA (Utah)	Entire	T	39	N/A
Baptisia arachnifera	hairy rattleweed	USA (Georgia)	Entire	E	39	N/A
Lotus scoparius ssp. traskiae	San Clemente broom	USA (California)	Entire	E	26	N/A
Vicia menziesii	Hawaiian wild broad-bean	USA (Hawaii)	Entire	E	39	N/A
Hydrophyllaceae, waterleaf family:						
Phacelia argillacea	unnamed phacelia	USA (Utah)	Entire	E	44	N/A
Lamiaceae, Mint family:						
Pogogyne abramsii	San Diego pogogyne	USA (California)	Entire	E	44	N/A
Liliaceae, Lily family:						
Trillium persistens	persistent trillium	USA (GA,SC)	Entire	E	39	N/A
Malvaceae, Mallow family:						
Malacothamnus clementinus	San Clemente Island bush-mallow	USA (California)	Entire	E	26	N/A
Onagraceae, Evening-primrose family:						
Oenothera avita ssp. eurekensis	Eureka evening-primrose	USA (California)	Entire	E	39	N/A
Oenothera deltoides ssp. howellii	Antioch Dunes evening-primrose	USA (California)	Entire	E	39	N/A
Poaceae, Grass family:						
Orcuttia mucronata	Crampton's Orcutt grass	USA (California)	Entire	E	44	N/A
Swallenia alexandrae	Eureka dune grass	USA (California)	Entire	E	39	N/A
Zizania texana	Texas wild-rice	USA (Texas)	Entire	E	39	N/A
Ranunculaceae, Buttercup family:						
Aconitum noveboracense	northern wild monkshood	USA (IA,NY,OH,WI)	Entire	T	39	N/A
Delphinium kinkiense	San Clemente Island larkspur	USA (California)	Entire	E	26	N/A
Scrophulariaceae, Snapdragon family:						
Castilleja grisea	San Clemente Island Indian paintbrush	USA (California)	Entire	E	26	N/A
Cordylanthus maritimus ssp. maritimus	salt marsh bird's beak	USA (California), Mexico	Entire	E	44	N/A
Pedicularis furbishiae	Furbish lousewort	USA (ME), Canada (New Brunswick)	Entire	E	39	N/A

1--32 FR 4001; March 11, 1967
2--35 FR 16047; October 13, 1970
3--35 FR 8495; June 2, 1970
4--35 FR 18320; December 2, 1970
5--37 FR 6476; March 30, 1972
6--38 FR 14678; June 4, 1973
7--39 FR 44991; December 30, 1974
8--40 FR 29864; July 16, 1975
9--40 FR 31736; July 28, 1975
10--40 FR 44151; September 25, 1975
11--40 FR 44418; September 26, 1975
12--40 FR 47506; October 9, 1975
13--41 FR 17740; April 28, 1976
14--41 FR 22044; June 1, 1976
15--41 FR 24064; June 14, 1976
16--41 FR 45993; October 19, 1976
17--41 FR 51021; November 19, 1976
18--41 FR 51612; November 23, 1976
19--41 FR 53034; December 3, 1976
20--42 FR 2076; January 10, 1977
21--42 FR 2968; January 14, 1977
22--42 FR 28056; June 1, 1977
23--42 FR 28137; June 2, 1977
24--42 FR 28545; June 3, 1977
25--42 FR 37373; July 21, 1977
26--42 FR 40685; August 11, 1977
27--42 FR 42353; August 23, 1977
28--42 FR 45526; September 9, 1977
29--42 FR 58755; November 11, 1977
30--42 FR 60745; November 29, 1977
31--43 FR 3715; January 27, 1978
32--43 FR 4028; January 31, 1978
33--43 FR 4621; February 3, 1978
34--43 FR 6233; February 14, 1978
35--43 FR 9612; March 9, 1978
36--43 FR 12691; March 27, 1978
37--43 FR 15429; April 13, 1978
38--43 FR 16345; April 18, 1978
39--43 FR 17910; April 26, 1978
40--43 FR 20504; May 12, 1978
41--43 FR 28932; July 3, 1978
42--43 FR 32606; July 28, 1978
43--43 FR 34479; August 4, 1978
44--43 FR 44612; September 28, 1978

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federal register

MONDAY, DECEMBER 11, 1978
PART IV



DEPARTMENT OF TRANSPORTATION

Materials Transportation Bureau, Research and Special Programs Administration

■

INTERMODAL PORTABLE TANKS

Proposed Packaging Specifications

[4910-60-M]

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[49 CFR Parts 107, 173, 176, 178]

[Docket No. HM-167; Notice No. 78-12]

INTERMODAL PORTABLE TANKS

Proposed Packaging Specifications

AGENCY: Materials Transportation Bureau, Research and Special Programs Administration, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend the Hazardous Materials Regulations to include two new packaging specifications for intermodal portable tanks. The new portable tank specifications, which will be designated Specifications IM 100 and IM 101, are intended to facilitate the international transport of hazardous materials by implementing the recognized worldwide standards for portable tank design and construction developed by the Inter-governmental Maritime Consultative Organization (IMCO) and the United Nations Committee of Experts on the Transport of Dangerous Goods. In addition to the new specifications this notice proposes requirements to govern the maintenance and use of such tanks, the hazardous materials to be authorized for carriage in Specification IM 100 and IM 101 portable tanks and, where necessary, proposes additional requirements necessary to insure the requisite level of safety in transporting certain hazardous materials in these portable tanks. Finally, this notice proposes procedures whereby the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau (MTB) may designate qualified, disinterested third parties to approve certain DOT specification packagings.

DATE: Comments by March 15, 1979.

ADDRESS COMMENTS TO: Dockets Branch, Information Services Division, Office of Program Support, Department of Transportation, 2100 Second Street SW., Washington, D.C. 20590. Comments may be reviewed in the Dockets Branch, Room 6500, between 9 a.m. and 5 p.m. weekdays.

FOR FURTHER INFORMATION CONTACT:

Lt. Edward A. Altemos, USCG, International Standards Coordinator, Office of Hazardous Materials Regulation, Materials Transportation Bureau, 2100 Second Street SW., Washington, D.C. 20590, 202-426-0656.

SUPPLEMENTARY INFORMATION: The portable tank has become an increasingly popular method of packaging hazardous materials for international transport. The rapid increase in the use of portable tanks for the international transport of hazardous materials can be attributed, in part, to the advent of containerized transport. When mounted in a frame with dimensions conforming to those of a standard freight container, a portable tank can be readily transported aboard a containership. The loading and unloading of these ships is greatly facilitated through use of the modern cargo handling equipment normally employed in containerized transport, and since the tank can be directly transferred from ship to transport vehicle, lost time in the land-sea interface is minimized. In addition, assuming sufficient demand for a product exists, the portable tank provides an economic advantage over shipping hazardous materials in smaller packages by reducing packaging and handling costs. Safety in handling is enhanced through use of these tanks since direct exposure of operating personnel to the materials being transported is minimized.

Recognizing the inherent advantages of transporting hazardous materials in portable tanks and the increasing popularity of this method of transport, IMCO's Subcommittee on the Carriage of Dangerous Goods undertook the preparation of a recommendatory standard governing the design and construction of portable tanks intended for the international carriage of hazardous materials by sea. The purpose of this effort was to promote the harmonization of the various national requirements for the design, construction and use of portable tanks in order to facilitate the international transport of hazardous materials in portable tanks. The United States took an active part in the development of these recommendations and, in 1972, an amendment to IMCO's International Maritime Dangerous Goods (IMDG) Code was published which included the newly developed standards for portable tanks.

Shortly after the initial publication of IMCO's standards for portable tanks intended for use in the marine mode, the United Nations Committee of Experts on the Transport of Dangerous Goods began development of a recommendatory standard for portable tanks which would be acceptable for multimodal transport. The first phase of work on this standard was completed in 1974 with the Committee's adoption of a recommendation for the design and construction of a portable tank suitable for the carriage of flammable liquids by both land and sea modes. Subsequent to this initial effort, additional standards were developed by the Committee which addressed the carriage of other classes of hazardous materials in these tanks.

While the portable tank standard initially adopted by the Committee of Experts was considered a suitable standard for tanks to be transported by both land and sea modes, it was nevertheless substantially different from that developed by IMCO in that it was based to a great extent on existing European road and rail requirements. Recognizing the need for the harmonization of these two standards, the UN Committee of Experts and IMCO's Subcommittee on the Carriage of Dangerous Goods have worked closely over the past two years in an effort to minimize the difference between their two recommendations. These efforts have been, for the most part, successful and the harmonized standard resulting from this work, as well as experience gained through the Department's exemption program, has provided the basis for the portable tank specifications proposed in this notice.

Exemptions authorizing the use of portable tanks similar in design and construction to those proposed in this notice have been sought and, where appropriate, granted for over ten years. The exemptions were necessary because the Department's regulations failed, with the exception of DOT Specification 60 portable tank, to provide for portable tanks designed specifically for the transportation of flammable, corrosive, and poisonous and other liquid hazardous materials. The exemptions have been granted for portable tanks generally fulfilling the requirements of both a DOT specification for cargo tanks and earlier versions of the international standards.

The initial effort towards the development of DOT portable tank specifications conforming to the IMCO standards was undertaken by the Chemical Transportation Advisory Committee (CTAC), which is a committee providing advice and guidance to the Commandant of the Coast Guard regarding the transport of hazardous materials in the marine mode. This work was begun shortly after the initial publication of IMCO's portable tank recommendations and the initial draft of the IM 100 and IM 101 portable tank specifications was completed by 1974. However, as a result of several major regulatory projects underway at that time, in particular the consolidation of the Hazardous Materials Regulations under Dockets HM 112 and HM 103, the draft specifications prepared with the assistance of the CTAC were never published as a Notice of Proposed Rulemaking, and, due to the changes in the IMCO standards stemming from the harmo-

nization effort with the UN, the draft required extensive revision to insure conformance with the latest IMCO and draft UN standards.

As the UN/IMCO portable tank standards gain ever increasing worldwide acceptance, it has become imperative for the United States to recognize portable tanks constructed to these standards in order to facilitate the interantional transport of hazardous materials in portable tanks. The two most predominant types of international portable tanks are those designated as IMCO Type 1 and Type 2 tanks. These are low pressure tanks designed specifically for the carriage of hazardous liquids with vapor pressures less than 43 pounds per square inch, absolute, at 150° F. The Type 1 tank must have a maximum allowable working pressure (MAWP) of 25 pounds per square inch, gauge, or greater, while the Type 2 tank must have a MAWP of less than 25 pounds.

Existing DOT regulations currently contain no comparable specifications for portable tanks intended solely for the carriage of flammmable, corrosive, poison and various other hazardous liquids and, as a result, the transportation of these liquids within the United States in tanks conforming to IMCO Type 1 or Type 2 standards can presently be authorized only by exemption. The ever increasing demand to transport hazardous materials in these types of tanks, resulting from the general worldwide recognition of the IMCO standards, has necessitated the issuance of dozens of such exemptions. Therefore, by introducing the IM 100 and IM 101 specifications (conforming to the IMCO Type 2 and Type 1 tanks respectively), regulatory recognition of these portable tank types, which are already being widely used in the United States under exemption, is provided. This will serve not only to facilitate the international transport of hazardous materials in portable tanks, but also to eliminate the time constraints and economic burdens inherent in the exemption process.

One of the goals of the efforts underway internationally to develop standards such as the UN/IMCO portable standards is to eliminate a duplicity or redundancy of approval efforts by various national authorities through implementation of widely recognized and mutually acceptable international standards. Implementation of the portable tank specifications proposed in this notice will serve to accomplish this by affording the American importer or exporter the opportunity of shipping in a DOT specification portable tank that is compatible with the accepted international portable tank standards. To promote the acceptance of these tanks without the necessity of additional inspections by foreign administrations in whose jurisdictions the tanks will also be used, the MTB believes it is necessary that the construction and testing of the tanks be supervised by a disinterested party. This notice proposes that certain qualified, disinterested persons may be designated as approval agencies and that such agencies may approve Specification IM 100 and IM 101 tanks. It is anticipated that many of the parties who will apply for designation as approval agencies will be organizations already recognized by foreign governments to issue approvals for portable tanks on behalf of those governments. The MTB believes that this action will minimize the total number of authorities who must approve a tank to be used in international transport in that one approval agency may be able to issue approvals aceptable to many national administrations and for various modes of transport, with only a single inspection. This should reduce the cost and time required to move these multimodal tanks in international commerce.

The primary drafter of this document is LT Edward A. Altemos, USCG, Office of Hazardous Materials Regulation. The following is an analysis and explanation, by section, of the more significant features of this regulatory proposal.

Section 107.3. This section defines "Approval Agency".

Section 107.401-407. These sections set forth the procedures whereby the Associate Director for Hazardous Materials Regulation (HMR), MTB, may designate qualified persosn to approve certain DOT specification packagings on his behalf. The proecedure for filing an application for designation as an approval agency woul be given as will as the information required to be included in the application. Section 107.403 would provide the criteria by which the Associate Director for HMR selects individuals or organizations to act as approval agencies. The criteria are designed to permit selection of any organization, foreign as well as domestic, that is technically competent for the purpose and free from undue influence by those involved with the fabrication, ownership or movement of the packages it will be called upon to evaluate. The required action on the part of the Associate Director for HMR in processing each application is provided as well as the standard conditions which are a part of each designation issued. Finally the procedures by which the Associate Director for HMR, MTB, may withdraw such designations, or by which an approval agency may voluntarily terminate its designation, would be set forth. The designation could only be withdrawn if:

(1) The application submitted by an apprval agency contains misrepresentation of facts relative to the organization;

(2) The approval authority fails to comply with the terms of its designation; or,

(3) The approval authority is incompetent.

Generally, before the Associate Director for HMR could withdraw a designation as an approval agency, the organization concerned must be informed of the reasons for which the withdrawal has been undertaken and must be accorded an opportunity to demonstrate or achieve compliance in the deficient areas.

Section 173.32a. This section would provide the basic procedures by which Specification IM 100 and IM 101 portable tanks could be approved. Applications for approval of portable tanks would be submitted by either the owner of the tanks or the manufacturer. Each application would be required to include all engineering drawings and calculations necessary for the approval agency to ensure that the tank design complies in all respects with the appropriate specification. An incomplete application would be returned to the applicant within thirty days of its receipt by the approval authority with an indication of the reasons for which the application has been deemed to be incomplete. If an application is complete the approval agency would review the design and witness all required tests before issuing the approval certificate. The approval authority would maintain a set of the approved drawings and calculations for each tank design it has approved, as well as a copy of each approval certificate it issues, for a period not less than 15 years. In addition, a copy of each approval issued would be forwarded to the MTB. If an application for approval is denied, the approval authority would inform the applicant of the reasons for which the approval was denied. Denial of an application for approval could be appealed to the Associate Director for HMR.

Existing portable tanks, which are being operated under DOT exemption and which are substantially in conformance with either the IM 100 or IM 101 specifications, could be designated as a specification tank by the Associate Director for HMR. Because many of the portable tanks currently being operated under DOT exemption were designed to comply with either the IMCO standard or the DOT MC 306 or 307 specifications, the MTB believes that a number of exemptions could be designated as IM 100 or IM 101 specification tanks as appropriate.

Finally, procedures are proposed governing the review and approval of

modifications to existent Specification IM 100 and IM 101 portable tanks. Requirements for retesting of modified tanks and the reissuance of approval certificates, if appropriate, are proposed.

Section 173.32b. This section proposes periodic retesting and reinspection of Specification IM 100 and IM 101 portable tanks. Tanks would be pressure retested at intervals of not more than five years and spring loaded pressure relief devices would be retested at intervals of not more than two and one-half years. In addition each tank would be visually reinspected at least once every two and one-half years. It is proposed that any tank which becomes seriously deteriorated or which is damaged to an extent which may adversely affect the tank's ability to retain its contents, must be pressure retested. All tests and inspections are to be witnessed by one of the authorized approval agencies and records of all tests and inspections conducted would be retained by both the owner of the tank and by the witnessing approval agency.

