AUTHENTICATED
U.S. GOVERNMENT
INFORMATION
GPO

5-30-79
Vol. 44 No. 105
PAGES 31005-31158

Federal Register

Wednesday
May 30, 1979

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31016 **Emergency School Aid** HEW/OE issues rules on the award of 1979 grants to state educational agencies to assist voluntary school desegreation programs

31046 HEW/OE announces closing date for transmittal of applications from State educational agencies; applications by 7–9–79

31112 **Basic Educational Opportunity Grant Program** HEW/OE revises 1979–80 family contribution schedules (Part II of this issue)

31138 **Medicare and Medicaid** HEW/HCFA issues rules on exclusion of practitioners, providers and other suppliers of services and suspension of physicians and other individual practitioners; effective 8–28–79 (Part V of this issue)

31046 **Health Maintenance Organizations** HEW/PHS procedures for enforcement of employer compliance

31026 **Youth offenders** Justice/PC proposal on decisions to advance a presumptive release date on a finding of superior program achievement; comments by 7–25–79

31116 **Real Estate** DOD/Engineers procedures on acquisition and procurement of options; effective 6–18–79 (Part III of this issue)

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FEDERAL REGISTER Published daily, Monday through Friday, (not published on Saturdays, Sundays, or on official holidays), by the Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408, under the Federal Register Act (49 Stat. 500, as amended; 44 U.S.C. Ch. 15) and the regulations of the Administrative Committee of the Federal Register (1 CFR Ch. I). Distribution is made only by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

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Area Code 202–523–5240

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31012 Treasury/IRS rules on involuntary conversion of real property; effective for certain dispositions after 12–31–74

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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.

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1434

[CCC 1979 Crop Honey Loan and Purchase Program Supplement]

1979 Crop Honey Loan and Purchase Program

AGENCY: Commodity Credit Corporation, USDA

ACTION: Final rule.

SUMMARY: The purpose of this rule is to set forth (1) the final loan and purchase availability dates, (2) maturity dates, (3) loan and purchases rates, and (4) premiums and discounts under which Commodity Credit Corporation will extend price support for 1979 crop honey. The need for this rule is to satisfy statutory requirements of section 201 of the Agricultural Act of 1949, which provides that price support shall be available on honey. This final rule will enable producers to obtain price support on 1979 crop honey.

EFFECTIVE DATE: May 30, 1979.

ADDRESS: Price Support and Loan Division, ASCS, U.S. Department of Agriculture, 3741 South Building, P.O. Box 2415, Washington, D.C. 20013.

FOR FURTHER INFORMATION CONTACT: Dalton Ustynik, ASCS, 202–447–6611.

SUPPLEMENTARY INFORMATION: On January 26, 1979, a notice of proposed rulemaking was published in the **Federal Register** (44 FR 5456) regarding certain determinations for the 1979 crop honey. Such determinations included price support rates based on color, differentials, class, grade, and the program availability period. Ten responses were received, eight from beekeepers, one from a cooperative and one from a packer. Nine respondents strongly favored the program and one opposed the program. Five also recommended an increase in parity support rate and three recommended that the maturity date be extended by as much as 90 days.

After considering the responses, statutory considerations, and other factors, it was determined that the price support rate would be established at the legal statutory minimum of 60 percent of parity and that the maturity date would remain June 30, the same as last year. A higher support level was rejected because it could increase program costs and is unnecessary to insure an adequate supply. The recommendation for a longer maturity date was rejected because in case of forfeiture honey must be timely processed and packaged.

Final Rule

The Honey Price Support Regulations for the 1977 and Subsequent Crops which contain regulations of a general nature with respect to loan and purchase operations are supplemented for the 1979 crop of honey as stated herein. The title of the subpart and §§ 1434.40 through 1434.44 are revised to read as follows, effective as to 1979 crop honey. The material previously appearing in these sections remains in full force and effect as to the crops to which it was applicable.

Subpart—1979 Crop Honey Loan and Purchase Program

Sec.

1434.40 Purpose.
1434.41 Availability.
1434.42 Maturity of loans.
1434.43 Loan and purchase rates.
1434.44 Discounts.

Authority: Secs. 4 and 5, 62 Stat. 1070, 1072, as amended. (15 U.S.C. 714 b and c); secs. 201, 401, 63 Stat. 1052, 1054 (7 U.S.C. 1446, 1421).

§ 1434.40 Purpose.

This subpart contains program provisions which, together with (a) the Honey Price Support Regulations for 1977 and Subsequent Crops, (b) the Cooperative Marketing Association Eligibility Requirements for Price Support in Part 1425 of this chapter, and (c) any amendments to such regulations, set forth the requirements with respect to loans and purchases for 1979 crop honey.

§ 1434.41 Availability.

(a) *Loans.* Producers must request a loan on 1979 crop eligible honey on or before March 31, 1980.

(b) *Purchases.* Producers desiring to offer eligible honey not under loan for purchase must complete a purchase agreement (Form CCC–614) at the county ASCS office on or before June 30, 1980.

§ 1434.42 Maturity of loans.

Unless demand is made earlier, loans on honey will mature on June 30, 1980.

§ 1434.43 Loan and purchase rates.

(a) *Table and nontable honey.* The rate for the quantity of 1979-crop honey placed under loan or acquired under loan or purchase shall be the rate for the respective class and color set forth below:

Class and Color	
Table honey:	
1. White and lighter	44.7
2. Extra light amber	43.7
3. Light amber	42.7
4. Other table honey	40.7
Nontable honey	40.7

(b) *Objectionable flavor, fermentation, or caramelization.* The settlement value for a lot of honey delivered under loan or for purchase which grades substandard on account of objectional flavor, fermentation, or caramelization shall be the lower of its market value as determined by CCC or a value determined on the basis of the loan and purchase rate for nontable honey.

(c) *Grade not certified.* The settlement value for a lot of honey, delivered under loan or for purchase, on which the grade cannot be certified shall be the lower of its market value as determined by CCC or a value as determined on the basis of the loan and purchase rate for nontable honey.

(d) *Substandard.* The rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects or moisture or a combination of defects and moisture shall be adjusted by the discounts in § 1434.44.

§ 1434.44 Discounts.

(a) *Defects.* The loan and purchase rate for a lot of honey delivered under a loan or for purchase which grades substandard on account of defects shall be adjusted by the following discount:

	Discount (cents per pound)
Substandard on account of defects	2

(b) *Moisture.* The loan and purchase rate for a lot of honey delivered under a loan or for purchase which contains moisture in excess of 18.5 percent shall be adjusted by the following discounts which shall be in addition to the discount for defects:

Moisture percent	Discount (cents per pound)
18.5	0.0
19.0	.5
19.5	1.0
20.0	1.5
20.5	2.0
21.0	2.5
21.5	3.0
22.0	3.5
22.5	4.0
23.0	4.5
23.5	5.0
24.0	5.5
24.5	6.0

(c) *Commingled storage.* The loan and purchase rate for a lot of honey tendered for loan or purchase by CCC while stored commingled in a warehouse, or delivered to a warehouse in bulk in satisfaction of a farm storage loan, shall be adjusted by the following discount:

	Discount (cents per pound)
Bulk Commingled	1.5

Note—This rule has been determined to be not significant to the USDA criteria implementing Executive Order 12044 and contains necessary operating decisions needed to implement the national average honey price support rates announced on April 2, 1979. An approved Final Impact Statement is available from Harry Sullivan, ASCS, (202) 447–7951.

Signed at Washington, D.C., on May 18, 1979.

Ray Fitzgerald,

Executive Vice President, Commodity Credit Corporation.

[FR Doc. 79–16776 Filed 5–29–79; 8:45 am]

BILLING CODE 3410–05–M

Farmers Home Administration

7 CFR Part 1980

Business and Industrial Loan Program

AGENCY: Farmers Home Administration, USDA.

ACTION: Final Rule.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations pertaining to the Business and Industrial (B&I) loan program. The intended effect of this action is to limit the eligibility of public accountants to make annual audit statements, and expand the State Director's authority to approve certain cost overruns. This action results in part from recommendations made by the Comptroller of Currency and administrative policy for processing loans.

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Darryl H. Evans, Acting Director, Business Management and Development Division, telephone: 202–447–4150.

SUPPLEMENTARY INFORMATION: Various sections of Subpart E of Part 1980, Chapter XVIII, Title 7, Code of Federal Regulations are amended.

Section 1980.451 (i) (13) (iii) is amended to limit eligibility of public accountants licensed before December 31, 1970, to make audits for B&I loans. This change is made under the recommendation of the Comptroller General that only certified public accountants licensed before December 31, 1970, be engaged to make audits of governmental organizations and programs.

Federal Management Circular 73–2, issued September 27, 1973, established the "standards" as basic audit requirements and OMB Circular No. A–102 Revised August 24, 1977, makes mandatory application of the "standards" to federal programs. Therefore, to be consistent with other FmHA programs, it has been determined that the B&I regulation should be amended to incorporate the audit standards.

Section 1980.454, Administrative paragraph A.3. is amended to expand the State Director's authority to approve cost overruns within their loan approval authority and up to 10 percent on loan amounts between $1 million and $10 million. The change will expedite loan processing on routine financial assistance requests which only involve cost overruns. Considerable time should be saved as a result of this change.

It is the policy of the Department that rules relating to public property, loans, grants benefits, or contracts shall be published for comment notwithstanding the exemption in 5 U.S.C. 533 with respect to such rules. This amendment, however, is not published for proposed rulemaking since it is administrative in nature dealing with the agency's management of loan procedures. Therefore, public participation is unnecessary. The official responsible for this determination is Darryl H. Evans.

Subpart E—Business and Industrial Loan Program

Accordingly, Subpart E of Part 1980 is amended as follows:

1. Section 1980.451(i)(13)(iii) is amended to read as follows:

§ 1980.451 Filing and processing applications.

* * * * *

(i) *Applications will consist of:*

(13) * * *

(iii) an annual audited financial statement from the borrower prepared by an independent certified public accountant or by an independent public accountant licensed and certified on or before December 31, 1970, by a regulatory authority of a State or other political subdivision of the United States.

§ 1980.454 [Amended]

* * * * *

2. Section 1980.454, Administrative A.3. is amended to read as follows:

Loan Note Guarantee. * * *

* * * * *

Administrative.

A. *The State Director reviews:*

* * * * *

3. Cost overruns, if any, and how they will be met. State Directors may approve cost overruns for projects in any amount or percentage within their loan approval authority and not to exceed 10 percent on loan amounts between $1 million and $10 million.

* * * * *

(7 U.S.C. 1989; delegation of authority by the Secretary of Agriculture, 7 CFR 2.23; delegation of authority by the Assistant Secretary of Agriculture for Rural Development, 7 CFR 2.70)

Note.—This document has been reviewed in accordance with FmHA Instruction 1901–G, Environmental Impact Statement. It is the determination of FmHA that the proposed action does not constitute a major Federal action significantly affecting the quality of the human environment and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91–190, an Environmental Impact Statement is not required.

Note.—This regulation has not been determined significant under the USDA criteria implementing Executive Order 12044.

A copy of the Impact Analysis Statement is available at the Office of the Chief, Directives Management Branch, Farmers Home Administration, U.S.D.A., Room 6348, South Agriculture Building, Washington, D.C. 20250.

Dated: May 11, 1979.

Gordon Cavanaugh,

Administrator, Farmers Home Administration.

[FR Doc. 79-16779 Filed 5-29-79; 8:45 am]

BILLING CODE 3410-07-M

FEDERAL RESERVE SYSTEM

12 CFR Part 217

[Regulation Q, Docket No. R-0226]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms, flooding, and tornadoes beginning on or about May 3, 1979, in the State of Tennessee.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551 (202/452-3281).

SUPPLEMENTARY INFORMATION: On May 7 and 11, 1979, pursuant to section 301 of the Disaster Relief Act of 1974 (42 U.S.C. § 5141) and Executive Order 11795 of July 11, 1974, the President, acting through the Administrator of the Federal Disaster Assistance Administration, designated the following counties of the State of Tennessee a major disaster area: Crockett, Davidson, Decatur, Dyer, Gibson, Henderson, Hickman, Lauderdale, Maury, Perry, Rutherford, Smith, Williamson, and Wilson. The Board regards the President's action as recognition by the Federal government that a disaster of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms, flooding, and tornadoes. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to May 7, 1979, and will remain in effect until 12 midnight October 31, 1979.

Section 19(j) of the Federal Reserve Act (12 U.S.C. § 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the State of Tennessee officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster area.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the storms and flooding in the designated counties of Tennessee, the Board finds that good cause exists for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Board finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a) (18)), May 23, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-16777 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

[1] Sec. 217.4(d) of Regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit three months of interest payable at such rate.

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 302

Statement of Policy Regarding Development and Review of FDIC Rules and Regulations

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTIONS: Issuance of statement of policy, deletion of regulation, and withdrawal of proposed rulemaking.

SUMMARY: The FDIC is issuing a statement of policy describing the general procedures by which it develops and reviews its rules and regulations. This action is taken in order to improve the quality of FDIC regulations, to minimize the burdens those regulations place on the public and the banking industry, and generally to comply with the spirit and intent of Executive Order 12044 ("Improving Government Regulations"). In conjunction with this action, the FDIC is also eliminating existing Part 302 of its rules and regulations ("Formulation and Promulgation of Rules and Regulations") and withdrawing the notice of proposed rulemaking published in November 1978 regarding a proposed revision of Part 302. However, with a few exceptions, the substantive content of the policy statement being adopted is identical to that of the proposed regulation being withdrawn.

DATE: These actions are effective immediately.

ADDRESS: Interested persons may comment on these actions in writing to the Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, D.C. 20429.

FOR FURTHER INFORMATION CONTACT: Alan J. Kaplan, Senior Attorney, FDIC, 202-389-4433.

SUPPLEMENTARY INFORMATION: On March 23, 1978, President Carter signed Executive Order 12044 ("Improving Government Regulations"). That Order directs executive agencies to adopt procedures to improve existing and future regulations. Although by its own terms the Order does not apply to regulations issued by independent

regulatory agencies such as the FDIC, the President requested that these agencies initiate voluntary efforts to achieve similar procedural reforms. The FDIC advised the President of its intention to apply the policy objectives of Executive Order 12044 to the development and review of FDIC regulations. These policy objectives are set out in Section 1 of the Order as follows:

Policy. Regulations shall be as simple and clear as possible. They shall achieve legislative goals effectively and efficiently. They shall not impose unnecessary burdens on the economy, on individuals, on public or private organizations or on State and local governments.

To achieve these objectives, regulations shall be developed through a process which insures that:

(a) The need for and purposes of the regulation are clearly established;

(b) Heads of agencies and policy officials exercise effective oversight;

(c) Opportunity exists for early participation and comments by other Federal agencies, State and local governments, businesses, organizations and individual members of the public;

(d) Meaningful alternatives are considered and analyzed before the regulation is issued; and

(e) Compliance costs, paperwork and other burdens on the public are minimized.

To help meet these goals, on November 15, 1978 the FDIC published a notice of proposed rulemaking (43 FR 53042) relating to a revision of its Part 302 regulations. As proposed, revised Part 302 established procedures that the FDIC would follow in developing and reviewing its regulations. The procedures were designed to further the policy objectives stated in Executive Order 12044. The FDIC had determined that existing Part 302 was inadequate for these purposes.

Proposed Part 302 also provided for: The automatic withdrawal of proposed regulations not acted upon within one year of their proposal; the semiannual publication of an agenda of proposed regulations and existing regulations under review; and the periodic review of existing regulations to determine whether they should be continued, revised, or eliminated.

The FDIC solicited pubic comment on the proposed revisions of Part 302. A total of 30 comments was received, 26 from insured nonmember banks and their holding companies, three from bank trade associations, and one from the Office of Management and Budget. Twenty-five of the respondents supported the proposal, none opposed it, and five expressed no position pro or con.

Most of the comments were general in nature and reflected the commentators' views that there are too many unnecessarily burdensome regulations imposed on the banking industry. The costs of complying with these regulations are ultimately passed on to the consumer, according to many of the comments received.

Because the FDIC supports the President's regulatory reform policies and because of the favorable response by those who commented on the proposed rulemaking procedures, the FDIC is formally adopting those procedures, with a few changes described elsewhere in this notice. However, the FDIC has decided to adopt the procedures in the form of a policy statement rather than a regulation. Its reasons for this decision are:

1. The FDIC desires to minimize issuing regulations whose goals can be accomplished in some other way.

2. The FDIC is concerned that adoption of proposed Part 302 might encourage technical challenges to future FDIC regulations based on failure to adhere strictly to its procedural requirements. Although the FDIC fully intends to follow the principles upon which its policy statement is based, it believes it would not be in the public interest to encourage challenges to regulations based on technical rather than substantive issues.

3. Ultimately, the FDIC's commitment to meaningful regulatory reform and its success in improving its regulations and reducing regulatory burdens will be measured by its accomplishments and not by the legal formalities with which its procedures are issued.

It should be noted, however, that, with a few exceptions, the substantive content of the policy statement is virtually identical to that of the proposed regulation.

A number of persons who submitted comments offered specific suggestions regarding the FDIC proposal. Changes made in the procedures as a result of these suggestions include:

1. The proposal included a statement that the FDIC would ordinarily put out each proposed regulation for a comment period of at least 30 days. As a result of the comments received, this minimum comment period has been increased to 60 days.

2. The proposal stated that the FDIC seeks to reduce regulatory burdens on the public. The FDIC intended the term "public" to encompass the banking industry as well as other segments of the public, since banks and bankers are generally the ones who must comply with FDIC regulations. However, several commentators suggested that this intention be made clearer. Accordingly, the proposal has been revised to clarify that it is the FDIC's policy to minimize regulatory burdens on the public and the banking industry.

3. The proposal provided for automatic withdrawal of any proposed regulation on which final action by the Board of Directors has not been taken within one year from the date the regulation was last proposed. The FDIC has decided to reduce this period from one year to nine months. However, because of legal considerations, formal Board action will usually be required to withdraw a proposed regulation, rather than automatic withdrawal. In some cases, the FDIC may place a specific expiration date on a particular proposed rulemaking proceeding, terminating the proceeding if no final action on the proposed regulation has been taken by that date.

4. It was suggested that a cost-benefit analysis prepared in connection with a rulemaking proceeding be made available to the public. The policy statement reflects that when a cost-benefit analysis is undertaken, a summary of it will be included in the published notice that accompanies the regulation.

Accordingly, the FDIC Board of Directors hereby (1) deletes Part 302 from Title 12 of the Code of Federal Regulations; (2) withdraws the notice of proposed rulemaking published on November 15, 1978 in the **Federal Register** (43 FR 53042); and (3) issues the following statement of policy.

By order of the Board of Directors, May 21, 1979.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

Development and Review of FDIC Rules and Regulations

Statement of Policy

1. *Policy and Scope.* It is the policy of the Federal Deposit Insurance Corporation to improve the quality of its regulations, to minimize the burdens its regulations place on the public and the banking industry, and generally to ensure that its regulations achieve legislative goals effectively and efficiently. Toward this end, the FDIC Board of Directors is issuing this policy statement describing the general procedures by which the FDIC develops and reviews its rules and regulations.

These procedures are designed to achieve the following objectives:

(a) That regulations be clearly and understandably written;

(b) That the need for and purpose of each regulation be clearly established;

(c) That the FDIC Board of Directors exercise effective oversight of the development of regulations;

(d) That the public be afforded a meaningful opportunity to participate in the rulemaking process;

(e) That alternative approaches be considered;

(f) That burdens on the public and on the banking industry be minimized; and

(g) That regulations be reviewed periodically to determine whether they should be continued, revised or eliminated.

When the Board of Directors finds that following the rulemaking procedures described in this policy statement would result in unnecessary delay or would not be in the public interest, the FDIC may follow less formal rulemaking procedures. When it does so, the Board will state its reasons in the **Federal Register** notice accompanying the regulation. This might occur with respect to the following kinds of regulations:

(a) Regulations that respond to emergency situations;

(b) Regulations that must be issued within a time deadline set by a statute or court order;

(c) Regulations that are mandated by law and whose specific content is so prescribed; and

(d) Regulations that reflect only technical or nonsubstantive changes.

In addition, as provided in the Administrative Procedure Act (5 U.S.C. 553), the FDIC may dispense with the general notice and public participation requirements with respect to interpretative rules or rules of FDIC organization, procedure, or practice, or when it finds that notice and public procedure are impracticable, unnecessary, or contrary to the public interest. When this happens, the notice accompanying the published regulation will include the finding and a brief statement of the reasons for the finding.

2. *Development of Regulations.* Early in the development of a regulation, the FDIC will prepare and submit to each member of the Board of Directors for review a concise statement describing the regulation, its purpose and need, its legal basis, the issues that have been or will be considered, the alternative approaches that have been or will be explored, a tentative plan for obtaining comment from interested persons, and target dates for completion of the various stages of development.

When appropriate, the FDIC will issue a press release and/or publish in the **Federal Register** an advance notice of proposed rulemaking, affording the public an early opportunity to participate in the rulemaking process before a regulation is formally proposed. In some cases, the FDIC will identify specific issues on which it seeks public comment.

All proposed regulations will be published for comment in the **Federal Register** and will be reviewed and approved by the Board of Directors before publication. The published notice will include either the terms or substance of the proposed regulation or a description of the subjects and issues involved, the legal authority under which the regulation is proposed, and, where applicable, a statement of the time, place, and nature of public rulemaking proceedings. It will also include the following information:

(1) The reasons why the regulation is needed;

(2) The effects of the regulation, including its effect on competition;

(3) The relationship, if any, of the regulation to other government regulations, programs, and activities;

(4) Alternative approaches that were considered;

(5) An assessment of the reporting or recordkeeping requirements necessary to comply with the regulation;

(6) A cost-benefit analysis of the regulation (unless the staff advises the Board of the reasons why such an analysis is not feasible and the Board agrees with that advice);

(7) The name, title, address, and telephone number of a knowledgeable FDIC official who can answer questions about the regulation; and

(8) Where applicable, an analysis of any public comments received in response to an advance notice of proposed rulemaking.

The public comment period will be at least 60 days, unless the Board of Directors has determined that a shorter period is necessary, in which case the published notice will state the Board's reasons. The Board may also direct that interested persons be permitted to present their views on the proposed regulation orally.

When the public comment period has ended, the FDIC staff will review and analyze the comments received and views presented before putting the regulation into final form. When the staff is satisfied that the regulation is needed, that alternative approaches have been considered, that the regulation does not impose unnecessary burdens on those who must comply, that the public comments have been considered, and that the regulation is clear and understandable, the staff will present the final regulation, together with the accompanying **Federal Register** notice document described below, to the Board of Directors for approval.

The Board of Directors will approve each final regulation before it is published in the **Federal Register.** Each final regulation will include a concise general statement of its basis and purpose and, to the extent practicable, will be written in plain English. The published notice accompanying the regulation will include the information enumerated above, updated where necessary to reflect any material changes. The notice will also include an analysis of the public comments received and views presented.

The final regulation will be published in the **Federal Register** at least 30 days before its effective date, unless (1) it is a substantive rule which grants or recognizes an exemption or relieves a restriction; (2) it is an interpretative rule; or (3) the Board of Directors finds good cause to dispense with the delayed effective date, in which case the Board will publish its reasons for the finding.

3. *Regulations Not Acted Upon.* It is the intention of the FDIC to formally withdraw any proposed regulation on which final action by the Board of Directors has not been taken within nine months from the date the regulation was last proposed. If the FDIC wishes to reconsider a proposed regulation that has been withdrawn, it will begin the rulemaking process anew (*i.e.*, republish in the **Federal Register**, resolicit public comments, etc.). In some cases, the FDIC may place a specific expiration date on a proposed rulemaking proceeding, terminating the proceeding if no formal action on the proposed regulation has been taken by that date.

4. *Semiannual Agenda of Regulations.* During March and September of each year, the FDIC will publish in the **Federal Register** an agenda of proposed regulations and existing regulations under review. The agenda will be approved by the Board of Directors before publication and will contain the following information with respect to each proposed regulation or existing regulation under review: a description of the regulation; its need and legal basis; the name, title, and telephone number of a knowledgeable FDIC official who can answer questions about the regulation; and the status of all items listed on the last agenda on which final action has not been taken.

5. *Review of Existing Regulations.* The FDIC will review each of its regulations periodically (at least once every five years) for the purpose of determining whether the regulation should be continued, revised, or eliminated. The Executive Secretary will establish procedures for determining when each regulation is to be reviewed and will notify either the General Counsel or other appropriate FDIC official that it is time to conduct the review. The factors to be considered in determining whether the regulation should be continued, revised, or eliminated are:

(a) The continued need for the regulation;

(b) Alternative methods of accomplishing the purpose of the regulation;

(c) The type and number of complaints or suggestions received;

(d) The burdens imposed on those affected by the regulation;

(e) Possible simplification or clarification of the regulation;

(f) The need to eliminate overlapping and duplicative regulations or supervisory procedures; and

(g) The length of time since the regulation was last evaluated and the extent to which technology, economic conditions, and other factors have changed in the area affected by the regulation.

6. *Rulemaking Petitions.* Any person or organization may petition the FDIC for the issuance, amendment, or repeal of any regulation by submitting a written petition to the Executive Secretary of the FDIC. The petition should include a complete and concise statement of the petitioner's interest in the subject matter and the reasons why the petition should be granted.

[FR Doc. 79-16414 Filed 5-29-79; 8:45 am]

BILLING CODE 6714-01-M

SMALL BUSINESS ADMINISTRATION

13 CFR Part 102

[Rev. 2 Amendment 7]

Disclosure of Information and Privacy Act of 1974; Change in Title of Official Deciding Appeals and Authorizing Testimony by SBA Personnel

AGENCY: Small Business Administration.

ACTION: Final Rule.

SUMMARY: Sections 102.4f(2), 102.5, and 102.7 of SBA's Rules and Regulations designate the Chief Counsel for Advocacy as the official to whom administrative appeals of refusals to disclose information under the Freedom of Information Act shall be addressed; who makes final Agency decisions on such appeals; and who authorizes appearances and testimony by SBA officers and employees. The official with these responsibilities is now the Freedom of Information Act Officer and this amendment reflects the change.

EFFECTIVE DATE: This regulation shall be effective on May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Richard B. McMurray, Office of the General Counsel, Small Business Administration, 1441 L Street, N.W., Washington, D.C. 20416, (202) 653-6573.

SUPPLEMENTARY INFORMATION: Since this change involves a matter of internal Agency management, the Agency finds it unnecessary to issue this change as a notice of proposed rulemaking with opportunity for public comment, or to delay its effective date, as provided for in 5 U.S.C. 553.

§ 102.4 [Amended]

§ 102.5 [Amended]

§ 102.7 [Amended]

Accordingly, pursuant to the authority in section 5(b)(6) of the Small Business Act (72 Stat. 385, 15 U.S.C. 634), Part 102 of Title 13 of the Code of Federal Regulations is amended by substituting "Freedom of Information Act Officer" for "Chief Counsel for Advocacy" wherever it appears in §§ 102.4(f)(2), 102.5(c), 102.5(e) and 102.7.

Dated: May 21, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-16721 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF COMMERCE

Industry and Trade Administration

15 CFR Part 385

Termination of the Embargo on Export Trade with Uganda

AGENCY: Office of Export Administration, Bureau of Trade Regulation, U.S. Department of Commerce.

ACTION: Final Rule.

SUMMARY: This rule amends the *Export Administration Regulations* to reflect the lifting of the embargo on exports to Uganda imposed by Public Law 95-435 which became effective October 10, 1978. That Law, which added section 4(m) to the Export Administration Act of 1969, as amended, imposed an embargo on export trade with Uganda (except cereal grains and additional food products) "until the President determines and certifies to the Congress that the Government of Uganda is no longer committing a consistent pattern of gross violations of human rights." President Carter made such a determination and the necessary certification to the Congress has been made. Accordingly, effective as of May 17, 1979, the embargo imposed by section 4(m) is terminated. As a consequence, the proposed regulations regarding the embargo of Uganda as published in the **Federal Register** on December 15, 1978 (43 FR 58571) will not be adopted in final form.

EFFECTIVE DATE OF ACTION: May 17, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Dale F. Snell, Jr., Chief, Management Services Branch, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230 (Tel. 202-377-2440).

SUPPLEMENTARY INFORMATION: It has been determined that this regulatory revision is "not significant" within the meaning of Department of Commerce Administrative Order 218-7 (44 FR 2082 *et seq.*, January 9, 1979) and Industry and Trade Administration Administrative Instructions 1-6 (44 FR 2093 *et seq.*, January 9, 1979), which implement Executive Order 12044 (43 FR 12661 *et seq.*, March 23, 1978), "Improving Government Regulations."

Accordingly, Part 385 of the Export Administration Regulations (15 CFR Part 385 *et seq.*) is amended by deleting § 385.7.

Authority: Sec. 4 Public Law 91-184, 83 Stat. 842 (50 U.S.C. App. 2403), as amended; E. O. 12002, 42 FR 35623 (1977); Department Organization Order 10-3, dated December 4, 1977, 42 FR 64721 (1977) as amended; and Industry and Trade Administration Organization and Function Order 45-1, dated December 4, 1977, 42 FR 64716 (1977) as amended.

Stanley J. Marcuss,

Deputy Assistant Secretary for Trade Regulation.

[FR Doc. 79-16738 Filed 5-24-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

15 CFR Part 931

Coastal Energy Impact Program

Correction

In FR Doc. 79-15704, published at page 29580 on Monday, May 21, 1979, on page

29602, beginning with § 93.125(c)(3), *Proportional Reduction* (the last paragraph of the first column), through to the end of the document is being withdrawn, and is corrected to read as follows:

(3) *Proportional Reduction.* If after calculating the formula amount and the 2 percent amount the total amount of funds that would be required to be allotted is greater than the total funds available in a fiscal year under section 308(b), the Assistant Administrator will deduct from each coastal State whose formula amount exceeds 2 percent of the amount available an amount represented by the following expression:

$$(T - TA) \times \left[\frac{F - 2\% \text{ of } TA}{SF - (2\% \text{ of } TA \times S)}\right]$$

T = Total amount that would be required to be allotted to all coastal States before the proportional reduction.
TA = Total amount available under section 308(b).
F = Formula amount for that State.
SF = Sum of the formula amounts that exceed 2 percent of the amount available.
S = Number of States where formula amount exceeds 2 percent.

(4) *Maximum Amount.* If after the calculations performed in paragraphs (1) and (3) any coastal State would receive an allotment that is greater than 37½ percent of the amount available, the Assistant Administrator shall reduce the allotment of that State to 37½ percent of the amount available.

(5) *Redistribution.* Any amount not allotted by virtue of application of paragraph (4) will be reallotted proportionally among those coastal States that at this point in the calculation receive an allotment greater than 2 percent but less than 37½ percent of the amount available. For purposes of this paragraph "reallotted proportionally" means allotment in accordance with the provisions of paragraph (1) except that only those States that receive an allotment greater than 2 percent and less than 37½ percent will participate in the calculations described in that paragraph.

§ 931.126 Recall of formula grants.

(a) Except as provided in Subpart C, funds allotted under this Subpart will remain available for application by the recipient coastal State until September 30, 1988. Funds not applied for by this date will be returned to the United States Treasury.

(b) Funds allotted under this Subpart and which have been awarded to a State must be expended or committed by the State by the end of the fiscal year immediately following the fiscal year in which such funds were awarded or be subject to recovery under § 931.97.

(c) If an application for which funds have been committed by a State is withdrawn either within sixty (60) days before the end of the fiscal year that follows the fiscal year in which the funds were awarded to the State, or any time after the end of the fiscal year that follows the fiscal year in which the funds were awarded to the State, the State will have sixty (60) days to resubmit an application for these funds. If a substitute application is not submitted within this time period the funds will be subject to recovery under § 931.97. Funds recovered under this section and § 931.97 will be reallotted among eligible coastal States as soon as practicable.

BILLING CODE 1505-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

24 CFR Part 1917

[Docket No. FI 4908]

Final Flood Elevation Determination for the City of Scribner, Dodge County, Nebr., Under the National Flood Insurance Program

AGENCY: Office of Federal Insurance and Hazard Mitigation, FEMA.[1]

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the City of Scribner, Dodge County, Nebraska. These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

EFFECTIVE DATE: The date of issuance of the Flood Insurance Rate Map (FIRM), showing base (100-year) flood elevations, for the City of Scribner, Dodge County, Nebraska.

ADDRESSES: Maps and other information showing the detailed outlines of the flood prone areas and the final elevations for the City of Scribner are available for review at the City Hall, Scribner, Nebraska.

[1] The functions of the Federal Insurance Administration, Department of Housing and Urban Development, were transferred to the newly established Federal Emergency Management Agency by Reorganization Plan No. 3 of 1978 (43 FR 41943, September 19, 1978) and Executive Order 12127 (44 FR 19367, April 3, 1979).

FOR FURTHER INFORMATION CONTACT: Mr. Richard Krimm, National Flood Insurance Program (202) 755-5581 or Toll Free Line (800) 424-8872, Room 5270, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determinations of flood elevations for the City of Scribner, Dodge County, Nebraska.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), 87 Stat. 980, which added section 1363 to the National Flood Insurance Act of 1968 (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90-448), 42 U.S.C. 4001-4128, and 24 CFR 1917.4(a)). An opportunity for the community or individuals to appeal this determination to or through the community for a period of ninety (90) days has been provided. No appeals of the proposed base flood elevations were received from the community or from individuals within the community.

The Administrator has developed criteria for flood plain management in flood prone areas in accordance with 24 CFR Part 1910.

The final base (100-year) flood elevations for selected locations are:

Source of flooding	Location	Elevation in feet, national geodetic vertical datum
Elkhorn River	Downstream extraterritorial limits.	1,244
	Just downstream of Bridge Street.	1,253
	Upstream extraterritorial limits.	1,260
Pebble Creek	Downstream extraterritorial limits.	1,253
	Just Downstream of Main Street.	1,254
	Approximately 400 feet upstream of Main Street.	1,256
	Just downstream of County Road 13.	1,259
	Upstream extraterritorial limits.	1,262

(National Flood Insurance Act of 1968 (Title XIII of Housing and Urban Development Act of 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 4001-4128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator, 44 FR 20963)).

Issued: April 24, 1979.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 79-16670 Filed 5-29-79; 8:45 am]

BILLING CODE 4210-23-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[T.D. 7624]

26 CFR Part 1

Income Tax; Time for Filing Interest or Dividend Information Returns

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the time requirements for furnishing certain dividend or interest information statements. The regulations would provide the public with the guidance needed for compliance with the law relating to the furnishing of information statements and would affect persons who are required to furnish such statements.

EFFECTIVE DATE: The regulations will be effective for statements filed after April 30, 1979.

FOR FURTHER INFORMATION CONTACT: Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224, Attention: CC:LR:T, 202-566-3671, not a toll-free call.

SUPPLEMENTARY INFORMATION:

Background

On February 20, 1979, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 6042 and 6049 of the Internal Revenue Code of 1954 (44 FR 10396). There were no public comments regarding the proposed amendments. There was no public hearing. Therefore, the regulations as proposed in the notice of proposed rulemaking are adopted, without change, by this Treasury decision. The preamble to the notice of proposed rulemaking summarizes and explains the proposed amendments.

Drafting Information

The principal author of this regulation is Annie R. Alexander of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matter of substance and style.

Adoption of amendments to the regulations

Accordingly, 26 CFR Part 1 is amended by adopting without change the regulations proposed in the notice of proposed rulemaking published in the Federal Register on February 20, 1979 (44 FR 10396).

This Treasury decision is issued under the authority contained in sections 6042, 6049, and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: May 17, 1979.

Donald C. Lubick,

Assistant Secretary of the Treasury.

§ 1.6042-4 [Amended]

Paragraph 1. Paragraph (c)(1) of § 1.6042-4 is amended by substituting "April 30" for "September 30" in the last sentence.

§ 1.6042-3 [Amended]

Par. 2. Paragraph (c)(1)(i) of § 1.6049-3 is amended by substituting "April 30" for "September 30" in the last sentence.

[FR Doc. 79-16725 Filed 5-29-79; 8:45 am]

BILLING CODE 4830-01-M

[T.D. 7625]

26 CFR Part 1

Income Tax; Involuntary Conversion of Real Property

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to the involuntary conversion of real property. Changes in the applicable tax law were made by the Tax Reform Act of 1976. These regulations provide necessary guidance to the public for compliance with that Act.

EFFECTIVE DATES: The regulations are effective for certain dispositions occurring after December 31, 1974.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, D.C. 20224 (Attention: CC:LR:T) 202-566-3926.

SUPPLEMENTARY INFORMATION:

Background

On October 17, 1978, the Federal Register published proposed amendments to the Income Tax Regulations (26 CFR Part 1) under section 1033 of the Internal Revenue Code of 1954. The amendments were proposed to conform the regulations to sections 2140 and 1901 (a) (128) of the Tax Reform Act of 1976 (Pub. L. 94-455, 90 Stat. 1932, 1785). Neither the proposed amendments nor this Treasury decision reflect the amendments made to section 1033 by section 542 of the Revenue Act of 1978 (P.L. 95-600, 92 Stat. 2888). No written comments were received, and no public hearing was requested or held. The proposed amendments are adopted by this Treasury decision with two clarifying changes as explained below.

Explanation of Provisions

These regulations contain the special rule of section 1033 (f)(4) relating to the time within which involuntarily converted real property held for productive use in trade or business or for investment must be replaced in order to qualify for nonrecognition of gain. This rule provides that the period shall commence with the date of the property's disposition as a result of its seizure, requisition, or condemnation (or, if earlier, the date of the threat or imminence thereof) and end 3 years (rather than 2 years as under prior law) after the close of the first taxable year in which any part of the gain is realized. This Treasury decision clarifies that the special rule applies to a disposition occurring after December 31, 1974, unless a condemnation proceeding with respect to the property was begun before October 4, 1976. The Treasury decision also provides that State or Federal procedural law determines when a condemnation proceeding has begun. The regulations are also conformed to the statute as amended by the deletion of various obsolete provisions.

Drafting Information

The principal author of this regulation is David B. Cubeta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Part 1, set forth in the notice of proposed rulemaking published in the Federal Register on October 17, 1978, are hereby adopted with the following change:

Section 1.1033(f)-1, as redesignated and set forth in paragraph 9 of the notice

of proposed rulemaking, is amended by revising paragraph (b) to read as follows:

§ 1.1033(f)–1 Condemnation of real property held for productive use in trade or business or for investment.