Section 173.32c. This section proposes basic requirements for the use of Specification IM 100 and IM 101 portable tanks. The majority of the requirements in this section have been derived from § 173.32 and consist of general requirements governing the use of portable tanks. However, one paragraph has been included which would permit the Associate Director for HMR to authorize for transportation in Specification IM 100 or IM 101 portable tanks certain hazardous materials which are not specifically authorized in Part 173. It is anticipated that Part 173 would be periodically updated to reflect the authorizations issued in this manner.

Section 173.116. Outage requirements are proposed for portable tanks containing flammable liquids. The filling relationship proposed is intended to limit the loading of a tank such that the tank is not more than 98 percent full by volume at a temperature of 122° F.

Sections 173.119 through 173.630. Various amendments are proposed to authorize the carriage of hazardous materials in Specification IM 100 or IM 101 portable tanks. The specific materials authorized have been taken either from existing exemptions under which portable tanks have been operating or from the lists of hazardous materials suitable for carriage in such tanks as developed by the UN Committee of Experts or IMCO. The MTB is fully aware that many hazardous materials not proposed for carriage in Specification IM 100 or IM 101 portable tanks by this notice are suitable for carriage in such tanks. Commenters are therefore urged to suggest amendments to Parts 173 that would authorize additional materials for carriage in these tanks. Such proposals should include sufficient data relative to the properties of the materials to permit the MTB to make a determination regarding the acceptability of the material for bulk transportation as well as the type of tank which should be required.

The maximum allowable working pressures required for tanks carrying particular materials have, in most instances, been specified according to the pressure ratings suggested for these materials in the international standards. In general, these standards make use of four basic pressure ratings for portable tanks. These pressure ratings approximately correspond to the maximum allowable working pressures of 14.2 psig, 25 psig, 38 psig and 58 psig which are utilized extensively throughout this notice. In other cases maximum allowable working pressures proposed for particular materials in this notice have been based upon successful experience gained in transporting the material in similar tanks under exemption. In general, higher working pressure tanks are required for more dangerous materials or for materials transported under the generic shipping descriptions from which the severity of the hazards of the particular materials cannot be readily ascertained. Similarly, other requirements such as increased minimum shell thickness or prohibition of bottom outlets, are based upon the severity of hazard of the material. For hazardous materials possessing significantly high vapor pressures, the maximum allowable working pressures proposed are no less than the sum of the vapor pressure of the material at 150° F. plus an allowance of 5 psig for dynamic loadings. The 150° F. reference temperature has been taken from the UN/IMCO recommendations.

Section 176.340. A new § 176.340 is proposed which lists the types of portable tanks acceptable for the carriage of combustible liquids in the water mode. Except for the Specification IM 100 and IM 101 portable tanks, all other tanks listed are currently authorized for carriage of combustible liquids under 46 CFR 90.05-35. The MTB believes that there will be benefit to the user of the regulations if this list is reproduced in the regulations dealing solely with the transportation of packaged hazardous materials. Finally, it is proposed that portable tanks of types other than those listed may be used provided they are approved by the Commandant (G-MHM).

Section 178.270. Proposes general design and construction requirements applicable to both Specification IM 100 and IM 101 portable tanks. These tanks are intended for the carriage of liquids having a vapor pressure less than 43 psia at a temperature of 150° F. and are basically equivalent to the IMCO Type 2 and Type 1 tanks respectively.

A basic requirement proposed for all tanks is that they be designed to retain contents under all normal conditions incident to transportation. In addition, they would be required to have a cross section that is capable of being analyzed, either mathematically or experimentally, to insure that the maximum stress levels prescribed will not be exceeded in normal service. It is proposed that the center of gravity of all filled tanks be approximately centered within the points of attachment of lifting devices to insure that the loads imposed during lifting are evenly distributed throughout all lifting attachments. Insulation, when installed, would be jacketed to prevent damage or other conditions which would reduce its effectiveness. All tanks would be constructed of steel and the chemical and physical properties of the materials of construction would meet the minimum requirements established in Section VIII, Division 1 of the Boiler and Pressure Vessel Code of the American Society of Mechanical Engineers (ASME Code).

Maximum permissible stress levels for tanks, at the hydrostatic test pressure and under specified dynamic loadings, are proposed in § 178.270-4. Some difficulty exists in adhering to the IMCO and draft UN standards in this regard in that both of these recommendations contain a provision that tanks should be constructed to a recognized pressure vessel code but then proceed to specify maximum permissible stress levels that are inconsistent with the ASME Code which is the most widely recognized pressure vessel design code used in the United States. In particular, the ASME Code limits the maximum permissible stress at test pressure to the lower of 93.75 percent of the specified minimum yield strength or 37.5 percent of the specified minimum tensile strength, while the international standards limit stress at the test pressure to the lower of 75 percent of the specified minimum yield strength (which for austenetic steels would be determined at the 1.0 percent offset) or 50 percent of the specified minimum tensile strength. The ASME Code stress levels insure, at all times, a minimum factor of safety of 4:1 against ultimate strength (at the maximum allowable working pressure) while the UN/IMCO stress levels would, for certain materials, permit a minimum 3:1 factor of safety against ultimate strength at that pressure. For the purpose of this notice, stress levels conforming to those prescribed in the ASME Code are pro-

posed. The MTB recognizes, however, that inconsistency between domestic regulations and the international standards of a matter as fundamental as maximum permissible stress levels could, conceivably, adversely affect free movement of portable tanks in international commerce. For this reason, commenters are specifically requested to comment on the relative merits of both approaches to limitation of stress levels (i.e. ASME Code method and UN/IMCO method) devoting particular attention to:

(a) The potential that safety would be compromised if a 3:1 factor of safety was to be applied in certain cases;

(b) Any potentially significant barriers to trade that could result from the use of the stress level limitations proposed herein that are inconsistent with those in the international standards; and,

(c) The extent to which tanks constructed to a 3:1 factor of safety are actually in use throughout the world and reports of relevant transportation experience concerning such tanks.

Minimum thicknesses for heads and shells are proposed in § 178.270-5. The values specified assume tank construction is of mild steel which has been defined as a steel with a guaranteed minimum tensile strength of 52,500 pounds per square inch and a guaranteed minimum percentage elongation of 27, as recommended in the UN/IMCO standards. For tanks constructed of other than mild steel as defined, the required minimum thickness could be reduced by use of a mathematical equivalence relationship. The tensile strength of the material of construction as determined through actual testing could be used in place of the guaranteed minimum tensile strength tabulated for the material in the ASME Code.

In § 178.270-6 it is proposed that the stress in tank supports, frameworks or lifting attachments should not exceed 80 percent of the specified minimum yield strength of the materials of construction under specified conditions of dynamic loading. Furthermore, framework on tank containers would fully comply with the requirements of 49 CFR Parts 451 and 452 (43 FR 16948-16951, April 20, 1978) issued to implement the International Convention for Safe Containers.

Requirements for joints in tank shells are proposed in § 178.270-7. All joints would be made by fusion welding. Joint preparation, welding procedures and efficiencies would be as prescribed in the ASME Code. If they are not ASME Code qualified, welders would have to be qualified by the approval agency using the procedures provided in the ASME Code.

General requirements concerning the protection of valves and accessories are proposed in § 178.270-8.

In § 178.270-9 it is proposed that all tanks be provided with inspection openings of adequate size to allow for complete internal inspection. For tanks with a capacity exceeding 500 gallons a manhole of specified minimum dimensions would have to be provided.

Tanks not fitted with vacuum relief devices would be required by § 178.270-10 to be designed to withstand a positive external pressure differential of 6 pounds per square inch. When vacuum relief valves are installed, tanks would have to be designed to withstand an external pressure not less than the set pressure of the relief device.

Requirements for pressure and vacuum relief devices are proposed in § 178.270-11. The requirements for the number and type of relief devices required as well as the pressure setting of these devices are based on the provisions of the UN and IMCO portable tank standards. It is proposed that each portable tank be fitted with at least one pressure relief device and that at least one spring loaded pressure relief device be provided for tanks with capacities of 500 gallons or greater. General requirements governing the location, arrangement and construction of relief devices are proposed in § 178.270-11(b). The spring loaded relief device required on tanks with capacities of 500 gallons or greater, or frangible discs fitted on tanks with lesser capacities that have no spring loaded device installed, would be required to function at a pressure of 125 percent of the maximum allowable working pressure. Additional frangible pressure relief devices installed to insure adequate venting capacity in fire situations, would be required to function at a pressure of 150 percent of the maximum allowable working pressure. Any fusible element installed would be required to have a fusing temperature of not more than 250° F. Vacuum relief devices, if fitted, would be required to open at a nominal overpressure of not less than 3 pounds per square inch.

Requirements for minimum total venting capacity of relief devices are proposed in § 178.270-11(d). A minimum relieving capacity of one standard cubic foot of air per minute per 30 square feet of tank area is prescribed for each spring loaded pressure relief device. In addition, the total required venting capacity for all installed pressure relief devices is presented in a tabular format as a function of tank surface area. The values for venting capacities proposed were obtained using the venting capacity relationship presented in Pamphlet S-1.2, published by the Compressed Gas Association, assuming hexane as the fluid vented. It is further proposed that the required venting capacity determined according to the proposed table for insulated tanks be permitted to be reduced in proportion to the efficiency of the installed insulation subject to a maximum reduction to 25 percent of the venting capacity specified in the table. General requirements relating to the survivability of insulation under fire conditions are also proposed. These requirements, as well as those proposed for markings on pressure relief devices, are as provided in the latest IMCO portable tank standards.

Requirements for the construction and arrangement of valves, piping and other accessories are proposed in § 178.270-12. It is proposed that all tank nozzles be fitted with manually operated stop valves with the exception of nozzles installed in the vapor space which are closed by a blank flange during transport. Valves on filling and discharge connections must be fitted as close to the shell as practicable and filling and discharge connections must be fitted with a secondary means of closure such as a blank flange. It is proposed that valves be rated at a pressure not lower than the maximum allowable working pressure of the tank, and that they be closed by a clockwise motion of the handwheel when screwed spindles are employed. Internal stop valves, when installed, would be required to be self-closing and to be fitted entirely within the shell or the welded discharge flange. Piping would be required to have a bursting strength not less than four times the maximum allowable working pressure of the tank and to be adequately supported to prevent damage due to jarring or vibration. It is proposed that all nozzles and shell penetrations be designed in accordance with the ASME Code. Glass or other easily destructible gauging devices would be prohibited.

Requirements for the initial test and inspection of specification IM 100 and IM 101 portable tanks are proposed in § 178.270-13. Each tank would be required to be subjected to a pressure test at a pressure of 150 percent of the maximum allowable working pressure of the tank. Leakage, undue distortion, or other conditions that indicate a weakness which might, in the opinion of the witnessing approval authority, render the tank unsafe for transportation services, would constitute failure of the test. Internal heating coils, if installed, would be required to be hydrostatically tested to a pressure not less than the greater of 200 psig or 150 percent of the rated pressure of the coils.

A prototype tank of each portable tank design would be required to undergo inertial restraint tests to insure

that the design and construction of the tank supports in adequate to preclude separation of the tank from the framework or skids which would secure the portable tank to the transport vehicle or vessel, under the inertial loads encontered in transportation. Furthermore, a prototype of any tank design which is to be authorized for rail transport would be required to pass a series of rail impact tests based upon tests prescribed by the Association of American Railroads.

Requirements for marking certain information on a metal identification plate are proposed in § 178.270-14. These markings would be in addition to those currently required by § 172.326. Information required to be shown is based upon that suggested in the IMCO and UN standards. Additional information required by other national authorities or international organizations would be permitted to be displayed on the same metal plate.

Section 178.271. Section 178.271 proposes additional requirements applicable only to Specification IM 100 portable tanks. The maximum allowable working pressure of these tanks would be less than 25 psig but not less than 14.2 psig. Except as limited or modified in the proposed specification, IM 100 portable tanks with pressure greater than or equal to 15 psig would be designed and constructed in accordance with the ASME Code. It would not be required that these tanks be inspected by an ASME Code inspector or that a Manufacturer's Data Report (ASME Form U-1) be issued for the tanks. Provisions are proposed by which the approval agency may authorize a reduction in the minimum shell thickness required under § 178.270-4 provided additional protection against puncture of the tank is provided. Guidelines concerning the acceptable means of providing additional external protection are proposed.

Section 178.272. Section 178.272 proposes additional requirements applicable only to specification IM 101 portable tanks. It is proposed that the maximum allowable working pressure of these tanks be 25 psig or greater. In addition such Specification IM 101 portable tanks would be designed and constructed in accordance with the ASME Code except as limited or modified in the specification. It would not be required that these tanks be inspected by an ASME Code inspector or that a Manufacturer's Data Report (ASME Form U-1) be issued for the tanks.

In consideration of the foregoing, it is proposed to amend Parts 107, 173, 176, and 178 of 49 CFR as follows:

PART 107—HAZARDOUS MATERIALS PROGRAM PROCEDURES

1. In the table of sections for Part 107, a new subpart E heading and entries would be added to read as follows:

Subpart E—Designation of Approval Agencies

107.401 Purpose and scope.
107.402 Application for designation as an approval agency.
107.403 Criteria for selection of approval agencies.
107.404 Designation of approval agencies.
107.405 Conditions of designation.
107.406 Termination of designation.
107.407 Withdrawal of designation.

AUTHORITY: 49 U.S.C. 1803, 1804, 1808, 49 CFR 1.53(e) and paragraph (a) of App. A to Part 106.

2. In § 107.3 a new definition would be added after the definition of "Act" to read as follows:

§ 107.3 Definitions.

* * * * *

"Approval Agency" means a person designated by the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, who is authorized, in accordance with procedures set forth at Subpart E of this part, to approve certain packagings as having been designed and manufactured in compliance with applicable DOT specifications.

* * * * *

3. Part 107 would be amended by adding a new Subpart E, to read as follows:

Subpart E—Designation of Approval Agencies

§ 107.401 Purpose and scope.

This subpart establishes procedures for the designation of approval agencies (see § 107.3).

§ 107.402 Application for designation as an approval agency.

(a) Any person seeking designation as an approval agency shall apply in writing to the Associate Director for Hazardous Materials Regulation, Department of Transportation, 2100 Second Street, SW., Washington, D.C. 20590. Each application must be signed and certified by the applicant or, if the applicant is an organization, by an authorized officer of the organization. A false statement or representation or the knowing and willful concealment of a material fact subjects the applicant to the provisions of 18 U.S.C. 1001.

(b) The application must include the following information:

(1) Name and address, including place of incorporation if a corporation. If the applicant is not a resident of the United States, the name and address of a permanent resident of the United States designated in accordance with § 107.7 to serve as agent for service of process must be provided.

(2) For organizational applicants, a description of the organization, including the ownership, managerial structure, organizational components and directly affiliated agencies and their functions utilized for supporting technical services;

(3) A listing, by DOT specification number, of the types of packagings for which approval authority is sought.

(4) A list of the basic technical services offered;

(5) A general description of the geographic area to be served;

(6) A general description of the clients intended to be served;

(7) A general description of the work performed in the past which is relevant to the application, noting the amount and extent of such work performed within the previous three years;

(8) A description of the personnel to be utilized, indicating general background and qualifications, particularly for the technicians or surveyors to be used if plan review or witnessing of tests, or both, is required;

(9) Identification by name of each individual whom the applicant proposes to employ as an inspector responsible for certifying inspection and test results and a statement of that person's specific qualifications;

(10) A description of the means to be employed to assure the continued competence of the technical personnel who will be involved in the approval process;

(11) A detailed schedule of the fees proposed to be charged for the approval service;

(12) Evidence of financial stability;

(13) At least three business references who will furnish information regarding work performed by the applicant; and

(14) A statement that the Materials Transportation Bureau may inspect the applicant's facilities and records of all approvals issued under these regulations.

(c) The applicants may also contain any other information deemed pertinent by the applicant.

(d) The applicant must furnish any additional information necessary to evaluate the applicant's qualifications if requested by the Associate director for Hazardous Materials Regulation, Materials Transportation Bureau.

§ 107.403 Criteria for selection of approval agencies.

(a) The Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, will select

persons to act as approval agencies in accordance with the following criteria:

(1) The person is independent of manufacturers and owners in that:

(i) It has sufficient breadth of interest or activity, so that the loss or award of a specific contract to approve DOT specification packagings would not be a substantial factor in the person's financial well-being.

(ii) The employment security status of the person's employees is free from the influence of the manufacturers, owners, operators, carriers or lessors of the packagings concerned.

(2) The person has demonstrated the ability to competently carry out the procedures required for the approval of the packagings concerned.

(3) The person has an acceptable degree of financial security.

§ 107.404 Designation of approval agencies.

(a) The Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, will act on all applications for designation as an approval agency.

(1) If an application for designation does not provide sufficient information with regard to all the criteria for designation, the application is denied. A denial on this basis is without prejudice to the submission of a new or amended application.

(2) If an application satisfies all criteria for designation, the applicant is sent a letter of designation and assigned an identification code.

(3) If an applicant fails to satisfy all the criteria, the applicant is given written notice of denial of its application. The notice contains all the reasons for the denial. The applicant may file a completed appeal of the denial with the Director, Materials Transportation Bureau, within 60 days of receipt of the denial. Thereafter, the Director, Materials Transportation Bureau, will render a final decision.

§ 107.405 Conditions of designation.

(a) The following conditions are part of every designation:

(1) The approval agency shall use only testing equipment that it has determined, through personal inspection, to be suitable for the purpose.

(2) All approval certificates issued by the approval agency must contain the name and identification code of the approval agency and must be in a format acceptable to the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

(3) Each approval agency shall maintain the following records for a period of at least 15 years from the date of approval. (When the approval agency's designation is withdrawn before such time, the records relating to each approval issued within the prior 15 years must be forwarded to the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau):

(i) Each approval certificate issued.

(ii) A copy of the application and final approved drawings to which each approval refers.

(iii) The manufacturer's serial numbers of all packagings covered by each approval.

(4) Each approval agency shall establish and make available to the public a schedule of fees for the approval services performed under these regulations. The fees must not be disproportionate to the costs actually incurred.

(5) The approval agency shall notify the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, within 20 days after the date there is any change in the information submitted in the § 107.402 application.

(6) The approval agency shall grant the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, or his representative, the right to inspect its records and shall cooperate in the conduct of such inspections.

(7) The approval agency shall comply with any other terms or condition stated in the letter of designation.

§ 107.406 Termination of designation.

(a) The Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, may withdraw a designation if:

(1) It is determined that the application for designation contained a misrepresentation.

(2) An approval agency fails to comply with a condition of designation.

(3) An approval agency is incompetent.

(b) Before a designation is withdrawn, the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, gives to the approval agency:

(1) Written notice of the facts or conduct believed to warrant the withdrawal;

(2) Opportunity to submit oral or written evidence; and

(3) Opportunity to demonstrate or achieve compliance with the applicable requirement.

(c) If, in the opinion of the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau, exigent safety reasons require, an approval agency's designation may be withdrawn effective immediately upon written receipt of such notification. In such circumstances, the procedures at paragraph (b)(2) and (3) of this section need not be provided prior to the withdrawal of designation, but shall be provided as soon as practicable thereafter.

PART 173—SHIPPERS—GENERAL REQUIREMENTS FOR SHIPMENTS AND PACKAGINGS

4. In the table of Sections to Part 173, the entry for § 173.32 would be amended and new entries for §§ 173.32a, 173.32b and 173.32c would be added as appropriate.

5. Section 173.32 would be amended by revising the heading as follows:

§ 173.32 Qualification, maintenance and use of portable tanks other than Specification IM 100 and IM 101 portable tanks.

6. Sections 173.32a, 173.32b, and 173.32c would be added to read as follows:

§ 173.32a Approval of Specification IM 100 and IM 101 portable tanks.

(a) *Application for approval.* (1) An owner or manufacturer of an IM 100 or IM 101 (§§ 178.270-272 of this subchapter) portable tank may apply for approval to any approval agency designated to approve that tank in accordance with the procedures in Subpart E, Part 107 of this subchapter.

(2) Each application for approval must contain the following information:

(i) Two complete copies of all engineering drawings and calculations necessary to insure that the design complies with the relevant specification.

(ii) The manufacturer's serial number that will be assigned to each portable tank.

(iii) Any other relevant information requested by the approval agency.

(b) *Action by approval agency.* (1) The approval agency shall review the application for approval to determine whether it is complete and conforms with the requirements of paragraph (a) of this section. This determination will be made within 30 days of the receipt of an application. If an application is incomplete it will be returned to the applicant and the applicant will be informed in what respects the application is incomplete.

(2) The approval agency shall review all drawings and calculations to insure that the design is in full compliance with the relevant specification. If the application is approved, one set of the approved drawings and calculations shall be returned to the applicant. The second set of approved drawings and calculations shall be retained by the approval agency as required in § 107.405(a)(3) of this chapter.

(3) The approval agency shall witness all tests required in § 178.270-13 of this subchapter. In addition, the approval agency shall ensure through appropriate inspection and supervision

of manufacture that each portable tank is fabricated in all respects in conformance with the approved drawings and calculations.

(4) Upon successful completion of all requirements of this subpart, the approval agency shall:

(i) Apply its name, identifying mark or number, and the date upon which the approval was issued, to the metal identification plate required by § 178.270-14 of this subchapter.

(ii) Issue an approval certificate for each portable tank, or, in the case of a series of identical tanks manufactured to a single design, for the series of portable tanks. The approval certificate must include all information required to be displayed on the required metal identification plate. A copy of each approval certificate shall be retained by the approval agency and by the owner of each portable tank, and a copy shall be forwarded by the approval agency to the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

(c) *Denial of application for approval.* If an approval agency finds that a portable tank cannot be approved for any reason, he shall so notify the applicant in writing and shall provide the applicant with the reasons for which the approval is denied. An applicant aggrieved by a decision of an approval agency may appeal the decision within 90 days of receipt to the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau. The decision of the Associate Director is final.

(d) *Approval of existing portable tanks.* A portable tank constructed on or before (day before the effective date of this amendment) which is being operated under DOT exemption and which conforms to the basic provisions of Specification IM 100 or IM 101 may be designated as a Specification IM 100 or IM 101 portable tank as appropriate, by the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

(e) *Modifications to approved portable tanks.* (1) Prior to modification of any approved portable tank, the owner or manufacturer desiring to effect such modification shall inform the approval agency that issued the initial approval of the portable tank of the nature of the modification, and shall supply the approval agency with two sets of all revised drawings and calculations relative to the intended modification.

(2) Action by approval agency.

(i) The approval agency shall review the request for modification to ensure that the modified design is in full compliance with the relevant specification. If the request for modification is approved, one set of the approved revised drawings and calculations shall be returned to the applicant. The second set of the approved revised drawings and calculations shall be retained by the approval agency as required in § 107405(a)(3) of this chapter. In the event of a denial of request for modification, the procedures of paragraph (c) of this section shall apply.

(ii) The approval agency shall, through appropriate supervision, ensure that all modifications are made in conformance with the approved revised drawings and calculations.

(iii) The approval agency shall, based on the nature of the proposed modification, determine the extent to which retesting of the modified tank is necessary and ensure that all required retests are performed in accordance with § 178.270-13.

(iv) The approval agency shall, in any case where modifications to an approved tank alters any information on the approval certificate, issue a new approval certificate for the modified tank and ensure that any necessary changes are made to the metal identification plate. A copy of each newly issued approval certificate shall be retained by the approval agency and by the owner of each portable tank, and a copy of such certificate shall be forwarded by the approval agency to the Associate Director for Hazardous Materials Regulation, Materials Transporation Bureau.

§ 173.32b Periodic retesting and reinspection of Specification IM 100 and IM 101 portable tanks.

(a) *Retesting.* (1) Each Specification IM 100 and IM 101 (§§ 178.270-272 of this subchapter) portable tank and all piping, valves and accessories, except pressure-relief devices, shall be hydrostatically tested with water, or other liquid of similar density and viscosity, to a pressure not less than 150 percent of the maximum allowable working pressure at intervals of not more than five years. While under pressure the tank shall be inspected for leakage, corrosion, dents, or any other condition which might render the tank unsafe for service. The hydrostatic test shall be witnessed by an individual or organization designated as an approval agency in accordance with the procedures in Part 107, Subpart E of this chapter. Any damage or deficiency which might render the portable tank unsafe for service shall be repaired to the satisfaction of the witnessing approval authority and the tank hydrostatically retested. Upon successful completion of the hydrostatic test, the witnessing approval agency shall apply its name, identifying mark or number and the date of the test to the metal identification plate required by § 178.270-14 of this subchapter.

(2) *Pressure relief devices.* Spring-loaded pressure relief valves must be retested at intervals of not more than two and one-half years.

(b) *Visual reinspection.* Each portable tank and all piping, valves and accessories shall be visually reinspected at intervals not exceeding two and one-half years. The reinspection shall be conducted by an individual or organization designated as an approval agency in accordance with the procedures in Part 107, Subpart E of this chapter. In the case of insulated tanks, lagging need not be removed if, in the opinion of the approval agency, external corrosion is likely to be negligible. The portable tank shall not be returned to service if evidence of any unsafe condition is discovered until such condition has been corrected to the satisfaction of the witnessing approval agency. Reinspection shall include the following items:

(1) The tank shall be carefully inspected for corroded areas, dents, defects in welds, piping, valves or gaskets, and other conditions including leakage that might render the tank unsafe for service.

(2) Devices for tightening manhole covers must be operative and there must be no leakage at manhole covers or gaskets.

(3) Missing or loose bolts or nuts on any flanged connection or blank flange must be replaced or tightened.

(4) All emergency devices and valves must be free from corrosion, distortion and any damage that could prevent their normal operation.

(5) Required markings on the tank must be legible.

Upon successful completion of the visual reinspection, the witnessing approval agency shall apply its name, identifying mark or number and the date of the visual reinspection on the metal plate required by § 178.270.14 of this subchapter.

(c) *Deteriorated portable tanks.* Without regard to any other retest requirements, any tank that shows evidence at any time of dents, corroded areas, leakage or other conditions that indicate a weakness that could render the portable tank unsafe for service, must be retested in accordance with the requirements of paragraph (a) of this section prior to reuse.

(d) *Damaged portable tanks.* Without regard to any other retest requirements, any tank that has been damaged to an extent that may adversely affect its product retention capability must be retested in accordance with the requirements of paragraph (a) of this section prior to reuse.

(e) *Records.* The witnessing approval agency shall retain a written record of

the date and results of all required retests and reinspection for a period of not less than 15 years. The owner of each portable tank shall retain such a written record of the most recent retest and reinspection.

§ 173.32c Use of specification IM 100 and IM 101 portable tanks.

(a) Each Specification IM 100 and IM 101 (§§ 178.270-272 of this subchapter) portable tank used for the transportation of hazardous materials shall fulfill the requirements of the relevant specification and all applicable requirements of this subchapter.

(b) No Specification IM 100 or IM 101 portable tank offered for transportation may exceed a gross weight of 55,000 pounds.

(c) No Specification IM 100 or IM 101 portable tank containing a hazardous material that could destructively attack or dangerously react with any component of the portable tank including valves, piping, safety devices and gaskets may be offered for transportation.

(d) Hazardous materials not specifically authorized for transportation in Specification IM 100 or IM 101 portable tanks by this part, may be transported in such portable tanks with the written approval of, and under the conditions established by, the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

(e) Rear end protection for transportation by highway. Each transport vehicle used to transport a Specification IM 100 or IM 101 portable tank must be fitted with rear end protection conforming to the requirements of § 393.86 of this title. The bumper shall be located at least six inches to the rear of any tank component that is used for the loading or unloading of the contents of the tank or which may, at any time, contain lading in transit, and must be capable of absorbing, without damage that would result in leakage of the product, the impact of the loaded vehicle with a deceleration of 2 "g" using a factor of safety of two based on the ultimate strength of the bumper material. Such impact shall be considered uniformly distributed and applied horizontally from any direction at an angle not exceeding 30° to the longitudinal axis of the vehicle.

(f) No Specification IM 100 or IM 101 portable tank may be offered for transportation if evidence exists of any condition that may render the portable tank unsafe for service. Prior to filling, each protable tank shall be carefully inspected to insure that it is fit for service. This inspection shall include the following items:

(1) Examination of shell, piping, valves and other appurtenances for corroded areas, dents, defects in welds or any other unsafe condition.

(2) Devices for tightening manhole covers must be operative and there must be no sign of leakage at manhole covers or gaskets.

(3) Missing or loose bolts or nuts on any flanged connection or blank flange must be replaced or tightened.

(4) All emergency devices and valves must be free from corrosion, distortion and any damage that could prevent their normal operation.

(5) Required markings on the tank must be legible.

7. In § 173.116 paragraph (a) would be revised and paragraph (i) would be added to read as follows:

§ 173.116 Outage.

(a) Outage for packages of flammable liquids offered for transportation, except as otherwise provided in this part, must be as prescribed in paragraphs (b) to (i) of this section.

* * * * *

(i) The degree to which a portable tank may be filled with a flammable liquid shall not exceed the volume percentage determined using the following relationship:

$$f_{max} = \frac{0.98}{1 + \alpha(122 - t_f)}$$

Where: f_{max} is the maximum filling limit as percent of total volume.

t_f is the liquid temperature at filling in °F.

α is the coefficient of cubical expansion of the liquid.

§ 173.118a [Amended]

8. In § 173.118a, paragraph (b)(4) would be revised to read as follows:

* * * * *

(b) * * *

(4) Carriage aboard aircraft vessels (for packaging requirements for transport by vessel see § 176.340); and,

* * * * *

9. In § 173.119 paragraph (n) would be added to read as follows:

§ 173.119 Flammable liquids not specifically provided for.

* * * * *

(n) Specification IM 100 and IM 101 (§§ 178.270-.272 of this subchapter). Portable tanks. Flammable liquids not specifically provided for, which do not meet the definition of another hazard class, may be offered for transportation in IM 100 and IM 101 portable tanks in accordance with the following table:

Properties of Liquid	Specification Container Required	
	Tank Spec.	Maximum Allowable Working Pressure (Psig) Not Less Than
Vapor Pressure at 150° F. less than 43 pounds per square inch, absolute.	IM 101	48
Vapor Pressure at 150° F. less than 33 pounds per square inch, absolute.	IM 101	38
Vapor Pressure at 150° F. less than 25 pounds per square inch, absolute.	IM 101	30
Vapor Pressure at 150° F. less than 20 pounds per square inch, absolute.	IM 101	25
Vapor Pressure at 150° F. less than 20 pounds per square inch, absolute, and flashpoint of 32° F or above..	IM 100	24.9
Vapor Pressure at 150° F. less than 9.2 pounds per square inch, absolute, and flashpoint of 32° F. or above.	IM 100	14.2

10. In § 173.125 paragraphs (a)(8) and (9) would be added to read as follows:

§ 173.125 Alcohol, n.o.s. (flammable liquid).

(a) * * *

(8) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

(9) Specification IM 100 (§§ 178.270 and 178.271 of this subchapter). Portable tanks. Authorized only for alcohols with a flash point of 32° F or over.

11. In § 173.127 the heading and paragraph (a)(1) would be revised to read as follows:

§ 173.127 Nitrocellulose or colloidon cotton, fibrous or nitrostarch, wet; nitrocellulose flakes; colloided nitrocellulose, granular, flake, or block, and lacquer base or lacquer chips, wet.

(a) * * *

(1) Containers, except cargo tanks, tank cars or portable tanks, as prescribed in § 173.119.

* * * * *

12. In § 173.135 paragraph (a)(10) would be added to read as follows:

§ 173.135 Diethyl dichlorosilane, dimethyl dichlorosilane, ethyl dichlorosilane, ethyl trichlorosilane, methyl trichlorosilane, trimethyl chlorosilane, and vinyl trichlorosilane.

(a) * * *

(10) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig.

13. In § 173.136 paragraph (a)(10) would be added to read as follows:

§ 173.136 Methyl Dichlorosilane and trichlorosilane.

(a) * * *

(10) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable pressure not less than 38 psig.

14. In § 173.141 paragraph (a)(11) would be added to read as follows:

§ 173.141 Amyl mercaptan, butyl mercaptan, ethyl mercaptan, isopropyl mercaptan, propyl mercaptan, and aliphatic mercaptan mixtures.

(a) * * *

(11) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig.

15. In § 173.145 paragraph (a)(8) would be added to read as follows:

§ 173.145 Dimethyl hydrazine, unsymmetrical, and methyl hydrazine.