* * * * *

(b) *Sepcial rule for period within which property must be replaced.* In the case of a disposition described in paragraph (a) of this section, section 1033(a)(2)(B) and § 1.1033(a)–2(c)(3) (relating to the period within which the property must be replaced) shall be applied by substituting 3 years for 2 years. This paragraph shall apply to any disposition described in section 1033(f)(1) and paragraph (a) of this section occurring after December 31, 1974, unless a condemnation proceeding with respect to the property was begun before October 4, 1976. Thus, regardless of when the property is disposed of, the taxpayer will not be eligible for the 3-year replacement period if a condemnation proceeding was begun before October 4, 1976. However, if the porperty is disposed of after December, 31, 1974, and the condemnation proceeding was begun (if at all) after October 3, 1976, then the taxpayer is eligible for the 3-year replacement period. For the purposes of this paragraph, whether a condemnation proceeding is considered as having begun is determined under the applicable State or Federal procedural law.

* * * * *

This Treasury decision is issued under the authority contained in section 7805 of the Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).

Jerome Kurtz,

Commissioner of Internal Revenue.

Approved: May 18, 1979.

Daniel I. Halperin,

Acting Assistant Secretary of the Treasury.

Paragraph 1. Section 1.1033(a)–1 is amended by striking out "§ 1.1033(b)–1" each place it appears and inserting in lieu thereof "§ 1.1033(a)–3", by striking out "§ 1.1033(c)–1" and inserting in lieu thereof "§ 1.1033(b)–1", by striking out "§§ 1.1033(d)–1, 1.1033(e)–1, and 1.1033(f)–1" and inserting in lieu thereof "§§ 1.1033(c)–1, 1.1033(d)–1, and 1.1033(e)–1", by striking out "§ 1.1033(g)–1" and inserting in lieu thereof "§ 1.1033(f)–1", and by deleting the next to the last sentence of paragraph (a).

Par. 2. Section 1.1033(a)–2 is amended by striking out "section 1033(a)(3)" each place it appears and inserting in lieu thereof "section 1033(a)(2)", by striking out "section 1033(c)" each place it appears and inserting in lieu thereof "section 1033(b)", by deleting the first sentence of paragraph (a), by revising the heading of § 1.1033(a)–2, and by adding flush material following subdivision (ii) of paragraph (c)(3). The revised and added material reads as follows:

§ 1.1033(a)–2 Involuntary conversion into similar property, into money or into dissimilar property.

* * * * *

(c) *Conversion into money or into dissimilar property.* * * *

(3) * * *

(ii) * * *

See section 1033(f)(4) and § 1.1033(f)–1 for the circumstances under which, in the case of the conversion of real property held either for productive use in trade or business or for investment, the 2-year period referred to in this paragraph (c)(3) shall be extended to 3 years.

* * * * *

§§ 1.1033(a)–3 and 1.1033(a)–4 [Deleted]

Par. 3. Sections 1.1033(a)–3 and 1.1033(a)–4 are deleted.

§ 1.1033(b)–1 [Redesignated as § 1.1033(a)–3 and Amended]

Par. 4. Section 1.1033(b)–1 is redesignated as § 1.1033(a)–3 and is amended by deleting the third and fourth sentences, and by striking out "section 1034(i)(2)" and inserting in lieu thereof "section 1034(i)".

§ 1.1033(c)–1 [Redesignated as § 1.1033(b)–1 and Amended]

Par. 5. Section 1.1033(c)–1 is redesignated as § 1.1033(b)–1 and is amended by striking out "section 1033(c)" each place it appears and inserting in lieu thereof "section 1033(b)".

§ 1.1033(d)–1 [Redesignated as § 1.1033(c)–1 and Amended]

Par. 6. Section 1.1033(d)–1 is redesignated as § 1.1033(c)–1 and is amended by striking out "section 1033(d)" each place it appears and inserting in lieu thereof "section 1033(c)".

§ 1.1033(e)–1 [Redesignated as § 1.1033(d)–1]

Par. 7. Section 1.1033(e)–1 is redesignated as § 1.1033(d)–1.

Par. 8. Section 1.1033(f)–1 is redesignated as §1.1033(e)–1 and is amended by striking out "section 1033(f)" each place it appears and inserting in lieu thereof "section 1033(e)"

§ 1.1033(g)–1 [Redesignated as 1.1033(f)–1 and Amended]

Par. 9. Section 1.1033(g)–1 is redesignated as §1.1033(f)–1 and is amended by redesignating paragraph (b) as paragraph (c), by adding a new paragraph (b) and by revising redesignated paragraph (c). The added and revised material reads as follows:

§ 1.1033(f)–1 Condemnation of real property held for productive use in trade or business or for investment.

* * * * *

(b) *Special rule for period within which property must be replaced.* In the case of a disposition described in paragraph (a) of this section, section 1033(a)(2)(B) and § 1.1033(a)–2(c)(3) (relating to the period within which the property must be replaced) shall be applied by substituting 3 years for 2 years. This paragraph shall apply to any disposition described in section 1033(f)(1) and paragraph (a) of this section occurring after December 31, 1974, unless a condemnation proceeding with respect to the property was begun before October 4, 1976. Thus, regardless of when the property is disposed of, the taxpayer will not be eligible for the 3-year replacement period if a condemnation proceeding was begun before October 4, 1976. However, if the property is disposed of after December 31, 1974, and the condemnation proceeding was begun (if at all) after October 4, 1976, then the taxpayer is eligible for the 3-year replacement period. For the purposes of this paragraph, whether a condemnation proceeding is considered as having begun is determined under the applicable State or Federal procedural law.

(c) *Limitation on application of special rule.* This section shall not apply to the purchase of stock in the acquisition of control of a corporation described in section 1033(a)(2)(A).

§ 1.1033(h)–1 [Redesignated as § 1.1033(g)–1 and Amended]

Par. 10. Section 1.1033(h)–1 is redesignated as § 1.1033(g)–1 and is amended by striking out "§ 1.1033(f)–1 and § 1.1033(g)–1" and inserting in lieu thereof "§ 1.1033(e)–1 and § 1.1033(f)–1."

§ 1.1034–1(h)(1) [Amended]

Par. 11. Section 1.1034(h)(1) is amended by striking out "§ 1.1033(b)–1" and inserting in lieu thereof "§ 1.1033(a)–3."

§ 1.1033(a)—1.1033(h) [Deleted]

Par. 12. The following sections are deleted: § 1.1033(a) and the historical note; § 1.1033(b); § 1.1033(c); § 1.1033(d); § 1.1033(e); § 1.1033(f) and the historical note; § 1.1033(g) and the historical note; and § 1.1033(h) and the historical note.

[FR Doc. 79-16726 Filed 5-29-79; 8:45 am]

BILLING CODE 4830-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 43a

[DOD Directive 1344.9] [1]

Indebtedness of Military Personnel

AGENCY: Office of the Secretary of Defense.

ACTION: Final rule.

SUMMARY: This rule revises Department of Defense (DOD) policies regarding the processing of claims of delinquent indebtedness against members of the Armed Forces, incorporating provisions of (a) the Truth in Lending Act, and (b) the recently enacted Fair Debt Collection Practices Act which prohibits debt collection agencies from contacting third parties.

EFFECTIVE DATE: May 7, 1979.

FOR FURTHER INFORMATION CONTACT: Ms. Barbara Schoenberger, Office of the Deputy Assistant Secretary of Defense (Military Personnel Policy), The Pentagon, Washington, D.C. 20301, Telephone 202-697-9525.

SUPPLEMENTARY INFORMATION: In FR Doc. 78-11263 appearing in the **Federal Register** on April 26, 1978 (43 FR 17838), the Office of the Secretary of Defense published a proposed rule establishing guidelines for the Military Departments in the handling and processing of claims of delinquent indebtedness against military members of the Armed Forces. In FR Doc. 78-14870 appearing in the **Federal Register** on May 30, 1978 (43 FR 23001) the Office of the Secretary of Defense published an extension of the comment period. Comments received suggested minor changes in the "Standards of Fairness" which were incorporated into the final rule.

Accordingly, we are revising Part 43a 32 CFR Chapter I, reading as follows:

PART 43A—INDEBTEDNESS OF MILITARY PERSONNEL

Sec.

43a.1 Reissuance and purpose.
43a.2 Applicability and scope.
43a.3 Definitions.
43a.4 Responsibilities.
43a.5 General policies.
43a.6 Debt processing procedures.
43a.7 Abuse of the processing privilege.
43a.8 Full disclosure and standards of fairness by creditors.
43a.9 Standards of fairness.
43a.10 Certificate of Compliance.

[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.

Authority: The provisions of this Part 43a issued under sec. 301, 80 Stat. 379; 5 U.S.C. 301.

§ 43a.1 Reissuance and Purpose.

This Part: (a) Reissues Part 43a to update established Department of Defense policy governing delinquent indebtedness of military members of the Armed Forces;

(b) Sets forth procedures for processing claims of such indebtedness against military members; and

(c) Incorporates the provisions of Pub. L. 90-321, "Truth in Lending Act," Section 125 (15 U.S.C. 1601 (1976)) and 95-109, "Fair Debt Collection Practices Act," September 20, 1977.

§ 43a.2 Applicability and Scope.

(a) The provisions of this Part apply to the Office of the Secretary of Defense, the Military Departments, the Organization of the Joint Chiefs of Staff, the Defense Agencies, and the Unified and Specified Commands (hereafter referred to as "DOD Components"). The term "Military Services," as used herein, refers to the Army, the Navy, the Air Force, and the Marine Corps.

(b) Excluded from the provisions of this Part are claims for support of dependents, or claims by the Federal, State, or municipal Government.

§ 43a.3 Definitions.

(a) *Just Financial Obligations.* A legal debt acknowledged by the military member in which there is no reasonable dispute as to the facts or the law; *or* one reduced to judgment which conforms to 50 U.S.C. app. 501, if applicable.

(b) *A Proper and Timely Manner.* A manner which under the circumstances does not reflect discredit on the military service.

(c) *Debt Collector.* An agency or agent solely engaged in the collection of debts described under Pub. L. 95-109.

§ 43a.4 Responsibilities.

(a) The *Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics)* shall establish policies and procedures governing the assistance to be provided by military authorities to creditors of military personnel.

(b) The *Heads of DoD Components*, or designees, shall:

(1) Urge military personnel to meet their just financial obligations, since failure to do so damages their credit reputation and affects the public image of all DoD personnel 32 CFRs 230, 231, and 40.

(2) Assure implementation of this Part and compliance with its provisions.

§ 43a.5 General Policies.

(a) Members of the Armed Forces are expected to pay their just financial obligations in a proper and timely manner. However, DoD Components have no legal authority, except as stated in § 43a.5(b) below, to require members to pay a private debt or to divert any part of their pay for its satisfaction, even though the indebtedness may have been reduced to judgment by a civil court. The enforcement of the private obligations of a military member is a matter for civil authorities.

(b) Legal process instituted in civil courts to enforce judgments against military personnel for the payment of alimony or child support will be acted upon in accordance with the provisions of Pub. L. 93-647, as amended (42 USC 659 (1976)), and part 7, chapter 7, section B of DoD Military Pay and Allowances Entitlements Manual.[2]

(c) The processing of debt complaints will not be extended to those (1) who have not made a bona fide effort to collect the debt directly from the military member; (2) whose claims are patently false and misleading; or (3) whose claims are obviously exorbitant. Claimants desiring to contact a military member about indebtedness may obtain the member's military address by writing to the locator service of the Military Department concerned, and enclosing the appropriate fee for the service, as provided under (32 CFR 288).

(d) Some States have enacted laws which prohibit creditors from contacting a debtor's employer with respect to indebtedness or communicating facts on indebtedness to an employer unless certain conditions are met. The conditions which must be met to remove this prohibition are generally such things as reduction of a debt to judgment and obtaining written permission of the debtor.

(1) At DoD installations in States having such laws, the processing of debt complaints will not be extended to those creditors who are in violation of the State law. Commanders may advise creditors that this rule has been established because it is the general policy of the Military Services to comply with State law when that law does not infringe upon significant military interests.

(2) This policy will govern even though a creditor is not licensed to do business in the State where the debtor is located. A similar practice will be inaugurated in any State enacting a similar law with respect to debt collection.

[2] Available through normal DoD publications channels.

(e) Under the provisions of Pub. L. 95–109, contact by a debt collector with third parties, such as commanding officers, for the purpose of aiding debt collection is prohibited without the prior consent of the debtor, given directly to the debt collector, or without a court order. Creditors are generally exempt from Pub. L. 95–109, but only when they collect on their own behalf.

§ 432.6 Debt Processing Procedures.

(a) It is incumbent on those submitting indebtedness complaints to show that the disclosure requirements of Pub. L. 90–321 and Regulation Z (12 CFR 226, 226.3, 226.9 (1978)) have been met and that the Standards of Fairness § 43a.9 have been applied.

(b) Creditors subject to Regulation Z, and assignees claiming thereunder, shall submit with their request for debt processing assistance an executed copy of the Certificate of Compliance (enclosure 2), and a true copy of the general and specific disclosures provided the military member as required by Pub. L. 90–321. Requests which do not meet these requirements will be returned without action to the claimant.

(c) A creditor not subject to Regulation Z, such as a public utility company (as set forth in section 226.3 thereof), shall submit with the request a certification that no interest, finance charge, or other fee is in excess of that permitted by the law of the State in which the obligation was incurred.

(d) A foreign-owned company having debt complaints shall submit with its request a true copy of the terms of the debt (English translation) and shall certify that it has subscribed to the Standards of Fairness (§ 43a.9).

(e) Indebtedness complaints which meet the requirements of the Part will be processed by DoD Components. "Processed" means that Heads of DoD Components, or designees, shall:

(1) Review all available facts surrounding the transaction forming the basis of the complaint, including the member's legal rights and obligations, and any defenses or counterclaims the member may have.

(2) Advise the member that (i) just financial obligations are expected to be paid in a proper and timely manner, and what the member should do to comply with that policy; and (ii) financial and legal counseling services are available under the provisions of (32 CFR 43) in resolving indebtedness.

(3) If a member acknowledges a debt as a result of creditor contact with a DoD Component, advise the member that assistance and counseling are available from the on-base military banking office and the credit union serving the military field of membership.

(4) Direct that the appropriate commander advise the claimant that (i) those apsects of DoD policy prescribed in § 43a.5, are pertinent to the particular claim in question; and (ii) the member concerned has been counseled concerning his or her obligations with respect to the claim. The commander's response will not undertake to arbitrate any disputed debt, or to admit or deny the validity of the claim. Under no circumstances will the response indicate whether any action has been taken against the member as a result of the complaint.

§ 43a.7 Abuse of the Processing Privilege.

DoD Components may promulgate policies and procedures that will deny any claimant the processing of the claim where:

(a) A claimant, having been notified of the requirements of this Directive, refuses or repeatedly fails to comply with them; *or*

(b) A claimant, regardless of the merits of the claim, clearly has shown that an attempt is being made to make unreasonable use of the processing privilege.

§ 43a.8 Full Disclosure and Standards of Fairness by Creditors.

Pub. L. 90–321 prescribes the general disclosure requirements which must be met by those offering or extending consumer credit, and Regulation Z prescribes the specific disclosure requirements for both open-end and installment credit transactions. In place of Federal Government requirements, State regulations apply to credit transactions when the Federal Reserve Board has determined that the State regulations impose substantially similar requirements and provide adequate enforcement measures. Commanding officers should check regulations of the Federal Reserve Board to determine whether Federal or State laws and regulations govern.

§ 43a.9 Standards of Fairness.

(a) No finance charge contracted for, made, or received under any contract shall be in excess of the charge which could be made for such contract under the law of the place in which the contract is signed in the United States by the military member.

(1) In the event a contract is signed with a U.S. company in a foreign country, the lowest interest rate of the State or States in which the company is chartered or does business shall apply.

(2) However, interest rates and service charges applicable to overseas military banking facilities will be established by the Department of Defense.

(b) No contract or loan agreement shall provide for an attorney's fee in the event of default unless suit is filed, in which event the fee provided in the contract shall not exceed 20 percent of the obligation found due. No attorney fees shall be authorized if the attorney is a salaried employee of the holder.

(c) In loan transactions, defenses which the debtors may have against the original lender or its agent shall be good against any subsequent holder of the obligation. In credit transactions, defenses against the seller or its agent shall be good against any subsequent holder of the obligation, provided that the holder had actual knowledge of the defense or under conditions where reasonable inquiry would have appraised the holder of this fact.

(d) The military member shall have the right to remove any security for the obligation beyond State or national boundaries if the military member or family moves beyond such boundaries under military orders and notifies the creditor, in advance of the removal, of the new address where the security will be located. Removal of the security shall not accelerate payment of the obligation.

(e) No late charge shall be made in excess of 5 percent of the late payment, or $5.00 whichever is the lesser amount, or as provided by law or applicable regulatory agency determination. Only one late charge may be made for any tardy installment. Late charges will not be levied where an allotment has been timely filed, but payment of the allotment has been delayed. Late charges by overseas banking facilities are a matter of contract with the Department of Defense. Late charges by Federal credit unions are set at 20 percent of the interest due with a minimum of not less than 5 cents.

(f) The obligation may be paid in full at any time or through accelerated payments of any amount. There shall be no penalty for prepayment and in the event of prepayment that portion of the finance charges which has inured to the benefit of the seller or creditor shall be prorated on the basis of the charges which would have been ratably payable had finance charges been calculated and payable as equal periodic payments over the terms of the contract and only the prorated amount to the date of prepayment shall be due. As an alternative the "Rule of 78" may be applied.

(g) If a charge is made for loan insurance protection, it must be evidenced by delivery of a policy or certificate of insurance to the military member within 30 days.

(h) If the loan or contract agreement provides for payments in installments, each payment, other than the down payment, shall be in equal or substantially equal amounts, and installments shall be successive and of equal or substantially equal duration.

(i) If the security for the debt is repossessed and sold in order to satisfy or reduce the debt, the repossession and resale will be governed by the laws of the State in which the security is requested.

(j) A contract for personal goods and services may be terminated at any time before delivery of the goods or services without charge to the purchaser. However, if goods made to the special order of the purchaser result in preproduction costs, or require preparation for delivery, such additional costs will be listed in the order form or contract.

(1) No termination charge will be made in excess of this amount. Contracts for delivery at future intervals may be terminated as to the undelivered portion.

(2) The purchaser shall be chargeable only for that proportion of the total cost which the goods or services delivered bear to the total goods called for by the contract. (This is in addition to the right to rescind certain credit transactions involving a security interest in real estate provided by Pub. L. 90–321 and the FRB Regulation Z.)

§ 43a.10 Certificate of Compliance.

I certify that the _____ (Name of Creditor) upon extending credit to _____ (Name of Obligor) on _____(Date) complied with the full disclosure requirements of the Truth-in-Lending Act and Regulation Z, and the Fair Debt Collection Practices Act (or the laws and regulations of State of _____), and that the attached statement is a true copy of the general and specific disclosures provided the obligor as required by law.

I further certify that the Standards of Fairness set forth in § 43a have been applied to the consumer credit transaction to which this form refers. (If the unpaid balance has been adjusted as a consequence, the specific adjustments in the finance charge and the annual percentage rate should be set forth below.)

_____

(Adjustments)

_____

_____

_____ (Date of Certification)

_____ (Signature of Creditor or Authorized Representative)

_____

(Street)

_____

(City, State and Zip Code)

H. E. Lofdahl,

Director, Directives Division, Washington Headquarters Services, Department of Defense.

May 24, 1979.

[FR Doc. 79–16772 Filed 5–29–79; 8:45 am]

BILLING CODE 3810–70–M

GENERAL SERVICES ADMINISTRATION

41 CFR Parts 5–1, 5A–1, 5B–1

Reestablishment of Chapter 5 and Change in Issuing Authority for Chapters 5A and 5B

Correction

In FR Doc. 79–15872 appearing at page 29668 in the issue of Tuesday, May 22, 1979, the heading should read as set forth above.

BILLING CODE 1505–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of Education

45 CFR Part 185

Emergency School Aid

AGENCY: Office of Education, HEW.

ACTION: Final Rule.

SUMMARY: This rule governs the award of fiscal year 1979 grants to State educational agencies (SEAs) to help local educational agencies (LEAs) desegregate their schools voluntarily.

EFFECTIVE DATE: This rule is expected to take effect 45 days after it is transmitted to Congress. This rule will be transmitted to Congress several days before it is published in the **Federal Register**. The effective date is changed by statute if Congress disapproves the provisions of this rule or takes certain adjournments. If you want to know the effective date of this rule, call or write the Office of Education contact person.

ADDRESSES: Comments should be addressed to Ethel Jackson, U.S. Office of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202.

FOR FURTHER INFORMATION CONTACT: Ethel Jackson, Telephone (202) 245–8230.

SUPPLEMENTARY INFORMATION: Under the authority of the Emergency School Aid Act ("ESAA" or "the Act"; 20 U.S.C. 1601 *et seq.*) and, in particular, the authority to carry out special programs and projects under 20 U.S.C. 1607(a)(2), the Commissioner of Education—to whom the Assistant Secretary for Education has delegated functions under the Act—announces this rule governing fiscal year 1979 assistance to SEAs.

Background

The Commissioner believes SEAs should be encouraged to play a larger role in planning and implementing voluntary desegration in the school districts of their States.

SEAs currently receive funds under Title IV of the Civil Rights Act of 1964 ("title IV") to provide technical assistance and training to public school districts in connection with race desegregation. However, those funds may be used only to assist districts that are correcting conditions of racial separation resulting from State or local law or official action (see 45 CFR 180.04).

Many districts that are not eligible for race desegregation assistance under title IV have desegregation-related needs similar to those of eligible districts. The program described in this document will enable SEAs to help meet those needs.

The financial assistance that the Commissioner provides under the ESAA to SEAs may be used to support activities authorized by that statute, including many of the activities carried out by recipients of race desegregation awards under title IV. The Commissioner has determined that grants to SEAs to assist LEAs with voluntary desegregation will make substantial progress toward achieving the purposes of the Act. Therefore, the Commissioner has reserved for this purpose $2,000,000 of the fiscal year 1979 appropriation for ESAA special projects.

Because this program is designed to complement SEA race desegregation assistance under title IV, authorized activities are substantially identical to those authorized for title IV (see 45 CFR 180.13(d)). However, to ensure that this program focuses on voluntary desegregation efforts, grantees may assist only LEAs that have plans for which title IV race desgregation assistance is not available.

This program will operate for one year only. The Congress has amended the Act by adding authority beginning in fiscal year 1980 for matching grants to State agencies to help LEAs develop and

implement voluntary plans to eliminate or reduce minority group isolation in their schools. (See section 608(c) of the Act, as redesignated and amended by section 601(a) of Pub. L. 95-561.) Thus, the provisions of this rule are effective for fiscal year 1979 awards only.

Waiver of Proposed Rulemaking Procedures

Ordinarily, in accordance with section 431(b)(2)(A) of the General Education Provisions Act ("GEPA"; 20 U.S.C. 1232(b)(2)(A)), it is the practice of the Commissioner to offer interested parties the opportunity to review and comment on proposed regulations. However, for the reasons described below the Commissioner has determined that the usual practice should not be followed.

The provisions in this rule are needed to provide assistance to SEAs in a timely and prudent manner. For the program to be most effective, SEAs must be prepared to provide assistance in advance of the school year beginning in the fall of 1979. Before SEAs can provide this assistance, they will need time to hire staff, obtain materials, and notify LEAs in their respective States that assistance is available. These considerations require that the provisions of this rule be in effect, and fiscal year 1979 grants under this program be made, as early as possible.

The provisions of this rule are subject to the delayed effective date provisions of section 431(d) of GEPA (20 U.S.C. 1232(d)). While the period of delay specified in that section is 45 days, a delay of up to 84 days is possible as a result of provisions concerning Congressional adjournment. The period of delay runs from the date the final rule is transmitted to the Congress.

Resort to normal rulemaking procedures would cause an additional delay in the effective date of the provisions of this rule. That delay would result from a period for public comment on the proposed rule and a further period for the review of any comments received and the republication of the rule in final form.

Considering the time required to use normal rulemaking procedures, the commissioner believes those procedures would prevent the timely award of assistance to SEAs. Moreover, assistance under this rule is for a one year pilot program only. Fiscal year 1980 awards to State agencies will be made under section 608(c) of the amended statute.

For these reasons, the Commissioner for good cause finds that resort to notice and comment rulemaking procedures for the provisions of this rule would be impracticable, unnecessary, and contrary to the public interest under 5 U.S.C. 553(b).

Accordingly, the Commissioner adopts the following rule.

(Catalog of Federal Domestic Assistance No. 13.532L, Emergency School Aid—Special Projects)

Dated: April 11, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Approved: April 19, 1979.

Mary F. Berry,

Assistant Secretary for Education.

May 18, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

Part 185 is amended by adding a new Subpart L to read as set forth below.

Subpart L—Fiscal Year 1979 State Educational Agency Grants

Sec.

185.200 Purpose.
185.201 Applicable regulations.
185.202 Eligibility.
185.203 Eligibility for assistance from a grantee.
185.204 Authorized activities.
185.205 Applications.
185.206 Funding criteria and procedures.
185.207 Post-award condition. Notification to LEAs.

Authority: Emergency School Aid Act ("ESAA") or "the Act"; 20 U.S.C. 1601 et seq.); 20 U.S.C. 1607(a)(2).

Subpart L—Fiscal Year 1979 State Educational Agency Grants

§ 185.200 Purpose.

This program provides financial assistance to State educational agencies (SEAs) for the following purposes:

(a) Encouraging local educational agencies (LEAs) voluntarily to prepare, adopt, and implement plans to correct conditions of racial separation in their schools that are not the result of State or local law or official action; and

(b) Helping LEAs identify educational problems, and solutions to those problems, that have arisen or may arise from the implementation of those plans.

(20 U.S.C. 1607(a))

§ 185.201 Applicable regulations.

Assistance provided under this program is subject to applicable provisions of 45 CFR Part 185, relating generally to programs under the Emergency School Aid Act.

(20 U.S.C. 1601–1619)

§ 185.202 Eligibility.

Any SEA may apply for a grant under this program.

(20 U.S.C. 1607(a))

§ 185.203 Eligibility for assistance from a grantee.

(a) An LEA is eligible to receive assistance from a grantee under this program if that LEA is preparing or implementing a plan described in § 185.200(a).

(b) A plan for which the LEA received race desegregation assistance after October 1, 1978, under Title IV of the Civil Rights Act of 1964, as amended, is not a qualifying plan under this section.

(20 U.S.C. 1607(a))

§ 185.204 Authorized activities.

(a) A grantee may provide technical assistance and training to an eligible LEA for the purposes described in § 185.200.

(b)(1) The grantee may provide assistance to school board members, persons who are employed by or who work in the schools of an LEA, students enrolled in those schools, parents, and other community members.

(2) However, persons to whom the grantee provides assistance must be directly affected—or reasonably likely to be directly affected—by the preparation, adoption, or implementation of a plan described in § 185.200(a).

(20 U.S.C. 1607(a))

§ 185.205 Applications.

An applicant shall include the following information in its application:

(a) A description of the expected needs of LEAs in its State for the assistance authorized under § 185.204;

(b) A statement of the basis for its identification of those needs;

(c) A description of the assistance that it would provide to LEAs expected to need assistance;

(d) The means by which it would evaluate the effectiveness of its assistance and disseminate the results of its assistance to the public and other SEAs;

(e) A description of the activities it has undertaken that demonstrate its commitment to the success of plans described in § 185.200(a);

(f) A statement of the qualifications of the project director and professional staff who would be employed under the grant;

(g) A description of their responsibilities;

(h) A description of the facilities and other resources to be used in carrying out the activities under the grant;

(i) An assessment of the materials for technical assistance and training that

are available for providing assistance under the award; and

(j) A detailed budget.

(20 U.S.C. 1607(a))

§ 185.206 Funding criteria and procedures.

(a) The Commissioner reviews applications under this program on the basis of—

(1) The criteria in the General Provisions for Office of Education Programs (45 CFR 100a.26(b)); and

(2) The applicant's commitment to the success of plans described in § 185.200(a).

(b)(1) The Commissioner sets the amount of an award by comparing—

(i) The expected needs, and the cost of providing assistance to meet them, in each State for which the Commissioner approves an application; and

(ii) The expected needs, and the cost of providing assistance to meet them, in all States for which the Commissioner approves applications.

(2) In assessing expected needs, the Commissioner considers the needs described in the applications submitted under this program and any other information concerning those needs that may be relevant.

(20 U.S.C. 1607(a))

§ 185.207 Post-award condition: Notification to LEAs.

On receiving a grant under this program, a grantee shall notify all LEAs in its State of the availability of assistance authorized under the grant.

(20 U.S.C. 1607(a))

[FR Doc. 79-16513 Filed 5-29-79; 8:45 am]

BILLING CODE 4110-02-M

ACTION

45 CFR Part 1232

Nondiscrimination on the Basis of Handicap in Programs Receiving Financial Assistance From ACTION

AGENCY: ACTION.

ACTION: Final rule.

SUMMARY: This regulation sets forth policies and procedures to insure nondiscrimination on the basis of handicap in programs and activities to which ACTION extends financial assistance. The rule is needed to comply with Section 504 of the Rehabilitation Act of 1973 as amended, and Excecutive Order 11914, which relate to nondiscrimination against handicapped persons. The rule follows the guidelines established by HEW for carrying out the provisions of E.O. 11914. (See 43 FR 2132, January 13, 1978). The rule extends the coverage of Section 504 to all recipients receiving financial assistance, including the services of volunteers, from ACTION. The rule also extends the coverage of Section 504 to volunteers serving in ACTION programs.

EFFECTIVE DATE: June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Ellen W. Reath, Assistant General Counsel, ACTION, 806 Connecticut Ave., NW., Washington, D.C. 20525, (202–632–8812).

SUPPLEMENTARY INFORMATION: On May 9, 1978, ACTION published a proposed rule implementing Section 504 of the Rehabilitation Act of 1973. (43 FR 19883) Five comments were received, four from federal agencies and one from an organization representing handicapped persons. The proposed regulations were also reviewed by the Office of Civil Rights, HEW, for compliance with Executive Order 11914.

This rule implements section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 706, with regard to federal financial assistance administered by ACTION. Section 504 prohibits qualified handicapped persons from being denied the benefits of, or participation in, any federally assisted program. The proposed rule applies to all recipients of financial assistance from ACTION including organizations which receive volunteers from ACTION, but no funds.

This includes the volunteer programs such as VISTA, University Year for ACTION, Foster Grandparent Program, Retired Senior Volunteer Program and Senior Companion Program, as well as any other programs under which recipients receive financial assistance, such as special demonstration grants. The rule does not apply to organizations overseas which receive assistance under the Peace Corps Act, 22 U.S.C. 2501, Pub. L. 87–293, as amended.

The rule forbids discrimination against qualified handicapped persons in employment and in the operation of programs receiving assistance from ACTION, including the recruitment, selection and placement of volunteers. Recipients must make reasonable accommodation to the handicaps of employees, and volunteers unless the accommodations would cause the recipient undue hardship. As providers of services, recipients are required to make programs operated in existing facilities accessible to handicapped persons, and to operate their programs in a nondiscriminatory manner.

Some minor changes have been made in order to bring the regulation into compliance with the HEW guidelines. Following is a summary of the principal comments and substantive revisions to the regulation.

1. Several government agencies suggested that the regulation be amended to include language dealing with program accessibility in historic properties. This suggestion was not adopted as the agency is of the opinion that this problem can best be handled through the regulations of the agencies charged with protecting such properties.

2. One commentator criticized several sections of the proposed rule that were taken from the HEW guidelines as being too weak and not affording enough protection to the severely handicapped. The agency feels that the language from the HEW guidelines is adequate.

3. Section 1232.14 has been revised to include a requirement that recipients develop transition plans within six months if structural modifications in existing facilities are needed.

4. Subpart B has been revised to reflect the fact that a recipient's responsibilities toward handicapped volunteers serving in ACTION programs are the same as its responsibilities toward handicapped employees.

5. Section 1232.8(c) has been revised to include a record keeping provision for self-evaluations performed by recipients, and to make it clear that each step of the self evaluation must be done in consultation with interested persons, including handicapped persons.

In consideration of the foregoing, Part 1232 is hereby added to Title 45 of the Code of Federal Regulations as set forth below:

PART 1232—NON-DISCRIMINATION ON BASIS OF HANDICAP IN PROGRAMS RECEIVING FEDERAL FINANCIAL ASSISTANCE FROM ACTION

Subpart A—General Provisions

1232.1 Purpose.
1232.2 Application.
1232.3 Definitions.
1232.4 Discrimination prohibited.
1232.5 Assurances required.
1232.6 Notice.
1232.7 Remedial action, voluntary action and self-evaluation.
1232.8 Effect of state or local law.

Subpart B—Employment and Volunteer Service Practices

1232.9 Discrimination prohibited.
1232.10 Reasonable accommodation.
1232.11 Employment and volunteer selection criteria.
1232.12 Preemployment or pre-selection inquires.

Subpart C—Program Accessibility

1232.13 Discrimination prohibited.
1232.14 Existing facilities.
1232.15 New construction.

Subpart D—Procedures

1232.16 Procedures.

Authorities: Sec. 504, Rehabilitation Act of 1973, Pub. L. 93–112, 87 Stat. 394 (29 U.S.C. 794); sec. 111(a), Rehabilitation Act Amendments of 1974, Pub. L. 93–516, 88 Stat. 1619 (29 U.S.C. 706); Rehabilitation Act Amendments of 1978, Pub. L. 95–602.

Subpart A—General Provisions

§ 1232.1 Purpose.

The purpose of this part is to effectuate section 504 of the Rehabilitation Act of 1973, which is designed to eliminate discrimination on the basis of handicap in any program or activity receiving Federal financial assistance.

§ 1232.2 Application.

This part applies to each recipient of Federal financial assistance from ACTION and to each program or activity that receives or benefits from such assistance, including volunteer programs such as VISTA, University Year for ACTION (UYA), Senior Companion Program (SCP), Foster Grandparent Program (FGP) and Retired Senior Volunteer Program (RSVP). This part does not apply to recipients outside the United States which receive financial assiatance under the Peace Corps Act, 22 U.S.C. 2501, Pub. L. 87–293, as amended.

§ 1232.3 Definitions.

As used in this part the term:

(a) "The Act" means the Rehabilitation Act of 1973, Pub. L. 93–112, as amended by the Rehabilitation Act Amendments of 1974, Pub. L. 93–516, and the Rehabilitation Act Amendments of 1978, Pub. L. 95–602.

(b) "Section 504" means section 504 of the Act.

(c) "Director" means the Director of ACTION.

(d) "Recipient" means any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

(e) "Applicant for assistance" means one who submits an application, request, or plan required to be approved by an ACTION official or by a recipient as a condition to becoming a recipient.

(f) "Federal financial assistance" means any grant, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement which provides or otherwise makes available assistance in the form of:

(1) Funds;

(2) Services of Federal personnel;

(3) Real and personal property or any interest in or use of such property, including:

(i) Transfers or leases of such property for less than fair market value or for reduced consideration; and

(ii) Proceeds from a subsequent transfer or lease of such property if the Federal share of its fair market value is not returned to the Federal Government.

(4) A Federal agreement, arrangement or other contract which has as one of its purposes the provision of assistance, including the provision of volunteers under the Domestic Volunteer Service Act of 1973, 42 U.S.C. 4951, Pub. L. 93–113, as amended.

(g) "Facility" means all or any portion of buildings, structures, equipment, roads, walks, parking lots, or other real or personal property or interest in such property.

(h) Handicapped person.

(1) "Handicapped person" means any person who has a physical or mental impairment that substantially limits one or more major life activities, has a record of such an impairment, or is regarded as having such an impairment, except that as it relates to employment or volunteer service the term "handicapped person" does not include any individual who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose employment or volunteer service, by reason of such current alcohol or drug abuse, would constitute a direct threat to property or the safety of others.

(2) As used in paragraph (h)(1) of this section, the phrase:

(i) "Physical or mental impairment" means (A) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genitourinary; hemic and lymphatic; skin; and endocrine; or (B) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities. The term "physical or mental impairment" includes, but is not limited to, such diseases and conditions as orthopedic, visual, speech, and hearing impairments, cerebral palsy, epilepsy, muscular dystrophy, multiple sclerosis, cancer, heart disease, diabetes, mental retardation, emotional illness, drug addiction and alcoholism.

(ii) "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(iii) "Has a record of such an impairment" means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(iv) "Is regarded as having an impairment" means (A) has a physical or mental impairment that does not substantially limit major life activities but is treated by a recipient as constituting such a limitation; (B) has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or (C) has none of the impairments defined in paragraph (h)(2)(i) of this section but is treated by a recipient as having such an impairment.

(j) "Qualified handicapped person" means (1) with respect to employment or volunteer service, a handicapped person who, with reasonable accommodation, can perform the essential functions of the job or assignment in question; and (2) with respect to services, a handicapped person who meets the essential eligibility requirements for the receipt of such services.

(k) "Handicap" means any condition or characteristic that renders a person a handicapped person as defined in paragraph (h) of this section.

(l) "Volunteer" and "Volunteer service" refers to any person serving as a full time or part-time volunteer under any programs authorized under the Domestic Volunteer Service Act of 1973, Pub. L. 93–113, as amended.

(m) "Work station" means any public or private agency, institution, organization or other entity to which volunteers are assigned by a recipient.

§ 1232.4 General prohibitions against discrimination.

(a) No qualified handicapped person, shall, on the basis of handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity to which this part applies.

(b)(1) A recipient, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of handicap:

(i) Deny a qualified handicapped person the opportunity to participate in or benefit from the aid, benefit, or service;

(ii) Afford a qualified handicapped person an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others;

(iii) Provide a qualified handicapped person with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as that provided to others;

(iv) Provide different or separate aid, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless such action is necessary to provide qualified handicapped persons with aid, benefits, or services that are as effective as those provided to others;

(v) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an agency, organization, or person that discriminates on the basis of handicap in providing any aid, benefit, or service to beneficiaries of the recipient's program;

(vi) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(vii) Otherwise limit a qualified handicapped person in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service.