(a) * * *

(8) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig. Bottom outlets not allowed. Safety valves must be constructed of steel.

16. In § 173.245 paragraph (b) would be redesignated paragraph (c), and a new paragraph (b) would be added to read as follows:

§ 173.245 Corrosive liquids not specifically provided for.

* * * * *

(b) Corrosive liquids, other than those for which special requirements are prescribed, may be offered for transportation in Specification IM 101 (§§ 178.270 and 178.272 of this subchapter) portable tanks as follows:

(1) Corrosive liquids listed below may be packaged in IM 101 portable tanks:

Acetic acid (aqueous solution)
Acetic acid, glacial
Acetic anhydride
Acid buthl phosphate
Acrylic acid
Alkanesulfonic acid
Aluminum phosphate solution
2-(2-Aminoethoxy) ethanol
Aminopropyldiethanolamine
n-Aminopropylmorpholine
bis (Aminopropyl) piperazine
Ammonium hydrogen fluoride solution
Ammonium hydroxide (containing not more than 44% ammonia)
Amyl acid phosphate
Antimony pentachloride solution
Antimony trichloride solution
Bromacetic acid solution
Butyric acid
Calcium hydrogen sulfite solution
Chromic fluoride solution
Coal tar dye, liquid (not otherwise specifically named in § 172.101)
Compound, cleaning, liquid
Compound, cleaning, liquid (containing phosphoric acid, acetic acid, sodium or potassium hydroxide)
Compound, lacquer, paint or varnish removing liquid
Compound, rust preventing or compound, rust removing
Compound, tree or weed killing, liquid
Compound, vulcanizing, liquid
Cosmetics, n.o.s.
Crotonic acid
Dichloracetic acid
Dichloroisopropyl ether
Dichloropropene and propylene dichloride mixture
Di-(2-ethylhexyl) phosphoric acid
Diisopropylethanolamine
Disinfectant, liquid
Drugs, n.o.s., liquid
Dye intermiediate, liquid
Ethyl phosphonous cholridate
Ferric chloride solution
Formic acid solution
Fumaryl chloride
Hexamethylene imine
Hexanoic acid
Hydriodic acid
Isobutyric acid
Isobutyric anhydride
Isopentanoic acid
Medicines, n.o.s., liquid
Methyl dichloroacetate
Methyl ethyl pyridine
Mining reagent liquid (containing 20% or more cresylic acid)
Monoethanolamine
Monoethanolamine solution
Phosphoric acid or phosphoric acid solution
Propionic acid
Propionic acid solution
Propionic anhydride
Selenic acid, liquid
Sodium fluoride solution
Sodium hydrogen sulfate solution
Sodium methylate, alcohol mixture
Sulfurous acid
1,2,3,6-Tetrahydrobenzaldehyde
Tetramethyl ammonium hydroxide, liquid
Textile treating compound mixture, liquid
Thioglycolic acid
Toluene sulfonic acid, liquid
Trichloroacetic acid solution
Valeric acid
Valeryl chloride
Zinc chloride solution

(2) Any other corrosive liquid for which specific requirements are not prescribed may be offered for transportation in an IM 101 portable tank with a maximum allowable working pressure not less than 38 psig. Bottom outlets not allowed.

(3) If the portable tank is not lined with a material substantially immune to attack by the commodities to be transported:

(i) The material of the tank must be substantially immune to attack by the commodities to be transported;

(ii) The material of the tank must be thick enough to withstand 10 years normal service with the commodity without being reduced to any thickness less than that specified in § 178.270-4 of this subchapter; or,

(iii) The chemical reaction between the material of the tank and the commodity to be transported is such as to allow the tank to be properly passivated or neutralized, and the tank is not frequenty cleaned and not used in the transportation of other commodities.

(c) Except when transportation by aircraft or vessel is involved, a material classed as a corrosive material that is corrosive only to steel and does not meet the definition of any other hazard class defined in this subchapter, is excepted from the requirements of this subchapter for rail or highway when transported in a portable tank, cargo tank, or tank car constructed of materials that will not react dangerously with or be degraded by the material being transported.

17. In § 173.247 paragraph (a)(18) would be added to read as follows:

§ 173.247 Acetyl bromide, acetyl chloride, acetyl iodide, antimony pentachloride, benzoyl chloride, boron trifluoride-acetic acid complex, chromyl chloride dichloroacetyl chloride, diphenylmethyl bromide solution, pyrosulfuryl chloride, silicon chloride, sulfur chloride (mono and di), sulfuryl chloride, thionyl chloride, tin tetrachloride (anhydrous), titanium tetrachloride, and trimethyl acetyl chloride.

(a) * * *

(18) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

18. In § 173.248 paragraph (a)(8) would be added to read as follows:

§ 173.248 Acid sludge, sludge acid, spent sulfuric acid, or spent mixed acid.

(a) * * *

(8) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks. Bottom outlets not allowed.

19. In § 173.249 paragraph (a)(14) would be added to read as follows:

§ 173.249 Alkaline corrosive liquids, n.o.s.; alkaline liquids, n.o.s.; alkaline corrosive battery fluid; potassium fluoride solution; potassium hydrogen fluoride solution; sodium aluminate, liquid; sodium hydroxide solution; potassium hydroxide solution; boiler compound, liquid solution.

(a) * * *

(14) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

20. In § 173.253 paragraph (a)(9) would be added to read as follows:

§ 173.253 Chloracetyl chloride.

(a) * * *

(9) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

21. In § 173.254 paragraph (a)(6) would be added to read as follows:

§ 173.254 Chlorosulfonic acid and mixtures of chlorosulfonic acid-sulfur trioxide.

(a) * * *

(6) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

Bottom outlets not allowed.

22. In § 173.255 paragraph (a)(7) would be added to read as follows:

§ 173.255 Dimethyl sulfate.

(a) * * *

(7) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 58 psig and minimum shell thickness of not less than ¼-inch if of mild steel construction or equivalent thickness if of other material (see § 178.270-5(c) of this subchapter). Bottom outlets not allowed.

23. In § 173.272 paragraph (i)(20) would be revised to read as follows:

§ 173.272 Sulfuric acid.

* * * * *

(i) * * *

(20) Specification 60 (§ 178.255 of this subchapter) and Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks. Authorized for sulfuric acid of 65.25 percent or greater concentrations provided the corrosive effect on steel is not greater than that of 65.25 percent sulfuric acid, measured at 100°F.

* * * * *

24. In § 173.280 paragraph (a)(9) would be added to read as follows:

§ 173.280 Trichlorosilanes.

(a) * * *

(9) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

25. In § 173.294 paragraph (a)(4) would be added to read as follows:

§ 173.294 Monochloroacetic acid, liquid or solution.

(a) * * *

(4) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

* * * * *

26. In § 173.346 paragraph (a)(28) would be added to read as follows:

§ 173.346 Poison B liquids not specifically provided for.

(a)* * *

(28) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig.

27. In § 173.347 paragraph (a)(9) would be added to read as follows:

§ 173.347 Aniline oil.

(a) * * *

(9) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

Internal discharge valve required.

* * * * *

28. In § 173.352 paragraph (a)(6) would be added to read as follows:

§ 173.352 Sodium and potassium cyanide solutions.

(a) * * *

(6) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig.

29. In § 173.362 paragraph (a)(5) would be added to read as follows:

§ 173.362 4-Chloro-o-toluidine hydrochloride.

(a) * * *

(5) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig.

30. In § 173.620 paragraph (a)(7) would be added to read as follows:

§ 173.620 Carbon tetrachloride, ethylene dibromide (1, 2-dibromoethane), and Tetrachloroethane.

(a) * * *

(7) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks with maximum allowable working pressure not less than 38 psig.

* * * * *

31. In § 173.630 paragraph (b)(5) would be added to read as follows:

§ 173.630 Chloroform.

* * * * *

(b) * * *

(5) Specification IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

PART 176—CARRIAGE BY VESSEL

32. In the table of sections, an appropriate entry for a new § 176.340 would be added.

33. A new § 176.340 would be added to read as follows:

§ 176.340 Combustible liquids in portable tanks.

(a) Combustible liquids may be transported by vessel in portable tanks only as specified below:

(1) Specification IM 100 and IM 101 (§§ 178.270 and 178.272 of this subchapter). Portable tanks.

(2) Marine Portable Tanks (MPT) approved and constructed in accordance with 46 CFR Part 64.

(3) Portable tanks approved and maintained in accordance with 46 CFR 98.35, constructed prior to October 1, 1974. Such tanks may continue in service only until October 1, 1984.

(4) Specification 51 (§ 178.245 of this subchapter). Portable tanks.

(5) Portable tanks approved by the Commandant (G-MHM).

PART 178—SHIPPING CONTAINER SPECIFICATIONS

34. In the table of sections, appropriate entries for new §§ 178.270, 178.271 and 178.272 would be added.

35. New §§ 178.270, 178.271 and 178.272 would be added to read as follows:

§ 178.270 Specification IM 100 and IM 101; steel portable tanks; general design and construction requirements.

§ 178.270-1 Specification requirements for IM 100 and IM 101 portable tanks.

(a) Each portable tank must meet the requirements of this section in addition to the requirements in § 178.271 (IM 100) and § 178.272 (IM 101), respectively. These requirements apply to portable tanks that are designed to carry liquids having a vapor pressure of less than 43 psia at a temperature of 150°F.

§ 178.270–2 General.

(a) Tanks, including attachments and service and structural equipment, must be designed to withstand, without loss of contents, the maximum internal pressure that can be anticipated to result from contents and the static and dynamic stresses incurred in normal handling and transportation.

(b) *Cross-sectional design.* Each portable tank must have a cross-sectional design that is capable of being stress analyzed either mathematically or by the experimental method contained in UG–101 of the ASME Code, or other method acceptable to the Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

(c) Each portable tank must be designed so that the center of gravity of the filled tank is approximately centered within the points of attachment of the lifting devices.

(d) Each portable tank that is insulated must have the insulation jacketed or otherwise protected from mechanical damage. This protection must also prevent the accumulation of moisture or foreign matter that would decrease the efficiency of the insulation.

§ 178.270–3 Materials of construction.

Each portable tank must be constructed of steel. Materials used in tanks must conform to section VIII, Division 1 of the ASME Code with respect to all chemical and physical properties, and must be suitable for the external environments in which the tank will be carried. The design stress shall not exceed the maximum allowable stress value specified for the material at 300° F. Materials with a minimum percentage elongation less than 20 percent are not permitted. For the purpose of these specifications, all elongation shall be determined using a specimen in which the gauge length is five time the diameter.

§ 178.270–4 Structural integrity.

(a) *Maximum stress values.* The maximum calculated stress value in a tank at the test pressure must not exceed the lower of:

(1) 93.75 percent of the specified minimum yield strength; or,

(2) 37.5 percent of the specified minimum tensile strength.

NOTE.—The specified minimum yield strength and the specified minimum tensile strength shall be those listed for the material of construction, or its equivalent, in the ASME Code.

(b) *Tank shell loadings.* Tank shells and their fastenings shall be so designed and, where necessary, provided with additional structural elements, to prevent resulting stresses in excess of those specified in paragraph (a) of this section. Consideration shall be given to the forces imposed by each of the following loads:

(1) An internal pressure of 150 percent of the maximum allowable working pressure (stresses to be determined using the design formulas prescribed in the ASME Code);

(2) The following simultaneously applied dynamic loadings acting through the center of the tank (W is the maximum permissible weight of the loaded tank and its attachments);

A. 2W vertically downward;
B. 2W longitudinally;
C. 1W laterally; and,
D. 1W vertically upward;

(3) Loads resulting from any discontinuities between tank shell and heads;

(4) Superimposed loads such as operating equipment, insulation, linings and piping; and,

(5) Reactions of supporting lugs and saddles or other supports.

(c) The shell thickness used in calculating the resulting stress levels in a tank shall be exclusive of any corrosion allowance.

§ 178.270–5 Minimum thickness of shells and heads.

(a) For the purposes of this section, mild steel shall be considered to be a steel with a guaranteed minimum tensile stength of 52,500 pounds per square inch and a guaranteed minimum percentage elongation of 27.

(b) Except as otherwise provided in this subchapter, the shell and heads of each portable tank constructed of mild steel:

(1) With a maximum cross-sectional dimension of 6 feet or less, shall be of a thickness not less than $\frac{5}{16}$ of an inch; or,

(2) With a maximum cross-sectional dimension exceeding 6 feet, shall be of a thickness not less than ¼ of an inch.

(c) The shell and heads of each portable tank constructed of a metal other than mild steel, shall be not less than the thickness obtained from applying the following formula:

$$e_1 = \frac{112.3e_0}{(Rm_1 \times A_1)^{1/3}}$$

Where:

e_0 = Required thickness of mild steel (inches)
e_1 = Equivalent thickness of other metal (inches)
Rm_1 = Guaranteed minimum tensile strength of other metal (pounds per square inch)
A_1 = Guaranteed minimum percentage elongation of other metal

NOTE.—The actual values for the tensile strength and percent elongation for a metal, as determined through tests on specimens from the group of plates to be used in the fabrication of the tank, may be substituted for the guaranteed minimum values in the above calculation: *Provided*, That the tensile tests are witnessed by the approval agency.

§ 178.270–6 Tank supports, frameworks and lifting attachments.

(a) Each portable tank must be constructed with a permanent support structure that provides a secure base in transport. Skids, frameworks, cradles or similar devices are acceptable. The calculated stress in tank supports, frameworks and lifting attachments must not exceed 80 percent of the specified minimum yield strength of the material of construction under the loading conditions specified in § 178.270–4(b)(2).

(b) When a portable tank is fitted with a framework specifically designed to permit the carriage of the portable tank on a containership, the framework shall comply fully with all applicable requirements of Parts 451 and 452 of this title, in addition to the requirements of this section.

§ 178.270–7 Joints in tank shells.

(a) Joints in tank shells must be made by fusion welding. Such joints and their efficiencies must be as required by the ASME Code. Welders who are not ASME Code qualified must be qualified by the approval agency in accordance with the procedures in the ASME Code.

(b) Longitudinal joints must be in the upper half of the shell.

§ 178.270–8 Protection of valves and accessories.

All valves, fittings, accessories, safety devices, gauging devices and other appurtenances shall be adequately protected against mechanical damage.

§ 178.270–9 Inspection openings.

Each portable tank must be fitted with manholes or other inspection openings to allow for complete internal inspection. Each portable tank with a capacity of 500 gallons or more must be fitted with an elliptical manhole not less than 15 inches by 23 inches, or with a circular manhole not less than 18 inches in diameter. In any case the size of inspection openings must be sufficient to provide adequate access for maintenance and repair of the interior of the tank. All inspection openings and closures must be designed and reinforced as required by the ASME Code.

§ 178.270–10 External design pressure.

(a) Portable tanks not fitted with vacuum relief devices must be de-

signed to withstand a positive external pressure differential of not less than 6 pounds per square inch.

(b) Portable tanks fitted with vacuum relief devices must be designed to withstand a positive external pressure differential not less than the set pressure of the vacuum relief device.

§ 178.270-11 Pressure and vacuum relief devices.

(a) *General.* Each portable tank must be fitted with at least one pressure relief device in accordance with the following:

(1) Each portable tank, or each independent compartment of a portable tank, with a capacity of 500 gallons or more must be provided with at least one spring loaded pressure relief device.

(2) Each portable tank, or each independent compartment of a portable tank, with a capacity less than 500 gallons must be fitted with either a frangible disc or spring loaded pressure relief device.

(b) *Location, arrangement and construction of relief devices.* (1) Pressure relief devices must be situated to provide unrestricted discharge without direct impingement of escaping vapors on any part of the tank or structural framework.

(2) Pressure relief devices must be located so as to have direct communication with the vapor space of the tank or compartment at the midlength of the top centerline. No shutoff valve may be installed between a tank opening and a relief device, or on the discharge side of any relief device. Piping and nozzles for relief devices must be of sufficient size to unrestrictedly pass the required rate of discharge to the relief device.

(3) Fusible elements, when installed, may not be covered or otherwise shielded from external heat.

(4) Spring loaded pressure relief devices must be constructed in a manner such that means are available to determine that the valve discs are free to turn on their seats. Valves must be sealed to prevent unauthorized adjustment of the relief setting.