(2) A recipient may not deny a qualified handicapped person the opportunity to participate in programs or activities that are not separate or different, despite the existence of permissibly separate or different programs or activities.

(3) A recipient may not, directly or through contractual or other arrangements, utilize criteria or methods of administration (i) that have the effect of subjecting qualified handicapped persons to discrimination on the basis of handicap, (ii) that have the purpose or effect of defeating or substantially impairing accomplishment of the objectives of the recipient's program with respect to handicapped persons, or (iii) that perpetuate the discrimination of another recipient if both recipients are subject to common administrative control or are agencies of the same state.

(4) A recipient may not, in determining the site or location of a facility, make selections (i) that have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from federal financial assistance or (ii) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity with respect to handicapped persons.

(c) The exclusion of nonhandicapped persons from the benefits of a program limited by federal statute or executive order to handicapped persons or the exclusion of a specific class of handicapped persons from a program limited by federal statute or executive order to a different class of handicapped persons is not prohibited by this part.

(d) Recipients shall administer programs and activities in the most integrated setting appropriate to the needs of qualified handicapped persons.

(e) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, volunteers and beneficiaries are available to persons with impaired vision and hearing.

(f) Recipients shall take appropriate steps to insure that no handicapped individual is denied the benefits of, excluded from participation in, or otherwise subjected to discrimination in any program receiving or benefiting from Federal financial assistance from ACTION because of the absence of auxiliary aids for individuals with impaired sensory, manual, or speaking skills.

§ 1232.5 Assurances required.

(a) An applicant for Federal financial assistance for a program or activity to which this part applies shall submit an assurance, on a form specified by the Director, that the program will be operated in compliance with this part. An applicant may incorporate these assurances by reference in subsequent applications to ACTION. The assurance will obligate the recipient for the period during which Federal financial assistance is extended.

(b) In the case of Federal financial assistance extended to provide personal property, the assurance will obligate the recipient for the period during which it retains ownership or possession of the property.

(c) A recipient operating a volunteer program under which volunteers are assigned to a number of work stations shall obtain an assurance from each work station that neither volunteers nor the beneficiaries they serve will be discriminated against on the basis of handicap.

§ 1232.6 Notice.

Recipients shall take appropriate initial and continuing steps to notify participants, beneficiaries, applicants, volunteers and employees, including those with impaired vision or hearing, that it does not discriminate on the basis of handicap in violation of Section 504 and this part.

§ 1232.7 Remedial action, voluntary action and self-evaluation.

(a) *Remedial action.* (1) If the Director finds that a recipient has discriminated against persons on the basis of handicap in violation of Section 504 or this part, the recipient shall take such remedial action as the Director deems necessary to overcome the effects of the discrimination.

(2) Where a recipient is found to have discriminated against persons on the basis of handicap in violation of Section 504 or this part and where another recipient exercises control over the recipient that has discriminated, the Director, where appropriate, may require either or both recipients to take remedial action.

(3) The Director may, where necessary to overcome the effects of discrimination in violation of Section 504 or this part, require a recipient to take remedial action (i) with respect to handicapped persons who are no longer participants in the recipient's program but who were participants in the program when such discrimination occurred or (ii) with respect to handicapped persons who would have been participants in the program had the discrimination not occurred, or (iii) with respect to handicapped persons presently in the program, but not receiving full benefits or equal and integrated treatment within the program.

(b) *Voluntary action.* Recipient may take steps, in addition to any action that is required by this part, to overcome the effects of conditions that resulted in limited participation in the recipient's program or activity by qualified handicapped persons.

(c) *Self-evaluation.* (1) Each recipient shall, within one year of the effective date of this part, conduct a self-evaluation of its compliance with Section 504, with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. Each

recipient shall with the assistance of and consultation with interested persons, including handicapped persons, evaluate its current policies, practices and effects thereof; modify any that do not meet the requirements of this part; and take appropriate remedial steps to eliminate the effects of any discrimination that resulted from adherence to these policies and practices.

(2) A recipient that employs fifteen or more persons shall, for at least three years following completion of the evaluation required under paragraph (c)(1) of this section, maintain on file, make available for public inspection, and provide to the Director upon request: (i) A list of the interested persons consulted, (ii) a description of areas examined and any problems identified, and (iii) a description of any modifications made and of any remedial steps taken.

§ 1232.8 Effect of state or local law.

The obligation to comply with this part is not obviated or alleviated by the existence of any state or local law or other requirement that, on the basis of handicap, imposes prohibitions or limits upon the eligibility of qualified handicapped persons to receive services or to practice any occupation or profession.

Subpart B—Employment and Volunteer Service Practices

§ 1232.9 General prohibitions against employment and volunteer service discrimination.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment or volunteer service under any program or activity that receives or benefits from federal financial assistance.

(b) A recipient shall make all decisions concerning employment or volunteer service under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur and may not limit, segregate, or classify applicants or employees or volunteers in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment and volunteer service applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment or volunteer service;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment or volunteer service, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; and

(9) Any other term, condition, or privilege of employment or volunteer service.

(d) A recipient may not participate in a contractural or other relationship that has the effect of subjecting qualified handicapped applicants, volunteers or employees, to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(e) A recipient's obligation to comply with this subpart is not affected by any inconsistent term of any collective bargaining agreement to which it is a party.

(f) Recipients operating a volunteer program under which volunteers are assigned to work in a number of work stations will assure that a representative sample of work stations are accessible to handicapped persons.

§ 1232.10 Reasonable accommodation.

(a) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant, employee or volunteer unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(b) Reasonable accommodation may include: (1) Making facilities used by employees or volunteers readily accessible to and usable by handicapped persons, and (2) job restructuring, part-time or modified work schedules, acquisition or modification of equipment or devices, the provision of readers or interpreters, and other similar actions.

(c) In determining pursuant to paragraph (a) of this section whether an accommodation would impose an undue hardship on the operation of a recipient's program, factors to be considered include:

(1) The overall size of the recipient's program with respect to number of employees or volunteers, number and type of facilities, and size of budget;

(2) The type of the recipient's operation, including the composition and structure of the recipient's workforce or volunteer force, and

(3) The nature and cost of the accommodation needed.

§ 1232.11 Employment and volunteer selection criteria.

A recipient may not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

§ 1232.12 Preemployment or pre-selection inquiries.

(a) Except as provided in paragraphs (b) and (c) of this section, a recipient may not conduct a preemployment medical examination or not make pre-employment inquiry of an applicant as to whether the applicant is a handicapped person or as to the nature of severity of a handicap. A recipient may, however, make preemployment inquiry into an applicant's ability to perform job-related functions. For the purpose of this paragraph, "pre-employment" as applied to applicants for volunteer positions means prior to selection as a volunteer.

(b) When a recipient is taking remedial action to correct the effects of past discrimination pursuant to § 1232.8(a), when a recipient is taking voluntary action to overcome the effects of conditions that resulted in limited participation in its federally assisted program or activity pursuant to § 1232.8(b) or when a recipient is taking affirmative action pursuant to Section 503 of the Act, the recipient may invite applicants for employment or volunteer service to indicate whether and to what extent they are handicapped: *Provided*, That:

(1) The recipient states clearly on any written questionnaire used for this purpose or makes clear orally if no

written questionnaire is used that the information requested is intended for use solely in connection with its remedial action obligations or its voluntary or affirmative action efforts; and

(2) The recipient states clearly that the information is being requested on a voluntary basis, that it will be kept confidential as provided in paragraph (d) of this section, that refusal to provide it will not subject the applicant or employee to any adverse treatment, and that it will be used only in accordance with this part.

(c) Nothing in this section shall prohibit a recipient from conditioning an offer of employment or volunteer service on the results of a medical examination conducted prior to the volunteer or employee's entrance on duty. *Provided,* That: (1) All entering volunteers or employees are subjected to such an examination regardless of handicap, and (2) the results of such an examination are used only in accordance with the requirements of this part.

(d) Information obtained in accordance with this section as to the medical condition or history of the applicant shall be collected and maintained on separate forms that shall be accorded confidentiality as medical records, except that:

(1) Supervisors and managers may be informed regarding restrictions on the work or duties of handicapped persons and regarding necessary accommodations;

(2) First aid and safety personnel may be informed, where appropriate, if the condition might require emergency treatment; and

(3) Government officers investigating compliance with the Act shall be provided relevant information upon request.

Subpart C—Program Accessibility

§ 1232.13 General requirement concerning program accessibility.

No qualified handicapped person shall, because a recipient's facilities are inaccessible to or unusable by handicapped persons, be denied the benefits of, be excluded from participation in, or otherwise be subjected to discrimination under any program or activity that receives or benefits from federal financial assistance.

§ 1232.14 Existing facilities.

(a) A recipient shall operate each program or activity to which this part applies so that the program or activity, when viewed in its entirety, is readily accessible and usable by handicapped persons. This paragraph does not require a recipient to make each of its existing facilities or every part of a facility accessible to and usable by handicapped persons.

(b) A recipient is not required to make structural changes in existing facilities where other methods are effective in achieving compliance with this section. Where structural changes are necessary to make programs or activities in existing facilities accessible, such changes shall be made as soon as practicable, but in no event later than three years after the effective date of the regulation.

(c) In the event that structural changes to facilities are necessary to meet the requirement of paragraph (a) of this section, a recipient shall develop, within six months of the effective date of this part, a transition plan which sets forth in detail the steps necessary to complete the changes, and a schedule for taking those steps. The plan shall be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. A copy of the plan shall be made available for public inspection.

§ 1232.15 New construction.

(a) New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. construction shall be considered new if ground breaking takes place after the effective date of the regulation. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) Design, construction or alteration of facilities in conformance with the "American National Standard Specifications for Making Buildings and Facilities Accessible to, and Usable by, the Physically Handicapped," published by the American National Standards Institute, Inc. (ANSI A117.1–1961 (R1971), which is incorporated by reference in this part, shall constitute compliance with this section. Departures from particular requirements of those standards by the use of other methods shall be permitted when it is clearly evident that equivalent access to the facility or part of the facility is thereby provided.

Subpart D—Procedures

§ 1232.16 Procedures.

The procedural provisions applicable to Title VI of the Civil Rights Act of 1964 apply to this part. These procedures are found in §§ 1203.6–1203.11 of this title.

Issued in Washington, D.C. on May 10, 1979.

Sam Brown,

Director, ACTION.

[FR Doc. 79-16773 Filed 5-29-79; 8:45 am]

BILLING CODE 6050-01-M

LEGAL SERVICES CORPORATION

45 CFR Part 1611

Poverty Guidelines; Maximum Income Levels; Correction

AGENCY: Legal Services Corporation.

ACTION: Final rule—Correction.

SUMMARY: On May 15, 1979 (44 FR 28329 (May 15, 1979)) the Legal Services Corporation published revised eligibility guidelines for its grantees. The figure for a non-farm family of two, for all states except Alaska and Hawaii, should be $5,625, not $5,525 as published.

EFFECTIVE DATE: May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Barbara Allen, Legal Services Corporation, 733 15th Street, N.W., Suite 700, Washington, D.C. 20005, 202–376–5113.

Stephen S. Walters,

Acting General Counsel, Legal Services Corporation.

[FR Doc. 79-16713 Filed 5-29-79; 8:45 am]

BILLING CODE 6820-35-M

Proposed Rules

Federal Register
Vol. 44, No. 105
Wednesday, May 30, 1979

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.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[7 CFR Part 917]

Fresh Pears, Plums, and Peaches Grown in California; Proposed Extension of Grade and Size Requirements

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This notice proposes to continue through May 31, 1980, the current effective grade and size requirements on the handling of fresh California plums. These requirements are designed to provide for orderly marketing in the interest of producers and consumers.

DATES: Written comments must be received on or before June 22, 1979. Proposed effective dates: July 15, 1979, through May 31, 1980.

ADDRESSES: Send two copies of comments to the Hearing Clerk, United States Department of Agriculture, Room 1077, South Building, Washington, D.C. 20250, where they will be made available for public inspection during regular business hours (7 CFR 1.27(b)).

FOR FURTHER INFORMATION CONTACT: Malvin E. McGaha, 202–447–5975.

SUPPLEMENTARY INFORMATION: *Findings.* Plum Regulation 15 (§ 915.450; 44 FR 28776) sets forth the current grade and size requirements on the handling of fresh California plums through July 14, 1979. This proposed amendment would continue these requirements for the period July 15, 1979, through May 31, 1980.

This proposed amendment is issued under the marketing agreement, as amended, and Order No. 917, as amended (7 CFR Part 917), regulating the handling of fresh pears, plums, and peaches grown in California. The agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674). The action is based upon the recommendations and information submitted by the Plum Commodity Committee, and upon other information. This proposed amendment has not been determined significant under the USDA criteria for implementing Executive Order 12044.

The committee estimates that 12.75 million packages of plums will be available for fresh shipment during the 1979 season compared to actual shipment of 10.8 million packages last season. The grade and size requirements are designed to prevent the shipment of California plums of a lower grade and smaller size than specified and are designed to continue to provide ample supplies of good quality plums in the interest of producers and consumers pursuant to the declared policy of the act.

The proposal is that § 917.450 Plum Regulation 15 (44 FR 28776) be amended to read as follows:

§ 917.450 Plum regulation 15.

Order. (a) During the period July 15, 1979, though May 31, 1980, no handler shall ship any lot of packages or containers of any plums, other than the varieties named in paragraph (b) hereof, unless such plums grade at least U.S. No. 1.

(b) During the period July 15, 1979, through May 31, 1980, no handler shall ship:

(1) Any lot of packages or containers of Tragedy or Kelsey plums unless such plums grade U.S. No. 1, with a total tolerance of 10 percent for defects not considered serious damage in addition to the tolerances permitted by such grade; or

(2) Any lot of packages or containers of Angeleno, Andys Pride, Autumn Queen, Bee Gee, Casselman, Empress, Fresno Rosa, Grand Rosa, Improved Late Santa Rosa, King David, Late Santa Rosa, Linda Rosa, Red Rosa, Rosa Crande, Roysum, SW–1, and Swall Rosa plums unless such plums grade U.S. No. 1, except that healed cracks emanating from the stem end which do not cause serious damage shall not be considered as a grade defect with respect to such grade; or

(3) Any lot of packages or other containers of Late Tragedy plums unless such plums grade U.S. No. 1, except that gum spots which do not cause serious damage shall not be considered as a grade defect with respect to such grade.

(c) During the period July 15, 1979 through May 31, 1980, no handler shall ship any package or other container of any variety of plums listed in Column A of the following Table I unless such plums are of a size that an eight-pound sample, representative of the sizes of the plums in the package or container, contains not more than the number of plums listed for the variety in Column B of said table.

Table I

Column A variety	Column B plums-per sample
Ace	55
Amazon	64
Andys Pride	69
Angeleno	67
Autumn Rosa	72
Beauty	91
Bee Gee	65
Black Beaut	74
Burmosa	60
Casselman	63
Duarte	62
Durado	91
Ebony	66
El Dorado	68
Elephant Heart	53
Empress	57
Fresno Rosa	62
Friar	56
Frontier	61
Gar-Rosa	71
Grand Rosa	54
July Santa Rosa	69
Kelsey	47
King David	50
Laroda	58
Late Santa Rosa (including improved Late Santa Rosa and Swall Rosa	64
Linda Rosa	63
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(d) When used herein, "U.S. No. 1" and "serious damage" shall have the same meaning as set forth in the United States Standards for Fresh Plums and Prunes (7 CFR 2851.1520–1538); and all other terms shall have the same meaning as when used in the amended marketing agreement and order.

Dated: May 24, 1979.

D. S. Kuryloski,

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

[FR Doc 79-16812 Filed 5-29-79; 8:45 am]

BILLING CODE 3410-02-M

FEDERAL RESERVE SYSTEM

[12 CFR Part 217]

[Reg. Q, Docket No. R-0225]

Interest on Deposits; Temporary Suspension of Early Withdrawal Penalty

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Temporary suspension of the Regulation Q penalty normally imposed upon the withdrawal of funds from time deposits prior to maturity.

SUMMARY: The Board of Governors, acting through its Secretary, pursuant to delegated authority, has suspended temporarily the Regulation Q penalty for the withdrawal of time deposits prior to maturity from member banks for depositors affected by the severe storms, flooding, and tornadoes beginning on or about May 8, 1979, in the State of Florida.

EFFECTIVE DATE: May 15, 1979.

FOR FURTHER INFORMATION CONTACT: Paul S. Pilecki, Attorney, Legal Division, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, 202-452-3281.

SUPPLEMENTARY INFORMATION: On May 8, 1979, pursuant to sectin 301 of the Disaster Relief Act of 1974 (42 U.S.C. 5141) and Executive Order 11795 of July 11, 1974, the President, acting through the Administrator of the Federal Disaster Assistance Administration, designated the following counties of the State of Florida a major disaster area: Hillsborough, Pinellas, Polk, and Volusia. The Board regards the President's action as recognition by the Federal government that a disater of major proportions has occurred. The President's designation enables victims of the disaster to qualify for special emergency financial assistance. The Board believes it appropriate to provide an additional measure of assistance to victims by temporarily suspending the Regulation Q early withdrawal penalty.[1] The Board's action permits a member bank, wherever located, to pay a time deposit before maturity without imposing this penalty upon a showing that the depositor has suffered property or other financial loss in the disaster area as a result of the severe storms, flooding, and tornadoes. A member bank should obtain from a depositor seeking to withdraw a time deposit pursuant to this action a signed statement describing fully the disaster-related loss. This statement should be approved and certified by an officer of the bank. This action will be retroactive to May 15, 1979, and will remain in effect until 12 midnight November 15, 1979.

Section 19(j) of the Federal Reserve Act (12 U.S.C. 371b) provides that no member bank shall pay any time deposit before maturity except upon such conditions and in accordance with such rules and regulations as may be prescribed by the Board. The Board has determined it to be in the overriding public interest to suspend the penalty provision in § 217.4(d) of Regulation Q for the benefit of depositors suffering disaster-related losses within those geographical areas of the State of Florida officially designated a major disaster area by the President. The Board, in granting this temporary suspension, encourages member banks to permit penalty-free withdrawal before maturity of time deposits for depositors who have suffered disaster-related losses within the designated disaster areas.

In view of the urgent need to provide immediate assistance to relieve the financial hardship being suffered by persons directly affected by the severe damage and destruction occasioned by the storms and flooding in the designated counties of Florida, the Board finds that good cause for dispensing with notice and public participation referred to in section 553(b) of Title 5 of the United States Code with respect to this action and that public procedure with regard to this action would be contrary to the public interest. Because of the need to provide assistance as soon as possible and because the Board's action relieves a restriction, the Borad finds that there is good cause to make the action effective immediately.

By order of the Board of Governors, acting through its Secretary, pursuant to delegated authority (12 CFR 265.2(a)(18)), May 23, 1979.

Theodore E. Allison,

Secretary of the Board.

[FR Doc. 79-16778 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

[1] Sec. 217.4(d) of Regulation Q provides that where a time deposit, or any portion thereof, is paid before maturity, a member bank may pay interest on the amount withdrawn at a rate not to exceed that currently prescribed for a savings deposit and that the depositor shall forfeit 3 months of interest payable at such rate.

FEDERAL DEPOSIT INSURANCE CORPORATION

[12 CFR Part 302]

Statement of Policy Regarding Development and Review of FDIC Rules and Regulations

Cross Reference: For a document withdrawing a notice of proposed rulemaking, published on November 15, 1978 (43 FR 53042), regarding a proposed revision of 12 CFR Part 302, see FR Doc. 79-16414 in the Rules section of this issue.

BILLING CODE 6714-01-M

FEDERAL TRADE COMMISSION

[16 CFR Part 13]

(File No. 791-0066)

Pendleton Woolen Mills, Inc.; Consent Agreement with Analysis to Aid Public Comment

Correction

In FR Doc. 79-16005 appearing on page 29676 in the issue of Tuesday, May 22, 1979, the paragraph designated "**DATE**" should have read "**ADDRESSES**", and a "**DATE**" paragraph should be inserted saying "Comments must be received on or before July 23, 1979."

BILLING CODE 1505-01-M

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

[25 CFR Part 700]

Commission Operations and Relocation Procedures; Revision of Regulations Regarding Resale of Property

AGENCY: Navajo and Hopi Indian Relocation Commission.

ACTION: Proposed Rule.

SUMMARY: This notice proposes revisions in the Resale of Property regulations which would allow the Navajo and Hopi Indian Relocation Commission to dispose of property which has been purchased from relocatees by giving it to the tribal government having jurisdiction over

said property or to remove or destroy said property after a determination has been made that it constitutes a substantial risk to public health and safety.

DATE: Comments must be received on or before June 29, 1979.

FOR FURTHER INFORMATION CONTACT: Paul M. Tessler, C.F.R. Liaison Officer, Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Boulevard, Building A, Flagstaff, Arizona 86001, Telephone No.: (602) 779–3311, extension 1376, FTS: 261–1376.

The principal author is William G. Lavell, Field Solicitor, Valley Bank Center, Suite 2080, 201 N. Central Avenue, Phoenix, Arizona 85073.

SUPPLEMENTARY INFORMATION: The Commission proposes to revise its regulation concerning the Resale of Property for reasons that the regulation and its prior Proposed Revision as published in the **Federal Register** on October 5, 1978, conflicted with tribal law concerning land use, the regulation and its prior Proposed Revision as published in the **Federal Register** on October 5, 1978, presented significant administrative problems, and further, the Commission wished to ensure that the regulation was more responsive to the intent of the Navajo and Hopi Settlement Act (Pub. L. 93–531, 85 Stat. 1712, 25 U.S.C. 640–d) (the "Act"), specifically the expressed legislative intent as found in Senate Report No. 93–1177 (Calendar No. 11211, September 25, 1974), which set forth the guiding principles followed by the Senate in considering the proposals from which the Act was derived. Two of the Senate's guiding principles behind this legislation are as follows:

> 9. That any such division of the land of the Joint Use Area must be undertaken in conjunction with a thorough and generous relocation program to minimize the adverse social, economic, and cultural impacts of relocation on affected tribal members and to avoid a repetition of the unfortunate results of a number of early, official Indian relocation efforts.
>
> * * * * *
>
> 11. That because of the Federal Government's repeated failure to resolve the land disputes, the major costs of resolution should be properly borne by the United States.

The "thorough and generous" program articulated can be interpreted as applying equally to the standards by which property is disposed of particularly in light of the expressed intent that the major costs of resolution of the whole problem of partition and relocation should be properly borne by the United States rather (it can be inferred) than by the individual Indians affected.

The proposed rule conforms to the wording of the Act and the expressed intent of Congress.

Accordingly, the following sections of 25 CFR, Part 700, § 700.12 is proposed to be revised as follows:

§ 700.12 Disposal of property.

Property acquired by the Commission pursuant to the Act shall be disposed of in one of the following manners:

(a) If the Commission determines that the property acquired constitutes a substantial risk to public health and safety, the Commission may remove or destroy the property.

(b) The Commission may transfer the property acquired by gratuitous conveyance to the tribe exercising jurisdiction over the area. Notice of such transfer shall be in writing and shall be completed within thirty days from the finalization of all property acquisition procedures, unless the tribe notifies the Commission in writing within that time that the property transfer is refused. In the event of a refusal by the tribe, the Commission shall remove or destroy the property.

Interested persons may submit written comments regarding the proposed rule change to the Chairman, Navajo and Hopi Indian Relocation Commission, 2717 N. Steves Boulevard, Building A, Flagstaff, Arizona 86001, on or before June 29, 1979.

Hawley Atkinson,

Chairman, Navajo and Hopi Indian Relocation Commission.

[FR Doc. 79–16714 Filed 5–29–79; 8:45 am]

BILLING CODE 4310–HB–M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[26 CFR Parts 1 and 31]

[LR–37–78]

Companion Sitting Placement Services

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document contains proposed regulations relating to the exemption of companion sitting placement services from employer status. Changes in the applicable tax law were made by the act of November 12, 1977. The regulations would provide the public with the guidance needed to comply with the applicable part of this Act.

DATES: Written comments and requests for a public hearing must be delivered or mailed by July 30, 1979. The amendments are proposed to apply to remuneration received after December 31, 1974.

ADDRESS: Send comments and requests for a public hearing to: Commissioner of Internal Revenue, Attention: CC:LT:T (LR–37–78), Washington, D.C. 20224.

FOR FURTHER INFORMATION CONTACT: David B. Cubeta of the Legislation and Regulations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C. 20224 (Attention: CC:LR:T) (202–566–3926).

SUPPLEMENTARY INFORMATION:

Background

This document contains proposed amendments to the Income Tax Regulations (26 CFR Part 1) and Employment Tax Regulations (26 CFR Part 31) under sections 1402, 3121, and 3506 of the Internal Revenue Code of 1954. These amendments are proposed to conform the regulations to section 10 of Pub. L. 95–171 (91 Stat. 1356) which added section 3506 to the Internal Revenue Code of 1954. These amendments are to be issued under the authority contained in sections 3506 and 7805 of the Internal Revenue Code of 1954 (91 Stat. 1356, 26 U.S.C. 3506; 68A Stat. 917, 26 U.S.C. 7805).

Explanation of Provisions

These proposed regulations add a new § 31.3506–1 under section 3506, added to the Code by the Act of November 12, 1977. Section 31.3506–1 provides that, for purposes of employment taxes, a companion sitting placement service shall not be treated as the employer of its sitters if the placement service neither pays nor receives the salary or wages of the sitters. A "companion sitting placement service" is an individual, trust, estate, partnership, association, company, or corporation engaged in the trade or business of placing sitters with individuals who desire the sitters' services. "Sitters" are individuals who provide companionship, personal attendance, or household care services to children, the elderly, or the disabled.

A sitter who is deemed by § 31.3506–1 not to be the employee of a placement service is then deemed to be self-employed and becomes liable for the tax imposed by section 1401 on self-employment income earned after 1974. However, the general rule of § 31.3506–1 only operates to remove sitters and placement services from the employee-

employer relationship when, under §§ 31.3121 (d)–1 and 31.3121 (d)–2, that relationship would otherwise exist. Therefore, if a sitter is the employee of the individual for whom the sitting is performed rather than the employee of the placement service, that employee-employer relationship remains intact.

These proposed regulations also make conforming amendments to § § 1.1402 (c)–3 and 31.3121 (d)–1.

Comments and Requests for a Public Hearing

Before adopting these proposed regulations, consideration will be given to any written comments that are submitted (preferably six copies) to the Commissioner of Internal Revenue. All comments will be available for public inspection and copying. A pubiic hearing will be held upon written request to the Commissioner by any person who has submitted written comments. If a public hearing is held, notice of the time and place will be published in the **Federal Register.**

Drafting Information

The principal author of these proposed regulations was David B. Cubeta of the Legislation and Regulations Division of the Office of Chief Counsel, Internal Revenue Service. However, personnel from other offices of the Internal Revenue Service and Treasury Department participated in developing the regulation, both on matters of substance and style.

Proposed amendments to the regulations

The proposed amendments to 26 CFR Parts 1 and 31 are as follows:

Income Tax Regulations [26 CFR Part 1]

Paragraph 1. Paragraph (a) of § 1.1402 (c)–3 is amended by revising the parenthetical sentence at the end thereof to read as follows:

§ 1.1402 (c)–3 Employees.

(a) *General rule.* * * * (As to when an individual is an employee, see section 3121 (d) and (o) and section 3506 and the regulations under those sections in part 31 of this chapter (Employment Tax Regulations).)

* * * * *

Employment Tax Regulations [26 CFR Part 3]

Par. 2. Paragraph (2) (1) of § 31.3121 (d)–1 is amended by revising the first sentence thereof to read as follows:

§ 31.3121 (d)–1 Who are employees.

(a) *In general.* (1) Whether an individual is an employee with respect to services performed after 1954 is determined in accordance with section 3121 (d) and (o) and section 3506. * * * * * * * *

Par. 3. A new § 31.3506–1 is added immediately after § 31.3505–1. This new section reads as follows:

§ 31.3506–1 Companion sitting placement services.

(a) *Definitions*—(1) *Companion sitting placement service.* For purposes of this section, the term "companion sitting placement service" means a person (whether or not an individual) engaged in the trade or business of placing sitters with individuals who wish to avail themselves of the sitters' services.

(2) *Sitters.* For purposes of this section, the term "sitters" means individuals who furnish personal attendance, companionship, or household care services to children or to individuals who are eldely or disabled.

(b) *General rule.* For purposes of subtitle C of the Internal Revenue Code of 1954 (relating to employment taxes), a companion sitting placement service shall not be treated as the employer of its sitters, and the sitters shall not be treated as the employees of the placement service. However, the rule of the preceding sentence shall apply only if the companion sitting placement service neither pays nor receives (directly or through an agent) the salary or wages of the sitters, but is compensated, if at all, on a fee basis by the sitters or the individuals for whom the sitting is performed.

(c) *Individuals deemed self-employed.* Any individual who, by reason of this section, is deemed not to be the employee of a companion sitting placement service shall be deemed to be self-employed for purposes of the tax on self-employment income (see sections 1401–1403 and the regulations thereunder in part 1 of this chapter (Income Tax Regulations)).

(d) *Scope of rules.* The rules of this section operate only to remove sitters and companion sitting placement services from the employee-employer relationship when, §§ 31.3121(d)–1 and 31.3121(d)–2, that relationship would otherwise exist. Thus, if, under §§ 31.3121 (d)–1 and 31.3121 (d)–2, a sitter is considered to be the employee of the individual for whom the sitting is performed rather than the employee of the companion sitting placement service, this section has no effect upon that employee-employer relationship.

(e) *Examples.* The provisions of this section may be illustrated by the following examples:

Example (1). X is an agency that places babysitters with individuals who desire babysitting services. X furnishes all the sitters with an instruction manual regarding their conduct and appearance, requires them to file semimonthly reports, and determines the total fee to be charged the individual for whom the sitting is performed. Individuals who need a babysitter contact the agency, are informed of the charges, and, if agreement is reached, a sitter is sent to perform the services. The sitter collects the entire amount of the charges and remits a percentage to X as a fee for the placement. X is a companion sitting placement service within the meaning of paragraph (a)(1) of this section. Therefore, since the agency does not actually pay or receive the wages of the sitters, X is not treated as the employer of the sitters for purposes of this subtitle. The sitters are deemed to be self-employed for the purpose of the tax imposed by section 1401.

Example (2). Assume the same facts as in example (1), except that the individual for whom the sitting is performed pays to X the entire amount of the charges. X retains a percentage and pays the difference to the sitter. Since X actually receives and pays the wages of the sitters, X is the employer of the sitters.

Example (3). As a service to the community a neighborhood association maintains a list of individuals who are available to babysit. Parents in need of a sitter contact the association and are provided with a list of names and telephone numbers. The association charges no fee for the service and takes no action other than compiling the list of sitters and making it available to members of the community. Issues such as hours of work, amount of payment, and the method by which the services are performed are all resolved between the sitter and parent. A, a parent, used the list to hire B to sit for A's child. B performs the services four days a week in A's home and follows specific instructions given by A. Under § 31.3121(d)–1, B is the employee of A rather than the employee of the neighborhood association. Consequently, this section does not apply and B remains the employee of A.

(f) *Effective date.* This section shall apply to remuneration received after December 31, 1974.

Jerome Kurtz,

Commissioner of Internal Revenue.

[FR Doc. 79–16724 Filed 5–29–79; 8:45 am]

BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Parole Commission

[28 CFR Part 2]

Parole, Release, Supervision, and Recommitment of Prisoners, Youth Offenders, and Juvenile Delinquents

AGENCY: U.S. Parole Commission.

ACTION: Proposed rule.

SUMMARY: The Commission is proposing to adopt a rule that would govern decisions to advance a presumptive release date upon a finding of 'superior program achievement'. The proposal sets forth the customary maximum number of months by which a previously set presumptive date may be reduced. These limits are intended to produce incentives to constructive use of time by federal prisoners, without making parole essentially dependent upon completion of programs.

DATE: Comments must be received by July 25, 1979.

ADDRESS: Send comments to U.S. Parole Commission, 320 First Street, N.W., Washington, D.C. 20537; Attn: Research Unit

FOR FURTHER INFORMATION CONTACT: Barbara S. Meierhoefer, Research Unit, U.S. Parole Commission, telephone 202–724–3153.

SUPPLEMENTARY INFORMATION:

Background

The policy of the Commission at initial hearings is to set a presumptive release date within ten years, or to continue the prisoner for a ten year reconsideration hearing. for the vast majority of prisoners, this determination will be made within 120 days of incarceration, the exception being prisoners who have a minimum term of 10 years or more (who are initially heard shortly before their parole eligibility).

Subsequent to the initial hearings, prisoners are given interim statutory review hearings every 18 months (if the prisoner has a sentence of less than 7 years) or every 24 months (if the prisoner has a sentence of 7 years or more). The purpose of these interim hearings is "to consider any significant developments or changes in the prisoner's status that may have occurred subsequent to the initial hearing". See 28 C.F.R. § 2.14(a) and House Conference Rep. No. 94–838, 94th Cong., 2d sess. 19 (1976) at page 30.

At these interim hearings, the Commission may (1) order no change from the original presumptive date; (2) retard or rescind a presumptive date for reason of disciplinary infractions; or (3) advance a presumtive release date or the date of a ten year reconsideration hearing if there are "clearly exceptional circumstances".

In addition to interim hearings, any case in which a presumptive parole date has been set is reviewed on the record within six months of the date to ascertain whether or not the conditions of the presumptive date have been met (i.e., that the prisoner has a continued record of good conduct and a suitable release plan). At this review, the date may be approved; the date may be advanced or retarded for release planning; or the date may be retarded or rescission proceedings commenced for disciplinary infractions.

The Commission has recently adopted a policy to govern the rescinding or retarding of a presumptive date for disciplinary infractions. See 44 FR 3406 (January 16, 1979). The current proposal sets forth a policy which would structure the use of limited advancements of release dates in order to provide an incentive for program participation and achievement. It is seen as complementary to the recently adopted Rescission Guidelines.

Purpose of the Proposal

This proposal is essentially a statement of the Commission's position on the role which positive institutional program achievement should play in the release decision. It strikes a middle ground between the position that institutional performance should be the primary factor in deciding parole, and the position that it should play no role at all.

The Commission does not feel that institutional factors can or should play the major role in the release decision. Statutorily, the Commission is required to give major consideration to the seriousness of the offense committed and to the risk the offender presents to society. Because research studies have failed to find any consistent relationships between most institutional behavior and the likelihood that the prisoner will commit new crimes once released, the Commission bases this latter determination on those prior criminal record and personal stability items which have been found to relate to recidivism.

Despite popular beliefs, the Parole Commission has never given primary weight to "rehabilitation". That is, it has never keyed release dates to a finding that the prisoner's institutional behavior demonstrated a change likely to manifest itself in the future avoidance of crime. Moreover, substantial injustices would certainly be built into a system which relied primarily on rehabilitative judgements based on institutional performance. The Commission does not feel that an offender should be held in prison longer than required in light of the offense committed and the need for incapacitation simply to obtain coerced treatment. Consequently, the traditional factors of severity of the crime and the inmate's prior record remain paramount in the deliberations of the Commission.

However, this is not to say that 'nothing works' or that prison programs are without value. The Commission does not believe that parole release decisions can or should ignore a prisoner's behavior in prison.

Those who believe in complete determinancy believe that there should be no release mechanism whereby some recognition can be given to positive institutional program achievement. The Commission, however, feels it is imperative to strike a balance between complete determinancy and consideration of all aspects of an individual's behavior—both before and during his or her years of imprisonment.

It is not the Commission's intention that prisoners be coerced to participate in treatment programs which allow progress to be feigned in order to qualify for early release. However, imprisonment is an inherently coercive environment. The prisoner is not given a wide variety of choice as to how he or she may spend time. A corrections system which emphasizes institutional needs, cooperation, and passive acceptance of rules may make for submissive prisoners, but it is likely to be dysfunctional in producing good citizens. The Commission therefore believes that at least some incentive should be provided for constructive use of prison time, and that the limited advancement of release provides an appropriate incentive. Given this position, the next step is to differentiate between coercion and incentive, and to establish a rewards system according to objective standards.

The difference between coercion and incentive centers on whether the reward is so great that, in effect, the prisoner has no rational choice as to the behavior concerned, or whether the reward simply reinforces behavior in which the prisoner has chosen to become involved.

Empirical evidence from the field of social psychology indicates that, contrary to traditional stimulus-response theory, smaller rewards can actually be more effective in bringing about change than large rewards (or no rewards at all). Though first generated out of the cognitive dissonance framework [c.f., Festinger and Carlsmith (1959); Brehm and Cohen (1962)], the data have since been reinterpreted by Bem (1969) under self-attribution theory. Attribution theory holds that rewards serve to give a person information concerning the perceived causes of his or her own behavior. If behavior is attributed to an external cause (e.g., a very large reward) less real change will come about than if the behavior is attributed to internal motivation. This

provides the theoretical basis for the Commission's distinction between coercion and incentive.

Nature of the Proposed Changes

This proposed rule would establish an objective and purposefully limited reward system for superior program achievement. The particular scheme stems from recommendations by both Parole Commission staff, and from a recommendation by Bureau of Prisons staff during the recently held Guideline Revision Hearings (conducted by the Commission in connection with a prior proposed rule change to the Commission's release guidelines).

The proposal is constructed to that the limits to the reduction of presumptive dates are sufficiently strict as to avoid reintroducing indeterminancy and game playing while not altogether eliminating discretion to respond to extraordinary circumstances. Moreover, the Commission is cognizant that the legislative history of the PCRA specifically prohibits promises of parole being used to coerce participation in institutional programs.

It is to be noted that the customary maximum limit of the potential reduction is tied to the total length of time to be served as established by the presumptive date. This tie is important because the perceived size of the reward is of course relative. For example, a six month reduction in term likely would appear coercive if the prisoner was originally to serve twelve months, but would be an appropriate incentive for a prisoner with a fifty month presumptive date.

The proposal also requires sustained program achievement, and thus does not extend a possible reduction in term for those prisoners who will serve one year or less in custody. Note further than the time referred to on the left side of the proposed table is the total time to be served under the established presumptive date and not the time the prisoner actualy spends in programs.

This proposal does not attempt to define superior program achievement beyond specifying that such achievement may be demonstrated in areas such as educational, vocational, industry or counseling programs. The Commission feels that a further attempt at specificity at this time would be premature, given the variance in programs available at different institutions, and the infinite variation in prisoner backgrounds which could differentially effect their interests, needs and abilities. The Commission is planning to continue to explore this area and invites any comment or suggestions.