(c) *Pressure settings of relief devices.*—(1) *Primary pressure relief devices.* The primary relief devices required by paragraph (a) of this section must be set to function at a pressure not to exceed 125 percent of the maximum allowable working pressure. Spring loaded relief devices must close after discharge at a pressure not lower than 10 percent below the start-to-discharge pressure and remain closed at all lesser pressures.

(2) *Emergency pressure relief devices.* Frangible discs, other than those used as a primary relief device in accordance with paragraph (a)(2) of this section, must be set to burst at a pressure of 150 percent of the maximum allowable working pressure. When additional spring loaded relief devices are installed to provide sufficient emergency venting capacity, the devices must be set to open at a pressure not less than 125 percent of the maximum allowable working pressure and must be designed so that they are fully open at a pressure not greater than 150 percent of the maximum allowable working pressure.

(3) *Fusible elements.* Fusible elements, whether used as primary or emergency relief devices, must have a nominal fusing temperature not more than 250°F.

(4) *Vacuum relief devices.* Vacuum relief devices, when used, must be designed to provide total containment of product under normal conditions and must be set to open at a nominal overpressure of not less than 3 pounds per square inch.

(d) *Venting capacity of relief devices.*—(1) *Spring loaded relief devices.* Each spring loaded pressure relief device must have a minimum relieving capacity of one standard cubic foot of air per minute per 30 square feet of exposed tank area. Each vacuum relief valve used must have a minimum cross sectional area of 0.44 square inches.

(2) Except as provided in paragraph (d)(3) of this section, the total venting capacity of all pressure relief devices installed on each portable tank must be sufficient, with all devices operating, to limit the pressure in the tank to not more than 20 percent above the start to discharge pressure of the installed device with the lowest pressure setting, and may not, in any case, be less than that required in the following Table:

TABLE I

MINIMUM EMERGENCY VENT CAPACITY IN CUBIC FEET FREE AIR/HOUR (14.7 PSIA AND 59° F.)

Exposed area square feet	Cubic feet free air per hour	Exposed area square feet	Cubic feet free air per hour
20	27,600	275	237,000
30	38,500	300	256,000
40	48,600	350	289,500
50	58,600	400	322,100
60	67,700	450	355,900
70	77,000	500	391,000
80	85,500	550	417,500
90	94,800	600	450,000
100	104,000	650	479,000
120	121,000	700	512,000
140	136,200	750	540,000
160	152,100	800	569,000
180	168,200	850	597,000
200	184,000	900	621,000
225	199,000	950	656,000
250	219,500	1,000	685,000

NOTE 1: Interpolate for intermediate sizes.

(3) The required total venting capacity determined by using Table I may be reduced for insulated tanks by the following relationship:

$$Q_T = F\,Q_t$$

Where:

Q_T is the total required venting capacity of the insulated tank.

Q_t is the toal venting capacity required for an uninsulated tank according to Table I.

F is 0.25 or 0.25U, whichever is greater (where U is the thermal conductivity of the insulation at 100°F. in BTU/(hr)(sq ft)(°F.)).

Insulation, when used, must be to the satisfaction of the approval agency. In no case shall an insulation be approved which:

(i) Will not remain effective at all temperatures up to 1200°F.; or,

(ii) Is jacketed with a material having a melting point of less than 1200°F.

(e) *Markings on pressure relief devices.* The following information shall be plainly displayed on each pressure relief device:

(1) The pressure or, when appropriate, the temperature at which the device is set to function;

(2) The rated flow of air discharged per minute at 59°F. and atmospheric pressure at the set pressure or temperature;

(3) The manufacturer's name and catalog number; and

(4) Allowable tolerances at start to discharge pressure and allowable temperature tolerances.

§ 178.270-12 Valves, nozzles, piping and gauging devices.

(a) All tank nozzles, except for those provided for relief devices, thermometer wells, and inspection openings,

must be fitted with manually operated stop valves located as near the shell as practicable either internal or external to the shell. Nozzles installed in the vapor space to provide filling and cleaning openings which are closed except during filling or cleaning by a blank flange or other suitable means, need not be provided with a manually operated stop valve.

(b) Each filling or discharge connection located below the normal liquid level of the tank contents must, in addition to the manually operated stop valve required by paragraph (a) of this section, be fitted with a bolted blank flange on the outlet side of the valve or other suitable protection against accidental escape of the contents.

(c) Each valve must be designed and constructed to a rated pressure not less than the maximum allowable working pressure of the tank. Each stop valve with a screwed spindle must be closed by a clockwise motion of the handwheel. All valves must be constructed to prevent unintentional opening.

(d) Internal discharge valves, when installed, shall be self-closing, located inside the tank, or within the welded flange and operated to ensure against the accidental escape of contents.

(e) All piping must be of suitable material. Welded joints must be used wherever practicable. The bursting strength of all piping and pipe fittings must be not less than 4 times the maximum allowable working pressure of the tank. Piping must be supported in such a manner as to prevent damage due to thermal stresses, jarring and vibration.

(f) All nozzles and tank shell penetrations for nozzles shall be designed and constructed in accordance with the ASME Code.

(g) Glass level gauges or gauges of other easily destructible material, which are in direct communication with the contents of the tank, may not be used.

§ 178.270-13 Testing.

(a) *Hydrostatic test.* Each portable tank and all piping, valves and other attachments which are subject to the pressure of the contents of the tank, except pressure relief devices, must be hydrostatically tested by completely filling the portable tank (including domes, if any) with water or other liquid having a similar density and viscosity and applying a pressure of not less than 150 percent of the maximum allowable working pressure. The pressure shall be measured at the top of the tank and shall be maintained for at least 10 minutes. While under pressure the tank shall be inspected for leakage, undue distortion, or other conditions which indicate weakness which might render the tank unsafe for transportation service. Failure to successfully meet the test criteria shall be deemed evidence of failure to meet the requirements of this specification. Tanks failing to pass the test shall be suitably repaired. The suitability of the repair shall be determined by the same method of test.

(b) *Testing of internal coils.* Internal coils, if installed, must be hydrostatically tested to a pressure of not less than 200 psig or 150 percent of the rated pressure of the coils, whichever is greater.

(c) *Internal restraint test.* A prototype tank of each portable tank design must withstand the following tests without leakage or deformation that would render it unsuitable for use:

(1) *Longitudinal restraint.* The tank loaded to its maximum gross weight is positioned with its longitudinal axis vertical. It shall be held in this position for five minutes by support at the lower end of the base structure providing vertical and lateral restraint and by support at the upper end of the base structure providing lateral restraint only.

(2) *Lateral restraint.* The tank loaded to its maximum gross weight is positioned with its transverse axis vertical. It shall be held in this position for five minutes by support at the lower side of the base structure providing vertical and lateral restraint and by support at the upper side of the base structure providing lateral restraint only.

(d) *Rail impact test.* A prototype tank of each portable tank design which is to be authorized for transportation by rail must successfully withstand the prescribed impact tests without leakage or permanent deformation which would render the portable tank unsuitable for use.

(1) The car bearing the portable tank to be tested must be impacted four times into a string of five empty buffer cars with their brakes set and the train slack removed. The first three impacts shall be made at the same end of the test car at speeds not less than four, six and eight miles per hour. The fourth impact shall be at eight miles per hour at the opposite end of the test car. After each impact the portable tank shall be inspected for any evidence of leakage or deformation which would constitute a failure of the test.

(2) When track conditions prevent turning the test car around, the fourth impact may be accomplished by using a buffer car, equal to or exceeding the gross weight of the test car, as the striking car. The test car must be placed as the first car of the standing buffer cars and struck by the striking buffer car at the end not previously tested.

(e) *Pressure and vacuum relief devices.* Each spring loaded relief device must be tested for accuracy of the setting prior to installation on a portable tank and must be effectively sealed to maintain the required setting.

§ 178.270-14 Marking of tanks.

(a) *General.* Each portable tank must bear a corrosion resistant metal identification plate which is permanently attached to the portable tank in a position which is readily accessible for inspection. The information required in paragraph (b), and when appropriate, paragraph (c) of this section must be stamped, embossed or otherwise marked by an equally durable method on this plate in characters not less than ¼ inch high. This plate must not be painted so as to obscure the markings.

(b) *Required information.* At least the following information must appear on the metal identification plate for each specification IM 100 and IM 101 portable tank:

(1) DOT Specification number.

(2) Manufacturer's name.

(3) Date of manufacture.

(4) Manufacturer's serial number.

(5) Maximum allowable working pressure (psig.)

(6) Test pressure (psig).

(7) Total water capacity (gallons).

(8) Maximum gross weight (lbs.)

(9) Maximum weight of contents (lbs.).

(10) Equivalent minimum shell thickness in mild steel (in.) and actual shell thickness (in.).

(11) Tank material and specification number.

(12) Identification of approval agency.

(13) Date of last hydrostatic test and identification of witnessing approval agency.

(14) Date of last visual reinspection and identification of witnessing approval agency.

(c) *Additional information.* The following additional information must appear on the metal identification plate when appropriate:

(1) Lining material.

(2) Metallurgical design temperature (if above 150°F. or below 0°F.).

(3) Heating coil maximum allowable working pressure.

(4) Corrosion allowance provided.

(5) The words "RAIL AUTHORIZED" if the tank is authorized for rail transport. (Only permitted for design types which have successfully passed the tests in § 178.270-12(d).)

(d) Nothing in this section shall be deemed to preclude the display of other pertinent information on the required metal identification plate.

§ 178.271 Specificaion IM 100 portable tanks.

§ 178.271-1 General requirements.

(a) Specification IM 100 portable tanks must comply with the general design and construction requirements in § 178.270 in addition to the specific design requirements contained in this section.

(b) The maximum allowable working pressure of each portable tank shall be less than 25 psig but not less than 14.2 psig.

(c) Each portable tank with a maximum allowable working pressure equal to or greater than 15 psig shall fulfill the design and construction requirements of Section VIII, Division 1 of the ASME Code except as limited or modified in this section or in § 178.270. Each portable tank with a maximum allowable working pressure less than 15 psig shall be designed and constructed using Section VIII, Division 1 of the ASME Code as a guide except as limited or modified in this section or in § 178.270.

§ 178.271-2 Minimum thickness of shells and heads.

(a) The approval agency may authorize a minimum thickness below that required by § 178.270-5 where additional protection against tank puncture is provided. The reduction authorized shall be in proportion to the adequacy of the protection provided.

(b) In no case shall a shell and head thickness for a tank be authorized which is less than:

(1) ⅛ of an inch for a tank with a maximum cross-sectional dimension of 6 feet or less; or

(2) 5/32 of an inch for a tank constructed of mild steel having a maximum cross-sectional dimension exceeding 6 feet. For tanks having a maximum cross-sectional dimension exceeding 6 feet constructed of other steels, an equivalent head and shell thickness calculated in accordance with § 178.270-5(c) may be used, subject to an absolute minimum of ⅛ of an inch.

(d) The acceptable methods of providing additional puncture protection are:

(1) An overall external structural protection, such as a jacket, which is regidly secured to the tank with a layer of cushioning material installed between the external structural protection and the tank; or

(2) A complete framework surrounding the tank including both longitudanal and transverse structural members.

§ 178.272 Specification IM 101 portable tanks.

§ 178.272-1 General requirements.

(a) Specification IM 101 portable tanks must comply with the general design and construction requirements in § 178.270 in addition to the specific design requirements contained in this section.

(b) The maximum allowable working pressure of each portable tank shall be equal to or greater than 25 psig.

(c) Each portable tank shall fulfill the design and construction requirements of Section VIII, Division 1 of the ASME Code except as limited or modified in this section or in § 178.270.

(49 U.S.C. 1803, 1804, 1808; 49 CFR 1.53(e) and paragraph (a) of App. A to Part 106.)

NOTE.—The Materials Transportation Bureau has determined that these proposed regulations will not have a major economic impact under the terms of Executive Order 12044 and DOT implementing procedures (43 FR 9582).

Issued in Washington, D.C., on December 1, 1978.

ALAN I. ROBERTS,
Associate Director for Hazardous Materials Regulation, Materials Transportation Bureau.

[FR Doc. 78-34369 Filed 12-8-78; 8:45 am]

federal register

MONDAY, DECEMBER 11, 1978
PART V



ENVIRONMENTAL PROTECTION AGENCY

■

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT PROGRAM

Compliance With 1984 Treatment Deadlines For Discharges of Toxic Pollutants

[6560-01-M]

Title 40—Protection of Environment

CHAPTER I—ENVIRONMENTAL PROTECTION AGENCY

SUBCHAPTER D—WATER PROGRAMS

[FRL 976-7]

PART 124—STATE PROGRAM ELEMENTS NECESSARY FOR PARTICIPATION IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM

Compliance With 1984 Treatment Deadlines For Discharges of Toxic Pollutants

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: This final rule will ensure compliance with 1984 treatment deadlines for discharges of toxic pollutants under the National Pollutant Discharge Elimination System (NPDES) permit program. Permits may reflect a continuation of existing 1977 treatment requirements only if set to expire no later than 18 months from the current court-ordered deadline date for promulgation of effluent guidelines for meeting 1984 treatment requirements (i.e., permit expiration dates 1980-1981). Permits set to expire after that time must provide for effluent limitations reflecting 1984 treatment requirements.

EFFECTIVE DATE: December 11, 1978.

FOR FURTHER INFORMATION CONTACT:

Edward A. Kramer (EN-336), Office of Water Enforcement Environmental Protection Agency, Washington, D.C. 20460 (202-755-0750).

SUPPLEMENTAL INFORMATION:

The Proposed Rule

On May 23, 1978 EPA published final regulations governing the NPDES program (43 FR 22159). One purpose of these regulations was to facilitate compliance with treatment deadlines for toxic pollutants under the Clean Water Act, in accordance with sections 307(a)(2) and 301(b)(2)(C) and (D) of the Act and the Consent Agreement in *NRDC* v. *Train* (8 ERC 2120 (D.D.C. 1976)).

Specifically, the regulations require permit modification or reissuance, triggered by a "reopener clause," when new effluent limitations guidelines covering toxic pollutants are promulgated or approved by EPA. However, comments on the regulations raised the question of how compliance will be ensured when (1) permits are issued which do not require the achievement of 1984 treatment deadlines, and (2) permit modification or revocation to incorporate such requirements is not triggered by the "reopener clause" because effluent guidelines do not become available. A proposed rule published at the same time as the final regulations answered these questions by establishing that:

- Permits may reflect a continuation of 1977 treatment requirements (a minimum of best practicable control technology currently available (BPT)) if set to expire no later than 18 months from the scheduled date for promulgation of effluent limitations guidelines covering toxic pollutants, and
- Permits issued before that time, but set to expire after it, must provide for compliance with 1984 treatment requirements (a minimum of best available technology economically achievable (BAT) and best conventional pollutant control technology (BCT)). This may require case-by-case determinations of BAT and BCT under section 402(a)(1) of the Clean Water Act.

In addition, a "reopener clause" must be included to allow revision of the permit when guidelines come out.

- After the time set by these rules, permits may be issued with 402(a)(1) determinations, but no reopener clause.

A thirty-day comment period was provided, and 16 written comments were received. The proposed rule is being published in final form today without change. The EPA response to significant comments on the proposed rule is described below.

Response to Comments

Several commenters noted that the promulgation of effluent guidelines under the Consent Agreement in *NRDC* v. *Train* is likely to be delayed by several months from the originally scheduled dates for promulgation. Consequently, these commenters suggested that the proposed regulations be revised so that the 18-month period for calculating the term of a BPT permit would commence with the actual date of guideline promulgation.