It is proposed to amend 28 CFR Part 2 by adding a new § 2.60 to read as follows:

§ 2.60 Clearly superior program achievement.

(a) Prisoners who demonstrate sustained, clearly superior program achievement (in addition to a good conduct record) over a period in custody of more than twelve months may be considered for a limited advancement of the presumptive date previously set according to the schedule below. Such reduction will normally be considered at an interim hearing or prerelease review. It is to be stressed that a clear conduct record is expected; this reduction applies only to cases with documented clearly superior program achievement.

(b) Superior program achievement may be demonstrated in areas such as educational, vocational, industry, or counseling programs, and is to be considered in light of the specifics of each case.

(c) Upon a finding of clearly superior program achievement, a previously set presumptive date may be advanced. The customary maximum permissible advancement during the prisoner's entire term shall be as set forth in the following schedule. It is the intent of the Commission that the customary maximum be exceeded only in the most clearly exceptional circumstances.

(d) Partial advancements may be given [for example, a case with clearly superior program achievement during only part of the term or a case with both clearly superior program achievement and minor disciplinary infraction(s)]. Advancements may be given at different times; however, the limits set forth in the following schedule shall apply to the total combined advancement.

(e) Schedule of Customary Maximum Reductions:

Original presumptive date	Permissible reduction
12 months or less	Not applicable
13–20 months	Up to 1 month
21–30 months	Up to 2 months
31–36 months	Up to 3 months
37–42 months	Up to 4 months
43–48 months	Up to 5 months
49–54 months	Up to 6 months
55–60 months	Up to 7 months
61–66 months	Up to 8 months
67–72 months	Up to 9 months
73–78 months	Up to 10 months
79–84 months	Up to 11 months
85–90 months	Up to 12 months
91+ months	Up to 13 months, plus up to one additional month for each six months or fraction thereof by which the original date exceeds 96 months.

The following conforming amendments would also be necessary:

I. § 2.14(a)(2)(ii), dealing with the advancing of a presumptive date following an interim hearing, is to be revised as follows:

§ 2.14 Subsequent proceedings.

(a) * * *

(2) * * *

(ii) Advance a presumptive release date, or the date of a ten-year reconsideration hearing. However, it shall be the policy of the Commission that once set, a presumptive release date or the date of a ten-year reconsideration hearing shall not be advanced except under clearly exceptional circumstances, *or for superior program achievement under the provisions of § 2.60.*

II. § 2.14(b)(2), dealing with permissible actions at the prerelease review is to be modified by the addition of the following subsection:

§ 2.14 Subsequent proceedings.

* * * * *

(b)(2) * * *

(iv) Advance the parole date for superior program achievement under the provisions of § 2.60

Dated: May 22, 1979.

Cecil C. McCall,

Chairman, U.S. Parole Commission.

[FR Doc. 79-16814 Filed 5-29-79; 8:45 am]

BILLING CODE 4410-01-M

ENVIRONMENTAL PROTECTION AGENCY

[40 CFR Part 201]

[FRL 1237-5]

Noise Emission Standards for Transportation Equipment Interstate Rail Carriers

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of Extension of Comment Period.

SUMMARY: This notice announces the extension of the public comment period regarding the proposed noise regulation for interstate rail carriers, FR Doc. 79-11707.

DATES: The close of comment period announced in 44 FR 22960, April 17, 1979 was Friday, June 1, 1979. The revised date is Monday, July 2, 1979.

ADDRESSES: Persons wishing to comment should submit them to:

Rail Carrier Docket ONAC 79-01, Office of Noise Abatement and Control (ANR-490), U.S. Environmental Protecion Agency, Washington, D.C. 20460.

Commenters may submit one copy to the docket, although five (5) copies would be appreciated. All information received in the form of comments or their attachments, which is not identified as proprietary in nature, will be open to public inspection and copying during normal business hours at:

Public Information Reference Unit, U.S. Environmental Protection Agency, Room 2922, 401 M Street, S.W., Washington, D.C. 20460.

To obtain copies of the proposed regulation and/or any background documents, contact:

Mr. Charles Mooney, Public Information Center (PM-215), U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460, Phone: (202) 755-0717.

Questions regarding the technical data or analyses (or any other information on which the proposed regulation is based) should be directed to:

Dr. William E. Roper, Standards and Regulations Division (ANR-490), U.S. Environmental Protection Agency, Washington, D.C. 20460, Phone: (703) 557-7747.

SUPPLEMENTARY INFORMATION: Pursuant to Section 17 of the Noise Control Act of 1972 (86 Stat. 1234), the Environmental Protection Agency published a notice of proposed rulemaking in the **Federal Register** of Tuesday, April 17, 1979 at pages 22960 to 22972, titled "Environmental Protection Agency [40 CFR Part 201] Noise Emission Standards for Transportation Equipment; Interstate Rail Carriers" and corrections to that notice of Monday April 30, 1979 at pages 25362 and 25363.

The close of comment period was stated in this proposed rulemaking as 4:30 pm, Friday, June 1, 1979. This period is now extended to 4:30 pm, Monday, July 2, 1979. This extension is justified by the complexity of the proposed rulemaking and is in response to requests by the Association of American Railroads, CONRAIL, and others to allow more time to fully participate in the rulemaking process.

Dated: May 24, 1979.

Edward F. Tuerk,

Acting Assistant Administrator for Air, Noise and Radiation.

[FR Doc. 79-16811 Filed 5-25-79; 1:00 pm]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[47 CFR Part 73]

[BC Docket No. 78-92; RM-2979; RM-3086]

FM Broadcast Station in Rhinelander, Washburn and Wausau, Wisconsin; Order to Show Cause

AGENCY: Federal Communications Commission.

ACTION: Order to Show Cause.

SUMMARY: This action proposes to modify the license of Station WRHN, Rhinelander, Wisconsin, to specify FM Channel 291 in lieu of Channel 300 on which it now operates and requests a response from the licensee. This Order supersedes a previous action which proposes a different channel for modification purposes. The filing dates for the other aspects of the proceeding have passed.

DATES: Non-Applicable.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp, Broadcast Bureau (202-632-7792).

SUPPLEMENTARY INFORMATION:

Adopted: May 17, 1979.
Released: May 18, 1979.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Rhinelander, Washburn,[1] and Wausau, Wisconsin), BC Docket No. 78-92, RM-2979, RM-3086. See 43 FR 21701, May 1, 1978.

1. The Commission has under consideration the *Notice of Proposed Rule Making and Order to Show Cause,* adopted March 7, 1978, 43 FR 10944, which proposed to reassign Channel 300 from Rhinelander, Wisconsin, to Wausau, Wisconsin, and to substitute Channel 291 in its place at Rhinelander. Subsequently, a petition was submitted by Silver Birch Broadcasting Co. to assign Channel 290 to Washburn, Wisconsin. This proposal conflicts with the proposed assignment of Channel 291 to Rhinelander, Wisconsin, and has been accepted as a counterproposal.[2]

2. Oneida Broadcasting Corp., licensee of FM Station WRHN (Channel 300), Rhinelander, Wisconsin, was previously issued a show cause *Order* in order to permit a modification of its channel of operation to Channel 248 at Rhinelander.[3] It refused to respond to the show cause *Order* for two reasons. First, it asserted that the Washburn counterproposal had injected an element of uncertainty into the proceeding; thus, until the Commission chooses one of several alternatives it now has available, it requested that it not be required to respond to our modification proposal. Secondly, it noted that an application for Channel 248 at Rhinelander has already been accepted, and a cut-off date for competing applications has expired; it alleged that in view of the acceptance of an application on Channel 248 the *Order to Show Cause* is mooted.

3. While we make no comment here on the alternative proposals for Channels 290 and 291 now under consideration, we shall amend our show cause *Order.* We agree that in light of subsequent developments we should not pursue the Channel 248 modification proposal. In order to consider the other possible modification, we are issuing this *Order to Show Cause* which will enable Oneida Broadcasting to respond to a proposed modification of its channel of operation to Channel 291. We expect Oneida to respond to this *Order* despite the fact that, in view of the pending counterproposal, Channel 291 may not ultimately be assigned to Rhinelander. We would need to consider Oneida's comments on the proposed modification herein before acting on any proposals. Refusal of Oneida to respond may result in a waiver of its rights in this matter. See paragraph 5, *infra.* The course of action suggested by Oneida would only delay matters by interposing an unnecessary additional rule making step.

4. Accordingly, it is ordered, That pursuant to Section 316(a) of the Communications Act of 1934, as amended, Oneida Broadcasting Co., licensee of FM Station WRHN, Rhinelander, Wisconsin, shall show cause why its license should not be modified to specify operation on Channel 291 in lieu of Channel 300 if the Commission finds it in the public interest to substitute Channel 291 for Channel 300 at Rhinelander and to modify the license of Station WRHN, as proposed. Oneida Broadcasting Co. would be entitled to reimbursement for the change in accordance with established Commission policy.

5. Pursuant to § 1.87 of the Commission's rules and regulations, the licensee of Station WRHN may, not later then July 16, 1979, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Oneida Broadcasting Corp. may, not later than July 16, 1979, file a written statement

[1] This community has been added to the caption.
[2] Public Notice was given on April 4, 1978.
[3] Channel 248 was assigned in 1969 but has remained vacant.

showing with particularity why its license should not be modified or not so modified as proposed in the *Order to Show Cause.* In this case, the Commission may call on Oneida Broadcasting Corp. to furnish additional information, designate the matter for hearing, or issue without further proceeding an order modifying the license as provided in the *Order to Show Cause.* If the right to request a hearing is waived and no written statement is filed by the date referred to above, Oneida Broadcasting Company is deemed to consent to the modification as proposed in the *Order to Show Cause* and a final order will be issued by the Commission if the channel changes referred to in this *Order* are found to be in the public interest.

6. It is further ordered, That the Secretary of the Commission shall send a copy of this *Order* by Certified Mail, Return Receipt Requested, to Oneida Broadcasting Corp., Radio Station WRHN, P.O. Box 738, Rhinelander, Wisconsin 54501, the party to whom the *Order to Show Cause* is directed.

Federal Communications Commission.

Philip L. Verveer,

Chief, Broadcast Bureau.

[FR Doc. 79-16715 Filed 5-29-79; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 44, No. 105
Wednesday, May 30, 1979

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.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Protection of Historic and Cultural Properties; Public Information Meetings

Notice is hereby given pursuant to § 800.6(b)(3) of the Council,s regulations, "Protection of Historic and Cultural Properties" (36 CFR Part 800), that on June 12, 1979, at 7:30 p.m., a public information meeting will be held at the City Council Chambers, City Hall, 1300 Perdido Street, New Orleans, Louisiana, 70112. The meeting is being called by the Executive Director of the Council in accordance with Section 800.6(b)(3) of the Council's regulations. The purpose of the meeting is to provide an opportunity for representatives of national, State, and local units of government, representatives of public and private organizations, and interested ctitzens to receive information and express their views concerning the Canal Place Development, proposed to be assisted by the City of New Orleans with an Urban Development Action Grant from the Department of Housing and Urban Development. The project will adversely affect the Vieux Carre Historic District, a property included in the National Register of Historic Places. Consideration will be given to the undertaking, its effects on National Register properties, and alternate courses of action that could avoid, mitigate, or minimize any adverse effects on such properties.

The following is a summary of the agenda of the meetings:

I. An explanation of the procedures and purpose of the meeting by a representative of the Executive Director of the Council.

II. A description of the undertaking and an evaluation of its effects on the property by the City of New Orleans.

III. A statement by the Louisiana State Historic Preservation Officer.

IV. Statements from local officicals, private organizations, and the public on the effects of the undertaking on the property.

V. A general question period.

Speakers should limit their statements to 5 minutes. Written statements in furtherance of oral remarks will be accepted by the Council at the time of the meeting. Additional information regarding the meeting is available from the Executive Director, Advisory Council on Historic Preservation, 1522 K Street, NW., Washington, D.C. 20005, 202–254–3495.

Robert M. Utley,

Deputy Executive Director.

FR Doc. 79–16897 Filed 5–29–79; 8:45 am]

BILLING CODE 4310–10–M

DEPARTMENT OF AGRICULTURE

Office of Transportation

Rural Transportation Advisory Task Force Meeting

AGENCY: Office of Transportation, U.S. Department of Agriculture.

ACTION: Notice of Public Meeting of the Rural Transportation Advisory Task Force.

DATES: June 6, 1979—9:00 a.m.; June 7, 1979—9:00 a.m.

ADDRESS: June 6, 1979, Room 5221 South Building, USDA, Washington, D.C.; June 7, 1979, Room 3056 South Building, USDA, Washington, D.C.

SUMMARY: At the completion of its work on January 1, 1980, the Task Force will report on methods for enhancing the economical and efficient movement of agricultural commodities (including forest products) and agricultural inputs and recommend approaches for establishing a national agricultural transportation policy and for identifying impediments to a railroad transportation system adequate for the needs of agriculture. The Task Force formed three subcommittees on policy and essential transportation needs of agriculture; railroad problems of agriculture; and highway, waterway, and air transportation problems of agriculture. At its last meeting, the Task Force finalized the nature of an interim report including the identification of critical agricultural transportation issues. The purpose of this meeting is to develop and establish public hearing procedures and approve the publication of a preliminary report. The public is invited to attend and observe the meeting of the Task Force.

FOR FURTHER INFORMATION CONTACT: Dr. Robert J. Tosterud, Office of Transportation, U.S. Department of Agriculture, Washington, D.C. 20250, Phone: (202) 447–7690.

Dated: May 22, 1979.

Ron Schrader,

Acting Director, Office of Transportation.

[FR Doc. 79–16732 Filed 5–29–79; 8:45 am]

BILLING CODE 3410–02–M

Science and Education Administration

National Arboretum Advisory Council

In accordance with the Federal Advisory Committee Act of October 6, 1972 (Public Law 92–463, 86 Stat. 770–776), the Science and Education Administration announces the following meeting:

NAME: National Arboretum Advisory Council

TIME: June 13, 1979—Council and Arboretum Staff 9:00 a.m.
June 14, 1979—Council and Arboretum Staff 9:00 a.m.

PLACE: Information Center, National Arboretum, Washington, D.C.
June 13—Council and Staff; Information Center
June 14—Council and Staff; Information Center (a.m.) Council and Staff; Auditorium (p.m.)

TYPE OF MEETING: Open to the public. Persons may participate as time and space permit.

COMMENTS; Written statements may be filed with the Council before or after the meeting with the contact person listed below. Names of Council members may be obtained from contact person.

PURPOSE: To review progress of National Arboretum relating to Congressional mandate of research and education concerning trees and plant life. The Council submits its recommendations to the Secretary of Agriculture.

CONTACT PERSON FOR AGENDA AND OTHER INFORMATION: Executive Secretary of the Council: Hugo O.

Graumann (202) 447–3961, Science and Education Administration, Agricultural Research, U.S. Department of Agriculture, Washington, D.C. 20250.

Done at Washington, D.C. this 23rd day of May, 1979.

Anson R. Bertrand,

Director, Science and Education.

[FR Doc. 79-16805 Filed 5-29-79; 8:45 am]

BILLING CODE 3410-03-M

ARMS CONTROL AND DISARMAMENT AGENCY

General Advisory Committee Meeting

Notice is hereby given in accordance with Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. I, (the Act) and paragraph 8b of Office of Management and Budget Circular No. A–63 (Revised March 27, 1974) (the OMB Circular), that a meeting of the General Advisory Committee (GAC) is scheduled to be held on June 14, 1979 from 9 a.m. to 6 p.m. and on June 15, 1979 from 9 a.m. to 6 p.m. at 2201 C Street, NW, Washington, D.C., in Room 7516.

The purpose of the meeting is for the GAC to receive briefings and hold discussions concerning arms control and related issues which will involve national security matters classified in accordance with Executive Order 12065, dated June 28, 1978.

The meeting will be closed to the public in accordance with the determination of May 17, 1979 made by the Director of the U.S. Arms Control and Disarmament Agency pursuant to Section 10(d) of the Act and paragraph 8d(2) of the OMB Circular that the meeting will be concerned with matters of the type described in 5 U.S.C. 552(b)(1). This determination was made pursuant to a delegation of authority from the Office of Management and Budget dated June 25, 1973, issued under the authority of Executive Order 11686 dated October 7, 1972 and continued by Executive Order 11769 dated February 21, 1974.

Dated: May 25, 1979.

Charles R. Oleszycki,

Advisory Committee Management Officer.

[FR Doc. 79-16917 Filed 5-29-79; 8:45 am]

BILLING CODE 6820-32-M

CIVIL AERONAUTICS BOARD

Denver-Fresno and Sacramento and Fresno-Sacramento

Correction

In FR Doc. 79–16142, published at page 29940, on Wednesday, May 23, 1979, in the "ACTION" line, "Notice of Order 79–5–113" should be corrected to read "Notice of Order 79–5–133".

BILLING CODE 1505-01-M

CIVIL RIGHTS COMMISSION

Illinois Advisory Committee; Agenda and Notice of Open Meeting

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a planning meeting of the Illinois Advisory Committee (SAC) of the Commission will convene at 5 p.m. and will end at 7 p.m., on June 24, 1979, at St. Paul Baptist Church, 15th and Bond Avenue, E. St. Louis, Illinois 62207; also will convene at 9 a.m. and will end at 12 Noon, on June 25, 1979, at the Drury Inn, 552 Ramada Boulevard, Collinsville, Illinois 62234.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Midwestern Regional Office of the Commission, 230 South Dearborn, 32nd Floor, Chicago, Illinois 60604.

The purpose of this meeting is to meet with community people to gather information on civil issues on June 24, 1979; and discus programs for FY 80–81 on June 25, 1979.

This meeting will be conducted pursuant to the provisions of the Rules and Regulations of the Commission.

Dated at Washington, D.C., May 24, 1979.

John I. Binkley,

Advisory Committee Management Officer.

[FR Doc. 79-16797 Filed 5-29-79; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Economic Development Administration

Petitions by Eleven Producing Firms for Determinations of Eligibility To Apply for Trade Adjustment Assistance

Petitions have been accepted for filing from eleven firms: (1) ABC Industries, Inc., 827 East Locust Street, Milwaukee, Wisconsin 53212, a producer of golf and other sporting goods accessories, tote bags, garment bags and sportswear (accepted May 14, 1979); (2) Snowbird, Inc., 12 Broadway, Denver, Colorado 80203, a producer of down jackerts and vests, other outerwear and shirts (accepted May 16, 1979); (3) Alta Products Corporation, Alta Road, Wilkes, Barre, Pennsylvania 18702, a producer of men's and women's footwear (accepted May 17, 1979); (4) Cooper Sportswear Manufacturing Company, Inc., 720 Frelinghuysen Avenue, Newark, New Jersey 17114, a producer of men's, women's and boys' jackets (accepted May 17, 1979); (5) Century Sportswear, Inc., 428 North 13th Street, Philadelphia, Pennsylvania 19123, a producer of women's slacks (accepted May 18, 1979); (6) Wyoming Valley Garmet Company, Inc., 237 Old River Road, Wilkes-Barre, Pennsylvania 18702, a producer of men's trousers (accepted May 18, 1979); (7) Butler Furniture Industries, Inc., 4th and Polk Streets, Carrollton, Kentucky 41008, a producer of wood tables and chairs (accepted May 18, 1979); (8) G. & L. Manufacturing Company, Inc., 109 Kingston Street, Boston, Massachusetts 02111, a producer of women's dresses (accepted May 18, 1979); (9) Southeastern Mining Company, 149 Farlow Drive, Concord, Tennessee 37720, a producer of coal (accepted May 22, 1979); (10) Eagle Clothes, Inc., 1290 Avenue of the Americas, New York, New York 10019, a producer of men's suits, sportcoats and slacks (accepted May 22, 1979); and (11) Moundville Foundry, Inc., P. O. Box 595, Moundville, Alabama 35474, a producer of iron and aluminum castings (accepted May 22, 1979).

The petitions were submitted pursuant to Section 251 of the Trade Act of 1974 (P.L. 93–618) and Section 315.23 of the Adjustment Assistance Regulations for Firms and communities (13 CFR Part 315).

Consequently, the United States Department of Commerce has initiated separate investigations to determine whether increased imports into the United States of articles like or directly competitive with those produced by each firm contributed importantly to total or partial separation of the firm's workers, or threat thereof, and to a decrease in sales or production of each petitioning firm.

Any party having a substantial interest in the proceedings may request a public hearing on the matter. A request for a hearing must be received by the Chief, Trade Act Certification Division, Economic Development Administration, U.S. Department of Commerce, Washington, D.C. 20230, no later than the close of business of the tenth calendar day following the publication of this notice.

Jack W. Osburn, Jr.,

Chief, Trade Act Certification Division, Office of Eligibility and Industry Studies.

[FR Doc. 79-16739 Filed 5-29-79; 8:45 am]

BILLING CODE 3510-24-M

Industry and Trade Administration

Exporters' Textile Advisory Committee; Public Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, as amended, 5 U.S.C. App. (1976) notice is hereby given that a meeting of the Exporters' Textile Advisory Committee will be held at 10:00 A.M., on June 27, 1979, in Room 3817, U.S. Department of Commerce, Main Commerce Building, 14th and Constitution Avenue, N.W., Washington, D.C. 20230.

The Committee, which is comprised of 30 members involved in textile and apparel exporting, advises Department officials concerning ways of increasing U.S. exports of textile and apparel products.

The agenda for the meeting is as follows:

1. Review of Export Data
2. Report on Conditions in the Export Market
3. Recent Foreign Restrictions Affecting Textiles
4. Other Business.

A limited number of seats will be available to the public on a first come basis. The public may file written statements with the Committee before or after the meeting. Oral statements may be presented at the end of the meeting to the extent time is available.

Copies of the minutes of the meeting will be made available on written request addressed to the IRA Freedom of Information Officer, Freedom of Information Control Desk, Room 3100, U.S. Department of Commerce, Washington, D.C. 20230.

Further information concerning the Committee may be obtained from Arthur Garel, Director, Office of Textiles, Main Commerce Building, U.S. Department of Commerce, Washington, D.C. 20230, telephone 202–377–5078.

Dated: May 16, 1979.

Robert E. Shepherd,

Deputy Assistant Secretary for Domestic Business Development.

[FR Doc. 79-16740 Filed 5-29-79; 8:45 am]

BILLING CODE 3510-25-M

National Oceanic and Atmospheric Administration

Pacific Fishery Management Council's Groundfish Advisory Subpanel; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA

SUMMARY: The Pacific Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), has established a Groundfish Advisory Subpanel (AP) which will meet to review and comment on the fourth draft of the Groundfish Fishery Management Plan (FMP).

DATES: The meeting will convene on Wednesday, July 11, 1979, at 1 p.m., reconvene on Thursday, July 12, 1979, at 8 a.m., adjourning at 5 p.m. on both days. The meeting is open to the public.

ADDRESS: The meeting will take place at the Travel Lodge, 9750 Airport Boulevard, Los Angeles, California 90045.

FOR FURTHER INFORMATION CONTACT: Pacific Fishery Management Council, 526 S.W. Mill Street, Second Floor, Portland, Oregon 97201, Telephone: (503) 221–6352.

Dated: May 24, 1979.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 79-16815 Filed 5-29-79; 8:45 am]

BILLING CODE 3510-22-M

DEPARTMENT OF DEFENSE

Department of the Army

Acquisition of Maneuver Area II, Fort Bliss, Tex.; Filing of Environmental Impact Statement

In compliance with the National Environmental Policy Act of 1969, the Army, on May 23, 1979, provided the Environmental Protection Agency a final Environmental Impact Statement (FEIS) concerning the proposed acquisition of lands comprising the training area known as Maneuver Area II at Fort Bliss, Texas, which area has been and is currently being leased by the Army.

Copies of the draft Environmental Impact Statement (DEIS) which was filed with the Enviromental Protection Agency on November 17, 1978 were sent to interested organizations in addition to Federal, state and local agencies. Public comments were received through January 2, 1979. All comments received have been addressed in the FEIS.

Copies of the FEIS have been forwarded to organizations that commented on the DEIS in addition to Federal, state, and local agencies. Interested organizations or individuals may obtain copies from the Commander, U.S. Army Air Defense Center and Fort Bliss, ATTN: ATZC–FEE, Fort Bliss, Texas 79916.

In the Washington area, inspection copies may be seen, during normal duty hours, in the Environmental Office, Office of Assistant Chief of Engineers, Room 1E676, Pentagon, Washington, D.C. 20310, telephone: 202–694–3434.

Daniel R. Voss,

Acting Deputy for Environment, Safety and Occupational Health, OASA (IL&FM).

[FR Doc. 79-16693 Filed 5-29-79; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Defense Science Board Summer Study Panel on Reducing Unit Cost of Equipment; Advisory Committee Meeting

The Defense Science Board Summer Study Panel on Reducing Unit Cost of Equipment will meet in closed session on 27 June 1979 in the Pentagon, Arlington, Virginia.

The mission of the Defense Science Board is to advise the Secretary of Defense and the Under Secretary of Defense for Research and Engineering on scientific and technical matters as they affect the perceived needs of the Department of Defense.

A meeting has been scheduled for 27 June 1979 to organize the Defense Science Board Panel on Reducing Unit Cost of Equipment to review weapon requirements and cost history.

In accordance with 5 U.S.C. App. I § 10(d) (1976), it has been determined that this Defense Science Board Summer Study Panel meeting concerns matters listed in 5 U.S.C. § 552b(c)(1) (1976), and that accordingly this meeting will be closed to the public.

H. E. Lofdahl,

Director, Correspondence and Directives, Washington Headquarters Service, Department of Defense.

May 24, 1979.

[FR Doc. 79-16800 Filed 5-29-79; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Meeting

In accordance with Section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (Pub. L. 94–163), notice is hereby provided of the following meeting:

A meeting of the Industry Supply Advisory Group (ISAG) of the International Energy Agency (IEA) will

be held during the period June 5–8, 1979, at the offices of VEBA–OEL A.G., Karl Arnold Platz 3, 4000 Dusseldorf, West Germany, beginning at 9:30 a.m. on June 5. The purpose of this meeting is to permit attendance by representatives of members of the ISAG at an ISAG Training Seminar. The agenda is as follows:

1. Opening remarks.
2. ISAG Training Seminar.
   A. Background on the IEA.
   B. The emergency sharing system.
   C. Implementation of allocation.
   D. Specific responsibilities of the Emergency Management Organization.
   E. Legal clearances and documentation.
   F. Activities in an oil crisis.
   G. Questionnaire "A" and "B" checking.
   H. Supply shortfall allocation right/obligation, supply right, ERDO.
   I. Voluntary offer submission.
   J. Voluntary offer selection and allocation.
   K. Analysis work.
3. Review draft ISAG/Secretariat Operations Manual.
4. Activation/composition of ISAG if IEA emergency allocation system is activated in the near term.
5. Future work program.

As provided in section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, this meeting will not be open to the public.

Issued in Washington, D.C., May 21, 1979.

Robert C. Goodwin, Jr.,

Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 79-16711 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

National Petroleum Council, Task Groups of the NPC Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities; Meetings

Notice is hereby given that two task groups of the Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will meet in June 1979. The National Petroleum Council was established to provide advice, information, and recommendations to the Secretary of Energy on matters relating to oil and natural gas or the oil and natural gas industries. The Committee on U.S. Petroleum Inventories, and Storage and Transportation Capacities will analyze the potential constraints in these areas which may inhibit future production and will report is findings to the national Petroleum council. Its analysis and findings will be based on information and data to be gathered by the various task groups. The two task groups scheduling meetings are the Petroleum Pipeline Task Group and the Inventory and Storage Task Group. The time, location and agenda of each task group meeting follows:

The sixth meeting of the Petroleum Pipeline Task Group will be on Monday, June 4, 1979, starting at 8:30 a.m., in the National Petroleum Council Conference Room, 1625 K Street, N.W., Washington, D.C. The tentative agenda for the meeting follows:

1. Introductory remarks by G. D. Kirk, Chairman.
2. Remarks by Robert G. Bidwell, Jr., Government Cochairman.
3. Review of petroleum pipeline data.
4. Review of glossary and description of petroleum pipeline operations.
5. Discussion of timetable for completion of the task group report.
6. Discussion of any other matters pertinent to the overall assignment of the task group.

The eighth meeting of the inventory and Storage Task Group will be on Thursday, June 7, 1979, starting at 10:30 a.m., on the Third Floor, Room Nine, Standard Oil Company (Indiana), 200 East Randolph Drive, Chicago, Illinois. The tentative agenda for the meeting follows:

1. Introductory remarks by William P. Madar, Chairman.
2. Remarks by Earl Ellerbrake, Government Cochairman.
3. Review of inventory and storage data.
4. Review of description of storage and inventories.
5. Discussion of timetable for completion of the task group report.
6. Discussion of any other matters pertinent to the overall assignment of the task group.

The meetings are open to the public. The chairman of the task group is empowered to conduct the meetings in a fashion that will, in his judgement, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the task group will be permitted to do so, either before or after the meetings. Members of the public who wish to make oral statements should inform Mario Cardullo, Office of Resource Applications, 202–633–8828, prior to the meeting and reasonable provision will be made for their appearance on the agenda.

Summary minutes of the meetings will be available for public review at the Freedom of Information Public Reading Room, Room GA–152, Department of Energy, Forrestal Building, 1000 Independence Avenue, S.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued at Washington, D.C. on May 18, 1979.

George S. McIsaac,

Assistant Secretary for Resource Applications.

May 18, 1979.

[FR Doc. 79-16741 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

Advisory Committee on Revision of Rules of Practice and Procedure; Meeting

May 24, 1979

Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770), notice is hereby given that the Advisory Committee on Revision of Rules of Practice and Procedure will meet on Friday, June 8, 1979 from 2 p.m. to 5 p.m., at the Federal Energy Regulatory Commission, 825 N. Capitol St., N.E., Hearing Room A, Washington, D.C.

The purpose of the meeting is to consider recommendations of the Subcommittee on *Ex Parte* and Separation of Functions respecting revision of the Commission's *ex parte* and separation of functions regulations.

The meeting is open to the public. A transcript of the meeting will be available for public review and copying at FERC's Office of Public Information, Room 1000, 825 N. Capitol St., N.E., between the hours of 8:30 a.m. and 5:00 p.m. Monday through Friday except Federal Holidays. In addition, any person may purchase a copy of the transcript from the reporter.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16747 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2146, (Weiss Development)]

Alabama Power Co; Notice of Application for Change in Land Rights

May 21, 1979.

Take notice that on February 23, 1979, an application was filed by the Alabama Power Company (correspondence to: Mr. R. P. McDonald, vice President, Alabama Power Company, P. O. Box 2641, Birmingham, Alabama 35291) for authorization to grant an easement to the Cherokee County Water Authority (Water Authority) for the installation of an extension to its present water distribution system, affecting lands within the flood easement of the Weiss

Development of the Coosa River Project No. 2146 in Cherokee County, Alabama.

Applicant proposes to grant to the Water Authority an easement of varying width over flood easement lands (between elevations 564' and 573') for the installation of water lines, from three to eight inches in diameter, to be placed in existing roadway right-of-way easements in the vicinity of various communities surrounding the southwesten portion of Weiss Reservoir and the Weiss Foreby Reservoir. The proposed water line construction would affect project lands in Sections 1 and 20, T. 10 S., R. 8 E.; Sections 28, 29, 30, and 34, T. 9 S., R. 9 E; and Sections 5 and 6, T. 10 S., R. 9 E., Cherokee County, Alabama. These project lands lie in and adjacent to the Towns of Blue Pond, Hopewell, Slackland, and Centre.

The applicant states that this extension would utilize the Authority's present water-supply source, a spring at the base of Lookout Mountain, and would connect to the water distribution system of the Town of Centre, which will serve as a back-up to the present source.

The application states that the expanded water system would enhance community growth by insuring an adequate supply of high quality water.

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 July 2, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16748 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER76-588]

Central Kansas Power Co.; Notice of Filing

May 23, 1979.

Take notice that Central Kansas Power Company on March 14, 1979, tendered for filing tariff sheets reflecting certain adjustments to Rate Schedule SEC-1-BASE and SEC-1-EXCESS in compliance with the Commission Order Affirming Initial Decision issued December 28, 1978, and the Commission Order Granting Rehearing in Part and Modifying Prior Order issued February 26, 1979.

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 St., 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 June 8, 1979. 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. 79-16749 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No ER79-376]

Central Telephone & Utilities Corp.; Notice of filing

May 23, 1979.

The filing Company submits the following:

Take notice that Central Telephone & Utilities Corporation (CTU) on May 17, 1979, tendered for filing contracts with twelve Kansas Municipalities which CTU serves on an all requirements basis as Wholesale Electric customers.

The contracts as mentioned above are:

City	Date of contract	Term	FERC schedule designation
Cawker City, Kansas	July 5, 1978	10 years	61
Coates, Kansas	Oct. 9, 1978	10 years	62
Glen Elder, Kansas	July 3, 1978	10 years	63
Holyrood, Kansas	Sept. 5, 1978	10 years	64
Isabel, Kansas	Sept. 6, 1978	10 years	65
Jamestown, Kansas	July 20, 1978	10 years	66
Lucas, Kansas	July 5, 1978	10 years	67
Luray, Kansas	Dec. 11, 1978	5 years	68
Mankato, Kansas	July 6, 1978	10 years	69
Tipton, Kansas	July 3, 1978	10 years	71
Glasco, Kansas	July 11, 1978	10 years	72
Cimarron, Kansas	Aug. 17, 1978	5 years	73

Copies of the Filings were served upon the twelve Municipalities involved and the Utilities Division of the Kansas State Corporation 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 Capital Street, N.E., Washington, D.C. 20426, in accordance with paragraph 1.8 and 1.10 of the Commission's Rules and Practice of Procedure (18 CFR 1.8, 1.10). Such petitions or protests should be filed on or before, June 15, 1979. 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. 79-16750 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER78-375]

Duquesne Light Co.; Notice of Compliance Filing

May 23, 1979.

Take notice that on May 14, 1979, Duquesne Light Company tendered for filing in compliance with the Commission's letter dated April 4, 1979, revenue calculations showing monthly

billing determinants and revenues under prior, present and settlement rates; and a calculation of refund amounts to the Borough of Pircairn for the billing period September, 1978 to March, 1979.

Any person desiring to be heard or to protest said filing should file comments or protests with the Federal Energy Regulatory Commission, 825 North Capitol St., N.W., Washington, D.C. 20426, in accordance with the Commission's Rules of Practice and Procedure (18 CFR 1.8, 1.10). All such comments or protests should be filed on or before June 8, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-16751 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-299]

El Paso Natural Gas Co.; Notice of Application

May 21, 1979.

Take notice that on May 7, 1979, El Paso Natural Gas Company (El Paso), P.O. Box 1492, El Paso, Texas 79978, filed in Docket No. CP79-299 an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon certain existing facilities, all as more fully set forth in the application which is on file with the Commission and open for public inspection.

El Paso states that it would abandon (1) seven gas purchase meter stations, (2) one mainline right-of-way tap and one gas sales meter station , (3) two segments approximately 0.67 and 7.31 miles in length of the 10¾-inch O.D. Tucson-Phoenix loop pipeline, with appurtenances and , (4) the related natural gas services heretofore rendered by means of such facilities.

El Paso states that circumstances have eliminated the need for the continued operation of the said facilities and the continuance of the services.

The application indicates the following specific descriptions of the proposed facilities to be abandoned:

Gas Purchase facilities:

(1) CleveRock Energy Corporation, Pedco State No. 1 wellhead meter station: one standard 4½-inch O.D. orifice-type meter station, with appurtenances, located at the Pedco State No. 1 well in Lea County, New Mexico.

(2) Dorchester Exploration, Inc.-Wilson State No. 1 wellhead meter station: one standard 4½-inch orifice-type meter station, with appurtenances, located at the Wilson State No. 1 well in Lea County, New Mexico.

(3) EPNG-Northern Natural No. 1 meter station: one standard 12¾-inch O.D. orifice-type meter station, with appurtenances, located on El Paso's existing 14-inch O.D. Fullerton pipeline, in Lea County, New Mexico.

(4) EPNG-Northern Natural No. 2 meter station: one standard 12¾-inch orifice-type meter station, with appurtenances, located on El Paso's existing 20-inch O.D. Trunk "M" pipeline in Lea County, New Mexico.

(5) EPNG-Northern Natural No. 3 meter station: one standard 8⅝-inch O.D. orifice-type meter station, with appurtenances, located on El Paso's existing 30-inch O.D. Trunk "O" pipeline in Lea County, New Mexico.

(6) Phillips Petroleum Company-Drag "B" No. 1 wellhead meter station and pipeline: approximately 0.06 mile of 2⅜-inch O.D. pipeline, with appurtenances, including a standard 6⅝-inch O.D. orifice-type meter station, located at the Drag "B" No. 1 well in Eddy County, New Mexico.

(7) Troporo Oil and Gas Company-Cabana No. 1 wellhead meter station: one standard 4½-inch O.D. orifice-type meter station, with appurtenances, located at the Cabana No. 1 well, Eddy County, New Mexico.

Gas Sales facilities:

(1) Eldon Thude Tap: a one-inch O.D. tap and valve assembly, with appurtenances, located on El Paso's 16-inch O.D. pipeline extending from the 20-inch O.D. Maricopa County pipeline to Ocotillo Power Plant in Maricopa County, Arizona.

(2) Field Sales No. 1 meter station: two standard 6⅝-inch O.D. orifice-type meter runs, with appurtenances, located on El Paso's existing 12¾-inch O.D. Warren-Eunice second loop pipeline, located in Lea County, New Mexico.

Gas Transmission facilities:

(1) 0.67-mile segment of the 10¾-inch O.D. Tucson-Phoenix loop pipeline, with appurtenances, in Pima County, Arizona.

(2) 7.31-mile segment of the 10¾-inch O.D. Tucson-Phoenix bypass loop pipeline, with appurtenances, in Pima County, Arizona.

El Paso states that it proposes to remove and place in stock, the said facilities except for the 7.31 miles of 10¾-inch O.D. Tucson-Phoenix bypass loop pipeline, which would be abandoned in place.

Total estimated cost of the proposed abandonments is $19,671, it is asserted.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1979, 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 Section 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 El Paso to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16752 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-378]

Florida Power & Light Co.; Notice of Filing of Interchange Contract

May 23, 1979.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on May 18, 1979 tendered for filing an agreement, executed by both parties, entitled "Contract for Interchange Service

Between Florida Power & Light Company and Orlando Utilities Commission." FPL states that the contract supersedes the existing contracts with Orlando Utilities Commission (OUC) and designated FPL Rate Schedule No. 4, as supplemented. FPL requests an effective date for this contract of June 1, 1979. According to FPL, a copy of this filing was served upon OUC.

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 §§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 June 15, 1979. 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. 79-16753 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-377]

Florida Power & Light Co.; Notice of Change in Contract Demand

May 23, 1979.

The filing Company submits the following:

Take notice that on May 18, 1979 Florida Power & Light Company (FPL) tendered for filing a revised Exhibit A which provides for a new contract demand for the City of Homestead, Florida (Homestead). The proposed effective date for the contract demand for Homestead is June 1, 1979.

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 §§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 June 15, 1979. 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 available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-16754 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-371]

Florida Power & Light Co.; Notice of Filing of Revised Capacity Charge to Interchange Contract

May 23, 1979.

The filing Company submits the following:

Take notice that Florida Power & Light Company (FPL) on May 15, 1979 tendered for filing an updated capacity charge for services under Service Schedule B of the Contract for Interchange Service Between City of Gainesville, Florida and Florida Power & Light Company. FPL states that the revised capacity charge has been calculated in accordance with the provisions of Service Schedule B and represents an updating of the currently effective capacity charge to reflect more current costs. FPL requests an effective date for this revised capacity charge of May 1, 1979. According to FPL, a copy of this filing was served upon Gainesville.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal 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 June 11, 1979. 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. 79-16755 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP79-2]

Michigan Wisconsin Pipe Line Co.; Notice of Certification of Settlement Agreement

May 23, 1979.

Take notice that on May 1, 1979, the Presiding Administrative Law Judge certified a stipulation and agreement which resolves all issues in this proceeding.

Any person desiring to be heard or to protest said settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, and should serve the same on all parties to this proceeding. Comments are due on June 8, 1979. All comments will be considered by the Commission in determining the appropriate action to be taken. Copies of the agreement are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-16756 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-374]

Montana Power Co.; Notice of Filing

May 23, 1979.

Take notice that Montana Power Company on May 17, 1979, tendered for filing a Summary of Sales made under FERC Tariff M-1, for April 1979, along with cost justification for each rate charged.

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 St., 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 June 15, 1979. 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. 79-16757 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-306]

National Fuel Gas Supply Corp.; Notice of Application

May 21, 1979.

Take notice that on May 11, 1979, National Fuel Gas Supply Corporation (Applicant), Ten Lafayette Square, Buffalo, New York 14240, filed in Docket No. CP79-306 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 July 6, 1979, and operation of facilities to enable Applicant to take into its certificated main pipeline system natural gas which will be purchased from producers or other similar sellers thereof, all as more fully set forth in the application on file with the Commission and open to public inspection.

The stated purpose of this budget-type application is to augment Applicant's ability to act with reasonable dispatch in 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 $3,282,276, with no single project to exceed $820,569. Applicant further states that the proposed facilities would be financed with internally generated funds and/or interim short-term bank loans.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1979, 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.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16759 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. RP78-56]

Northern Natural Gas Co., Notice of Proposed Amendment to Stipulation and Agreement

May 23, 1979.

Take notice that on May 21, 1979, Northern Natural Gas Company (Nothern) filed a motion to amend the Stipulation and Agreement (Agreement) certified to the Commission on March 12, 1979. Northern proposes to amend the Agreement by inserting the following additional paragraph on page 5 under "Section I: Rates":

"The settlement rates shown on Appendix A to the Stipulation and Agreement reflect the classification of third party transportation costs on an "as billed" basis. The Parties to this RP78-56 proceeding hereby stipulate and agree that the issue of whether the rates, as set forth on Appendix A to the Stipulation and Agreement, should reflect the classification of third party transportation costs on an "as billed" basis is hereby reserved for separate hearing and decision by the Commission and, further, that the Commission's final decision on this issue will in nowise affect the remaining provisions of the Stipulation and Agreement.

Any person desiring to be heard or to protest said proposed amendment to the settlement agreement should file comments with the Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426, on or before June 6, 1979. Comments will be considered by the Commission in determining the appropriate action to be taken. Copies of this agreement and the proposed amendment are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-16760 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CP79-294]

Northwest Pipeline Corp.; Notice of Application

May 21, 1979.

Take notice that on May 2, 1979, Northwest Pipeline Corporation (NORTHWEST), P.O. Box 1526, Salt Lake City, Utah 84110, filed in Docket No. CP79-294 an application pursuant to Section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing the transportation of up to 4,000 Mcf per day of natural gas for the account of Colorado Interstate Gas Company (CIG), all as more fully set forth in the application which is on file with the Commission and open for public inspection.

The application indicates that CIG has acquired, or controls otherwise, certain natural gas supplies in the Fogarty Creek area of Sublette County, Wyoming, which are distant from CIG's existing transmission system. Pursuant to an agreement dated February 28, 1979, Northwest proposes to transport up to 4,000 Mcf of natural gas per day from CIG's account, for an initial term of twenty years, it is stated.

Upon receipt of volumes of natural gas tendered by CIG at the wellhead of any well in the Fogarty Creek area, Northwest would purchase 25 percent of such volumes from CIG and would transport the remaining 75 percent of such volumes for CIG's account through its existing Big Piney Gathering System and mainline facilities to the existing point of interconnection between Northwest and CIG in Sweetwater County, Wyoming, it is asserted. At the said interconnection, Northwest would redeliver volumes of natural gas to CIG which are thermally equivalent to the volumes received by CIG for transportation, it is further asserted.

The volumes redelivered would be reduced by CIG's *pro rata* share of the compressor fuel utilized in transporting CIG's natural gas through the gathering facilities and the fuel, shrinkage and loss of heating value attributable to the processing of CIG's gas at Northwest's

Opal Gasoline Plant and further reduced by 2 percent of the volumes received for transportation as compensation for compressor fuel utilized in transporting CIG's gas through Northwest's mainline facilities, it is said.

The said agreement provides that Northwest would reimburse CIG for 100 percent of the net revenues attributable to the sale of extraction products resulting from the processing of CIG's gas, less Northwest's actual cost-of-service for such processing, it is said. It is further said, that said agreement provides that the price to be paid by Northwest for the volumes of gas purchased would be equal to the price paid by CIG for such gas, including taxes and other permissible adjustments.

Northwest asserts that approximately 1,800 Mcf of natural gas per day would be initially tendered by CIG to Northwest.

The application states that, for the proposed transportation of natural gas for CIG, Northwest would charge a two-part rate as follows:

1. A gathering rate, initially 16.81 cents per Mcf based on Northwest's cost-of-sevice for gathering facilities in the Big Piney area for the volumes transported for CIG's account from the wellhead to Northwest's mainline facilities.

2. A mainline transportation rate, initially, 20.69 cents per Mcf equal to Northwest's average rolled-in system transmission cost for all volumes transported directly by Northwest, for CIG's account, to the point of redelivery to CIG; or one-half that rate for any volumes redelivered to CIG by displacement.

Any person desiring to be heard or to make any protest with reference to said application should on or before June 13, 1979, 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 Northwest to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16758 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-375]

Orange and Rockland Utilities, Inc. and Consolidated Edison Co. of New York, Inc.; Notice of Change in Electric Rate Schedule

May 23, 1979.

The filing Company submits the following:

Take notice that Orange and Rockland Utilities, Inc. and Consolidated Edison Company of New York, Inc. on May 17, 1979 tendered for filing, as Supplemental Rate Schedule an extension of the term of ORU FPC Rate Schedule No. 36 and Supplement No. 3 thereto (Con Edison FPC Rate Schedule No. 37 and Supplement No. 3 thereto) from May 12, 1979 at 11:59 p.m. to October 27, 1979 at 11:59 p.m. The supplemental agreement provides for the exchange of 170 MW of Electric generating capability between Orange and Rockland Utilities, Inc. and Consolidated Edison Company of New York, Inc. during the period May 12, 1979 at 11:59 p.m. to October 27, 1979 at 11:59 p.m. unless sooner terminated by Con Edison in accordance with the terms of the Agreement.

A copy of the supplemental agreement has been served upon the New York State Public Service Commission.

Any person desiring to be heard or to protest said filing should file a petition to intervene or protest with the Federal 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 June 15, 1979. 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. 79-16761 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-379]

Pacific Power & Light Co.; Rate Schedule Filing

May 23, 1979.

The filing Company submits the following:

Take notice that Pacific Power & Light Company (Pacific) on May 14, 1979, tendered for filing, in accordance with Section 35.12 of the Commission's Regulations, a new rate schedule for power sales to the Los Angeles Department of Water & Power, Pacific Gas and Electric Company and Southern California Edison Company (Purchasers). Under this schedule Pacific supplies excess firm thermal energy to the Purchasers.

Pacific requests waiver of the Commission's notice requirements to permit these rate schedules to become effective on March 9, 1979 for the Los Angeles Department of Water & Power and Southern California Edison Company, and March 12, 1979 for Pacific Gas and Electric Company.

Copies of this filing were supplied to the Purchasers.

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 St., 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 June 15, 1979. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this application are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Acting Secretary.

[FR Doc. 79-16763 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Project No. 2140]

Public Service Co. of New Hampshire; Application for Use of Project Lands and Waters

May 21, 1979.

Take notice that on December 18, 1978, an application was filed with the Federal Energy Regulatory Commission by the Public Service Company of New Hampshire (correspondence to: David N. Merrill, Executive Vice President, Public Service Company of New Hampshire, Post Office Box 330, Manchester, New Hampshire) for use of project lands and waters in connection with a wastewater treatment plant.

The Applicant requests Commission approval to authorize the City of Concord to place an outfall structure in the river at Applicant's Garvins Falls Hydroelectric Project No. 2140 as part of the proposed Hall Street Wastewater Treatment Plant planned for construction approximately 1.6 miles upstream from the dam. The structure would be partially within the project boundary, at a location where the Applicant has only flowage rights.

The outfall structure would consist of three parallel pipe systems each system consisting of a 230-foot header 30" in diameter buried beneath the streambed and a 180-foot diffuser section with ten outlets, whose elbows would extend two feet above the river bottom.

Applicant states that the property has no recreational value and that construction of the proposed facility would improve the water quality of the Merrimack River.

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 July 6, 1979. The Commission's address is: 825 N. Capitol Street, NE., Washington, D.C. 20426.

The application is on file with the Commission and is available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16762 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CI79-408]

Shell Oil Co; Petition for Declaratory Order

May 21, 1979.

Take notice that on April 10, 1979, Shell Oil Company (Shell), One Shell Plaza, P.O. Box 2463, Houston, Texas 77001, filed a petition in Docket No. CI79-408 for a declaratory order pursuant to § 1.7(c) of the Commission's Rules of Practice and Procedure (18 C.F.R. 1.7(c)).

Shell states that it is the owner of oil and gas leases covering the SW/4 and the SE/4 of Section 28-3N-26 ECM, Beaver County, Oklahoma. Shell further states that on September 12, 1957 and December 28, 1956 spacing orders were entered by the Oklahoma Corporation Commission designating Section 28-3N-26 ECM as a unit as to the Tonkawa formation, providing that only one well could be drilled thereon, and that such well would be considered to be a well drilled under the terms of all the leases governing acreage which is now within the unit. Similar Orders, according to Shell, where entered on March 6, 1959 as to the Morrow formation, and on May 27, 1964 as to the Chester formation.

On April 30, 1958 Shell indicates that it entered into a Joint Operating Agreement with Mobil Oil Corporation (Mobil), Marathon Oil Company (Marathon) and Phillips Petroleum Company (Phillips), all of whom had lease interests in this newly formed unit. According to Shell, this operating agreement provided that if one party elected to drill, rework, or deepen a well and other parties did not, that the party electing to drill would be entitled to receive the non-consenting party's share of the production until an amount equal to 200 percent of the cost of drilling the well had been recovered by the total production from the well. Shell further indicates that it sells its interest in the Hauth Unit to El Paso Natural Gas Company (El Paso), Marathon and Mobil sell their interests to Colorado Interstate Gas Company (Colorado Interstate) and Phillips sells its interests to Northern Natural Gas Company (Northern Natural).[1]

Shell states that it drilled a well as Operator of the Hauth Unit in 1958 to the Tonkawa formation. Shell also states that in 1978 this well was nearing depletion and Shell proposed deepening the well to the Chester and Morrow formations. Shell maintains that it deepened the well under the "sole risk" clause of the Operating Agreement when Phillips, Marathon and Mobil declined to join in the expenditure, and also that it is entitled to receive all of the production from this formation until it has been repaid 200 percent of the costs expended, at which time production will be shared between the owners in proportion to their interests.

Shell requests that the Commission issue an order declaring that Shell is entitled to deliver 100 percent of the gas stream of the well on the Hauth Unit to its purchaser, El Paso, pursuant to its contract and certificate, unitl such time as 200 percent of the costs of the well have been recovered, at which time deliveries to Colorado Interstate of the 25 percent interest owned by Mobil and Marathon will resume. Shell also requests that the Commission grant any abandonment authorization which may be necessary if the Commission finds that deliveries to Colorado Interstate cannot cease, even for the temporary period provided in the Operating Agreement. In the alternative, should the Commission find that 25 percent of the gas stream from the Hauth Unit Well must be delivered to Colorado Interstate, Shell request that the Commission authorize amendments to Mobil's and Marathon's certificates as may be necessary to permit payment for this interest to Shell, during the term prescribed in the Operating Agreement.

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 June 13, 1979. 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 peson wishing to become a party must file a petition to intervene; provided, however, that any person who has previously filed a

[1] The Phillips' Contract and Certificate were limited as to depth, and the current production is coming from formations deeper than those depths. Therefore, Phillips' interest in current production, if any, is not covered by its Contract and Certificate.

petition to intervene in this proceeding is not required to file a further petition. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16765 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. CI78-864]

Shell Oil Co.; Petition for Declaratory Order

May 21, 1979.

Take notice that on April 26, 1979, Shell Oil Company (Petitioner), One Shell Plaza, P.O. Box 2463, Houston, Texas 77001, filed a petition for a declaratory order in Docket No. CI78-864. Petitioner states that by order issued March 13, 1979, in *Exxon Corporation, et al.*, Docket Nos. CI78-816, *et al.* (Shell's Docket No. CI78-864) the Commission issued a certificate of public convenience and necessity to Shell for its sale of gas produced from East Cameron Block 96 Offshore Louisiana, to Tennessee Gas Pipeline Company (Tennessee).

Petitioner further states that the March 13, 1979 Order provides that Shell's certificate in the captioned docket "shall not be effective until Tennessee is appropriately authorized to transport and/or exhange the gas." Petitioner maintains that since Tennessee received a certificate in Docket No. CP78-343 covering the subject sale before the March 13, 1979 Order was issued, the inclusion of the certificate condition in Shell's certificate is inappropriate and casts a cloud over Shell's authority to deliver gas to Tennessee. Petitioner therefore requests that the Commission issue an order clarifying its Order issued March 13, 1979, to remove the condition which states that the certificate shall not be effective until Tennessee is appropriately authorized to transport and/or exchange the gas.

It appears reasonable and consistent with the public interest in this case to prescribe a period shorter than 10 days for filing of protests and petitions to intervene. Therefore, any person desiring to be heard or to make any protest with reference to said application should on or before May 30, 1979, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a petition to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 1.8 or 1.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a petition to intervene in accordance with the Commission's Rules.

Kenneth F. Plumb,

Secretary.

[FR Doc. 79-16766 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ER79-372]

Wisconsin Power & Light Co.; Filing

May 23, 1979.

Take notice that Wisconsin Power & Light Company (WPL) on May 11, 1979, tendered for filing a March 1, 1979 Supplement to Joint Power Supply Agreement between WPL, the Wisconsin Public Service Corporation and the Madison Gas & Electric Company dated February 21, 1967 as amended on July 26, 1973. WPL indicates that the purpose of the Supplement is to clarify the definition of "good utility operating practices" contained in the Joint Agreement and to specifically delimit the liability for damages and the operating relationships among the parties.

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 and 1.10). All such petitions or protests should be filed on or before June 11, 1979. 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. 79-16764 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

[Docket Nos. CS79-394, et al.]

Applications for "Small Producer" Certificates [1]

May 21, 1979

Take notice that each of the Applicants listed herein has filed an application pursuant to Section 7(c) of the Natural Gas Act and Section 157.40 of the Regulations thereunder for a "small producer" certificate of public convenience and necessity authorizing the sale for resale and delivery of natural gas in interstate commerce, all as more fully set forth in the applications 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 June 14, 1979, 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 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

[1] This notice does not provide for consolidation for hearing of the several matters covered herein.

unnecessary for Applicants to appear or be represented at the hearing.

Kenneth F. Plumb,

Secretary.

Docket No.	Date filed	Applicant
CS79-394	4/16/79	Eugene Sassano, 7125 W. 44th, Wheat Ridge, Colorado 80330.
CS79-395	4/17/79	Donnelly Casing Pulling Co., Box 791, Sterling, Colorado 80751.
CS79-396	4/18/79	Rousuck Agency, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-397	4/18/79	Mary M. Powell Dameron Agency, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-398	4/18/79	Minnie K. Patton Estate, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-399	4/18/79	Derek Moody Wilson Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-400	4/18/79	Atticus James Gill Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-401	4/18/79	Felicia Arnold Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-402	4/18/79	Christopher D. Wilson Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-403	4/18/79	Douglas Arnold Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-404	4/18/79	Isaac Sheyn Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-405	4/18/79	L. W. Powell Estate Agency, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-406	4/18/79	Essie H. Mittenthal Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-407	4/19/79	Leede Exploration, 518 Building of the Southwest, Midland, Texas 79701.
CS79-408	4/19/79	E.T.S. Enterprises, Inc., P.O. Box 9600, Amarillo, Texas 79105.
CS79-409	4/20/79	Merrion Foundation, 15510 S. Cicero Avenue, Oak Forest, Illinois 60452.
CS79-410	4/9/79	D.F.C. Oil and Gas Company, 1803 Avenue O, Huntsville, Texas 77340.
CS79-411	4/25/79	Reba Powell Agency, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-412	4/25/79	Jack Richards Munger Res. Trust, First Natl. Bank in Dallas, Trust Oil Dept., P.O. Box 83782, Dallas, Texas 75283.
CS79-413	4/25/79	Gas Properties, Inc.,[1] One South William Street, New York, N. Y. 10004.
CS79-414	4/26/79	Gay Ann Quinn, P.O. Box 1738, Shreveport, Louisiana 71166.
CS79-415	4/26/79	John L. Schlagal, 1804 First Natl. Bank Bldg., Midland, Texas 79701.
CS79-416	4/27/79	Republic Natural Gas Company 306 Bank of the Southwest, Amarillo, Texas 79109.
CS79-417	4/27/79	James M. and Janice L. Boland dba Boland Investment Company, P.O. Box 41, Liberal, Kansas 67901.
CS79-418	4/30/79	Clyde P. Law, Route #1, Box 328, Washington, W. Va. 26181.
CS79-419	4/30/79	Steinberg Associates, Ltd—1977 Oil and Gas Program, P.O. Box 1129, La Jolla, California 92038.
CS79-420	4/30/79	S. G. Thompson and S. T. Joint Venture, 401 East 81st Street, New York, N. Y. 10028.
CS79-421	4/30/79	MacLand, Inc., 530 Beacon Building, Tulsa, Oklahoma 74103.
CS79-422	5/1/79	Jack Bleakey, P.O. Box 2535, Midland, Texas 79702.
CS79-423	5/4/79	C. B. Hazel, Inc., P.O. Box 279, Ranger, Texas 76470.
CS79-424	5/4/79	Guardian Exploration, Ltd.—1979A, 1900 Houston Natural Gas Bldg., Houston, Texas 77002.
CS79-425	5/8/79	Dialtha Martin, 1804 First Natl. Bank Bldg., Midland, Texas 79701.
CS79-426	5/11/79	Janice E. Brown, 9505 Angleridge Road, Dallas, Texas 75238.
CS79-427	5/14/79	Albert J. O'Neal, Jr., P.O. Box 590, Spencer, W. Va. 25276.
CS79-428	5/14/79	JoJon Petroleum Company, 294 Meadows Building, Dallas, Texas 75206.

[1] Applicant is requesting for termination of existing Certificate of Public Convenience And Necessity in Docket No. G-6940.

[FR Doc. 79-16665 Filed 5-29-79; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL COMMUNICATIONS COMMISSION

FM Broadcast Application Ready and Available for Processing

Adopted: May 22, 1979.

Released: May 23, 1979.

By the Chief, Broadcast Facilities Division.

The FM application listed below was inadvertently included on the cut-off notice, BC Mimeo No. 16259, adopted on April 9, 1979, and released on April 11, 1979.

BPH-780831AK NEW, Fruitland, Maryland, Crawford Communications of Maryland, Req: 105.5 MHz; Channel No. 288A, ERP: 1.75 kW; HAAT: 400 FT. (Allocated to Salisbury, MD.)

Accordingly, the application is removed from the cut-off list.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-16694 Filed 5-29-79; 8:45 am]

BILLING CODE 6712-01-M

Radio Technical Commission for Marine Services; Meetings

In accordance with Pub. L. 92-463, "Federal Advisory Committee Act," the schedules of future Radio Techinical Commission for Marine Services (RTCM) meetings is as follows:

Special Committee No. 73:

"Minimum Performance Standards (MPS)—Marine Omega Receiving Equipment."

Notice of 7th Meeting, Wednesday, June 13, 1979—9:00 a.m., Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street, SW. (at D Street), Washington, D.C.

Agenda

1. Call to Order; Chairman's Report.
2. Administrative Matters.
3. Reports of Working Groups.
4. Review of Revised Draft MPS Specification.

M. H. Carpenter, Co-Chairman, CDR T. P. Nolan, Co-Chairman, Maritime Institute of Technology & Graduate Studies, Linthicum Heights, Maryland 21090, Phone: 301-636-5700.

Special Committee No. 70:

"Minimum Performance Standards (MPS)—Marine Loran-C Receiving Equipment."

Notice of 17th Meeting, Monday, June 18, 1979 SC-70, Tuesday, June 19, 1979 Technical Working Group 10:00 a.m. (all day meetings). Conference Room 7200, Nassif (DOT) Building, 400 Seventh Street, S. W. (at D Street), Washington, D.C.

Agenda

1. Call to Order.
2. Old Business.
3. New Business.
4. Administrative Matters.

Captain Alfred E. Fiore, Chairman, SC-70, U.S. Merchant Marine Academy, Kings, Points, New York 11024, Phone: 516-482-8200.

Special Committee No. 71:

"VHF Automated Radiotelephone Systems" Notice of 18th Meeting, Wednesday, June 20, 1979—10:00 a.m. (Full-day Meeting), Conference Room A-110, F.C.C. Annex, 1229 20 Street, NW., Washington, D.C.

Agenda

1. Call to Order.
2. Administrative Matters.
3. Discussion of future work.

John J. Renner, Chairman SC-71, Advanced Technology Systems, Inc., 3426 N. Washington Blvd., Arlington, VA 22201, Phone: 703-525-2664.

Executive Committee Meeting:

The new Executive Committee Meeting will be on Thursday, June 21, 1979, 9:30 a.m. Conference Room 6332-34, Nassif Building, 400 Seventh Street, SW. (at D Street), Washington, D.C.

Agenda

1. Administrative Matters
2. Report of Budget/Finance Working Group.
3. Discussion on organizational developments.

The RTCM has acted as a coordinator for maritime telecommunications since its establishment in 1947. All RTCM meetings are open to the public. Written statements are preferred, but by previous arrangement, oral presentations will be permitted within time and space limitations.

Those desiring additional information concerning the above meeting(s) may contact either the designated chairman or the RTCM Secretariat (phone: 202–632–6490).

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 79-16695 Filed 5-29-79; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

[License No. 1013]

Dupont Export-Import Co., Inc.; Order of Revocation

On April 2, 1979, Dupont Export-Import Co., Inc., 304 Cigali Building, New Orleans, Louisiana 70130, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1013.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independent Ocean Freight Forwarder License No. 1013 issued to Dupont Export-Import Co., Inc., be and is hereby revoked effective April 2, 1979, without prejudice to reapplication for a license in the future.

It is further ordered, that Independent Ocean Freight Forwarder License No. 1013 issued to Dupont Export-Import Co., Inc., be returned to the Commission for cancellation.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Dupont Export-Import Co., Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-16697 Filed 5-29-79; 8:45 am]

BILLING CODE 6730-01-M

[License No. 2061]

Copeland Services, Barbara L. Copeland, d/b/a; Order of Revocation

On April 20, 1979, Copeland Services, Barbara L. Copeland, d/b/a, P.O. Box 8632, Baltimore, Maryland 21240, voluntarily surrendered its Independent Ocean Freight Forwarder License No. 2061 for revocation.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is ordered, that Independend Ocean Freight Forwarder License No. 2061 issued to Copeland Services, Barbara L. Copeland, d/b/a, be and is hereby revoked effective April 20, 1979.

It is further ordered, that a copy of this Order be published in the **Federal Register** and served upon Copeland Services, Barbara L. Copeland, d/b/a.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-16698 Filed 5-29-79; 8:45 am]

BILLING CODE 6730-01-M

[License No. 1785R]

Renn F. LaMaster, Inc., Order of Revocation

On May 11, 1979, Renn F. LaMaster, Inc., 1415 South Clark Boulevard, Jeffersonville, Indiana 77130, requested the Commission to revoke its Independent Ocean Freight Forwarder License No. 1785R.

Therefore, by virtue of authority vested in me by the Federal Maritime Commission as set forth in Manual of Orders, Commission Order No. 201.1 (Revised), section 5.01(c), dated August 8, 1977;

It is Ordered, that Independent Ocean Freight Forwarder License No. 1785R issued to Renn F. LaMaster, Inc., be and is hereby revoked effective May 11, 1979, without prejudice to reapplication for a license in the future.

It is Further Ordered, that Independent Ocean Freight forwarder License No. 1785R issued to Renn F. LaMaster, Inc., be returned to the Commission for cancellation.

It is Further Ordered, that a copy of this Order be published in the **Federal Register**, and served upon Renn F. LaMaster, Inc.

Robert G. Drew,

Director, Bureau of Certification and Licensing.

[FR Doc. 79-16699 Filed 5-29-79; 8:45 am]

BILLING CODE 6730-01-M

Port Authority et al.; 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, N.W., Room 10423 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, by June 19, 1979. Comments should include facts and agreements 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 in 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.

Agreement No.: T–3155–3

Filing Party: Albert B. Dearden, Deputy Chief, Leases and Operating Agreements Division, Port Authority of New York and New Jersey, One World Trade Center, New York, New York 10048.

Summary: Agreement No. T–3155–3, between the Port Authority of New York and New Jersey (Port) and Maersk Container Services Company, Inc., assignee of Moller Steamship Company, Inc., modifies the basic agreement between the Port and Moller Steamship Company, Inc., providing for the 25-year lease of a marine terminal at Port Newark, New Jersey. The purpose of the modification is to provide for additional premises, additional construction and additional basic rental based on changes in the premises and on new construction.

Agreement No.: 2846–42.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 2846 among the members of the West Coast of Italy, Sicilian, Adriatic Ports/North Alantic Range Conference (WINAC), would amend the basic agreement by adding a new Article 5–B to provide that substituted service by land at the expense of the member line between or from ports of loading may only be authorized,

altered or cancelled upon unanimous vote of all members.

Agreement No.: 9238–8.

Filing Party: Marc J. Fink, Esquire, Billig, Sher & Jones, P. C., Suite 300, 2033 K Street, N.W., Washington, D.C. 20006.

Summary: Agreement No. 9238–8 modifies the Greece/United States Atlantic Rate Agreement to conform with recent revisions of the Commission's General Order 7.

Agreement No.: 10371.

Filing Party: Charles F. Warren, Warren & Associates, P.C., 1100 Connecticut Avenue, N.W., Washington, D.C. 20036.

Summary: Agreement No. 10371, between Korea Marine Transport Company, Limited (KMTC), Nippon Yusen Kaisha (NYK) and Showa Line, Ltd. (Showa), is a space charter agreement whereby KMTC and NYK agree to subcharter to Showa space on vessels they are authorized to operate in the trade between Korea and the Pacific Coast of the United States, including Hawaii and Alaska. The amount of space to be subchartered to Showa will not exceed 420 TEU's per month. The term of the agreement will expire on June 30, 1980.

By Order of the Federal Maritime Commission.

Dated: May 24, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 79-16700 Filed 5-29-79; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Proposed De Novo Nonbank Activities

The bank holding companies listed in this notice have applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(c)(8)) and section 225.4(b)(1) of the Board's Regulation Y (12 CFR § 225.4(b)(1)), for permission to engage *de novo* (or continue to engage in an activity earlier commenced *de novo*), directly or indirectly, solely in the activities indicated, which have been determined by the Board of Governors to be closely related to banking.

With respect to each application, interested persons may express their views on the question consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices." Any comment on an application that requests a hearing must include a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of that proposal.

Each application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank indicated for that application. Comments and requests for hearings should identify clearly the specific application to which they relate, and should be submitted in writing and received by the appropriate Federal Reserve Bank not later than June 22, 1979.

A. *Federal Reserve Bank of Atlanta,* 104 Marietta Street NW., Atlanta, Georgia 30303:

CENTURY BANKS, Inc., Fort Lauderdale, Florida (data processing activities; Florida): to engage, through its subsidiary, Financial Computer Center, Inc., in providing bookkeeping or data processing services for the internal operations of Century Banks and its subsidiaries, and storing and processing other banking, financial or related economic data, such as performing payroll or billing services. These activities would be conducted from an office in Jacksonville, Florida serving the Jacksonville, Gainsville and Palatka, Flordia areas.

B. *Federal Reserve Bank of San Francisco,* 400 Sansome Street, San Francisco, California 94120:

SECURITY PACIFIC CORPORATION, Los Angeles, California (mortgage activities; Washington): to engage through its subsidiary, Security Pacific Mortgage Corporation, in the origination and acquisition of mortgage loans, including development and construction loans on multifamily and commercial properties for its own account or for sale to others and the servicing of such loans for others. These activities will be conducted from an office in Port Orchard, Washington, serving the State of Washington.

SECURITY PACIFIC CORPORATON, Los Angeles, California (trust activities; Washington): to engage, through its indirect subsidiary, Security Pacific Escrow, Inc., in acting as escrow agent for the purchase and sale of real property and the execution of all documents and dispersal of funds relating to loan transactions and all other activities engaged in by an escrow company. These activities would be conducted from an office in Port Orchard, Washington, serving the State of Washington.

(c) *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, May 24, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-16803 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

Citizens Ban-Corporation; Acquisition of Bank

Citizens Ban-Corporation, Rock Port, Missouri, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 95.3 percent of the voting shares of Farmers & Merchants Bank of Elmo, Elmo, Missouri. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Kansas City. Any person wishing to comment on the application should submit views in writing to the Secretary, Board of Governors of the Federal Reserve System, Washington, D.C. 20551, to be received not later than June 22, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 24, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-16804 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

Horizon Bancorp; Acquisition of Bank

Horizon Bancorp, Morristown, New Jersey, has applied for the Board's approval under § 3(a)(3) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(3)) to acquire 100 per cent of the voting shares of Bergen Bank of Commerce, Paramus, New Jersey. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of New York. Any person wishing to comment on the application should submit views in writing to the Reserve Bank to be received not later than June 22, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation

would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 22, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-16735 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

Murdock Bancor, Inc.; Formation of Bank Holding Company

Murdock Bancor, Inc., Murdock, Minnesota, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 95 percent of the voting shares of First State Bank of Murdock, Murdock, Minnesota. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Minneapolis. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of Governors of the Federal Reserve System, May 21, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-16736 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

Wharton Capital Corp.; Formation of Bank Holding Company

Wharton Capital Corporation, Houston, Texas, has applied for the Board's approval under § 3(a)(1) of the Bank Holding Company Act (12 U.S.C. § 1842(a)(1)) to become a bank holding company by acquiring 80 percent or more of the voting shares (less directors' qualifying shares) of Security Bank and Trust Company, Wharton, Texas. The factors that are considered in acting on the application are set forth in § 3(c) of the Act (12 U.S.C. § 1842(c)).

The application may be inspected at the offices of the Board of Governors or at the Federal Reserve Bank of Dallas. Any person wishing to comment on the application should submit views in writing to the Reserve Bank, to be received not later than June 21, 1979. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Board of governors of the Federal Reserve System, May 21, 1979.

Edward T. Mulrenin,

Assistant Secretary of the Board.

[FR Doc. 79-16737 Filed 5-29-79; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Office of the Secretary

Statement of Organization, Functions, and Delegations of Authority

This notice amends and supersedes Part A, Chapter AA, Office of the Secretary (39 FR 30066, August 20, 1974 and 39 FR 32172, September 5, 1974), to reflect changes in the organization of the Office of the Secretary. It also incorporates a new order of succession, approved April 1, 1978, and published at 43 FR 16425, April 18, 1978. The new chapter reads as follows:

Section AA.00 Mission. The Office of the Secretary provides staff assistance to the Secretary and otherwise assists the Secretary in administering and overseeing the organization, programs, and activities of the Department.

Section AA.10 Organization. The Office of the Secretary consists of the following elements:

The Secretary
The Under Secretary
Executive Secretariat
Office of the Deputy Under Secretary
Office of International Affairs
Office of Deputy Under Secretary for Intergovernmental Affairs
Office of Inspector General
Office of Civil Rights
Office of Assistant Secretary for Human Development Services *
Office of Assistant Secretary for Legislation
Office of Assistant Secretary for Public Affairs
Office of Assistant Secretary for Planning and Evaluation
Office of General Counsel
Office of Assistant Secretary for Management and Budget
Office of Assistant Secretary for Personnel Administration
Principal Regional Officials

Section AA.20 Functions.

A. The Secretary provides leadership to the Department and, under his direction, the Office of the Secretary provides advice, assistance, and services to the headquarters, regional, and field organizations of the Department.

B. The chapters of Part A specify the functions of officials and organizations listed in Section AA.10, except that Part D contains the functional statement for the Office of Human Development Services.

Section AA.30 Reservations of Authority. The chapters of the Department functional statement specify authorities which the Secretary expressly reserves. In addition the Secretary reserves the following authorities, unless he/she modifies the reservation by specific delegations of authority:

A. To approve the establishment, abolition, consolidation, or transfer of divisions or higher level organizational units.

B. To submit annual or other reports that the President and the Congress require, unless law or delegation provide otherwise for their submission. (Officials authorized to submit a report to Congress must submit an advance copy of the report to the Executive Secretariat one week before submitting the report to Congress.)

C. To approve and issue regulations.

D. To make appointments of officers, employees, and other personnel.

E. To excercise authority delegated by the President. Section AA.40 Order of Succession.

A. The Under Secretary acts as Secretary during absence or disability of the Secretary.

B. During the absence or disability of the Secretary and Under Secretary, the Secretary or Under Secretary will designate the official who will act as Secretary.

Dated: May 18, 1979

Frederick M. Bohen,

Assistant Secretary for Management and Budget.

[FR Doc. 16727 Filed 5-29-79; 8:45 am]

BILLING CODE 4110-12-M

* The Office of Human Development Services, under the direction of the Assistant Secretary for Human Development Services, functions as a principal operating component within the general framework of the Work of the Office of the Secretary.

Office of Education

Emergency School Aid Act; Closing Date for Transmittal of Applications from State Educational Agencies for the Special Projects Program for Fiscal Year 1979

Applications are invited from State educational agencies (SEAs) under the Emergency School Aid Special Projects Program.

Authority for this program is contained in section 708(a) of the Emergency School Aid Act ("ESAA"; title VII of Pub. L. 92-318, as amended (20 U.S.C. 1601-1619)).

This program awards financial assistance to help SEAs provide technical assistance and training to local educational agencies that are preparing or implementing voluntary desegregation plans.

Closing Date for Transmittal of Applications: Applications for awards must be mailed or hand delivered by July 9, 1979.

Applications Delivered by Mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.532L, Washington, D.C. 20202.

The Commissioner of Education prefers a legible U.S. Postal Service dated postmark or a legible mail receipt with the date of the mailing stamped by the U.S. Postal Service as proof of mailing.

(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 8:00 a.m. and 4:00 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4 p.m. on the closing date.

Available Funds: It is expected that $2,000,000 will be available to support projects submitted in response to this notice.

Application Forms: Application forms and program information packages are available and may be obtained by writing to the Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202.

An application must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package.

Project Period: Grants made under this notice will be for projects beginning no earlier than July 1, 1979, and ending no later than September 30, 1980, but in no case for more than 12 months.

Applicable Regulations: The regulations applicable to this program are:

(a) The rule for this program published in this issue of the **Federal Register**;

(b) Regulations relating generally to programs under the Emergency School Aid Act (45 CFR Part 185); and

(c) The Office of Education general provisions regulations (45 CFR Parts 100, 100a and appendices), except to the extent that those regulations are inconsistent with 45 CFR Part 185 or the rule for this program.

Further Information: For further information contact David Lerch, Branch Chief, Special Projects Branch, Equal Educational Opportunity Programs, U.S. Office of Education, 400 Maryland Avenue SW., Washington, D.C. 20202. Telephone: (202) 245-2465 or 245-0931. (20 U.S.C. 1601-1619)

Dated: May 22, 1979.

(Catalog of Federal Domestic Assistance No. 13.532L, Emergency School Aid—Special Projects)

Ernest L. Boyer,

U.S. Commissioner of Education.

[FR Doc. 79-16514 Filed 5-29-79; 8:45 am]

BILLING CODE 4110-02-M

Office of the Assistant Secretary for Health

Health Maintenance Organizations; Procedures for Enforcement of Employer Compliance

AGENCY: Public Health Service, HEW.

ACTION: Notice of Procedures for Enforcement of Employer Compliance.

SUMMARY: Set forth below are compliance procedures which the Department will use to enforce the requirement of section 1310(a) of the Public Health Service Act, as amended, that employers, States, and political subdivisions of States subject to that section include in any health benefits plan offered their employees the option of membership in qualified health maintenance organizations (HMOs). These procedures may be revised as warranted by public comments submitted on or before June 29, 1979.