EPA recognizes that the issuance of effluent limitations guidelines as required by the Consent Agreement will unavoidably be delayed. On October 20, EPA asked the court to modify the Agreement to extent the deadlines for issuance of the regulations. Nevertheless, EPA has issued these regulations without modifying the scheduled dates for the following reasons. First, a contingent expiration date based upon some future happening would not conform to section 402(b)(1)(B) of the Act, which requires that permits be issued for "fixed terms." Second, in the possible event that new effluent guidelines are significantly delayed or never promulgated, permits written as suggested could not assure compliance with 1984 statutory deadlines by requiring steps beyond BPT toward BAT and BCT treatment levels. However, under the proposed regulation made final today, 1984 compliance could be assured: BPT permits expiring at the end of the 18-month period would be reissued with case-by-case determinations of BAT and BCT under section 402(a)(1) of the Act in the event effluent guidelines are not available. Contrary to the view of some commenters, we believe case-by-case determinations of technology based treatment requirements are always available, and in fact are mandatory, in the absence of effluent guidelines. Third, the 18-month period takes into account delays which are anticipated for guideline promulgation. The 18 months represent an extension of EPA's original policy establishing a 12-month period for setting permit expiration dates (in a June 20, 1977 memorandum of the Administrator entitled "Structuring NPDES Enforcement Priorities in Light of the NRDC Consent Agreement") in order to provide an adequate "cushion" in case of delay. In fact, in all cases the 18-month period will expire before the guidelines promulgation dates which EPA has asked the court to establish. If necessary, EPA may modify these regulations to accommodate any orders which the court might issue.

Two commenters were concerned about the relationship between determinations under section 316 (a) and (b) and the short-term permit approach, since two analyses of section 316 issues could conceivably be required in a very brief time frame, i.e., analysis could be required for both the short-term BPT permit and the subsequent BAT/BCT permit. Given the complex nature of section 316 studies and the practical problems involved, we believe that this reanalysis is discretionary with the permit issuing authority. In most cases, it is likely that section 316 decisions reflected in existing permits will be carried over into the short-term BPT permit, with reanalysis required only for the issuance of the BAT/BCT permit.

In addition, based upon comments, three aspects of the final regulations require clarification. First, the regulations apply prospectively and are not retroactive. Second, in the event that a discharger has a single facility with one permit but two outfalls in two industrial categories covered by two different Appendix D expiration dates, the later expiration date should be used. Third, the regulation does not

alter statutory treatment deadlines that are later than 1974 by changing them to 1984.

Because of their importance for permits being issued in the near future, EPA finds good cause exists to make these regulations effective without the 30-day waiting period prescribed under 5 U.S.C. 553(d)(3). Accordingly, they will become effective (December 11, 1978).

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

Dated: December 1, 1978.

DOUGLAS M. COSTLE,
Administrator.

1. Part 124 Table of Contents is amended by revising the heading for appendix D as follows:

* * * * *

Appendix D—Point Source Categories and Permit Expiration Dates

Subpart E—Terms and Conditions of NPDES Permits

2. Section 124.46 is amended by adding a new paragraph (c) and (d) as follows:

§ 124.46 Requirements under section 307(a)(2) of the Act.

* * * * *

(c) No permit issued to a discharger within an industrial category listed in Appendix D of this part, prior to the applicable permit expiration date listed in Appendix D, may be extended beyond that date, unless:

(1) The permit incorporates effluent limitations and standards applicable to the discharger that have been promulgated or approved under sections 301(b)(2) (C) and (D), 304(b)(2), and 307(a)(2) of the Act; or

(2) The permit incorporates:

(i) The "reopener clause" required by paragraph (a) of this section;

(ii) Effluent limitations and a compliance schedule to meet the requirements of sections 301(b)(2) (A), (C), (D), (E), and (F) of the Act; and

(iii) Any other terms and conditions necessary to carry out the provisions of the Act.

[*Comments:* (1) NPDES States are urged to issue permits expiring on or before the dates listed in Appendix D. This approach is the simplest means of ensuring that all appropriate provisions of the Act, including time deadlines, are met. Even if the procedure authorized in paragraph (c)(2) is followed, dischargers must clearly understand that they will be required to meet all applicable statutory deadlines and requirements, including compliance with EPA effluent guidelines defining "best conventional pollutant control technology" (BCT) and "best available control technology economically achievable" (BAT).

(2) A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under paragraph (c) is not conclusive as to the discharger's inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that effluent standards and limitations are determined to be applicable.]

(d) A permit issued after the applicable permit expiration date listed in Appendix D shall include effluent limitations and a compliance schedule to meet the requirements of sections 301(b)(2) (A), (C), (D), (E) and (F) of the Act, whether or not applicable effluent limitations guidelines have been promulgated or approved under those sections. Notwithstanding paragraph (a) of this section, such permits need not incorporate a "reopener clause."

3. Appendix D of this Part is amended by revising the headings for each of the number items to read a follows:

APPENDIX D—POINT SOURCE CATEGORIES AND PERMIT EXPIRATION DATES

1. TIMBER PRODUCTS PROCESSING (PERMIT EXPIRATION DATE: SEPTEMBER 30, 1980).

* * * * *

2. STEAM ELECTRIC POWER PLANTS (PERMIT EXPIRATION DATE: SEPTEMBER 30, 1980).

* * * * *

3. LEATHER TANNING AND FINISHING (PERMIT EXPIRATION DATE: SEPTEMBER 30, 1980).

* * * * *

4. IRON AND STEEL MANUFACTURING (PERMIT EXPIRATION DATE: SEPTEMBER 30, 1980).

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5. PETROLEUM REFINING (PERMIT EXPIRATION DATE: SEPTEMBER 30, 1980).

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6. INORGANIC CHEMICALS MANUFACTURING (PERMIT EXPIRATION DATE: MARCH 31, 1981).

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7. TEXTILE MILLS (PERMIT EXPIRATION DATE: MARCH 31, 1981).

* * * * *

8. ORGANIC CHEMICALS MANUFACTURING (PERMIT EXPIRATION DATE: MARCH 31, 1981).

* * * * *

9. NONFERROUS METALS MANUFACTURING (PERMIT EXPIRATION DATE: DECEMBER 31, 1980).

* * * * *

10. PAVING AND ROOFING MATERIALS (TARS AND ASPHALT) (PERMIT EXPIRATION DATE: DECEMBER 31, 1980).

* * * * *

11. PAINT AND INK FORMULATION AND PRINTING (PERMIT EXPIRATION DATE: DECEMBER 31, 1981).

* * * * *

12. SOAP AND DETERGENT MANUFACTURING (PERMIT EXPIRATION DATE: JUNE 30, 1981).

* * * * *

13. AUTO AND OTHER LAUNDRIES (PERMIT EXPIRATION DATE: JUNE 30, 1981).

* * * * *

14. PLASTIC AND SYNTHETIC MATERIALS MANUFACTURING (PERMIT EXPIRATION DATE: MARCH 31, 1981).

* * * * *

15. PULP AND PAPERBOARD MILLS AND CONVERTED PAPER PRODUCTS (PERMIT EXPIRATION DATE: MARCH 31, 1981).

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16. RUBBER PROCESSING (PERMIT EXPIRATION DATE: MARCH 31, 1981).

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17. MISCELLANEOUS CHEMICALS (PERMIT EXPIRATION DATE: JUNE 30, 1981).

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18. MACHINERY AND MECHANICAL PRODUCTS MANUFACTURING (PERMIT EXPIRATION DATE: JUNE 30, 1981).

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19. ELECTROPLATING (PERMIT EXPIRATION DATE: JUNE 30, 1981).

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20. ORE MINING AND DRESSING (PERMIT EXPIRATION DATE: DECEMBER 31, 1980).

* * * * *

21. COAL MINING (PERMIT EXPIRATION DATE: DECEMBER 31, 1980).

* * * * *

(Secs. 301(b)(2), 304(i), 307(a), 402(b), 501(a), Pub. L. 92-500, 86 Stat. 816 as amended by Pub. L. 95-217, 91 Stat. 217 (33 U.S.C. 1251 *et seq.*).)

[FR Doc. 78-34373 Filed 12-8-78; 8:45 am]

federal register

MONDAY, DECEMBER 11, 1978
PART VI



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Civil Rights

Office of the Secretary

■

TITLE IX AND INTERCOLLEGIATE ATHLETICS; NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITTING FROM FEDERAL FINANCIAL ASSISTANCE

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office for Civil Rights

Office of the Secretary

[45 CFR Part 86]

TITLE IX OF THE EDUCATION AMENDMENTS OF 1972; A PROPOSED POLICY INTERPRETATION

Title IX and Intercollegiate Athletics

AGENCY: Office for Civil Rights, Office of the Secretary, HEW.

ACTION: Proposed Policy Interpretation.

SUMMARY: The following proposed Policy Interpretation applies the provisions of Title IX of the Education Amendments of 1972 and its implementing regulation to intercollegiate athletics. It is being published in proposed form for public comment.

In developing this policy interpretation, a broad range of alternatives and views were considered. For example, some urged adoptin of policies requiring immediate equality of expenditures on men's and women's sports based on enrollment. Others urged that receipts generated by revenue-producing sports be exempt from Title IX.

The proposed Policy Interpretation attempts to accommodate many of the concerns expressed, consistent with the Department's obligations under the law passed by the Congress. The policy bases compliance on participation rates, not enrollment, but requires that procedures be established to increase opportunities for women to participate in competitive athletics. The policy also bases compliance on a calculation that includes all revenue, regardless of source, but recognizes that certain sports that produce revenue, such as football and basketball, may require greater expenditures without having a discriminatory effect. The Policy Interpretation recognizes the higher costs of sports involving large teams, large coaching staffs, expensive equipment and facilities, and additional costs of travel, recruiting, publicity, and the like, associated with national competition.

DATE: Comments should be submitted in writing by February 10, 1979.

ADDRESS: Send comments to: Director, Office for Civil Rights, U.S. Department of Health, Education and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Michael Middleton, (202) 245-6118.

SUPPLEMENTARY INFORMATION: The Department is seeking public comment on this approach as well as on all other aspects of the proposed Preamble and Policy Interpretation. In particular:

1. Is the description of the current status and development of intercollegiate athletics for men and women accurate? What other factors should be considered?

2. Is the proposed two stage approach to compliance practical? Should it be modified? Are there other approaches that should be considered?

3. Is the equal average per capita standard based on participation rates practical? Are there alternatives or modifications that should be considered?

4. Is there a basis for treating part of the expenses of a particular revenue producing sport differently because the sport produces income used by the university for non-athletic operating expenses on a non-discriminatory basis? If so, how should such funds be identified and treated?

5. Is the grouping of financially measurable benefits into three categories practical? Are there alternatives that should be considered? Specifically, should recruiting expenses be considered together with all other financially measurable benefits?

6. Are the factors used to justify differences in equal average per capita expenditures for financially measurable benefits and opportunities fair? Are there other factors that should be considered?

7. Is the comparability standard for benefits and opportunities that are not financially measurable fair and realistic? Should other factors controlling comparability be included? Should the comparability standard be revised? Is there a different standard that should be considered?

8. Is the proposal for increasing the opportunity for women to participate in competitive athletics appropriate and effective? Are there other procedures that should be considered? Is there a more effective way to ensure that the interests and abilities of both men and women are equally accommodated?

To the extent comments relate to the financial impact of the proposed Policy Interpretation or any alternatives suggested, please supply detailed supporting financial information and worksheets. Also, please supply legal analyses to support alternative suggestions and approaches.

Comments should be submitted in writing by February 10, 1979 to: Director, Office for Civil Rights, U.S. Department of Health, Education and Welfare, 330 Independence Avenue SW., Washington, D.C. 20201.

All comments will be fully considered in the preparation of a final Preamble and Policy Interpretation.

Section 901(a) of Title IX of the Education Amendments of 1972 provides:

> No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance * * *.

Section 844 of the Education Amendments of 1974 further provides:

> The Secretary (of HEW) shall prepare and publish * * * proposed regulations implementing the provisions of Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in Federally assisted education programs *which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of the particular sports.*" (Emphasis added.)

Section 844 was passed by Congress after the Conference Committee deleted an amendment adopted on the floor of the Senate that would have exempted revenue producing athletics from the application of Title IX.[1]

The regulation issued by the Department pursuant to Title IX was signed by President Ford on May 27, 1975, and submitted to the Congress pursuant to Section 431(d)(1) of the General Education Provisions Act.

Hearings were held in the House Sub-Committee on Post-Secondary Education on a resolution disapproving the regulation.[2] The Congress did not disapprove the regulation within 45 days and it therefore became effective on July 21, 1975. Subsequently, hearings were held in the Senate Sub-Committee on Education on a bill to exclude revenues produced by certain sports to the extent they are used to pay the cost of those sports.[3] The Committee, however, took no further action on this bill.

The regulation requires that recipients who operate or sponsor interscholastic, intercollegiate, club or intramural athletics, provide equal athletic opportunities for members of both sexes. [45 CFR 86.41(c)] In determining whether an institution is providing equal opportunity in intercollegiate athletics, the regulation requires the Department to consider, among others, the following factors:

(i) Whether the selection of sports and levels of competition effectively accommo-

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[1] See Cong. Rec. S. 8488 (daily ed. May 20, 1974).

[2] The Hearings were held on H. Con. Res. 310 disapproving the entire Title IX Regulation, and H. Con. Res. 311, disapproving the regulation's provision on intercollegiate athletics.

[3] The Hearings were held on September 16 and 18, 1975 on S. 2106 co-sponsored by Senators Tower, Bartlett and Hruska.

date the interests and abilities of members of both sexes;

(ii) The provision of equipment and supplies;

(iii) Scheduling of games and practice time;

(iv) Travel and per diem allowance;

(v) Opportunity to receive coaching and academic tutoring;

(vi) Assignment and compensation of coaches and tutors;

(vii) Provision of locker rooms, practice and competitive facilities;

(viii) Provision of medical and training facilities and services;

(ix) Provision of housing and dining facilities and services; and

(x) Publicity."

[45 CFR 86.41(c)]

The regulation states that recipients will not be in violation of Title IX if they provide unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams. However, it authorizes the Department to consider the adequacy of the funds provided for teams for one sex in assessing equality of opportunity. [45 CFR 86.41(c)]

The regulation specifically requires equal opportunity in scholarship assistance: "[T]o the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics. [45 CFR 86.37(c)] The regulation also provides that "A recipient * * * shall not discriminate on the basis of sex in the recruitment * * * of students." [45 CFR 86.23]

Finally, the regulation established a three year transition period to give institutions time to comply. [45 CFR 86.41(d)] That transition period expired on July 21, 1978.

By November 1978, the Department had received 93 complaints alleging that more than 62 institutions of higher education were not providing equal athletic opportunities for women. This policy interpretation is designed to provide a framework within which those complaints can be resolved, and to provide institutions of higher education with additional guidance on the requirements of the law relating to intercollegiate athletic programs.[4]

This Policy Interpretation also applies to club and intramural sports where appropriate and practicable. In particular it applies with respect to the comparability of benefits, services, and facilities.

In drafting this Policy Interpretation, the Department has taken account of the following circumstances concerning the development and operation of intercollegiate sports for men and women:

1. Historically, most colleges and universities have emphasized intercollegiate sports for men. Partially as a consequence of this, participation rates of women in intercollegiate sports are far below those of men. In the 1976-77 academic year 4,448,028 men (52.3%) and 4,065,282 women (47.7%) attended the nation's institutions of higher education.[5]

At the same time, 395,000 students participated in intercollegiated athletics; of these, 290,000 (74%) were men, but only 105,000 (26%) were women.[6] The historic emphasis on men's intercollegiate athletic programs has also contributed to existing differences in the number of sports and scope of competition offerd men and women. On the average, colleges and universities provide approximately 10 sports of men and only six for women.[7]

2. Those women who participate in intercollegiate athletics often do not receive their fair share of athletic resources, services and benefits. For example, disproportionally more financial aid has been made available for male athletes than for female athletes. Presently, in institutions that are members of both NCAA and AIAW, the average annual scholarship budget is $39,000. Male athletes receive $32,000 or 82% of this amount while female athletes receive only $7,000, or 17.9% of the total,[8] although women constitute 26% of all those participating in intercollegiate athletics. Likewise, substantial amounts have been provided for the recruitment of male athletes, but until 1977 few, if any, funds were made available for recruitment of female athletes. Congressional testimony on Title IX and subsequent surveys indicate that discrepancies also exist in the ratio of coaches to athletes, and in other benefits and opportunities, such as quality and amount of equipment, access to facilities and practice times, publicity, medical and training facilities, and housing and dining facilities.[9]

3. Despite these limitations, the number of females participating in athletics has increased dramatically. During the period from Fall 1971 to Fall 1977, the enrollment of females in high school decreased from approximately 7,600,000 to approximately 7,150,000, a decrease of over 5%.[10] During the period from 1970 to 1978 the number of female participants in organized high school sports increased from 294,000 to 2,083,000—an increase of over 600%.[11]

This growth has been reflected on the campuses of the nation's colleges and universities. During the period from 1971 to 1976, the enrollment of women in the nation's institutions of higher education rose from 3,742,000 to 5,201,000, an increase of 39%.[12] During this same period, the number of women participating in intramural sports increased from 276,167 to 576,648, an increase of more than 100%. In club sports, the number of women participants increased from 16,386 to 25,541, or 56%. In intercollegiate sports, women's participation increased from 31,852 to 64,375, or 100%.[13] These developments reflect the growing interest of women in competitive athletics, as well as the efforts of colleges and universities to respond to those interests.