EFFECTIVE DATE: These procedures are effective on May 30, 1979.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—3rd Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443-4106.

SUPPLEMENTARY INFORMATION: Section 1310(a) of the Public Health Service Act, as amended, 42 U.S.C. 300e-9, requires that employers, States, and political subdivisions of States subject to that section include in any health benefits plans offered to their employees the option of membership in qualified HMOs. Regulations at 42 CFR Part 110, Subpart H, implement section 1310(a), (b), and (c) and set out procedures for employers, States, and political subdivisions of States to follow in complying with section 1310.

In the case of an employer who fails to comply with section 1310(a), section 1310(e) of the Act provides:

(e)(1) Any employer who knowingly does not comply with one or more of the requirements of subsection (a) shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

With respect to noncompliance by States and their political subdivisions, section 1310(g) provides that:

(g) If the Secretary, after reasonable notice and opportunity for hearing to a State, finds that it or any of its political subdivisions has failed to comply with one or more of the requirements of subsection (a), the Secretary shall terminate payments to such State under sections 314(d), 317, 318, 1002, 1525, and 1613 [of the Public Health Service Act] and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.

Because of the detail of the statute, the Department has concluded that it is unnecessary to issue regulations on the enforcement of section 1310. The Department has decided, however, to issue a notice setting out the procedures it will use in carrying out its responsibilities under sections 1310(e) and (g). These procedures are set forth below.

The Department invites public comment on this notice on or before June 29, 1979, and will revise the procedures as warranted by its evaluation of comments submitted.

Procedures for Enforcement of Employer Compliance

1. *COMPLAINTS.* Any person, group, association, corporation, or other entity, including unions and HMOs, may file a written signed complaint with the Director, Office of Health Maintenance Organizations, Department of Health, Education, and Welfare ("the Director") with respect to the noncompliance of any employer, State, or political subdivision of a State with section 1310 of the Act and 42 CFR Part 110, Subpart H. The complaint should be sent to: Director, Office of Health Maintenance Organizations, Park Building, Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857. The complainant should state the grounds and facts of the complaint, giving specific names of entities and persons involved, and submit a copy of all relevant documents.

2. *EVALUATIONS.* The Director may initiate an evaluation either when, based on a complaint or any other information, or, on his own initiative, as part of his monitoring and evaluation responsibilities, he has reason to believe that an employer or a State or its political subdivision subject to section 1310 is not in compliance with that section. The Director will notify the complainant and the employer or the State (or, in the case of political subdivision of a State, both the subdivision and the State) in writing when he has initiated an evaluation, and will include in this notice a statement of the pertinent facts. The employer, the State and the political subdivision may submit a written response within 30 days after the date of the notice. The procedures set out below are applicable regardless of whether such a response is received. The Director will seek any information he considers necessary to determine compliance and may employ site visits, as well as any other appropriate procedure, to obtain this information. If the Director determines that there has not been a failure to comply with section 1310, he will so notify the complainant and the employer or the State (or, in the case of a political subdivision, both the subdivision and the State).

3. *DETERMINATION AND NOTIFICATION OF NONCOMPLIANCE.* When the Director determines that the employer or the State or a political subdivision has failed to comply with section 1310(a) of the Act, as implemented by 42 CFR Part 110, Subpart H, he will notify the complainant and the employer or the State (or, in the case of a political subdivision of a State, both the subdivision and the State) in writing of his determination. This notice will specify the manner in which the employer, the State, or the political subdivision has not complied with the statute or regulations and will direct the entity to initiate corrective action which the Director deems necessary to achieve such compliance. The employer or the State or the political subdivision shall carry out this corrective action within 30 days of the date on which the Director issues the notice or within any longer period of completion which the Director specifies in the notice.

4. *Effect of Failure To Carry Out Corrective Action.* A determination by the Director that an employer has failed to carry out the corrective action specified by the Director constitutes a determination that the employer knowingly has not complied with one or more of the requirements of section 1310(a) of the Act. A determination by the Director that a State or any of its subdivisions has failed to carry out the corrective action specified by the Director constitutes a determination that it has not complied with one or more of the requirements of section 1310(a) of the Act. The Director will notify the employer or the State (or, in the case of a political subdivision of a State, both the subdivision and the State) in writing of this determination and of the action he intends to take under the Act. The notification shall provide the employer or the State an opportunity to request a hearing on the determination of noncompliance within thirty days from the date of the notice. If the State requests a hearing in a matter in which a political subdivision has failed to carry out corrective action, the subdivision will have an opportunity to participate in the hearing. If the Director determines that there is no genuine and material issue of fact in dispute, the hearing will be limited to written submissions of the parties. If the Director determines that there is a genuine and material issue of fact in dispute, he will provide the opportunity for oral testimony as well as written submissions. If no hearing is requested, the Director's determination that the entity has not complied with one or more of the requirements of section 1310(a) of the Act will stand.

5. *Penalties.*—a. *Noncompliance by Employer*—If the Director determines that the employer has failed to carry out the corrective action specified, he may assess a civil penalty as provided in section 1310(e).

b. *Noncompliance by States or Political Subdivisions.* If the Director determines that a State or any of its political subdivisions has failed to carry out the corrective action specified, he will terminate payments to the State under sections 314(d), 317, 318, 1002, 1525, and 1613 of the Act, as provided in section 1310(g), and will notify the Governor of the State that further payments under these sections will not be made to the State until the Department is satisfied that there will be longer be any failure to comply.

Dated: May 11, 1979.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 79-16701 Filed 5-29-79; 8:45 am]

BILLING CODE 4110-85-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[Wyoming 67902]

Wyoming; Application

May 18, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Cities Service Gas Company of Oklahoma City, Oklahoma filed an application for a right-of-way to construct a 4½ inch buried pipeline and to install anodes for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 21 N., R. 91 W.,
Sec. 29, E½SW¼;
Sec. 32, E½W½.

The proposed pipeline will transport natural gas from the Buck Draw No. 1 well located in the SE¼SW¼ of section 29, T. 21 N., R. 91 W., to a point of connection with Cities Service Gas Company's existing gathering line in the S½S½ of section 1, T. 20 N., R. 92 W., all within Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be approved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-16742 Filed 5-29-79; 8:45 am]

BILLING CODE 4310-84-M

[Wyoming 68166]

Wyoming; Application

May 21, 1979.

Notice is hereby given that pursuant to Section 28 of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 185), the Colorado Interstate Gas Company of Colorado Springs, Colorado filed an application for a right-of-way to construct a 4½ inch O.D. buried pipeline, 4' x 6' metering house and related metering and dehydration facilities for the purpose of transporting natural gas across the following described public lands:

Sixth Principal Meridian, Wyoming

T. 20 N., R. 92 W.,
Sec. 30, lot 1, N½NE¼ and NE¼NW¼.
T. 20 N., R. 93 W.,
Sec. 24, E½SW¼ and S½SE¼.

The proposed pipeline will transport natural gas from the Chambers Federal No. 1-14 well located in the E½SW¼ of section 24, T. 20 N., R. 93 W., to a point of connection with an existing pipeline located in the N½NE¼ of section 30, T. 20 N., R. 92 W., all within Sweetwater County, Wyoming. The proposed 4' x 6' metering house and related metering and dehydration facilities are to be located entirely within the proposed 50' right-of-way in the E½SW¼ of section 24, T. 20 N., R. 93 W., Sweetwater County, Wyoming.

The purpose of this notice is to inform the public that the Bureau will be proceeding with consideration of whether the application should be aproved and, if so, under what terms and conditions.

Interested persons desiring to express their views should do so promptly. Persons submitting comments should include their name and address and send them to the District Manager, Bureau of Land Management, 1300 Third Street, P.O. Box 670, Rawlins, Wyoming 82301.

Harold G. Stinchcomb,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 79-16743 Filed 5-29-79; 8:45 am]

BILLING CODE 4310-84-M

DEPARTMENT OF JUSTICE

Law Enforcement Assistance Administration

National Minority Advisory Council on Criminal Justice; Meeting

This is to provide notice of meeting of the National Minority Advisory Council on Criminal Justice (NMACCJ).

The National Minority Advisory Council will hold its regular quarterly meeting and work seesion on June 15 and 16, 1979. The meeting will be held at the Gramercy Inn, South Scott Room, 1616 Rhode Island Avenue, N.W., Washington, D.C. 20036. The meeting is scheduled to run from 1:00 p.m. until 5:00 p.m. on Friday, June 15, and from 9:30 a.m. until 5:00 p.m. on Saturday, June 16. The two day meeting will center on review of the Council's final report on the national needs assessment of minorities and their relationship with the criminal justice system. The meeting is open to the public.

Anyone wishing additional information should contact Ms. Peggy E. Triplett, Project Monitor, 633 Indiana Avenue, N.W., Washington, D.C. 20531. Telephone number (310) 492-9133.

Peggy E. Triplett,

Project Monitor, National Minority Advisory Council on Criminal Justice.

[FR Doc. 79-16708 Filed 5-29-79; 8:45 am]

BILLING CODE 4410-18-M

METRIC BOARD

Public Forum

Notice is hereby given that the United States Metric Board will hold a Public Forum on Thursday, June 21, 1979, from 9:00 a.m. to 1:00 p.m. The forum will be held in conjunction with the Metric Board's regular June meeting, which is also open to the Public. The forum will be held at the Boston Park Plaza Hotel, Arlington Street at Park Plaza, Georgian Room, Boston, Massachusetts 02117.

The purpose of the meeting will be to allow the Board Members to receive comments about voluntary metric conversion from representatives of groups or organizations and from individuals. Those who wish to participate are invited to submit statements or questions in advance to Mr. Douglas Bernon, Office of Public Information, United States Metric Board, The Magazine Building, 1815 North Lynn Street, Suite 600, Arlington, Virginia 22209. For further information, 703-235-2820.

Louis Polk,

Chairman, United States Metric Board.

[FR Doc. 79-16786 Filed 5-29-79; 8:45 am]

BILLING CODE 3510-13-M

MINIMUM WAGE STUDY COMMISSION

Meeting

May 22, 1979.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following Commission meeting:

Name: Minimum Wage Study Commission.
Date: June 12, 1979.
Time: 10 a.m.
Place: 1430 K St. NW., Suite 500, Washington, D.C. 20005.

Open admittance to the extent seating is available.

Proposed agenda

1. Pending Business.
2. Update on Noncompliance Survey, Agriculture Wage Distribution Survey.
3. Status report on budget for FY 79, 80, 81.
4. Status of research proposals to be funded in FY 79.
5. Possible Executive Session dealing with Items 3 and 4.

Next meeting of the Commission will be held Tuesday, July 10, 1979.

All communications regarding this Commission should be addressed to: Mr. Louis E. McConnell, Executive Director, 1430 K St. NW., Washington, D.C. 20005, (202) 376-2450.

Louis E. McConnell,

Executive Director.

[FR Doc. 79-16702 Filed 5-29-79; 8:45 am]

BILLING CODE 4510-23-M

NATIONAL ADVISORY COUNCIL ON ECONOMIC OPPORTUNITY

Meeting

May 23, 1979.

Pursuant to Section 10 of the Federal Advisory Committee Act of 1972 notice is hereby given that the National Advisory Council on Economic Opportunity will hold a two-day meeting on June 22 and 23, 1979 at the Claremont Hotel in Berkeley, Calif. The meeting will begin at 9:30 a.m. PDST on June 22nd and will continue on June 23rd and is open to the public.

The purpose of the meeting will be to discuss, develop and refine a work program for the Advisory Council 1980 report.

The National Advisory Council on Economic Opportunity is authorized by Section 605 of the Community Services Act to advise the President and the Director of the Community Services Administration on policy matters arising under the administration of the Act and to review the effectiveness and operations of programs under the Act.

Records shall be kept of all proceedings and shall be available for public inspection at the office of the National Advisory Council on Economic Opportunity.

For further information, contact the National Advisory Council on Economic Opportunity, 1725 K Street, N.W., Suite 405, Washington, D.C. 20006, 202–254–3217.

Walter B. Quetsch,

Executive Director.

[FR Doc. 79–16799 Filed 5–29–79; 8:45 am]

BILLING CODE 6820–41–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 79–55]

NASA Advisory Council (NAC), Space Systems and Technology Advisory Committee; Meeting

The NAC Space Systems and Technology Advisory Committee will meet June 19–20, 1979, in Room 625, NASA Headquarters, 600 Independence Avenue, SW, Washington, D.C. The meeting will be open to the public up to the seating capacity of the room (approximately 50 persons including the Committee members and participants).

The Committee was established to advise NASA senior management through the NAC in the area of space research and technology. The Chairperson is Mr. Robert L. Johnson. There are currently 36 members on the Committee. Following is the approved agenda for the meeting:

Agenda

June 19, 1979

8:00 a.m.—Introductory Remarks.
8:30 a.m.—Subcommittee Chairperson's reports.
12:30 p.m.—NASA Energy FY 81–85 5-Year Plan Review.
1:30 p.m.—Summary of Space Cross Cut Technology Activity.
2:30 p.m.—NASA Space Technology FY 81–85 5-Year Plan Review.
5:30 p.m.—Adjourn.

June 20, 1979

8:00 a.m.—Review of the Office of Space Transportation Systems' Space Systems Engineering FY 81–85 5-Year Plan.
10:00 a.m.—Committee Discussion.
1:00 p.m.—Preparation of Committee Comments and Recommendations.
3:00 p.m.—Future Plans of Committee Activities.
5:00 p.m.—Adjourn.

For further information contact Mr. C. Robert Nysmith, Executive Secretary of the Committee, Code RP–4, NASA Headquarters, Washington, D.C. 20546. Telephone 202/755–3252.

Dated: May 22, 1979.

Arnold W. Frutkin,

Associate Administrator for External Relations.

[FR Doc. 79–16716 Filed 5–29–79; 8:45 am]

BILLING CODE 7510–01–M

[Notice 79–56]

NASA Advisory Council (NAC), Space Science Advisory Committee; Meeting

The NAC Space Science Advisory Committee (SSAC) will meet at the National Aeronautics and Space Administration Headquarters on June 21–23, 1979. The meeting will be open to the public. The meeting will take place from 9:00 a.m. to 5:30 p.m. on June 21 and 22 and from 9:00 a.m. to 12:00 noon on June 23, 1979, in Room 5026 of Federal Office Building 6, 400 Maryland Avenue, SW, Washington, D.C. 20546. The NAC Space Science Advisory Committee consults with and advises the Council as a whole and NASA on plans for, work in progress on, and accomplishments of NASA's Space Science programs. Topics under discussion at this meeting will include a review of the NASA Office of Space Science potential FY 1981 New Start Candidates; the Gamma Ray Observatory, the Venus Orbiter and Imaging Radar; and the Origins of Plasmas in Earth's Neighborhood. The Halley Flyby and Temple II Rendezvous Mission, which is a potential FY 1982 candidate mission, will also be reviewed.

June 21

9:00 a.m. Introduction.
10:30 a.m. Gamma Ray Observatory (GRO).
1:30 p.m. GRO Discussion.
2:30 p.m. Venus Orbiter and Imaging Radar (VOIR).
4:30 p.m. VOIR Discussion.

June 22

9:00 a.m. Comet mission.
11:15 a.m. Comet Discussion.
1:15 p.m. Origin of Plasmas in Earth's Neighborhood (OPEN).
3:15 p.m. OPEN Discussion.
4:15 p.m. New Start Working Session.

June 23

9:00 a.m. New Start Recomendations Review and Discussion.
12:00 noon Adjourn.

For further information regarding this meeting, please contact Dr. Adrienne F. Timothy, Executive Secretary, at Area Code 202/755–3653, National Aeronautics and Space Administration, Washington, D.C. 20546.

Dated: May 22, 1979.

Arnold W. Frutkin,

Associate Administrator For External Relations.

[FR Doc. 79–16717 Filed 5–29–79; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL ADVISORY COMMITTEE ON OCEANS AND ATMOSPHERE

Meeting

May 25, 1979

Pursuant to Sec. 10(a)(2), of the Federal Advisory Committee Act, 5 U.S.C. (App. 1976), notice is hereby given that the National Advisory Committee on Oceans and Atmosphere (NACOA) will hold a 2-day meeting on Thursday and Friday, June 14–15, 1979. The Thursday session will be held in Room B–841 of the main U.S. Department of Commerce Building, 14th & Constitution Avenue, NW., Washington, D.C. The Friday session will be held in Room 1334 of the Longworth House Office Building, U.S. House of Representatives, Washington, D.C. Both sessions will be open to the public, and each will begin at 9:00 a.m.

The Committee, consisting of 18-non Federal members, appointed by the President from State and local government, industry, science and other appropriate areas, was established by the Congress by Public Law 95–63, on July 5, 1977. Its duties are to: (1) Undertake a continuing review, on a selective basis, of national ocean policy, coastal zone management, and the

status of the marine and atmospheric science and service programs of the United States; (2) advise the Secretary of Commerce with respect to the carrying out of the programs of the National Oceanic and Administration; and (3) submit an annual report to the President and to the Congress setting forth an assessment, on a selective basis, of the status of the Nation's marine and atmospheric activities, and submit such other reports as may from time to time be requested by the President or the Congress.

The tentative meeting schedule follows:

Thursday, June 14, 1979.

9:00 a.m.–11:30 a.m., *Plenary Session*—Opening Remarks—Review of Minutes—Agenda—Panel Assignments—NOAA Programs—Other Federal Programs.

1:00 p.m.–3:00 p.m., *Panel Meetings.*

3:00 p.m.–4:30 p.m., *Plenary Session*—Panel Reports—Discussion of Past and Future Role for NACOA.

Friday, June 15, 1979.

9:00 a.m.–3:30 p.m., *Plenary Session*—Opening Remarks—Review of Current Items—Remarks by Members of U.S. House of Representatives.

1:00 p.m.–3:30 p.m., *Panel Meetings.*

3:30 p.m.–4:30 p.m., *Plenary Session*—Panel Reports—Discussion of Rhode Island Meeting Plans.

4:30 p.m., *Adjourn.*

Persons desiring to attend will be admitted to the extent seating is available. Persons wishing to make formal statements should notify the Chairman in advance of the meeting. The Chairman retains the prerogative to impose limits on the duration of oral statements and discussions. Written statements may be submitted before or after each session.

Additional information concerning this meeting may be obtained through the Committee's Executive Director, Mr. John W. Connolly, whose mailing address is: National Advisory Committee on Oceans and Atmosphere, 3300 Whitehaven Street, NW., (Suite 434, Page Building I), Washington, D.C. 20235. The telephone number is 202–254–8418.

Samuel H. Walinsky,

Executive Officer.

[FR Doc. 79-16982 Filed 5-29-79; 10:05 am]

BILLING CODE 3510-12-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Special Projects Committee Meeting

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Special Projects Advisory Committee to the National Council on the Arts will be held June 14 and 15, 1979, from 9:00 a.m. to 5:30 p.m. in room 1422, Columbia Plaza Office Building, 2401 E Street N.W., Washington, D.C.

A portion of this meeting will be open to the public on June 14, 1979, from 9:00 a.m. to 5:30 p.m. The topic of discussion will be Policy.

The remaining sessions of this meeting on June 15, 1979, from 9:00 a.m. to 5:30 p.m. are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** March 17, 1977, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and 9(b) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Mr. John H. Clark, Advisory Committee Management Officer, National Endowment for the Arts, Washington, D.C. 20506, or call (202) 634–6070.

John H. Clark,

Director, Office of Council and Panel Operations, National Endowment for the Arts.

May 22, 1979.

NUCLEAR REGULATORY COMMISSION

Draft Regulatory Guides; Issuance and Availability

The Nuclear Regulatory Commission has issued for public comment drafts of proposed revisions to four guides in its Regulatory Guide Series together with a draft of their associated value/impact statement. This series has been developed to describe and make available to the public methods acceptable to the NRC staff of implementing specific parts of the Commission's regulations and, in some cases, to delineate techniques used by the staff in evaluating specific problems or postulated accidents and to provide guidance to applicants concerning certain of the information needed by the staff in its review of applications for permits and licenses.

The four guides provide guidance for implementing proposed amendments to 10 CFR Part 70, "Domestic Licensing of Special Nuclear Material," and Part 73, "Physical Protection of Plants and Materials" that were published in the **Federal Register** on August 9, 1978 (43 FR 35321). The proposed amendments would strengthen physical protection for strategic special nuclear material, certain fuel cycle facilities, and associated transportation and other activities involving significant quantities of strategic special nuclear material.

Proposed Revision 1 to Regulatory Guide 5.7, "Entry/Exit Control to Protected Areas, Vital Areas, and Material Access Areas," (SG 909–4), describes measures acceptable to the NRC staff for implementing entry/exit control requirements at facilities other than nuclear power plants.

Proposed Revision 1 to Regulatory Guide 5.14, "Use of Observation (Visual Surveillance) Techniques in Material Access Areas," (SG 910–4), describes measures acceptable to the NRC staff of surveillance or observation within material access areas to ensure safeguarding of strategic special nuclear material.

Proposed Revision 2 to Regulatory Guide 5.44, "Perimeter Intrusion Alarm Systems," (SG 479–4), describes six types of perimeter intrusion alarm systems for certain plants that use or process high enriched uranium, uranium-233, or plutonium. The guide also sets forth criteria for the systems' performance and use that are acceptable to the NRC staff.

Proposed Revision 1 to Regulatory Guide 5.57, "Shipping and Receiving Control of Strategic Special Nuclear Material," (SG 908–4), describes procedures acceptable to the NRC staff with regard to the protection of strategic special nuclear material during preparation for shipment, transfer between licensees, and receipt by a licensee.

These draft guides and their associated value/impact statement are being issued to involve the public in the early stages of the development of a regulatory position in this area. They have not received complete staff review and do not represent an official NRC staff position.

Public comments are being solicited on all drafts, the guides (including any implementation schedule) and the draft value/impact statement. Comments on the draft value/impact statement should be accompanied by supporting data.

Comments on all drafts should be sent to the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch, by August 3, 1979.

Although a time limit is given for comments on these drafts, comments and suggestions in connection with (1) items for inclusion in guides currently being developed or (2) improvements in all published guides are encouraged at any time.

Regulatory guides are available for inspection at the Commission's Public Document Room, 1717 H Street NW., Washington, D.C. Requests for single copies of draft guides or the latest revision of published guides (which may be reproduced) or for placement on an automatic distribution list for single copies of future guides or draft guides in specific divisions should be made in writing to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Technical Information and Document Control. Telephone requests cannot be accommodated. Regulatory guides are not copyrighted, and Commission approval is not required to reproduce them.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 22nd day of May 1979.

For the Nuclear Regulatory Commission.

Karl R. Goller,

Director, Division of Siting, Health and Safeguards Standards, Office of Standards Development.

[FR Doc. 79-16730 Filed 5-29-79; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-298]

Nebraska Public Power District; Issuance of Amendment to Facility Operating License

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 56 to Facility Operating License No. DPR-46, issued to Nebraska Public Power District, which revised the license for operation of the Cooper Nuclear Station, located in Nemaha County, Nebraska. The amendment is effective as of the date of its issuance.

The amendment adds license conditions relating to the completion of facility modifications and implementation of administrative controls for fire protection.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment. Prior public notice of this amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of this amendment will not result in any significant environmental impact and that pursuant to 10 CFR Section 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 December 17, 1976 and supplements dated June 3, 1976, February 4, March 31, April 6, June 20, August 12, and December 19, 1977, May 11, June 21, August 16, and December 11, 1978, and April 12, 1979, (2) Amendment No. 56 to License No. DPR-46, and (3) the Commission's related Safety Evaluation. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, N.W., Washington, D.C. and at the Auburn Public Library, 118-15th Street, Auburn, Nebraska 68305. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Director, Division of Operating Reactors.

Dated at Bethesda, Maryland this 23rd day of May 1979.

For the Nuclear Regulatory Commission.

Thomas A. Ippolito,

Chief Operating Reactors Branch No. 3, Division of Operating Reactors.

[FR Doc. 79-16731 Filed 5-29-79; 8:45 am]

BILLING CODE 7590-01-M

Regional Licensing Program

The U.S. Nuclear Regulatory Commission (NRC) published on February 6, 1978 (43 FR 4891) and on November 15, 1978 (43 FR 53072) initial and revised descriptions of its regional licensing program at the Region III Office in Glen Ellyn, Illinois.

The pilot program includes: (1) All licenses for medical use of radioisotopes, except teletherapy sources and nuclear powered pacemakers, and (2) licenses for industrial uses of gauges and sources contained in gas chromatographs and X-ray fluorescence analyzers in Region III. The states that comprise Region III are Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, Ohio and Wisconsin.

Effective June 15, 1979, the pilot program will also include the following types of licenses: (a) all academic licenses (except irradiators) and (b) all industrial licenses authorizing research and development. At that time licensing actions will be facilitated if all inquiries or applications for new licenses, amendments, or renewals in the above categories are sent to:

U.S. Nuclear Regulatory Commission, Region III, Radioisotopes Licensing Section, 799 Roosevelt Road, Glen Ellyn, Illinois 60137. Telephone Number (312) 858-2660.

Dated at Silver Spring, Maryland this 17th day of May 1979.

For the Nuclear Regulatory Commission.

Vandy L. Miller,

Chief, License Management Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 79-16728 Filed 5-29-79; 8:45 am]

BILLING CODE 7590-01-M

Draft Regulatory Guide; Request for Additional Comments

As part of the review of the accident at the the Three Mile Island Nuclear Station Unit 2, the Nuclear Regulatory Commission is evaluating the qualifications of nuclear power plant personnel. In conjunction with this evaluation, proposed Revision 2 to Regulatory Guide 1.8, "Personnel Selection and Training" (RS 807-5), which endorses ANSI/ANS 3.1-1978, "Selection and Training of Nuclear Power Plant Personnel," is being reevaluated. Additional comments on this proposed revision, which was issued for comment in February 1979, are requested concerning changes that should be incorporated to upgrade the recommendations contained therein.

The Commission is particularly interested in evaluating the need for additional guidance in the following areas:

1. Staffing, training, initial qualification, and requalification of operating personnel;

2. Staffing, training, initial qualification, and requalification of supervisory personnel;

3. Staffing, training, initial qualification, and requalification of technical support personnel;

4. Use of plant simulators for training, initial qualification, and requalification;

5. Training of plant operating staff following extended shutdown;

6. Content of programs for training nuclear power plant personnel;

7. Use of operating experience information in training nuclear power plant personnel.

For additional information, contact Steven D. Richardson, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555. Telephone: (301) 443-5913.

Comments should be sent the the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, Attention: Docketing and Service Branch by August 1, 1979.

(5 U.S.C. 552(a))

Dated at Rockville, Maryland this 21st day of May 1979.

For the Nuclear Regulatory Commission,

Robert B. Minogue,

Director, Office of Standards Development.

[FR Doc. 79-16727 Filed 5-29-79; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 10707; 812-4403]

Investors Mutual, Inc., et al.; Application for an Order To Permit Offers of Exchange and Exemption

May 23, 1979.

In the matter of Investors Mutual, Inc., Investors Stock Fund, Inc., Investors Selective Fund, Inc., Investors Variable Payment Fund, Inc., IDS New Dimensions Fund, Inc., IDS Progressive Fund, Inc., IDS Bond Fund, Inc., IDS Cash Management Fund, Inc., IDS Tax-Exempt Bond Fund, Inc., IDS High Yield Tax-Exempt Fund, Inc., 1000 Roanoke Building, Minneapolis, Minnesota 55402, and Investors Diversified Services, Inc., IDS Tower, Minneapolis, Minnesota 55402.

Notice is hereby given that Investors Mutual, Inc. ("Mutual"), Investors Stock Fund, Inc. ("Stock"), Investors Selective Fund, Inc. ("Selective"), Investors Variable Payment Fund, Inc. ("Variable"), IDS New Dimensions Fund, Inc. ("New Dimensions"), IDS Progressive Fund, Inc. ("Progressive"), IDS Bond Fund, Inc. ("Bond"), IDS Cash Management Fund, Inc. ("Cash Management"), IDS Tax-Exempt Bond Fund, Inc. ("Tax-Exempt"), and IDS High Yield Tax-Exempt Fund, Inc. ("High Yield") (collectively referred to as "the Funds"), open-end, management investment companies registered under the Investment Company Act of 1940 ("Act"), and Investors Diversified Services, Inc. ("IDS"), each Fund's investment adviser and principal underwriter (collectively referred to with the Funds as "Applicants"), filed an application on December 8, 1978, and an amendment thereto on May 10, 1979, for an order of the Commission, pursuant to Section 11(a) of the Act, permitting certain transfers among the Funds and IDS Growth Fund, Inc. ("Growth") (the Funds and Growth hereinafter collectively referred to as "the Investors Group of Funds"), on a basis other than their net asset value per share at the time of transfer and, pursuant to Section 6(c) of the Act, exempting such transfers from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

IDS, as principal underwriter for the Funds, maintains a continuous public offering of shares of each of the Funds at their respective net asset value plus a sales charge. On purchases of less than $15,000, the sales charge is 3½% for Bond, 7% for Selective, 8% for Mutual, Stock, Variable, New Dimensions, Progressive and Growth. Tax-Exempt and High Yield have a 4% sales charge on purchases of less than $50,000. For each of the Investors Group of Funds, the sales charge is reduced on larger purchases, except Bond which has a level 3½% sales charge. There is no sales charge for purchases of Cash Management.

Applicants state that on June 7, 1977, the Commission entered an order pursuant to Section 11(a) of the Act permitting transfers among certain of the Investors Group of Funds on a basis other than their relative net asset values and, pursuant to Section 6(c) of the Act, exempting such transfers from the provisions of Section 22(d) of the Act and Rule 22d-1 thereunder. (Investment Company Act Release No. 9807). According to the application, the shareholders of Mutual, Stock, Variable, Progressive, New Dimensions and Growth currently have the privilege of transferring their shares into shares of each of the Investors Group of Funds, except Bond and Growth, at net asset value without paying a sales charge. Applicants further state that the shareholders of Selective, Bond, Tax-Exempt and High Yield who have held their investments for eight months or more have the same transfer privilege described above, except that shareholders of High Yield, Selective and Tax-Exempt may transfer their shares at net asset value into Tax-Exempt or High Yield at any time. The shareholders of each of the Investors Group of Funds, except Cash Management, who have held their shares eight months or more may transfer into Bond at net asset value without paying a sales charge.

Applicants further state that the shareholders of Bond and Tax-Exempt who have held their shares for less than eight months have the privilege of transferring into Mutual, Stock, Variable, Progressive, New Dimensions, Tax-Exempt and Selective on payment of an additional sales charge. Shareholders of Selective who have held their shares for less than eight months may transfer into Mutual, Stock, Variable, Progressive and New Dimensions upon paying an additional sales charge. Applicants represent that in each instance the additional sales charge is equal to the difference between the sales charge actually paid and that which would have been imposed had the original investment been in the Fund into which the subsequent transfer was made. No transfers are permitted into Cash Management by shareholders of Selective, Bond, Tax-Exempt and High Yield who have held their shares less than eight months. Shareholders of the Investors Group of Funds do not have the privilege of transferring into Growth.

Shareholders of Cash management who acquired their shares with redemption proceeds from one of the other Investor Group of Funds may transfer their shares into shares of each of the Investors Group of Funds, except Growth, at net asset value without paying a sales charge. Shares of Cash Management that were purchased directly may be redeemed and the redemption proceeds invested in shares of each of the Investors Group of Funds by paying the applicable sales charge. Shares of Cash Management that were acquired with the redemption proceeds from one of the other Investors Group of Funds will be transferred first.

Bond now proposes to permit the shareholders of the other Investors Group of Funds, except Cash Management, who have held their shares for less than eight months to transfer their shares into shares of Bond on payment of an additional sales charge. This additional sales charge will be equal to the difference between the sales charge paid on the shares of the other Investors Group of Funds from which the transfer is being made and the sales charge that would have been paid had the investment been made in Bond originally.

In addition, it is proposed that the shareholders of High Yield who have held their shares for less than eight

months be permitted to transfer their shares into shares of Mutual, Stock, Selective, Variable, New Dimensions and Progressive on payment of an additional sales charge. This additional sales charge will be equal to the difference between the sale charge paid upon the purchase of shares of High Yield and the sales charge that would have been paid had the offering Funds' shares been purchased originally.

High Yield also proposes to permit the shareholders of Bond who have held their shares for less than eight months to transfer their shares into shares of High Yield on payment of an additional sales charge. This additional sales charge will be equal to the difference between the sales charge paid upon the purchase of shares of Bond and the sales charge that would have been paid had the investment been made in High Yield originally.

High Yield further proposes to permit the shareholders of Cash Management who have acquired their shares by direct purchase to redeem their shares and reinvest the redemption preceeds in shares of High Yield by paying the applicable sales charge.

Section 11(a) of the Act provides that it shall be unlawful for any registered open-end company or any principal underwriter for such company to make, or cause to be made, an offer to the shareholder of a security of such company or of any other open-end investment company to exchange his security for a security in the same or another such company on any basis other than the relative net asset values of the respective securities to be exchanged unless the terms of the offer have first been submitted to and approved by the Commission.

Section 22(d) of the Act provides, in pertinent part, that no registered investment company or principal underwriter thereof shall sell any redeemable security issued by such company to any person except at a current public offering price described in the prospectus. The sales charge described in the prospectus of each of the Investors Group of funds is normally greater than the sales charge which would be applicable to a proposed transfer. Rule 22d–1 permits certain variations in sales load, none of which it is alleged are applicable to the proposed transfer privileges.

Applicants state that the purpose of the proposed transfer privileges and the eight month restriction, where applicable, is to discourage attempts to circumvent the higher sales charges that could occur were an investor to purchase any of the Investors Group of Funds with a lower sales charge and, subsequently, transfer the investment at net asset value for an investment in one of the other Investors Group of Funds which imposes a higher sales charge than the Fund originally purchased. Applicants further state that under certain circumstances it might be found that IDS, as underwriter for each of the Investors Group of Funds would be violating Section 22(d) of the Act, since an investor would be able to purchase shares of one of the Investors Group of Funds at a sales charge other than that described in the prospectus merely by purchasing shares of Selective, Bond, Tax-Exempt, or High Yield and subsequently transferring those shares after eight months at net asset value into shares of one of the other Investors Group of Funds. Appropriate disclosure of the terms of the proposed transfer privileges will be made in the prospectuses of each of the Investors Group of Funds.

Applicants further represent that pursuant to the distribution agreements between IDS and each of the Investors Group of Funds, except Cash Management, IDS receives a sales charge equal to the difference between the total amount received upon each sale of shares and the net asset value of such shares at the time of sale, a portion of which is paid to IDS sales representatives as commissions. With respect to those transfers described above which involve the payment of any additional sales charge, Applicants state that IDS will pay to the applicable sales representative that portion of the additional sales charge which he would have received if the sale of shares of the higher load Fund had been made initially. Applicants further note that Bond imposes a sales charge for reinvested dividends by shareholders of Bond, which could result in the payment of an additional commission to the IDS sales representative who helped with the transfer. Applicants assert, however, that since each dividend reinvestment is a new sale which, technically, is not included in the original transfer, and hat in many cases the customer calls the IDS sales representative to help with such dividend reinvestment, it is appropriate to reimburse such sales representative for his effort. Applicants further state that they believe that there is not sufficient financial incentive for an IDS sales representative to initiate such transfers for his own benefit. Applicants represent that IDS has established sufficient internal monitoring and review procedures to ensure that such transfers are made at the request of the customer and not for the IDS sales representative's personal gain (including monitoring the frequency of transfers handled by individual representatives.)

Section 6(c) provides, in pertinent part, that the Commission, by order upon application, may conditionally or unconditionally exempt any person, security or transaction or any class or classes of persons, securities or transactions from any provisions of the Act or of any rule or regulation under the Act, if and to the extent such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Notice is further given that any interested person may, not later than June 18, 1979, at 5:30 p.m., submit to the Commission in writing, a request for a hearing on the application accompanied by a statement as to the nature of his interest, the reasons for such request and the issues, if any, or fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicants at the addresses stated above.

Proof of such service (by affidavit, or in the case of an attorney-at-law by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the Rules and Regulations promulgated under the Act, an order disposing of the application herein will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons, who request a hearing or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 79–16798 Filed 5–29–79; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

[Application No. 04/04-5130]

Fincastle Investment Corp., of an Application for a License To Operate as a Small Business Investment Company

An application for a license to operate as a small business investment company under Section 301(d) of the Small Business Investment Act of 1958, as amended (Act) (15 U.S.C. 661 *et seq.*), has been filed by Fincastle Investment Corporation (applicant) with the Small Business Administration (SBA) pursuant to 13 CFR 107.102 (1979).

The officers, directors and stockholders are as follows:

Alan N. Schneider, 1101 North, Greenway, Coral Gables, FL 33134, President, Director and 100% Stockholder.

Mabel P. Schneider, 1101 North Greenway, Coral Gables, FL 33134, Secretary, Treasurer and Director.

John R. Recht, 956 N. California Avenue, Palo Alto, CA 94303, Vice President and Director.

The applicant, a Florida corporation, will maintain an office at 265 Sevilla Avenue, Coral Gables, Florida 33134 and will begin operations with $500,000 of paid-in capital and paid-in surplus. The applicant will operate within the investment policies of § 107.101(c) of the regulations. The applicant anticipates being both equity and loan oriented in its investment decisions and policy. The applicant intends to initially assist any and all disadvantaged American Corporations, with the construction industry being only one available area of operations. Applicant also intends to make other investments that comply with SBA Rules and Regulations.

As a small business investment company under Section 301(d) of the Act, the applicant has been organized and chartered solely for the purpose of performing the functions and conducting the activities comptemplated under the Small Business Investment Act of 1958, as amended from time to time, and will provide assistance solely to small business concerns which will contribute to a well-balanced national economy by facilating ownership in such concerns by persons whose participation in the free enterprise system is hampered because of social or economic disadvantages.

Matters involved in SBA's consideration of the applicant include the general busness reputation and character of the purpose owners and management and the probability of successful operations of the applicant under this management, including adequate profitability and financial soundness, in accordance with the Act and SBA Rules and Regulations.

Any person may, not later than 15 days from the date of publication of this notice, submit to SBA written comments on the proposed applicant. Any such communication should be addressed to the Deputy Associate Administrator for Investment, Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416.

A copy of this notice shall be published in a newspaper of general circulation in Coral Gables, Florida.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investments Companies)

Dated: May 22, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment.

[FR Doc. 79-16703 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

Connecticut; Declaration of Disaster Loan Area #1634

The area of 135–141 South Main Street and Park Road West Hartford, Connecticut constitutes a disaster area because of damage resulting from a fire which occurred on February 20, 1979. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 16, 1979, and for economic injury until the close of business on February 18, 1979, at: Small Business Administration, District Office, One Financial Plaza, Hartford, Connecticut 06103, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008)

Dated: May 17, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-16704 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

Florida; Declaration of Disaster Loan Area #1638

As a result of the President's major disaster declaration I find that Hillsborough, Pinellas, Polk and Volusia Counties and adjacent counties within the State of Florida constitute a disaster area because of damage resulting from severe storms, tornadoes and flooding, beginning on or about May 8, 1979. Applications will be processed under the provisions of Pub. L. 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 16, 1979 and for economic injury until close of business on February 15, 1980, at: Small Business Administration, District Office, 400 West Bay Street, Jacksonville, Florida 32202, or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 18, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-16705 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

[Amendment #4]

New York; Declaration of Disaster Loan Area #1579

The above numbered declarations (See 44 FR 11019) amendment #1 (See 44 FR 18762), amendment #2 (See 44 FR 24179) and amendment #3 (See 44 FR 24179) are amended by change of incidence period for Suffolk County to January 19, 1979 through March 15, 1979 and extending the filing date only for Suffolk County applications for loans for physical damage until the close of business on June 18, 1979, and for economic injury until the close of business on December 18, 1979. Kings, Queens and Richmond Counties and adjacent counties within the State of New York remain the same, i.e., the termination date for filing applications for physical damage was until the close of business on April 17, 1979, and for economic injury until the close of business on November 14, 1979.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008).

Dated: May 18, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-16706 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

Michigan; Declaration of Disaster Loan Area No. 1635

Oakland County and adjacent counties with the State of Michigan, constitutes a disaster area as a result of damage caused by freezing rainstorm, ice and wind storm which occurred on April 8, 1979. Applications will be processed under provisions of Public Law 94–305. Interest rate is 7⅜ percent. Eligible persons, firms and organizations may file applications for loans for physical damage until the close of business on July 16, 1979, and for

economic injury until the close of business on February 18, 1980, at:

Small Business Administration, District Office, 477 Michigan Avenue—McNamara Building, Room 515, Detroit, Michigan 48226.

or other locally announced locations.

(Catalog of Federal Domestic Assistance Program Nos. 59002 and 59008.)

Dated: May 16, 1979.

A. Vernon Weaver,

Administrator.

[FR Doc. 79-16768 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

[License No. 02/02-0361]

Wood River Capital Corp., Issuance of a License to Operate as a Small Business Investment Company

On February 12, 1979, a Notice was published in the Federal Register (44 FR 8946) stating that Wood River Capital Corporation, 645 Madison Avenue, New York, New York 10022, had filed an application with the Small Business Administration (SBA) pursuant to Section 107.102 of the SBA Rules and Regulations governing small business investment companies (13 CFR 107.102 (1978)), for a license to operate as a small business investment company (SBIC).

Interested parties were given until the close of business February 27, 1979, to submit their comments. No comments were received.

Notice is hereby given that, having considered the application and all other pertinent information. SBA on May 9, 1979, issued License No. 02/02-0361 to Wood River Capital Corporation, pursuant to Section 301(c) of the Small Business Investment Act of 1958, as amended.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies.)

Dated: May 24, 1979.

Peter F. McNeish,

Deputy Associate Administrator for Finance and Investment

[FR Doc. 79-16769 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

Region III Advisory Council Executive Board Public Meeting

The Small Business Administration Region III Advisory Council Executive Board will hold a public meeting at 10:00 a.m., Thursday, June 21, 1979, in Suite 400—East Lobby, One Bala Cynwyd Plaza, Bala Cynwyd, Pennsylvania, to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration, or others present.

For further information, write or call Daniel P. Henson, III, Regional Director, U.S. Small Business Administration, Suite 646—West Lobby, One Bala Cynwyd Plaza, Bala Cynwyd, Pennsylvania 19004—(215) 596-5901.

Dated: May 24, 1979.

K Drew,

Deputy Advocate for Advisory Councils.

[FR Doc. 79-16770 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

Minority Group Consideration; Asian Pacific Americans

Pursuant to the provisions of section 8(a) of the Small Business Act, 15 U.S.C. 637(a) as amended by Pub. L. 95-507, and 13 CFR 124.1-1(C)(3)(iii)(A), notice is hereby given that the Small Business Administration (SBA) has received a request that it consider the Asian Pacific Americans, including Japanese Americans, Chinese Americans, Philippine Americans, Vietnamese Americans, Korean Americans, and Samoan Americans (hereinafter group) to be a minority group which has members who are socially disadvantaged because of their identification as members of the group, for the purpose of eligibility for SBA's section 8(a) program.

SBA shall receive comments and information from the public, on or before June 29, 1979, which tends to show:

(1) If the group has suffered the effects of discriminatory practices or similar invidious circumstances over which its members have no control,

(2) If the group has generally suffered from prejudice or bias,

(3) If such conditions have resulted in economic deprivation for the group of the type which Congress has found exists for the groups named in Pub. L. 95-507, and

(4) If such conditions have produced impediments in the business world for members of the group over which they have no control and which are not common to all small business people.

All such comments and information should be submitted to:

Mr. William Clement, Associate Administrator, Minority Small Business and Capital Ownership Development, U.S. Small Business Administration, 1441 L Street, NW., Washington, D.C. 20416

Subsequent to the close of the receipt of information on this matter, the SBA will publish its decision on the group's request in the form of a Notice in the Federal Register, pursuant to the provisions of 13 CFR 124.1-1(c)(3)(iii)(D).

Dated: May 28, 1979.

William A. Clement,

Associate Administrator, Minority Small Business and Capital Ownership Development, Small Business Administration.

[FR Doc. 79-16981 Filed 5-29-79; 8:45 am]

BILLING CODE 8025-01-M

DEPARTMENT OF STATE

Agency for International Development

[Revision of Redelegation of Authority Nos. 5.21, 23.7, 26.2, 38.20, 40.12, 41.6, 75.4, 99.16, and 100.5]

Redelegation of Authorities to the Field; Latin America and the Caribbean Region

Section I. *Definition.*

AID Missions and Offices.

AID Missions and Offices subject to this redelegation of authorities shall be the AID Missions or Offices located in Brazil, Ecuador, and Uruguay.

Section II. *Authorities.*

A. *Implementing Authorities.*

Authority to negotiate, execute, and implement, in accordance with applicable statutes and regulations, all loan, grant, and guaranty agreements, and amendments thereto, to their respective countries, whether heretofore or hereafter authorized, including authority:

1. To sign project agreements, trust fund agreements, and grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

2. To sign Project Implementation Orders (PIO's or PIPA's); and

3. To approve borrower/grantee contracts financed in whole or in part by an AID loan or grant; provided that this approving authority shall be limited to contracts not to exceed $50,000.

B. *Waiver Authorities.*

Selected Free World

Authority to waive, in accordance with applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, U.S. Source, origin or nationality requirements, to permit procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed

$25,000 (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act").

Free World

Authority to make specific exceptions to U.S. or AID Geographic Code 941 source, origin or nationality requirements, in accordance with applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, to permit procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World), when the cost of the goods and services does not exceed $25,000 (exclusive of transportation costs) of funds made available under the Act.

C. *Excess Property*

In accordance with the provisions of Section 607 of the Foreign Assistance Act of 1961, as amended, (the "Act"), and of AID Handbook 16, and subsequent to my authorizing such assistance, authority to execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments.

D. *Special Development Activities*

Authority to use a total of $50,000 annually of Development Grant Funds for Special Development Activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

E. *Extension of Terminal Dates.*

In accordance with AIDTO Circular A-24, dated January 26, 1978, and any amendments thereto, authority to extend:

1. The terminal date for signing a Project Agreement for a cumulative period of not to exceed six months;

2. The terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

3. The terminal date for requesting disbursing authorizations for a cumulative period of not to exceed one year; and

4. The terminal date for completion of performing services and furnishing goods (the PACD) for a cumulative period of not to exceed one year.

Section III. *Redelegation of authorities.*

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated to the Director, AID Affairs Officer, or AID Representative, as appropriate, of Missions or Offices included in Section I.

Section IV. *Miscellaneous.*

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor, or GC/LAC, as appropriate, and/or SER/CM or SER/COM, as appropriate.

B. The authorities redelegated pursuant to Section III may be redelegated, in the discretion of the principal AID Officer, to one additional officer or may be exercised by the person acting in the capacity of the respective Mission Director, AID Affairs Officer or AID Representative.

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affected AID Missions or Offices or the United States Embassies by the Assistant Administrator for Latin America and the Caribbean and/or the Deputy U.S. Coordinator of the Alliance for Progress; provided, however, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: May 3, 1979.

Edward W. Coy,

Acting Assistant Administrator for Latin America and the Caribbean.

[FR Doc. 79-16745 Filed 5-29-79; 8:45 am]

BILLING CODE 4710-02-M

[Revision of Redelegation of Authority Nos. 5.22, 23.6, 38.19, 40.11, 41.5, 75.3, 99.15, and 100.4]

Redelegation of Authorities to the Field; Latin America and the Caribbean Region

Section I. *Definition.*

AID Missions and Offices.

AID Missions and Offices subject to this redelegation of authorities shall be the AID Missions and Offices located in Barbados, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic, El Salvador, Guatemala, Guyana, Haiti, Honduras, Jamaica, Nicaragua, Panama, Paraguay, Peru, and ROCAP.

Section II. *Authorities.*

A. *Implementing Authorities.*

Authority to negotiate, execute, and implement, in accordance with applicable statutes and regulations, all loan, grant and guaranty agreements, and amendments thereto, to their respective countries, whether heretofore or hereafter authorized, including authority:

1. To sign project agreements, trust fund agreements, and grant agreements with foreign governments, foreign government agencies, and international organizations having a membership consisting primarily of such foreign governments;

2. To sign Project Implementation Orders (PIO's or PIPA's); and

3. To approve all borrower/grantee contracts financed in whole or in part by an AID loan or grant.

B. *Waiver Authorites*

Selected Free World

Authority to waive, in accordance with applicable statutes and regulations, including the terms of Delegation of Authority No. 40 (AID Handbook 5) and the Criteria prescribed by Supplement B of AID Handbook 1, U.S. source, origin or nationality requirements, to permit procurement of goods and services, other than transportation services, in countries included in AID Geographic Code 941 (Selected Free World) and the cooperating country, when the cost of goods and services does not exceed $50,000 (exclusive of transportation costs) of funds made available under the Foreign Assistance Act of 1961, as amended (the "Act"); provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $25,000 for any one transaction.

Free World

Authority to make specific exceptions to U.S. or AID Geographic Code 941 source, origin or nationality requirements, in accordance with applicable statutes and regulations, including the terms of Delegations of Authority No. 40 (AID Handbook 5) and the criteria prescribed by Supplement B of AID Handbook 1, to permit procurement of goods and services, other than transportation services, in any country included in AID Geographic Code 899 (Free World), when the cost of goods an services does not exceed $50,000 (exclusive of transportation costs) of funds made available under the Act; provided, however, that any waiver of the United States source and origin requirements for motor vehicle procurement shall not exceed $25,000 for any one transaction.

Emergency Procurement

Authority to approve waivers of source, origin, and nationality requirements in accordance with

applicable statutes and regulations in situations involving emergency or disaster relief, for procurement not in excess of $100,000 per transaction, from countries included in AID Geographic Code 941 and 899.

C. *Excess Property.*

In accordance with the provisions of Section 607 of the Act and of AID Handbook 16, and subsequent to my authorizing such assistance, authority to execute transfer or transfer/trust agreements with friendly countries or with international organizations having a membership primarily of foreign governments.

D. *Special Development Activities.*

Authority to use a total of $50,000 annually in Development Grant funds for Special Development Activities undertaken pursuant to the provisions of AID Manual Order 1323.1.1 or such other amount as may be authorized by AID/W.

E. *Extension of Terminal Dates.*

In accordance with AIDTO Circular A–24, dated January 26, 1978, and any amendments thereto, authority to extend:

1. The terminal date for signing a Project Agreement for a cumulative period of not to exceed six months;

2. The terminal date for meeting initial conditions precedent for a cumulative period of not to exceed six months;

3. The terminal date for requesting disbursing authorizations for a cumulative period of not to exceed one year; and

4. The terminal date for completion of performing sevices and furnishing goods (the PADC) for a cumulative period of not to exceed one year.

Section III. *Redelegation of Authorities.*

Pursuant to the authorities delegated to me as Assistant Administrator for Latin America and the Caribbean, I hereby delegate all of the authorities set forth in Section II hereof, retaining for myself concurrent authority to exercise any of the functions herein redelegated, to the Director, AID Affairs Officer, or AID Representative, as appropriate, of Missions or Offices included in Section I.

Section IV. *Miscellanous.*

A. The authorities redelegated pursuant to Section III hereof shall be exercised after consultation with a Regional Legal Advisor or GC/LAC, as appropriate, and/or SER/CM or SER/COM, as appropriate.

B. The authorities redelegated pursuant to Section III hereof may, in the discretion of the principal AID Officer, be further redelegated to one additional officer or may be exercised by the person acting in the capacity of the respective Mission Director, AID Affairs Officer or AID Representative while the latter is out of the country (with my prior approval).

C. This redelegation of authorities shall become effective on the date of my execution of this document and shall supersede on that date all delegations of authority previously issued to the affectd AID Missions or Offices or to the United States Embassies by the Assistant Administrator for Latin America and the Carribbean and/or the Deputy U.S. Coordinator of the Alliance for Progress; provided, however, that all actions taken under the delegations of authority which are hereby superseded shall remain valid and are hereby reaffirmed.

Dated: May 3, 1979.

Edward. W. Coy,

Acting Assistant Administrator for Latin America and the Caribbean.

[FR Doc. 79–16746 Filed 5–29–79; 8:45 am]

BILLING CODE 4710–02–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Number: 101–5]

Supervision of Bureaus and Offices, Delegation of Certain Authority, and Order of Succession in the Department of the Treasury

May 16, 1979.

1. The Deputy Secretary shall be under the direct supervision of the Secretary.

2. The following officials shall be under the supervision of the Secretary, and shall report to the Secretary through the Deputy Secretary:

Under Secretary for Monetary Affairs.
Under Secretary.
General Counsel.
Assistant Secretary (Domestic Finance)
(Also reports through Under Secretary for Monetary Affairs for debt management purposes.)
Assistant Secretary (Economic Policy).
Assistant Secretary (Legislative Affairs).
Assistant Secretary (Public Affairs).
Assistant Secretary (Tax Policy).
Executive Secretary.
Comptroller of the Currency
Commissioner of Internal Revenue:
Inspector General.
Director, Office of Small and Disadvantaged Business Utilization.

3. The following officials shall be under the supervision of the Under Secretary for Monetary Affairs, and shall exercise supervision over those officers and organizational entities listed:

Assistant Secretary (International Affairs):
Deputy Assistant Secretary for Developing Nations.
Deputy Assistant Secretary for Trade and Investment Policy.
Deputy Assistant Secretary for Commodities and Natural Resources.
Deputy Assistant Secretary for International Monetary Affairs.
Deputy to the Assistant Secretary for Saudi Arabian Affairs.
Deputy to the Assistant Secretary and Secretary of International Monetary Group.
Inspector General for International Finance.
(The Assistant Secretary (Domestic Finance) reports through the Under Secretary for Monetary Affairs for debt management purposes.)
Fiscal Assistant Secretary:
Deputy Fiscal Assistant Secretary.
Commissioner, Bureau of Government Financial Operations.
Commissioner of the Public Debt.

4. The following officials shall be under the supervision of the Under Secretary, and shall exercise supervision over those officers and organizational entities listed:

Assistant Secretary (Administration):
Deputy Assistant Secretary (Administration).
Director, Office of Administrative Programs.
Director, Office of Audit.
Director, Office of Budget and Program Analysis.
Director, Office of Computer Science.
Director, Office of Equal Opportunity Program.
Director, Office of Management and Organization.
Director, Office of Personnel.
Assistant Secretary (Enforcement and Operations):
Deputy Assistant Secretary (Operations).
Deputy Assistant Secretary (Enforcement).
Director, Bureau of Alcohol, Tobacco and Firearms.
Commissioner of Customs.
Director, U.S. Secret Service.
Director, Federal Law Enforcement Training Center.
Director, Office of Foreign Assets Control.
Treasurer of the United States:
National Director, U.S. Savings Bonds Division.
Director, Bureau of the Mint.
Director, Bureau of Engraving and Printing.

5. The following officials shall exercise supervision over those officers and organizational entities listed:

General Counsel:
Deputy General Counsel.
Legal Division.
Office of Director of Practice.
Deputy Assistant Secretary (Tariff Affairs).

Assistant Secretary (Domestic Finance):
Deputy Assistant Secretary for Debt Management.
Senior Adviser (Debt Research).
Director, Office of Government Financing.
Director, Office of Agency Finance and Market Policies.
Deputy Assistant Secretary for Capital Markets Policy.
Director, Office of Securities Market Policies.
Director, Office of Capital Markets Legislation.
Deputy Assistant Secretary for State and Local Finance.
Director, Office of Municipal Finance.
Director, Office of New York Finance.
Director, Office of Urban Economics.
Director, Office of Revenue Sharing.

Assistant Secretary (Economic Policy):
Deputy Assistant Secretary for Domestic Economic Policy.
Director, Office of Financial Analysis.
Director, Office of Special Studies.
Energy Legislative and Regulatory Analysis Staff.
Deputy Assistant Secretary for International Economic Analysis.
Director, Office of Monetary Research.
Director, Office of Trade Research.
Director, Office of Balance of Payments.
Director, Office of International Energy Research.
Director, Office of Statistical Reports.
Director, Office of Data Services.
Foreign Portfolio Investment Survey Project.

Assistant Secretary (Legislative Affairs):
Deputy Assistant Secretary (Legislative Affairs).
Office of Legislative Affairs.

Assistant Secretary (Public Affairs):
Deputy Assistant Secretary (Public Affairs).
Office of Public Affairs.

Assistant Secretary (Tax Policy):
Deputy Assistant Secretary for Tax Analysis.
Associate Director, Office of Tax Analysis.
Deputy Assistant Secretary for Tax Legislation.
Office of Tax Legislative Counsel (also part of Legal Division).
Office of International Tax Counsel (also part of Legal Division).
Director, Office of Industrial Economics.

6. The Deputy Secretary, the Under Secretary for Monetary Affairs, the Under Secretary, the General Counsel, and the Assistant Secretaries are authorized to perform any functions the Secretary is authorized to perform. Each of these officials shall perform functions under this authority in his or her own capacity and under his or her own title and shall be responsible for referring to the Secretary any matter on which action should appropriately be taken by the Secretary. Each of these officials will ordinarily perform under this authority only functions which arise out of, relate to, or concern the activities or functions of, or the laws administered by or relating to, the bureaus, offices, or other organizational units over which the incumbent has supervision. Any action heretofore taken by any of these officials in the incumbent's own capacity and under his or her own title is hereby affirmed and ratified as the action of the Secretary.

7. The following officers shall, in the order of succession indicated, act as Secretary of the Treasury in case of the death, resignation, absence, or sickness of the Secretary and other officers succeeding the incumbent, until a successor is appointed, or until the absence or sickness shall cease:

A. Deputy Secretary.

B. Under Secretary for Monetary Affairs.

C. Under Secretary.

D. General Counsel.

E. Assistant Secretaries, or Deputy Under Secretaries, appointed by the President with Senate confirmation, in the order in which they took the oath of office as Assistant Secretary, or Deputy Under Secretary.

8. Treasury Department Order No. 190 (Revision 15), March 16, 1978, is rescinded.

W. Michael Blumenthal,

Secretary of the Treasury.

[FR Doc. 79-16734 Filed 5-29-79; 8:45 am]

BILLING CODE 4810-25-M

VETERANS ADMINISTRATION

Privacy Act of 1974; Amendment of Systems Notice Revised Routine Use Statements

Notice is hereby given that the Veterans Administration is considering amending two routine use statements (numbers 6 and 7) in the system of records entitled, "Patient Medical Records-VA" (24VA136) as set forth on page 49739 of the **Federal Register** of September 27, 1977. It has been determined that these two routine use statements, as published, are more restrictive than the corresponding operating manual provisions. Accordingly, it has been decided to revise the statements to clearly provide for substantive discussion of protected medical information with families or appropriate other third parties. Revision of the two statements for these purposes is considered a necessary and proper use of data in this system of records.

Interested persons are invited to submit written comments, suggestions, or objections regarding the proposed routine use to the Administrator of Veterans Affairs (271A), Veterans' Administration, 810 Vermont Avenue, N.W., Washington, D.C. 20420. All relevant material received before June 28, 1979 will be considered. All written comments received will be available for public inspection at the above address only between the hours of 8 a.m. and 4:30 p.m. Monday through Friday (except Holidays), until July 9, 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 room number.

If no public comment is received during the 30-day review period allowed for public comment or unless otherwise published in the **Federal Register** by the Veterans' Administration, the revised routine use statements are effective May 21, 1979.

Approved: May 21, 1979.

By direction of the Administrator,

Rufus H. Wilson,

Deputy Administrator.

Notice of System of Records

In the system identified as 24VA136, "Patient Medical Records-VA", appearing at 42 FR 49739, routine use statements numbered 6 and 7 are revised as follows:

24VA136

SYSTEM NAME:

Patient Medical Records-VA

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

(6) Disclosure of information from this system of records may be made by appropriate VA personnel to the extent necessary and on a need-to-know basis consistent with good medical-ethical practices to the next of kin and/or the person(s) with whom the patient has a meaningful relationship.

(7) In response to an inquiry about a named individual from a member of the general public, disclosure of information may be made from this system of records to establish the patient's presence (and location when needed for visitation purposes) in a medical facility, to report the patient's general condition while hospitalized (e.g., satisfactory, seriously ill), or to report the amount of monthly VA monetary benefits being received by the patient.

[FR Doc. 79-16090 Filed 5-29-79; 8:45 am]

BILLING CODE 8320-01-M

INTERSTATE COMMERCE COMMISSION

[I.C.C. Order No. 40 Under Service Order No. 1344]

Rerouting Traffic

To: All railroads: In the opinion of Joel E. Burns, Agent, the Soo Line Railroad Company is unable to transport promptly all traffic offered for movement to, from, or via Bismarck, North Dakota, because of flooding.

It is ordered, (a) *Rerouting traffic.* The Soo Line Railroad Company being unable to transport promptly all traffic offered for movement to, from, or via Bismarck, North Dakota, because of flooding, that line and its connections are authorized to divert or reroute such traffic via any available route to expedite the movement. Traffic necessarily diverted by authority of this order shall be rerouted so as to preserve as nearly as possible the participation and revenues of other carriers provided in the original routing. The billing covering all such cars rerouted shall carry a reference to the order as authority for the rerouting.

(b) *Concurrence of receiving roads to be obtained.* The railroad rerouting cars in accordance with this order shall receive the concurrence of other railroads to which such traffic is to be diverted or rerouted, before the rerouting or diversion is ordered.

(c) *Notification to shippers.* Each carrier rerouting cars in accordance with this order, shall notify each shipper at the time each shipment is rerouted or diverted and shall furnish to such shipper the new routing provided for under this order.

(d) Inasmuch as the diversion or rerouting of traffic is deemed to be due to carrier disability, the rates applicable to traffic diverted or rerouted by said Agent shall be the rates which were applicable at the time of shipment on the shipments as originally routed.

(e) In executing the directions of the Commission and of such Agent provided for in this order, the common carriers involved shall proceed even though no contracts, agreements or arrangements now exist between them with reference to the divisions of the rates of transportation applicable to said traffic. Divisions shall be, during the time this order remains in force, those voluntarily agreed upon by and between said carriers; or upon failure of the carriers to so agree, said divisions shall be those hereafter fixed by the Commission in accordance with pertinent authority conferred upon it by the Interstate Commerce Act.

(f) *Effective date.* This order shall become effective at 4:00 p.m., May 11, 1979.

(g) *Expiration date.* This order shall expire at 11:59 p.m., May 25, 1979, unless otherwise modified, changed or suspended.

This order shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this order shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 11, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-16794 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Amendment No. 1 To I.C.C. Order No. 36 Under Service Order No. 1344]

Rerouting Traffic

To: Canadian National Railways: Upon further consideration of I.C.C. Order No. 36 and good cause appearing therefor:

It is ordered, I.C.C. Order No. 36 is amended by substituting the following *Expiration Date,* thereof:

Expiration date. This order shall expire at 11:59 p.m., June 15, 1979, unless otherwise modified, changed or suspended.

Effective date. This amendment shall become effective at 11:59 p.m., May 15, 1979.

This amendment shall be served upon the Association of American Railroads, Car Service Division, as agent of all railroads subscribing to the car service and car hire agreement under the terms of that agreement, and upon the American Short Line Railroad Association. A copy of this amendment shall be filed with the Director, Office of the Federal Register.

Issued at Washington, D.C., May 14, 1979.

Interstate Commerce Commission.

Joel E. Burns,

Agent.

[FR Doc. 79-16795 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Exemption Under Provision of Rule 19 of the Mandatory Car Service Rules Ordered in Ex Parte No. 241; Third Revised Exemption No. 141]

Car Service Orders

To all Railroads: It appearing, That the railroads named below own numerous plain gondola cars less than 61-ft.; that under present conditions there are surpluses of these cars on their lines; that return of these cars to the owner would result in their being stored idle; that such cars can be used by other carriers for transporting traffic offered for shipments to points remote from the car owner; and that compliance with Car Service Rules 1 and 2 prevents such use of these cars, resulting in unnecessary loss of utilization of such cars.

It is ordered, That pursuant to the authority vested in me by Car Service Rule 19, plain gondola cars, less than 61-ft. in length, described in the Official Railway Equipment Register, ICC RER No. 6410–A, issued by W. J. Trezise, or successive issues thereof, as having mechanical designation "GB", which are less than 61-ft. in length, and which bear the reporting marks listed below, may be used without regard to the requirements of Car Service Rules 1 and 2.

Chicago, West Pullman & Southern Railroad Company Reporting Marks: CWP–CWP&S

Louisiana Midland Railway Company Reporting Marks: LOAM

***

Effective May 15, 1979, and continuing in effect until further order of this Commission.

*** Maryland and Deleware Railroad deleted.

Issued at Washington, D.C. May 11, 1979.
INTERSTATE COMMERCE COMMISSION.

Joel E. Burns,

Agent.

[FR Doc. 79-16796 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Notice No. 90]

Assignment of Hearings

May 24, 1979.

Cases assigned for hearing, postponement, cancellation or oral argument appear below and will be published only once. This list contains prospective assignments only and does not include cases previously assigned hearing dates. The hearings will be on the issues as presently reflected in the Official Docket of the Commission. An attempt will be made to publish notices of cancellation of hearings as promptly as possible, but interested parties should take appropriate steps to insure that they are notified of cancellation or postponements of hearings in which they are interested.

MC 115495 (Sub-37F), United Parcel Service, Inc., now assigned for continued hearing on June 19, 1979 (4 days), at the Marriot Motel, 2101 Stemmons Freeway, Dallas, Tx., and continued to June 26, 1979 (4 days), at Memphis, Tn., in a hearing room to be later designated, and continued to July 10, 1979, at the Offices of the Interstate Commerce Commission, Washington, D.C.

MC 111375 (Sub-102F), Pirkle Refrigerated Freight Lines, Inc., now assigned for hearing on July 17, 1979 (2 days), at Chicago, Il, in a hearing room to be later designated.

MC 87928 (Sub-48F), Automobile Transport, Inc., now assigned for hearing on July 19, 1979 (2 days), at Chicago, Il., in a hearing room to be later designated.

MC 134477 (Sub-272F), Schanno Transportation, Inc., No. MC-107012 (Sub-283F), North American Van Lines, Inc., now assigned for hearing on July 23, 1979 (1 week), at Chicago, Il., in a hearing room to be later designated.

MC 136553 (Sub-65F), Art Pape Transfer, Inc., now assigned for hearing on August 1, 1979 (3 days), at Chicago, Il., in a hearing room to be later designate.

MC 140829 (Sub-168F), Cargo Contract Carrier Corporation, now assigned for hearing on July 24, 1979 (1 day), at Chicago, Il., in a hearing room to be later designated.

MC 140829 (Sub-164F), Cargo Contract Carrier Corporation MC 119765 (Sub-66F), Eightway Express, Inc., now assigned for hearing on July 25, 1979, (1 day), at Chicago, Il., in a hearing room to be later designated.

MC 109633 (Sub-38F), Arbet Truck Lines, Inc., now assigned for hearing on July 26, 1979 (1 day), at Chicago, Il., in a hearing room to be later designated.

MC 115826 (Sub-358F), W. J. Digby, Inc., now assigned for hearing on July 27, 1979 (1 day), at Chicago, Il., in a hearing room to be later designated.

MC 128007 (Sub-130F), Hofer, Inc., now assigned for hearing on July 30, 1979 (2 days), at Chicago, Il., in a hearing room to be later designated.

MC 46054 (Sub-79F), Brown Express, Inc., now assigned for hearing on June 11, 1979, at Chicago, Il., is canceled and reassigned to June 11, 1979, (5 Days), at the Hilton Inn West, 401 South Meridian Avenue, Oklahoma City, OK.

MC 46054 (Sub-79F), Brown Express, Inc., now assigned for hearing on June 18, 1979, at Oklahoma City, is postponed to July 17, 1979 (9 days), at Dallas, TX., in a hearing room to be later designated.

MC 115841 (Sub-653F), Colonial Refrigerated Transportation, Inc., now assigned for hearing on July 10, 1979, at Chicago, Il., is postponed to September 11, 1979 (9 days), at Chicago, Il., in a hearing room to be later designated.

MC 529 (Sub-7F), Winfield Bus Service, Inc., now assigned for hearing on August 21, 1979, (9 days), at Topeka, Kansas, in a hearing room to be later designated.

MC 123407 (Sub-454F), Sawyer Transport, Inc., now assigned for hearing on June 4, 1979, at Little Rock, Arkansas is canceled.

MC 145399 (Sub-2F), Shay Distributing Co., Inc., now assigned for hearing on September 11, 1979 (1 day), at Los Angeles, CA., in a hearing room to be later designated.

MC 138635 (Sub-67F), Carolina Western Express, Inc., now assigned for hearing on September 12, 1979 (3 days), at Los Angeles, CA., in a hearing room to be later designated.

MC 107012 (Sub-328F), North American Van Lines, Inc., now assigned for hearing on September 17, 1979 (1 week), at Los Angeles, CA., in a hearing room to be later designated.

MC 114569 (Sub-266F), Shaffer Trucking, Inc., MC 114569 (Sub 279F), Shaffer Trucking, Inc., now assigned for hearing on September 11, 1979 (9 days), at San Francisco, CA., in a hearing room to be later designated.

H.G. Homme, Jr.,

Secretary.

[FR Doc. 79-16787 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-36 Sub-No. 5F]

Oregon Short Line Railroad Co. Abandonment and Union Pacific Railroad Co. Abandonment of Operations Near Ashton, Idaho, and West Yellowstone, Mont.; in Fremont County, Idaho, and Gallatin County, Mont., Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a(6)(a) of the Interstate Commerce Act) that by a decision entered on April 9, 1979, 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 AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen* I.C.C. , decided February 9, 1979, and for public use as set forth in said decision, the present and future public convenience and necessity permit abandonment by the Oregon Short Line Railroad Company of its line of railroad and abandonment of operations by Union Pacific Railroad Company over a line known as the Yellowstone Branch extending from milepost 52.00 near Ashton, ID, to the end of the line at milepost 107.22 near West Yellowstone, MT, a distance of 55.22 miles in Fremont County, ID, and Gallatin County, MT. A certificate of abandonment will be issued to the Oregon Short Line Railroad Company and the Union Pacific Railroad Company based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such as agreement (including any extensions or modification) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled

"Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-16790 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Docket No. AB-7 Sub-No. 58F]

Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Co., Debtor, Abandonment Near LaCrescent and Ramsey, in Houston, Fillmore and Mower Counties, Minn.; Findings

Notice is hereby given pursuant to 49 U.S.C. § 10903 (formerly Section 1a(6)(a) of the Interstate Commerce Act) that by a decision entered on March 16, 1979, 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 AB-36 (Sub-No. 2), *Oregon Short Line R. Co.-Abandonment Goshen* I.C.C. , decided February 9, 1979, and further that applicant shall keep intact all of the right-of-way underlying the track, including all of the bridges and culverts for a period of 120 days from issuance of a certificate to permit any State and/or local government agency or other interested party to negotiate the acquisition for public use of all or any portion of the right-of-way, the present and future public convenience and necessity permit the abandonment by Stanley E. G. Hillman, Trustee of the Property of the Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor, of a line of railroad known as the IM&D Junction to Austin Line extending from railroad milepost 2.9 near LaCrescent in a westerly direction to railroad milepost 102.9 near Ramsey, a distance of 100.0 miles, in Houston, Fillmore and Mower Counties, MN. A certificate of abandonment will be issued to Stanley E. G. Hillman, Trustee of the Property of Chicago, Milwaukee, St. Paul and Pacific Railroad Company, Debtor based on the above-described finding of abandonment, 30 days after publication of this notice, unless within 30 days from the date of publication, the Commission further finds that:

(1) A financially responsible person (including a government entity) has offered financial assistance (in the form of a rail service continuation payment) to enable the rail service involved to be continued; and

(2) It is likely that such proffered assistance would:

(a) Cover the difference between the revenues which are attributable to such line of railroad and the avoidable cost of providing rail freight service on such line, together with a reasonable return on the value of such line, or

(b) Cover the acquisition cost of all or any portion of such line of railroad.

If the Commission so finds, the issuance of a certificate of abandonment will be postponed for such reasonable time, not to exceed 6 months, as is necessary to enable such person or entity to enter into a binding agreement, with the carrier seeking such abandonment, to provide such assistance or to purchase such line and to provide for the continued operation of rail services over such line. Upon notification to the Commission of the execution of such an assistance or acquisition and operating agreement, the Commission shall postpone the issuance of such a certificate for such period of time as such an agreement (including any extensions or modifications) is in effect. Information and procedures regarding the financial assistance for continued rail service or the acquisition of the involved rail line are contained in the Notice of the Commission entitled "Procedures for Pending Rail Abandonment Cases" published in the **Federal Register** on March 31, 1976, at 41 FR 13691, as amended by publication of May 10, 1978, at 43 FR 20072. All interested persons are advised to follow the instructions contained therein as well as the instructions contained in the above-referenced decision.

H. G. Homme, Jr.,

Secretary.

[FR Doc. 79-16789 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 62]

Permanent Authority Applications Decision-Notice

Decided: May 18, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed. Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exceptions of those applications involving duly noted

problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (June 29, 1979), (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 2, Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,

Secreary.

MC 647 (Sub-16F), filed February 21, 1979. Applicant: EXHIBITORS SERVICE COMPANY, a corporation, 85 Helen Street, McKees Rocks, PA 15136. Representative: Samuel P. Delisi, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *printed matter*, between Pittsburgh, PA, on the one hand, and, on the other, points in WV. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 1117 (Sub-18F), filed February 21, 1979. Applicant: M. G. M. TRANSPORT CORP., 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *containers*, from points in Passaic County, NJ, and Philadelphia, PA, to Greensboro, NC. (Hearing site: Greensboro, NC.)

MC 1117 (Sub-19F), filed February 22, 1979. Applicant: M. G. M. TRANSPORT CORP., 70 Maltese Drive, Totowa, NJ 07512. Representative: Morton E. Kiel, Suite 6193, 5 World Trade Center, New York, NY 10048. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from points in NC, to points in CT, NJ, NY and PA. (Hearing site: New York, NY.)

MC 8457 (Sub-8F) filed February 23, 1979. Applicant: MILWAUKIE TRANSFER & FUEL CO., a corporation, 15462 S. E. Railroad, Clackamas, OR 97015. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, OR 97210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pre-stressed concrete and concrete products*, between points in Pierce, King, and Snohomish Counties, WA, on the one hand, and, on the other, points in OR. (Hearing site: Portland, OR.)

MC 11207 (Sub-468F), filed February 9, 1979. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *steel roof decking, steel floor decking, steel coils,* and *machinery*, from the facilities of Merco Manufacturing, Inc., at Little Rock, AR, to points in AL, AR, FL, GA, IL, IN, KY, LA, MS, MO, NC, SC, OH, TN, TX, VA, and WV. (Hearing site: Little Rock, AR, or Washington, DC.)

MC 11207 (Sub-470F), filed February 14, 1979. Applicant: DEATON, INC., 317 Avenue W., P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *counter tops*, from Birmingham, AL, to points in AR, FL, GA, KY, LA, MS, OK, SC, TN, TX, VA, and WV. (Hearing site: Birmingham, AL, or Washington, DC.)

MC 26377 (Sub-26F), filed February 23, 1979. Applicant: LEONARDO TRUCK LINES, INC. 511 South 1st Street, Selah, WA 98942. Representative: Lawrence V. Smart, Jr., 419 N.W. 23rd Avenue, Portland, WA 97210. To operate as a *common carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting (1) *Food products* and such *commodities* as are dealt in by retail gift shops (except frozen), (2) *plants and bulbs*, when moving at the same time and in the same vehicle with the commodities in (1) above, and (3) *materials, supplies, and equipment* used in the manufacture of the commodities described in (1) above, between Medford, OR, on the one hand, and, on the other, points in WA, ID, and MT, restricted to the transportation of traffic originating at or destined to the facilities of Harry and David at Medford, OR. (Hearing site: Medford, OR or Portland, OR.)

MC 34227 (Sub-16F), filed February 22, 1979. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation, 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle in interstate or foreign commerce, over irregular routes, transporting *new furniture*, from the facilities of Samsonite Corporation at or near Ft. Smith, AR, to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA, and WY, under continuing contract(s) with Samsonite Corporation of Denver, CO. (Hearing site: Nashville, TN.)