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[4] This Policy Interpretation supersedes all earlier Departmental positions on the same subject. Specifically, on issues directly addressed in this Policy Interpretation, it supersedes the "Sports Memorandum" (*Memorandum to Chief State School Officers*, from Director, Office for Civil Rights, September 1975). This Policy Interpretation will be followed by additional interpretations relating to coaches salaries, contact sports, and other issues that may relate to intercollegiate athletics.

[5] *Racial, Ethnic and Sex Enrollment Data from Institutions of Higher Education, Fall 1976*, Office for Civil Rights, U. S. Department of Health, Education and Welfare, (1978) at 221.

[6] These figures are approximations based on limited data from the Association for Intercollegiate Athletics for Women (AIAW) which in turn were based on participation data from the National Collegiate Athletics Association (NCAA), the National Association of Intercollegiate Athletics (NAIA), and the National Junior College Athletic Association (NJCAA).

[7] Median for the 722 NCAA member institutions during the 1976-77 academic year, based on limited data from the NCAA. A typical pattern of offerings might be: for men—football, basketball, baseball, wrestling, golf, tennis, swimming, indoor, outdoor, and cross-country track; and for women—basketball, volleyball, golf, tennis, swimming and field hockey.

[8] Figures obtained from *AIAW Structure Implementation Survey Data Summary*, October 1978.

[9] 121 Cong. Rec. 29791-95 (1975) (remarks of Senator Williams); Comments by Senator Bayh, Hearings on S. 2106 Before the Subcomm. on Education of the Senate Comm. on Labor and Public Welfare, 94th Cong., 1st Sess. 48 (1975); "Survey of Women's Athletic Directors," AIAW Workshop (January 1978).

[10] *Digest of Education Statistics 1977-78*, National Center for Education Statistics (1978), Table 40, at 44. Data, by sex, are unavailable for the period from 1971 to 1977; consequently, these figures represent fifty percent of total enrollment for that period.

[11] Figures obtained from National Federation of State High School Associations (NFSHSA) data. This is the best comparison that could be made based on available data.

[12] *Digest of Education Statistics 1977-78*, National Center for Education Statistics (1978), Table 82, at 83.

[13] These figures, which are not precisely comparable to those cited at footnote 6, were obtained from *Sports and Recreational Programs of the Nation's Universities and Colleges*, NCAA Report #5, March 1978. It includes figures only from the 722 NCAA member institutions because comparable 1971 data was not available from other associations.

4. Equalizing opportunity for men and women in athletics will not result in identical men's and women's athletic programs. Intercollegiate athletic programs that provide equal opportunities for both sexes may offer different sports, and have different participation rates and varying competition opportunities for men and for women, because their interests and abilities may be different. These differences will result in different men's and women's programs that do not violate Title IX.

5. At several institutions, intercollegiate football is unique among sports. The size of the teams, the expense of the operation, and the revenue produced distinguish football from other sports, both men's and women's. At other institutions, basketball has special significance. Title IX requires that "an institution of higher education must comply with the prohibition against sex discrimination imposed by that title and its implementing regulations in the administration of any revenue producing intercollegiate athletic activity." [14] However, the unique size and cost of football programs have been taken into account in developing this policy interpretation.

* * * * *

This policy interpretation establishes a two stage approach to compliance and enforcement:

Part I is designed to eliminate discrimination against men or women currently participating in intercollegiate programs. It requires the immediate elimination of discrepancies in average per capita expenditures for financially measurable benefits and opportunities unless the institution can demonstrate that the discrepancies are based on differences in the costs of particular sports (e.g., equipment), their scope of competition (e.g., national, regional or local), or other nondiscriminatory factors. Part I also requires comparability with respect to those benefits and services that are not readily financially measureable.

Part II is designed to eliminate, over a reasonable period of time, the discriminatory effects of the historic emphasis on men's intercollegiate sports, and to facilitate the continued growth of women's athletics. it requires adoption of procedures for the expansion of women's athletic programs to provide the number of participation opportunities needed to accommodate the interests and abilities of women.

Together, Parts I and II are designed to ensure that intercollegiate athletic programs at colleges and universities provide equal opportunities for both sexes. They are designed to ensure that women's intercollegiate athletic programs receive the resources and commitments to which they are entitled. This will not necessarily result in identical men's and women's intercollegiate athletic programs. Finally, Parts I and II take account of the size and cost of football by measuring present compliance in terms of actual, rather than potential, participation rates; by recognizing the fact that the costs of some sports are greater than others; and where appropriate, by taking account of the scope of competition.

In developing this Policy Interpretation, the Department has been sensitive to the economic conditions of higher education. The Department is aware that financial resources available for higher education in general, and for intercollegiate sports in particular, are not unlimited. The two stage approach was primarily adopted for these reasons. This approach ensures the provision of equal athletic opportunities while taking into account the very real financial problems facing institutions of higher education. Thus, while Part I may require immediate increases in funds available for some women's athletic programs, funds to comply with Part II can be developed over a longer period of time. In both cases, financial resources, to the extent needed, can be made available through any one or more of the following: the development of increased resources from university budgets, gate receipts, student fees, donations, gifts, etc., or, the redistribution of existing athletic resources.

One additional principle has guided development of this Policy Interpretation: the desire to allow for maximum institutional flexibility and minimal Federal intrusion into the operation of intercollegiate athletic programs. For this reason, the policy measures compliance in overall terms, and allows flexibility in the distribution of athletic resources to individual participants of each sex. It also presumes compliance with respect to a group of financially measurable benefits, if an institution can show compliance with respect to the group as a whole. It provides for significant institutional flexibility in the development of techniques for accommodating the interests and abilities of students.

This Policy Interpretation focuses on the provision of equal athletic opportunity for women because, in most cases, women's athletic opportunities have been limited. However, Title IX prohibits discrimination against both men and women. Accordingly, this Policy Interpretation is equally applicable where men's athletic opportunities have been previously limited.

PROPOSED POLICY INTERPRETATION

A college or university intercollegiate athletic program will be in compliance with Title IX if:

I. It has eliminated discrimination in financial support and other benefits and opportunities in its existing athletic program; and

II. It follows an institutional policy that includes procedures and standards for developing an athletic program that provides equal opportunities for men and women to accommodate their interests and abilities.

I. ELIMINATING DISCRIMINATION IN EXISTING PROGRAMS

To determine whether a college or university has eliminated discrimination on the basis of sex in its existing athletic program, benefits and opportunities that are readily financially measurable and those that are not will be examined separately. An institution provides equal athletic opportunities in its existing program if:

A. Substantially equal average per capita funds are allocated to participating male and female athletes for:

1. Financial assistance awarded on the basis of athletic ability;

2. Recruitment; and

3. All other readily financially measurable benefits and opportunities;

Provided however, that differences in average per capita expenditures for such financially measurable benefits and opportunities will be considered consistent with Title IX if the institution can demonstrate that the differences result from non-discriminatory factors such as the nature or level of competition of a particular sport.

B. Comparable benefits and opportunities which are not readily financially measurable, are provided for participating male and female athletes.

A. FINANCIALLY MEASURABLE BENEFITS AND OPPORTUNITIES

Equality of benefits and opportunities for men and women in many aspects of a recipient's intercollegiate athletic program can best be measured in financial terms. Financially measurable benefits and opportunities covered by the Title IX regulation [45 CFR 86.41(c)] include but are not limited to:

1. Financial assistance awarded on the basis of athletic ability;

2. Recruitment of athletes;

3. Provision and maintenance of equipment and supplies;

4. Living and travel expenses related to competitive events; and

5. Publicity.

In assessing whether an institution's present intercollegiate athletic program complies with Title IX, the Department will initially determine whether the institution's average per

[14] See April 18, 1978, *Opinion of General Counsel,* Department of Health, Education and Welfare, p. 1., attached hereto as Appendix A.

capita expenditures for male and female athletes on financially measurable benefits and opportunities are substantially equal. Average per capita expenditures will be calculated by dividing total expenditures on financially measurable benefits for each sex by the total number of participating athletes of each sex.

All funds spent on benefits or opportunities for athletes of each sex, regardless of source (gate receipts, student fees, earmarked donations, booster club funds, etc.), will be considered in computing the total expenditures for athletes of that sex. Funds that are generated by athletic events but allocated to non-athletic activities (e.g., general institutional operating expenses, libraries) will not be included.

An institution may measure the number of participants in intercollegiate athletics by any non-discriminatory method. For example, institutions can use certified eligibility lists developed in accordance with NCAA or AIAW standards that are non-discriminatory.

In evaluating per capita expenditures for financially measurable benefits and opportunities, the Department will examine expenditures for athletic financial assistance and recruitment individually and will examine all other financially measurable items—equipment and supplies, travel and per diem, publicity, etc.—as a group. If the average per capita expenditures for participating males and females are substantially equal for the group of all other financially measurable items, the institution will be presumed to be in compliance as to each of the separate items that constitute the group.

If average per capita expenditures are not substantially equal, the Department will examine the reasons advanced by the institution as justification for the differences. Variations in average per capita expenditures may be caused by differences in costs, levels of competition, and other non-discriminatory factors. Some of the reasons that the Department may accept for variations from the equal average per capita standard are set out below.

1. *Financial assistance.* Greater per capita expenditures for athletic financial assistance in either men's or women's programs will be consistent with Title IX if they result from non-discriminatory circumstances or decisions. For example, an athletic director may decide not to award the usual number of scholarships in a particular year because he/she believes that some should be deferred until a later year for purposes of program development. This is a programmatic decision concerning the building of a team or total program which may result in different expenditures that do not violate Title IX. Also, the necessary extra cost of tuition for some out-of-state athletes of either sex may cause greater average per capita expenditures that are not discriminatory.

2. *Recruiting.* Similarly, greater per capita expenditures for recruiting in either men's or women's programs will be consistent with Title IX if they result from non-discriminatory programmatic decisions. For example, where the current area of intercollegiate competition is regional rather than national, less expensive regional recruitment may currently be appropriate. Likewise, greater competition for a particular athlete may make it necessary for an institution to approach that athlete more often, thereby increasing the cost of recruitment for athletes of that sex. Although identical recruitment methods or techniques are not required, the level of effort and methods used to recruit must be based on non-discriminatory criteria.

3. *Other financially measurable benefits and opportunities.* In the case of other readily financially measurable benefits and opportunities, per capita expenditures for men and women may differ simply because of intrinsic sex-neutral differences in the particular men's and women's sports sponsored by the recipient. Variations in average per capita expenditures are non-discriminatory if they result from:

a. Differences controlled by the nature of the sport, such as variations in the cost of equipment and supplies; and/or

b. Differences resulting from the scope of competition (e.g., local, regional, or national), such as cost of travel to distant locations for competition, living expenses while in those locations, more extensive publicity, or the cost of other activities that may vary in accordance with the requirements of local, regional or national competition.

Differences in per capita expenditures that result in discrimination cannot be excused by different rules of men's and women's athletic associations. the Title IX regulation specifically states:

> The obligation to comply is not obviated or alleviated by any rule or regulation of any * * * athletic or other league, or association * * *. [45 CFR 86.6(c)]

B. BENEFITS AND OPPORTUNITIES THAT ARE NOT FINANCIALLY MEASURABLE

Equality of opportunity in aspects of an intercollegiate athletic program that cannot readily be measured in financial terms will be determined by assessing whether the program offers comparable benefits and opportunities for men and women. Such non-financially measurable benefits and opportunities covered by the Title IX regulation [45 CFR 86.41(c)] include, but are not limited to:

1. Opportunity to compete and practice;

2. Opportunity to receive coaching and academic tutoring;

3. Provision of locker rooms, practice and competitive facilities;

4. Provision of medical and training services and facilities; and

5. Provision of housing and dining services and facilities.

1. *Opportunity to compete and practice.* Comparability of opportunity to compete and practice will be determined by examining the institution's scheduling of games and practice times. Opportunities will be comparable if:

a. Decisions regarding scheduling are based on non-discriminatory criteria;

b. Facilities provided for games and practice are made available at times that are convenient for participants of each sex; and

c. Game schedules are arranged so that each sex has an equal opportunity to compete before an audience.

2. *Opportunity to receive coaching and academic tutoring.* The Department will presume that comparable opportunity to receive coaching exists where the ratio of full-time coaches (or their equivalent) to participating athletes is substantially equal for males and females. Discrepancies in the ratio will be accepted if they are the result of non-discriminatory factors required by the nature of a particular sport. Title IX does not require that particular men's and women's teams have an equal number of coaches. If tutoring services are provided, tutors must be made available to student athletes on the basis of non-discriminatory criteria.

3. *Facilities.* The elements to be considered in determining comparability of facilities include:

a. Access to those facilities by student athletes; and

b. Suitability to the sports to be played (e.g., size, safety, maintenance, spectator and media capacity).

Comparable facilities can be offered by providing separate comparable facilities or sharing the same facilities. For example, if an institution has spacious well-equipped facilities for men but not for women, it has one of two choices. It may expand the women's facilities to a comparable standard or may meet its obligation to provide comparable facilities by making the same facilities available to both men and women at different times on an equitable basis. The latter could be accomplished either by rotating the use of the entire facility or by alternating use of the previously separate men's

and women's facilities. The regulation does not require identical facilities.

4. *Provision of medical and training services and facilities.* If an institution supplies doctors, trainers, physical therapists, or other health and training personnel and facilities to athletes, they must be made available on a nondiscriminatory basis. For example: the pattern of injuries and thus the cost of insurance may vary from sport to sport. An institution may offer different athletic insurance policies tailored to injuries occuring in a particular sport. But the policies must provide similar benefits for similar injuries.

5. *Provision of housing and dining services and facilities.* Housing and dining services and facilities provided to athletes need not be identical, but must be comparable. An institution may provide a separate dormitory for male athletes but not for female athletes so long as there are no additional services or benefits that accrue to residents of the separate dormitory. However, differences in housing, dining, and related services and facilities will be accepted if they are made available on a non-discriminatory basis.

II. EQUALLY ACCOMMODATING THE INTERESTS AND ABILITIES OF WOMEN

The Title IX regulation does not require an equal number of men and women participants or an equal number of men's and women's sports. Rather, it requires that the interests and abilities of men and women be equally accommodated. In recent years, there has been a significant growth in the athletic interests and abilities of women.

An institution that satisfies Part I of this Policy Interpretation will be considered in compliance with Title IX if in addition, it follows an institutional policy that insures that the interests and abilities of women are effectively accommodated in its intercollegiate program. Specifically, such a policy must include procedures and standards:

A. To encourage an increase in the number of women participants at the club, intramural and intercollegiate level;

B. To increase the number of women's sports at the club, intramural and intercollegiate level;

C. To publicize on campus and at feeder schools athletic opportunities for women at the institution; and

D. To elevate the scope of women's intercollegiate competition (e.g., from local to State, State to regional, and from regional to national).

An institution that does not choose to have the above procedures may, nevertheless, be satisfying the athletic interests and abilities of its female students. Such an institution should be able to demonstrate that it is doing so, for example:

A. By showing that the club, intramural, and intercollegiate sports currently offered accommodate the interests and abilities of women by providing opportunities comparable to those of men at all levels (i.e., intramural, club and intercollegiate);

B. By showing that there is at the institution a pattern of increased participation by women in athletic activities at all levels; or

C. By showing that the institution's overall athletic program at all levels reflects the growth in the athletic interests and abilities of women evidenced in regional or area interscholastic programs.

AUTHORITY

Section 901(a) of the Education Amendments of 1972, 20 U.S.C. 1681 et seq.

Section 901(a)

No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance * * *.

Section 844 of the Education Amendments of 1974, Pub. L. 93-380 Title VIII, (Aug. 21, 1974) 88 Stat. 612.

Section 844

the Secretary shall prepare and publish, not later than 30 days after the date of enactment of this Act, proposed regulations implementing the provisions of Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in federally assisted education programs which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of particular sports.

Regulation issued under Title IX of the Education Amendments of 1972, 45 CFR 86.23(a), 86.37(c), and 86.41.

Section 86.23(a)

(a) Nondiscriminatory recruitment. A recipient to which this subpart applies shall not discriminate on the basis of sex in the recruitment and admission of students. A recipient may be required to undertake additional recruitment efforts for one sex as remedial acion pursuant to § 86.3(a), and may choose to undertake such efforts as affirmative action pursuant to § 86.3(b)

Section 86.37(c)

(c) Athletic scholarships. (1) To the extent that a recipient awards athletic scholarships or grants-in-aid, it must provide reasonable opportunities for such awards for members of each sex in proportion to the number of students of each sex participating in interscholastic or intercollegiate athletics.

(2) Separate athletic scholarships or grants-in-aid for members of each sex may be provided as part of separate athletic teams for members of each sex to the extent consistent with this paragraph and § 86.41 of this part.

Section 86.41

(a) *General.* No person shall, on the basis of sex, be excluded from participation in, be denied the benefits of, be treated differently from another person or otherwise be discriminated against in any interscholastic, intercollegiate, club or intramural athletics offered by recipient, and no recipient shall provide any such athletics separately on such basis.

(b) *Separate teams.* Notwithstanding the requirements of paragraph (a) of this section, a recipient may operate or sponsor separate teams for members of each sex where selection for such teams is based upon competitive skill or the activity involved is a contact sport. However, where a recipient operates or sponsors a team in a particular sport for members of one sex but operates or sponsors no such team for members of the other sex, and athletic opportunities for members of that sex have previously been limited, members of the excluded sex must be allowed to try-out for the team offered unless the sport involved is a contact sport. For the purposes of this part, contact sports include boxing, wrestling, rugby, ice hockey, football, basketball and other sports the purpose or major activity of which involves bodily contact.

(c) *Equal Opportunity.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics shall provide equal athletic opportunity for members of both sexes. In determining whether equal opportunities are available the Director will consider, among other factors:

(i) Whether the selection of sports and levels of competition effectively accommodate the interests and abilities of members of both sexes;

(ii) The provision of equipment and supplies;

(iii) Scheduling of games and practice time;

(iv) Travel and per diem allowance;

(v) Opportunity to receive coaching and academic tutoring;

(vi) Assignment and compensation of coaches and tutors;

(vii) Provision of locker rooms, practice and competitive facilities;

(viii) Provision of medical and training facilities and services;

(ix) Provision of housing and dining facilities and services;

(x) Publicity.

Unequal aggregate expenditures for members of each sex or unequal expenditures for male and female teams if a recipient operates or sponsors separate teams will not constitute noncompliance with this section, but the Director may consider the failure to provide necessary funds for teams for one sex in assessing equality of opportunity for members of each sex.

(d) *Adjustment period.* A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the elementary school level shall comply fully with this section as expeditiously as possible but in no event later than one year from the effective date of this regulation. A recipient which operates or sponsors interscholastic, intercollegiate, club or intramural athletics at the secondary or post-secondary school level shall comply fully with this section as expeditiously as possible but

in no event later than three years from the effective date of this regulation.

COVERAGE

This policy interpretation applies to any public or private institution, person or other entity that operates an educational program or activity which receives or benefits from financial assistance authorized or extended under a law administered by the Department. This coverage includes educational institutions whose students participate in HEW funded or guaranteed student loan or assistance programs. For further information see definition of "recipient" in Section 86.2 of the Title IX regulation.

Dated: December 6, 1978.

DAVID S. TATEL,
Director, Office for Civil Rights, Department of Health, Education and Welfare.

Dated: December 6, 1978.

JOSEPH A. CALIFANO, Jr.,
Secretary, Department of Health, Education, and Welfare.

APPENDIX A

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE, THE OFFICE OF THE SECRETARY, WASHINGTON, D.C. 20201

APRIL 18, 1978.

MEMORANDUM

TO: The Secretary

FROM: F. Peter Libassi

SUBJECT: Applicability of Title IX of the Education Amendments of 1972 to Revenue Producing Intercollegiate Athletics.

Issue

You have asked our opinion as to whether an institution of higher education which is receiving Federal financial assistance must comply with the prohibition against sex discrimination imposed by Title IX of the Education Amendments of 1972 and the regulations promulgated thereunder (45 C.F.R. Part 86) in the administration of its revenue producing intercollegiate athletic activities.

Conclusion

Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) prohibits sex discrimination in any "education program or activity" receiving Federal financial assistance. In our opinion, a revenue producing intercollegiate athletic program is (a) an education program or activity within the meaning of Title IX, and (b) an integral part of the general undergraduate education program of an institution of higher education. Accordingly, in our opinion, an institution of higher education must comply with the prohibition against sex discrimination imposed by that title and its implementing regulations in the administration of any revenue producing intercollegiate athletic activity if either the athletic activity or the general education program of which the athletic activity is a part is receiving Federal financial assistance.

Discussion

Section 901(a) of Title IX of the Education Amendments of 1972 provides as follows:

"No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance. . . ."

There is no reference anywhere in Title IX to revenue producing athletics, and the term "education program or activity" is not defined. There is, however, some indication that Congress intended that term to have an expansive meaning. Section 901(a) of Title IX provides a series of exemptions from the general prohibition. Among them are exemptions for the Boy Scouts, the Girl Scouts, and social fraternities and sororities. We assume that absent the exemptions, each of these groups of organizations would be subject to the prohibition against sex discrimination as an education program or activity. In our view a definition of "education program or activity" that encompasses social fraternities and sororities also encompasses intercollegiate athletics, including revenue producing athletics as well.

The limited legislative history for Title IX tends to support a broad view of what is an education program or activity, but is less clear with respect to whether athletics, and particularly revenue producing intercollegiate athletics, are included in the term. In the only comments of any length on the subject, Senator Bayh, the Senate sponsor of Title IX, stated:

"What we are trying to do is provide equal access for women and men students to the educational process and the extracurricular activities in a school, where there is not a unique facet such as football involved. We are not requiring that intercollegiate football be desegregated, nor that the men's locker room be desegregated." *Cong. Rec.* S. 13554 (daily ed. August 6, 1971).[1]

However, any ambiguity as to whether revenue producing intercollegiate athletics are an education program or activity under Title IX was eliminated in 1974 by the enactment of section 844 of the Education Amendments of 1974. The language of that section and its history make it clear that it is Congress' intent that revenue producing intercollegiate athletics be included in the term.

On May 20, 1974 Senator John Tower of Texas introduced an amendment to Title IX exempting revenue producing athletics. It stated:

"[T]his section [§ 901 of Title IX] shall not apply to an intercollegiate athletic activity to the extent such activity does or may provide gross receipts or donations to the institution necessary to support that activity." *Cong. Rec.* S. 8488 (daily ed. May 20, 1974).

The amendment was adopted on the floor of the Senate by voice vote. The Conference Committee on the Education Amendments of 1974 deleted Senator Tower's amendment. Instead the Conference adopted what was to become section 844 of the 1974 Amendments, commonly referred to as the "Javits Amendment." It provides as follows:

"The Secretary [of HEW] shall prepare and publish . . . proposed regulations implementing the provisions of Title IX of the Education Amendments of 1972 relating to the prohibition of sex discrimination in Federally assisted education programs *which shall include with respect to intercollegiate athletic activities reasonable provisions considering the nature of the particular sports.*" (Emphasis added.)

In our judgment, Congress has made it clear, by rejecting an exemption from Title IX for revenue producing athletics and adopting section 844, which requires the promulgation of Title IX regulations that include reasonable provisions concerning intercollegiate athletic activities, that revenue producing intercollegiate athletics are an "education program or activity" within the meaning of Title IX.[2] An institution of higher education must, therefore, comply with the prohibition against sex discrimination imposed by Title IX in the administration of any revenue producing intercollegiate athletic activity if the activity is receiving Federal financial assistance, directly or indirectly.

There are some revenue producing intercollegiate athletic activities that clearly receive direct Federal financial assistance. Funds provided under Title VII of the Higher Education Act, for example, may be used to build facilities that are used, in part, for revenue producing athletics. While it is clear that assistance of this kind which directly supports an intercollegiate athletic program would subject the program to the requirements of Title IX and the implementing regulations, such direct assistance is not common. Other kinds of assistance that bear a less direct relationship to revenue producing intercollegiate athletics, particularly student financial assistance, are more common.

It is well established that general student financial assistance, such as guaranteed student loans and grants, provided by the Federal government to assist a student in paying the cost of attending an institution of higher education is Federal financial assistance to the institution. *Bob Jones University* v. *Johnson*, 396 F. Supp. 597 (D.S.C. 1974), *aff'd sub nom., Bob Jones University* v. *Roudebush*, 529 F. 2d 514 (4th Cir. 1975). Historically, intercollegiate athletics have been described as an integral part of general undergraduate education. For example, the 1976-77 Manual of the National Collegiate Athletic Association, the private association that regulates much of the nation's intercollegiate athletics, contains the following statement of fundamental policy:

"The competitive athletic programs of the colleges are designed to be a vital part of the educational system. A basic purpose of this Association is to maintain intercollegiate athletics as an integral part of the educational program and the athlete as an integral part of the student body, and, by so doing, retain a clear line of demarcation between college athletics and professional sports." *Manual*, at 5.

In our view, therefore, student financial assistance is Federal financial assistance to

[1] Other comments in the debates refer, in passing, to the possible need to maintain separate physical education facilities, S. 1769 (daily ed., Feb. 15, 1972), 92d Cong., 2d Sess., comments of Sen. Bayh; and S. 2747 (daily ed., Feb. 28, 1972), 92d Cong., 2d Sess., comments of Sen. Bayh.

[2] The history of Congressional action on other proposals for amending Title IX with respect to intercollegiate athletics and on proposals for Congressional disapproval of the Department's regulations implementing that Title tend to further support this conclusion. A brief summary of that history is attached at Tab A.

the revenue producing athletic programs of the student's institution of higher education.

The inclusion of revenue-producing intercollegiate athletics within the education programs and activities receiving Federal financial assistance is not the only basis on which an institution of higher education is required to comply with Title IX in the administration of such programs. It is well settled, with respect to the prohibition against discrimination on the basis of race, religion, color or national origin imposed by Title VI of the Civil Rights Act of 1964, that Federal financial assistance may not be provided to any program or activity which is either administered in a discriminatory manner or "infected by a discriminatory environment." *Board of Public Institution of Taylor County, Florida* v. *Finch*, 414 F. 2d 1068, 1078 (5th Cir. 1968).

Under this infection doctrine, a Federal grantee is required to comply with Title VI in the administration of an activity that does not receive Federal financial assitance if that activity is so closely related to, and such an integral part of, a program or activity that does receive Federal financial assistance that discrimination in the administration of the former would infect the latter.

The infection doctrine is as applicable to Title IX of the Education Amendments of 1972 as it is to Title VI of the Civil Rights Act of 1964. As indicated previously, historically intercollegiate athletics have been described as an integral part of general undergraduate education. In our view, revenue producing intercollegiate athletics are so integral to the general undergraduate education program of an institution of higher education that sex discrimination in the administraion of a revenue producing athletic activity would necessarily infect the general undergraduate education program of the institution.

Therefore, in our opinion, an institution of higher education which is receiving Federal financial assistance for its general undergraduate education program must comply with the prohibitions against sex discrimination imposed by Title IX in the administration of its revenue producing intercollegiate athletic activities regardless of whether those athletic activities are themselves receiving Federal financial assitance.

The Secretary, in fulfilling his obligation to assure that institutions of higher education receiving Federal financial assistance comply with Title IX, is authorized to promulgate regulations and policies defining what constitutes discrimination prohibited by that title. In our opinion, the provisions of the current Title IX regulations and the Department's policies that deal specifically with athletics, including revenue producing intercollegiate athletics, are consistent with the statute and are a proper exercise of the Secretary's discretion. The text of the regulations, 45 C.F.R. 86.41, is attached at Tab B.

It should also be noted that in our view the current Title IX regualtions and policies allow flexibility in their application to revenue producing intercollegiate athletics.

[FR Doc. 78 34531 Filed 12-7-78; 11:59 am]

[4110-12-M]

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

[45 CFR Part 86]

NONDISCRIMINATION ON THE BASIS OF SEX IN EDUCATION PROGRAMS AND ACTIVITIES RECEIVING OR BENEFITING FROM FEDERAL FINANCIAL ASSISTANCE

AGENCY: Office of the Secretary, HEW.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Department of Health, Education, and Welfare proposes to revoke a subparagraph of its Title IX Regulation which lists codes of personal appearance as an example of sex discrimination in education over which the Department takes jurisdiction.

DATES: Comments must be received on or before February 20, 1979.

ADDRESS: Send your comments to: David S. Tatel, Director, Office for Civil Rights, 330 Independence Avenue SW., Room 5027, Washington, D.C. 20201.

FOR FURTHER INFORMATION CONTACT:

Colleen O'Connor, 202-245-6700.

SUPPLEMENTARY INFORMATION: The purpose of the proposed revocation is to remove local rules relating to personal appearance from Departmental review under Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et. seq.). The legislative history of Title IX gives no indication that the Congress intended the Executive Branch to regulate in the area of personal appearance. Issues of sex discrimination pertaining to hair length and other aspects of appearance are properly resolved at the local level. Moreover, by deleting the subparagraph concerning codes of appearance, the Department can more effectively use its resources for enforcing other parts of the current regulation, thus fulfilling more completely the intent of the Congress in enacting Title IX.

The deletion of this subparagraph is not intended to alter the Department's authority to prohibit codes of appearance that discriminate against individuals in Federally funded programs on the basis of national origin or race under Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d, et. seq.).

Paragraph (b) of 45 CFR 86.31 currently reads as follows:

(b) *Specific prohibitions.* Except as provided in this subpart, in providing any aid, benefit, or service to a student, a recipient shall not, on the basis of sex:

(1) Treat one person differently from another in determining whether such person satisfies any requirement or condition for the provision of such aid, benefit, or service;

(2) Provide different aid, benefits, or services or provide aid, benefits, or services in a different manner;

(3) Deny any person any such aid, benefit, or service;

(4) Subject any person to separate or different rules of behavior, sanctions, or other treatment.

(5) Discriminate against any person in the application of any rules of appearance;

(6) Apply any rule concerning the domicile or residence of a student or applicant, including eligibility for instate fees and tuition;

(7) Aid or perpetuate discrimination against any person by providing significant assistance to any agency, organization, or person which discriminates on the basis of sex in providing any aid, benefit or service to students or employees;

(8) Otherwise limit any person in the enjoyment of any right, privilege, advantage, or opportunity.

The proposed deletion of paragraph (b)(5) would leave the remainder of the paragraph unchanged, except for a renumbering of subparagraphs (6), (7), and (8).

Any regulation adopted under Title IX of the Education Amendments of 1972 must be approved by the President.

Under the requirements of the General Education Provisions Act, any regulation adopted under Title IX must also be submitted to the Speaker of the House of Representatives and the President of the Senate before becoming effective.

The deletion of 45 CFR 86.31(b)(5) is proposed under the authority of Sections 901 and 902 of the Education Amendments of 1972, Pub. L. 92-318, 86 Stat. 373 (20 U.S.C. 1681, 1682) as amended by Section 3(a) of Pub. L. 93-568, 88 Stat. 1862; and Section 412(a) of Pub. L. 94-482, 90 Stat. 2234.

§ 86.31 [Amended]

Accordingly, the Department of Health, Education, and Welfare proposes to amend 45 CFR 86.31(b) by deleting subparagraph (5) and renumbering subparagraphs (6), (7), and (8) as (5), (6), and (7) respectively.

Dated: December 6, 1978.

DAVID S. TATEL,
Director,
Office for Civil Rights.

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

[FR Doc. 78-34532 Filed 12-7-78; 11:59 am]



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