MC 34227 (Sub-17F), filed February 22, 1979. Applicant: PACIFIC INLAND TRANSPORTATION COMPANY, a corporation 15910 East Colfax, Aurora, CO 80011. Representative: James P. Beck, 717 17th Street, Suite 2600, Denver, CO 80202. To operate as a *contract carrier*, by motor vehicle, in interstate or

foreign commerce, over irregular routes, transporting *paper and paper products,* from the facilities of Simpson Paper Company at or near Anderson and Ripon, CA to points in AZ, CO, NV, UT, and WY, under continuing contract(s) with Simpson Paper Company of Anderson, CA (Hearing site: San Francisco, CA.)

MC 35807 (Sub-94F), filed February 13, 1979. Applicant: WELLS FARGO ARMORED SERVICE CORPORATION, P.O. Box 4313, Atlanta, GA 30302. Representative: Steven J. Thatcher (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *coin, currency and securities,* between Charlotte, NC, on the one hand, and, on the other, points in Allendale, Bamberg, Barnwell, Berkeley, Beaufort, Calhoun, Charleston, Colleton, Dorchester, Georgetown, Hampton, Horry, Jasper, and Orangeburg, SC, under continuing contracts with banks and banking institutions, and (2) *food stamps,* between Charlotte, NC, on the one hand, and, on the other, points in SC, under continuing contract(s) with the South Carolina Department of Social Services and banks and banking institutions.

(Hearing site: Columbia, SC or Charlotte, NC.)

MC 41406 (Sub-118F), filed February 16, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kenndy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles,* from ports of entry on the international boundary line between the United States and Canada, to points in the United States (except AK and HI), and (2) *materials, equipment and supplies* used in the manufacture of iron and stell articles, in the reverse direction.

(Hearing site: Detroit, MI, or Chicago, IL.)

MC 41406 (Sub-119F), filed February 16, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles,* from Newport and Wilder, KY, to those points in the United States in and east of ND, SD, KS, NE, OK, and TX, and (2) *Materials equipment and supplies* in the manufacture of iron and steel articles, in the reverse direction. (Hearing site: Cincinnati, OH, or Louisville, KY.)

MC 41406 (Sub-120F), filed February 22, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 7105 Kennedy Avenue, Hammond, IN 46323. Representative: Wade H. Bourdon (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles,* from Calera, AL, to points in IL, MO, and PA. (Hearing site: Birmingham, AL, or Chicago, IL.)

MC 59117 (Sub-68F), filed February 14, 1979. Applicant: ELLIOTT TRUCK LINE, INC., P.O. Box 1, Vinita, OK 73401. Representative: Wilburn L. William, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash,* in bulk, from Cason, TX, to points in AR, IA, KS, LA, MO, NE, NM, OK, and TN. (Hearing site: Dallas, TX.)

MC 61016 (Sub-51F), filed February 14, 1979. Applicant: PETER PAN BUS LINES, INC., 1776 Main Street, Springfield, MA 01103. Representative: Philip J. Shine, 83 State Street, Springfield, MA 01103. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, (1) between points in ME, NH, VT, MA, CT, RI, and NY, and (2) beginning and ending at the points named in (1) above, and extending to points in the United States (including AK, but excluding HI). (Hearing site: Boston, MA.)

MC 63417 (Sub-191F), filed February 16, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances,* from Des Plaines and Galesburg, IL, to points in NC, SC, VA, and WV. (Hearing site: Washington, DC, or Chicago, IL.)

MC 63417 (Sub-192F), filed February 16, 1979. Applicant: BLUE RIDGE TRANSFER COMPANY, INCORPORATED, P.O. Box 13447, Roanoke, VA 24034. Representative: William E. Bain (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles* and *plastic materials,* from Port Arthur, TX, to points in AL, AR, FL, GA, KY, LA, MS, NC, OK, SC, TN, and VA. (Hearing site: Houston, TX or Roanoke, VA.)

MC 70557 (Sub-7F), filed February 14, 1979. Applicant: NIELSEN BROS. CARTAGE CO., INC., 4619 West Homer Street, Chicago, IL 60639. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper, paper products, containers, and container ends and components,* (except metal containers and ends, components of metal containers, and commodities in bulk), from the facilities of Continental Group, Inc., at or near Houston, TX, to points in LA, MS, AL, GA, and FL. NOTE: Dual operations may be involved. (Hearing site: Chicago, IL.)

MC 95876 (Sub-268F), filed February 14, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pollution control equipment, materials, and supplies,* from the facilities of Environmental Systems Division, Geo. A. Hormel & Co., at Coon Rapids, MN, to points in the United States (except AK and HI), and (2) *shipping stands, and equipment, materials, and supplies* used in the manufacture and assembly of pollution control equipment, from points in the United States (except AK and HI), to the facilities of Environmental Systems Division, Geo. A. Hormel & Co., at Coon Rapids, MN. (Hearing site: St. Paul, MN or Chicago, IL.)

MC 95876 (Sub-269F), filed February 14, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55402. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles,* from Sandy Spring, SC, to points in the United States in and east of MT, WY, CO, NM, and TX, and (2) *equipment, materials and supplies* used in the manufacture of the above named commodities, (except commodities in bulk), from Bethlehem, PA, Birmingham, AL, Atlanta, GA, Sterling, IL and

Indiana Harbor, IN, to Sandy Spring, SC. (Hearing site: Columbia, SC or Atlanta, Ga.)

MC 95876 (Sub-270F), filed February 22, 1979. Applicant: ANDERSON TRUCKING SERVICE, INC., 203 Cooper Avenue North, St. Cloud, MN 56301. Representative: Robert D. Gisvold, 1000 First National Bank Building, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Wheeling-Pittsburgh Steel Corporation, at (a) Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, (b) Allenport and Monessen, PA, and (c) Beech Bottom Benwood, Follansbee, and Wheeling, WV, to points in WI, and (2) from the facilities of Wheeling-Pittsburgh Steel Corporation, at (a) Canfield, OH, and (b) Monessen, PA, to points in IA, MN, ND, and SD. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 100666 (Sub-430F), filed February 12, 1979. Applicant: MELTON TRUCK LINES, INC., 1129 Grimmet Drive, Shreveport, LA 71107. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities of Tex-Ark Joist Company at or near Plum, TX, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Tex-Ark Joist Company. (Hearing site: Dallas, TX, or New Orleans, LA.)

MC 100666 (Sub-437F), filed February 14, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lath*, from the facilities of The Ceco Corporation at or near Broadview, IL, to points in LA. (Hearing site: Chicago, IL.)

MC 100666 (Sub-440F), filed February 22, 1979. Applicant: MELTON TRUCK LINES, INC., P.O. Box 7666, Shreveport, LA 71107. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Armco, Inc., at or near Kansas City, MO, to points in Shelby County, TN, and points in AR, CO, LA, MS, NM, and TX. (Hearing site: Dallas, TX.)

MC 102567 (Sub-218F), February 16, 1979. Applicant: McNAIR TRANSPORT, INC., 4295 Meadow Lane, P.O. Drawer 5357, Bossier City, IA 71111. Representative: Joe C. Day, 13403 Northwest Fwy., Suite 130, Houston, TX 77040. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ethyl chloride and methyl chloride*, in bulk, in tank vehicles, from Baton Rouge, LA, to points in CA, CO, CT, GA, IL, KY, MD, MI, NJ, NC, OH, PA, TN, WV, TX and WI. (Hearing site: Houston, TX.)

MC 103926 (Sub-85F), filed February 21, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableton, GA 30059. Representative: K. Edward Woloctt, P.O. Box 872, Atlanta, GA 30301. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *cranes and contractors' equipment*, and (2) *attachments, parts* and *accessories* for the commodities named in (1) above, between points in AL, AR, FL, GA, IL, IN, KY, LA, MD, MS, NC, OH, PA, SC, TN, TX, VA, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Essex Crane Rental Corp. (Hearing site: Atlanta, GA, or Birmingham, AL.)

MC 103926 (Sub-86F), filed February 22, 1979. Applicant: W. T. MAYFIELD SONS TRUCKING CO., a corporation, P.O. Box 947, Mableston, GA 30059. Representative: K. Edward Woloctt, P.O. Box 872, Atlanta, GA 30303. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *water cooling towers*, and (2) *parts* and *accessories* for water cooling towers, from the facilities of Ecodyne Cooling Products Division, at or near Tulsa, OK, to points in AL, AR, DE, FL, GA, IN, IL, KY, LA, MD, MS, NJ, NC, OH, PA, SC, TN, VA, WV, and DC. (Hearing site: Atlanta, GA, or Tulsa, OK.)

NC 107496 (Sub-1187F), filed February 9, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *citric acid*, in bulk, from Elkhart, IN, to points in IL. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 107496 (Sub-1189F), filed February 9, 1979. Applicant: RUAN TRANSPORT CORPORATION, 666 Grand Avenue, Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *uranium solution*, in bulk, from Casper, WY, to points in OK. CONDITION: This certification will expire 5 years from its date of issue. (Hearing site: Des Moines, IA or Omaha, NE.)

MC 112627 (Sub-34F), filed February 16, 1979. Applicant: OWENS BROS., INC., P.O. Box 247, Dansville, NY 14437. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages*, from Newark and Secaucus, NJ, and New York, NY, to points in IL, IN, OH, MI, and WI. (Hearing site: New York, NY or Buffalo, NY.)

MC 113666 (Sub-152F), filed February 16, 1979. Applicant: FREEPORT TRANSPORT, INC., 1200 Butler Road, Freeport, PA 16229. Representative: D. R. Smetanick, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *(1) animal and poultry feed and feed ingredients, and (2) materials, equipment, and supplies* used in the production and distribution of the commodities named in (1) above, between South River, MO, Pearl River, NY, and Willow Island, WV, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 115826 (Sub-404F), filed February 16, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore, (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat by-products, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk) from the facilities of Wilson Foods Corporation at Cedar Rapids, Cherokee, and Des Moines, IA, to points in CT, DE, DC, ME, MD, MA, NH, NJ, NY, PA, VT, and VA, restricted to the transportation of traffic originating at the named origin

facilities and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 115826 (Sub-409F), filed February 16, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk, in tank vehicles), in vehicles equipped with mechanical refrigeration, from the facilities of M & M Mars, Division of Mars, Inc., at or near Cleveland, TN, to points in TX, KS, IL, MO, PA, MD, NY, NJ, CT, MA, DE, NE, IA, MN, WI, and CO, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 117686 (Sub-241F), filed February 7, 1979. Applicant: HIRSCHBACH MOTOR LINES, INC., 5000 South Lewis Blvd., P.O. Box 417, Sioux City, IA 51102. Representative: Robert A. Wichser (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *artificial turf, neoprene foam padding*, and *floor coverings*, and (2) *materials* and *supplies* used in the installation, manufacture, and distribution of the commodities named in (1) above, when moving in mixed shipments with the commodities named in (1) above, (except commodities in bulk), from Landrum and Greenville, SC, Louisa, KY, La Grange, GA, and those points in GA on and north of Interstate Hwy 20, to Denver, CO.

Note.—Dual operations may be involved. (Hearing site: Denver, CO, or Atlanta, Ga.)

MC 119226 (Sub-111F), filed February 16, 1979. Applicant: LIQUID TRANSPORT CORP., 3901 Madison Avenue, Indianapolis, IN 46204. Representative: Robert W. Loser, 1009 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *chemicals, vegetable oils, animal fats and products thereof*, in bulk, in tank vehicles, from the facilities of Procter & Gamble Company at Ivorydale and St. Bernard, OH, to points in AL, DE, GA, IA, IL, IN, KY, MI, NC, NJ, NY, PA, SC, TN, TX, VA, and WV, and (2) *vegetable oils*, in bulk, in tank vehicles, from points in IL and KY, to the facilities of Procter & Gamble Company at Ivorydale and St. Bernard, OH. (Hearing site: Washington, DC or Cincinnati, OH.)

MC 120257 (Sub-49F), filed February 13, 1979. Applicant: K. L. Breeden & Sons, Inc., P.O. Box 4267, Lone Star, TX 75668. Representative: Bernard H. English, 6270 Firth Road, Forth Worth, TX 76116. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and *pipe*, from the facilities of Fort Worth Pipe and Supply Co., at or near Conroe, TX, to points in the United States (including AK, but excluding HI), and (2) *materials, equipment, and supplies* used in the manufacture or distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Fort Worth, or Dallas, TX.)

MC 121517 (Sub-6F), filed February 23, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *cement*, from Fredonia, KS, to points in AR, MO and OK. (Hearing site: Tulsa, OK.)

MC 121517 (Sub-7F), filed February 12, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *limestone*, in bulk, from Carthage, MO, to Stroud, OK. (Hearing site: Tulsa, OK.)

MC 121517 (Sub-8F), filed February 14, 1979. Applicant: ELLSWORTH MOTOR FREIGHT LINES, INC., P.O. Box 15627, Tulsa, OK 74112. Representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash*, from the facilities of (a) Oklahoma Gas & Electric Company, at or near Ponca City, OK, and (B) Public Service Company of Oklahoma, at or near Oologah OK, to points in AR, CO, KS, MO, and TX. (Hearing site: Tulsa, OK.)

MC 121626 (Sub-12F), Filed February 21, 1979. Applicant: BAYVIEW TRUCKING, INC., 7080 Florin-Perkins road, Sacramento, CA 95828. Representative: Donald L. Stern, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *Frozen foods*, (1) from the facilities of Campbell Soup Co., at Omaha and Fremont, NE, to Modesto and Sacramento, CA, and (2) from the facilities of Campbell Soup Co., at Modesto, CA, to Omaha, NE. (Hearing site: Omaha, NE.)

MC 123407 (Sub-539F), filed February 12, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities of Tex-Ark Joist Co., at or near Plum TX, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Tex-Ark Joist Co. (Hearing site: Washington, DC.)

MC 123407 (Sub-544F), filed February 1, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Highway 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant). To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *clapboard sidings, plastic articles, paper articles, building materials*, (except commodities in bulk), and (2) *accessories and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), from the facilities of Bird & Son, Inc., at or near Bardstown, KY, to points in the United States (except AK and HI). (Hearing site: Boston, MA, or Washington, DC.)

MC 123407 (Sub-546F), filed February 16, 1979. Applicant: SAWYER TRANSPORT, INC., South Haven Square, U.S. Hwy 6, Valparaiso, IN 46383. Representative: H. E. Miller, Jr. (same address as applicant.) To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fabricated steel products, agricultural implements, trailers*, and *buildings*, and (2) *parts* and *accessories* for the commodities named in (1) above (except commodities in bulk), from the facilities of the Binkley Company in Montgomery and Warren Counties, MO, to points in the United States (except AK and HI), restricted to the transportation of traffic

originating at the named origin facilities. (Hearing site: St. Louis, MO.)

MC 123876 (Sub-1F), filed February 13, 1979. Applicant: PRATT TRANSPORTATION CO., INC., 2565 St. Marys Avenue, P.O. Box 189, Omaha, NE 68101. Representative: Duane L. Stromer (same address as applicant). To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *liquid feed and liquid feed supplements*, in bulk, in tank vehicles, from Crete, NE, to points in AL, AZ, AR, CA, CO, FL, GA, ID, IL, IA, KS, KY, LA, MN, MS, MO, NV, NM, NC, ND, OK, OR, SC, SD, TN, TX, UT, VA, WA, WI, and WY. (Hearing site: Omaha, NE.)

MC 124117 (Sub-32F), filed February 8, 1979. Applicant: EARL FREEMAN AND MARIE FREEMAN d/b/a, MID-TENN EXPRESS, P.O. Box 101, Eagleville, TN 37060. Representative: Roland M. Lowell, 618 United American Bank Building, Nashville, TN 37219. To operate as *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, between points in Portage County, WI, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Basic American Food Company. (Hearing site: Plover, WI, or San Francisco, CA.)

MC 133666 (Sub 26F), filed February 21, 1979. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue, South, Wheaton, MN 56296. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *road asphalt, road oils, and fuel oils*, in bulk, in tank vehicles, from Minneapolis, MN, to points in ND and SD. (Hearing site: Minneapolis, MN.)

MC 133666 (Sub 27F), filed February 21, 1979. Applicant: JACOBSON TRANSPORT, INC., 1112 Second Avenue, South, Wheaton, MN 56296. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1600 Lincoln Street, Denver, CO 80264. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *road asphalt, road oils, and fuel oils*, in bulk, in tank vehicles, from Casper and Cody, WY, and Billings and Laurel, MT, to points in ND and SD. (Hearing site: Minneapolis, MN.)

MC 134477 (Sub 324F), filed February 8, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *paint applicators, sealer applicators, wax applicators, sprayers, and knives*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, (except commodities in bulk), between the facilities of Padco, Inc., at Minneapolis, MN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, OK, and TX (except FL). (Hearing site: St. Paul, MN.)

MC 134477 (Sub 325F), filed Februry 14, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *prepared foodstuffs* (except commodities, in bulk), (1) from the facilities of William Underwood Co., at or near Portland, ME, to points in CO, GA, IL, MN, MO, OH, PA, OK, TX, and WI, and (2) from the facilities of William Underwood Co., at or near Hannibal, MO, to points in CO, IL, MN, OK, and WI, restricted in (1) and (2) above to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 134477 (Sub 326F), filed February 14, 1979. Applicant: SCHANNO TRANSPORTATION, INC., 5 West Mendota Road, West St. Paul, MN 55118. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described ins ections 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 Green Bay Dressed Beef, Inc., at or near Green Bay, WI, to those points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 135797 (Sub-184F), filed February 22, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *textiles*, between St. Martinville, LA, and Woodward, OK. (Hearing site: Washington, DC.)

MC 135797 (Sub-185F), filed February 23, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pet food*, canned and dry, from the facilities of Carnation Company at (a) Ft. Dodge, IA, (b) Jefferson, WI, and (c) St. Joseph, MO, to points in AR, FL, IL, IN, PA and TN. (Hearing site: Los Angeles, CA.)

MC 135797 (Sub-186F), filed February 23, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 200, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by discount and variety stores, (except commodities in bulk), from points in AR, CO, DE, ID, KS, KY, LA, ME, MD, MS, MO, MT, NE, NV, NH, ND, OK, OR, RI, SD, TN, UT, VT, WA, WV, WY, and DC, to the facilities of Wal-Mart Stores, Inc., at points in AR, IL, KS, KY, LA, MO, MS, OK, TN, and TX. (Hearing site: Washington, DC.)

MC 136366 (Sub-2F), filed February 13, 1979. Applicant: BEE LINE, INC., 17 Commerce Road, Fairfield, NJ 07006. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by packing firms (except commodities in bulk), between West Caldwell, NJ, on the one hand, and, on the other, those points in the United States in and east of MN, IA, MO, KS, OK, and TX. (Hearing site: New York, NY, or Washington, DC.)

MC 138157 (Sub-112F), filed February 8, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign

commerce, over irregular routes, transporting (1) *motor vehicle accessories*, and (2) *windows* and *doors*, from City of Industry, CA, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-113F), filed February 12, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic articles and office equipment, materials and supplies* (except commodities in bulk), from Los Angeles, CA, to those points in the United States in and east of TX, OK, KS, NE, ND and SD. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138157 (Sub-114F), filed February 22, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, P.O. Box 9596, Chattanooga, TN 37412. Representative: Patrick E. Quinn (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dishwashers*, from Connersville and Richmond, IN, to points in TX, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138627 (Sub-58F), filed February 21, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from Chicago, IL, to Kansas City, MO, Wichita, KS, and Tulsa, OK, and (2) from Kansas City, MO, to points in KS, MO, NE, and OK. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 138627 (Sub-59F), filed February 21, 1979. Applicant: SMITHWAY MOTOR XPRESS, INC., P.O. Box 404, Fort Dodge, IA 50501. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber and lumber mill products*, between St. Joseph, MO, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Kansas City, MO, or Omaha, NE.)

MC 139906 (Sub-32F), filed February 22, 1979. Applicant: INTERSTATE CONTRACT CARRIER CORP., 2156 West 2200 South, P.O. Box 30303, Salt Lake City, UT 84125. Representative: Richard A. Peterson, P.O. Box 81849, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from the facilities of Knickerbocker Shippers Assn., in Queens County, NY, to Cleveland, OH, and Detroit, MI. (Hearing site: Lincoln, NE, or Salt Lake City, UT.)

Note.—Dual operations may be involved.

MC 140176 (Sub-15F), filed December 4, 1978. Applicant: POWELL TRUCKING COMPANY, INC., Route 3, Box 13, Sumrall, MS 39482. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber*, from the facilities of Leaf River Forest Products, Inc. at or near New Augusta, MS, to points in AL, GA, IA, MI, MN, WI, points in that part of IL north of U.S. Hwy 36, points in that part of IN east of U.S. Hwy 231, points in that part of KY east of U.S. Hwy 231 points in that part of TN east of Interstate Hwy 65, and points in that part of FL north of FL Hwy 50, under continuing contract(s) with Leaf River Forest Products, Inc. of New Augusta, MS. (Hearing site: Jackson, MS or New Orleans, LA.)

MC 140546 (Sub-3F), filed February 12, 1979. Applicant: ROADHOUND TRUCK COMPANY, a corporation, 811 W. Hale Street, Osceola, AR 72370. Representative: Gerald K. Gimmel, Suite 145, 4 Professional Drive, Gaithersburg, MD 20760. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities of Tex-Ark Company, at or near Hope, AR, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the above named facilities of Tex-Ark Joist Company. (Hearing site: Dallas, TX, or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 140596 (Sub-6F), filed February 1, 1979. Applicant: NEWPORT AIR FREIGHT, INC., Airport Road, Newport, VT 05855. Representative: S. Arnold Smith, Graftsbury, VT 05826. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *plastic parts* for (a) vehicular equipment, and (b) industrial equipment, between the ports of entry on the international boundary line between the United States and Canada at or near Derby Line and Beebe Plain, VT, on the one hand, and, on the other, Logan International Airport at or near East Boston, MA, restricted to the transportation of traffic having a prior or subsequent movement by air, under continuing contract(s) with Provincial Production & Die, Inc., of Sherbrooke, Quebec, Canada. (Hearing site: Montpelier, VT, or Boston, MA.)

MC 143127 (Sub-24F), filed February 21, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Rd., Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY 14580. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *non-alcoholic beverages, beverage preparations, cans*, and *lids* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk), between those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at or destined to the facilities of Coca-Cola Company Foods Division of Hightstown, NJ. (Hearing site: New York, NY, or Newark, NJ.)

Note.—Dual operations may be involved.

MC 143127 (Sub-25F), February 16, 1979. Applicant: K. J. TRANSPORTATION, INC., 1000 Jefferson Road, Rochester, NY 14623. Representative: John M. Nader, 1600 Citizens Plaza, Louisville, KY 40202. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from the facilities of Joan of Arc Co., Inc., at or near (a) Belledeau and St. Francisville,

LA, (b) Mayville, WI, (c) Princeville and Hoopeston, IL, and (d) Turkey, NC, to those points in the United States in and east of MN, IA, MO, AR, and LA, restricted to the transportation of traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Chicago, IL, or Louisville, KY.)

Note.—Dual operations may be involved.

MC 143267 (Sub-53F), filed February 23, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe fittings, valves and hydrants*, and (2) *materials and supplies* used in the installation of the commodities described in (1) above (except commodities in bulk), from the facilities of Clow Corporation at or near Columbia, MO, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Cleveland, OH or Washington, DC.)

MC 143267 (Sub-56), filed February 22, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1155 15th Street, N.W., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *reinforced concrete structures*, (1) from the facilities of Price Brothers Company at Dayton and Columbus, OH, to points in IN, IL, KY, MI, PA, and WV, and those points in NY on and west of U.S. Hwy 81, (2) from the facilities of Price Brothers Company at Kent, OH, to points in IL, (3) from the facilities of Price Brothers Company at Livonia, MI, to points in IN, IL, KY, OH, PA, and WV, and those points in NY on and west and (4) from the facilities of Price Brothers Company at Rochelle, IL, to points in IN, IA, KY, MI, MN, MO, OH, and WI. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143387 (Sub-5F), filed February 16, 1979. Applicant: ASSOCIATED COURIERS, INC., 342 Fee Fee Road, Maryland Heights, MO 63043. Represenative: Warren W. Wallin, Suite 1600, 10 South LaSalle Street, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes transporting *radioactive pharmaceuticals, radioactive isotopes and medical testing kits*, between Maryland Heights, MO, on the one hand, and, on the other, points in AR, CO, IA, MT, MN, ND, SD, and WY and Memphis, TN, under continuing contract(s) with Mallinckrodt, Inc. of St. Louis, MO. (Hearing site: St. Louis, MO or Chicago, IL.)

MC 143607 (Sub-8F), filed February 13, 1979. Applicant: BAYWOOD TRANSPORT, INC., P.O. Box 2611, Waco, TX 76706. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., N.W., Washington, DC 20001. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *building materials* (except iron and steel articles, commodities in bulk, and those which because of size or weight require the use of special equipment), from Waco, TX, to points in the United States in and east of ND, SD, NE, CO and NM, under continuing contract(s) with Ideal Company, Division of Certain-Teed Products Corp. of Waco, TX. (Hearing site: Dallas, TX.)

Note:—Dual operations may be involved.

MC 144557 (Sub-6F), filed February 16, 1979. Applicant: HUDSON TRANSPORTATION, INC., P.O. Box 847, Troy, AL 36081. Representative: William P. Jackson, Jr., 3426 North Washington Blvd., P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except in bulk), from the facilities of Illes Company, at or near Dallas, TX, to those points in the United States in and east of MN, IA, MO, KS, OK, AR and LA. (Hearing site: Dallas, TX.)

MC 144827 (Sub-20F), filed February 16, 1979. Applicant: DELTA MOTOR FREIGHT, INC., 2877 Farrisview, Box 18423, Memphis, TN 38118. Representative: Billy R. Hallum (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *auto ramps, auto stands, and accessories* for auto ramps and auto stands (except commodities which because of size or weight require the use of special equipment), from Cornwells Heights, PA, to points in TX. (Hearing site: Dallas, TX.)

MC 145376 (Sub-2F), filed February 16, 1979. Applicant: TOM BAKER EXPRESS, INC., 1531 Tar Heel Road, Charlotte, NC 28222. Representative: Joe T. Millsaps, 1719 Wachovia Center, Charlotte, NC 28285. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *household and commercial appliances*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from Charlotte, NC, to points in Calhoun, Cherokee, Chester, Chesterfield, Clarendon, Darlington, Dillon, Fairfield, Florence, Georgetown, Greenville, Greenwood, Horry, Kershaw, Lancaster, Laurens, Lee, Lexington, Marion, Marlboro, Newberry, Orangeburg, Pickens, Richland, Saluda, Spartanburg, Sumter, Union, Williamsburg, and York Counties, SC, under continuing contract(s) with Whirlpool Corporation of Charlotte, NC. (Hearing site: Charlotte, NC or Atlanta, GA.)

MC 145406 (Sub-18F), filed February 16, 1979. Applicant: MIDWEST EXPRESS, INC., 380 E. Fourth Street, Dubuque, IA 52001. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, meat by-products and articles distributed by meat packing houses* (except hides and commodities in bulk), as defined in Sections A and C of Appendix I to the *Report in Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, from Worthington and Albert Lea, MN; Clinton and St. Louis, MO; Kansas City, KS; Sioux Falls, SD; Omaha, NE; and points in IL and IA, to points in CA. (Hearing site: Minneapolis, MN or Chicago, IL.)

MC 145917 (Sub-2F), filed February 16, 1979. Applicant: CHARLES J. STALLMAN, d.b.a. STALLMAN TRUCKING, 4457 West Montana Avenue, Chicago, IL 60639. Representative: Robert J. Gill, 29 South LaSalle St., Suite 740, Chicago, IL 60603. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by scrap paper dealers (except commodities in bulk), between points in IL, IN, IA, MI, OH, and WI, under continuing contract(s) with Ajax Recycling, Inc., of Chicago, IL. (Hearing site: Chicago, IL, or Washington, DC.)

MC 146066 (Sub-2F), filed February 23, 1979. Applicant: R. E. GARRISON TRUCKING, INC., P.O. Box 186, Cullman, AL 35055. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Road, Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpet yarn*, from Talladega, AL, to Los Angeles, Irvine,

Norwalk, Tustin, and La Mirada, CA, under continuing contract(s) with Mid America Yarn Mills, Inc. of Talladega, AL. (Hearing site: Birmingham, AL.)

Note.—Dual operations may be involved.

MC 146306 (Sub-2F), filed February 16, 1979. Applicant: JOHN D. LARNED d.b.a. J & P TRANSPORTATION, Box 515, Westminster, CO 80030. Representative: Truman A. Stockton, Jr., The 1650 Grant St. Bldg., Denver, CO 80203. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by grocery and food business houses, (except commodities in bulk, in tank vehicles, and meats), from the facilities used by C.I.A. Consolidators, Inc., at or near Denver, CO, to Albuquerque, NM, Salt Lake City, UT, and Gering, NE, under continuing contract(s) with C.I.A. Consolidators, Inc., of Denver, CO. (Hearing site: Denver, CO.)

MC 146336 (Sub-2F), filed February 16, 1979. Applicant: WESTERN TRANSPORTATION SYSTEMS, INC., 902 Avenue N., Grand Prairie, TX 75050. Representative: E. Larry Wells, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *highfidelity reproduction equipment and components* for such equipment from Los Angeles, CA, to the facilities of U.S. Pioneer Electronics Corp., at Irving, TX, under continuing contract(s) with U.S. Pioneer Electronics Corp., of Irving, TX. (Hearing site: Dallas, TX.)

MC 146366 (Sub-1F), filed February 16, 1979. Applicant: VICKERD BROTHERS LIMITED, RR # 1, Woodslee, Ontario NOR 1VO. Representative: Richard C. Marsh, 1600 First Federal Building, Detroit, MI 48226. To operate as a *contract carrier*, by motor vehicle, in foreign commerce only, over irregular routes, transporting (1) *shipping containers* and *pallets*, and (2) *materials, equipment*, and *supplies* used in the manufacture of the commodities named in (1) above, between ports of entry on the international boundary line at Detroit, Port Huron, and Sault Ste. Marie, MI, on the one hand, and, on the other, points in OH, IN, and MI, under continuing contract(s) with L and H Wood Manufacturing Company and L and H Wood Manufacturing Company, Ltd., both of Farmington, MI. (Hearing site: Detroit or Lansing, MI.)

MC 146447 (Sub-1F), filed February 23, 1979. Applicant: TANBAC, INC., P.O. Box 593278, Miami, FL 33159. Representative: David M. Marshall, 101 State Street-Suite 304, Springfield, MA 01103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wood connector plates*, and *materials, supplies, and equipment* used in the manufacture, distribution and installation of such commodities (except commodities in bulk), between Miami, FL and points in the United States (except HI), under continuing contract(s) with Automated Building Components, Inc. of Miami, FL. (Hearing site: Miami, FL.)

MC 146477F, filed February 22, 1979. Applicant: ED TALMADGE DUNN d/b/a DUNN TRUCKING, Route 5, Highway 225, Chatsworth, GA 30705. Representative: Blaine Buchanan, 1024 James Building, Chattanooga, TN 37402. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpeting* from the facilities of Len-Dal Carpets, Inc., at or near Eton, GA, to points in IL, IN, IA, KS, MN, NE, ND, SD, and WI, under continuing contract(s) with Len-Dal Carpets, Inc., of Chatsworth, GA. (Hearing site: Chattanooga, TN, or Atlanta, GA.)

MC 146496F, filed February 16, 1979. Applicant: JOSEPH MOVING & STORAGE CO., INC. d/b/a ST. JOSEPH MOTOR LINES, 573 Dutch Valley Road, N.E., Atlanta, GA 30324. Representative: Richard M. Tettelbaum, Fifth Floor, Lenox Towers South, 3390 Peachtree Road, N.E., Atlanta, GA 30326. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *printed financial media*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of printed financial media, (except commodities in bulk, and commodities which because of size or weight require the use of special equipment), between the facilities of John H. Harland Co., at (a) Clearwater, FL, (b) St. Peters, MO, and (c) Columbia, SC, on the one hand, and, on the other, those points in the United States in and east of TX, OK, KS, NE, IA, and MN.

Note.—Dual operatons may be involved. (Hearing site: Atlanta, GA.)

[FR Doc. 79-16788 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 55]

Permanent Authority Applications; Decision-Notice

Decided: May 3, 1979.

The following applications, filed on or after March 1, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the commission within 30 days after the date notice of the application is published in the **Federal Register**. Protests (such as were allowed to filings prior to March 1, 1979), will be rejected. A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, and has the necessary equipment and facilities for performing that service, and (2) has either performed service within the scope of the application or has solicited business which is controlled by those supporting the application and which would have involved transportation performed within the scope of the application.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(l) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that filure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commision, which is expressly reserved, to impose such terms, conditions, or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each aplicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 2 Members Boyle, Eaton, and Liberman.

H. G. Homme, Jr.,

Secretary.

FF 448 (Sub-1F), filed March 7, 1979. Applicant: INTERMODAL CONTAINER EXPRESS, Suite 1333, One Appletree Square, Bloomington, MN 55420. Representative: Ronald N. Corbert, Suite 501, 1730 M Street, NW., Washington, DC 20036. To operate as a *freight forwarder*, in interstate commerce, through the use of the facilities of common carriers by rail, motor, water, and express, in the transportation of *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), from points in that part of WI on, west, and north of a line beginning at Ashland, WI, and extending over WI Hwy 13 to Wisconsin Dells, WI, then over U.S. Hwy 12 to Sauk City, WI, then over WI Hwy 60 to junction U.S. Hwy 18, and then over U.S. Hwy 18 to Prairie du Chien, WI, and points in IA, MN, ND, and SD, to Chicago, IL, Boston, MA, Milwaukee, WI, and points in CA, FL, LA, MD, NJ, NY, OR, TX, VA, and WA. (Hearing site: Minneapolis, MN.)

MC 21779 (Sub-6F), filed March 6, 1979. Applicant: J. P. GRAHAM TRANSFER, INC., 429 Constitution Boulevard, Fallston, PA 15066. Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *iron and steel articles*, from the facilities of Babcock & Wilcox Co., at Ambridge, Beaver Falls, and Koppel, PA, to points in IL, IN, MI, NY, and OH; and (b) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1)(a) above, in the reverse direction; (2)(a) *iron and steel articles*, from the facilities of Babcock & Wilcox Co., at Alliance, OH, to points in IL, IN, MI, NY, and PA; and (b) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (2)(a) above, in the reverse direction. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 21779 (Sub-7F), filed March 6, 1979. Applicant: J. P. GRAHAM TRANSFER, INC., 429 Constitution Boulevard, Fallston, PA 15066. Representative: John A. Vuono, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corporation, at Pittsburgh and Aliquippa, PA, to points in IL, IN, MI, NY, and OH; and those in WI on and south of a line beginning at the Mississippi River and extending along U.S. Hwy 18 to junction WI Hwy 60, then along WI Hwy 60 to Grafton, WI; and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above, in the reverse direction. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 28088 (Sub-45F), filed March 5, 1979. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main St., Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St., NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *materials and supplies used in the manufacture and distribution of frozen foods* (except commodities in bulk), (1) from points in CT, DE, IL, IN, KY, ME, MD, MA, MI, MO, NH, NJ, NY, OH, PA, RI, TN, VT, WV, WI, DC, and Russellville, AR, to Crozet, VA, and (2) from Crozet, VA, to Russellville, AR. (Hearing site: Washington, DC, or Harrisonburg, VA.)

MC 35358 (Sub-43F), filed March 8, 1979. Applicant: BERGER TRANSFER & STORAGE, INC., 3720 Macalaster Drive, Northeast Minneapolis, MN 55421. Representative: Andrew R. Clark, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *displays and exhibits*, and (2) *materials* used in displays and exhibits, between Secaucus, NJ, and Warrington, PA, on the one hand, and, on the other, points in the United States

(except AK and HI). (Hearing site: Washington, DC.)

MC 36509 (Sub-33F), filed March 8, 1979. Applicant: LOOMIS ARMORED CAR SERVICE, INC., 821 Sansome Street, San Francisco, CA 94111. Representative: Robert C. Konkle (same address as applicant). To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin*, between Denver, CO, and Philadelphia, PA, on the one hand, and, on the other, Lake Tahoe, Stateline, Reno, and Las Vegas, NV, and Phoenix, AZ, under continuing contract(s) with General Services Administration, U.S. Government. (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 47149 (Sub-19F), filed March 1, 1979. Applicant: C. D. AMBROSIA TRUCKING CO., a Corporation, R.D. #1, Edinburg, PA 16116. Representative: William J. Lavelle, 2310 Grant Building, Pittsburg, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles*, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, between the facilities of Conn Welding and Machine Company, at New Castle, PA, on the one hand, and, on the other, points in OH, NY, WV, NJ, MD, VA, IN, and IL. (Hearing site: Pittsburgh, PA.)

MC 72069 (Sub-19F), filed March 6, 1979. Applicant: BLUE HEN LINES, INC., Box 565, Milford, DE 19963. Representative: CHESTER A. ZYBLUT, 366 Executive Building, 1030 Fifteenth Street NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *canned goods*, from Sussex County, DE, to points in NC, SC, GA, FL, TN, KY, AL, MS, LA, and TX. (Hearing site: Washington, DC.)

MC 73688 (Sub-86F), filed March 5, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Ave., P.O. Box 7195, Memphis, TN 38107. Representative: Bob McAdams, Route 6, Box 15, North Little Rock, AR 72118. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Memphis, TN, to points in IL. (Hearing site: Memphis, TN, or Washington, DC.)

MC 78118 (Sub-42F), filed March 8, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper products*, from the facilities of Hammermill Paper Company, at or near Erie and Lock Haven, PA, to points in AL, FL, GA, NC, SC, and VA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 106398 (Sub-868F), filed March 5, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *mechanical tubing*, from the facilities of Maverick Tube, at Union, MO, to points in the United States (except AK and HI); and (2) *materials* used in the manufacture of mechanical tubing, in the reverse direction, restricted in (1) and (2) above, to the transportation of traffic originating at or destined to the named facilities. (Hearing site: St. Louis, MO.)

MC 106398 (Sub-869F), filed March 8, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant.) To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from (a) the facilities of Speedrack, Inc., at Quincy, IL, (b) the facilities of Joslyn Empire Galvanizing, at Franklin Park, IL, and (c) the facilities of Reliable Galvanizing, at Chicago, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 108119 (Sub-132F), filed March 8, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, a corporation, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank, Minneapolis, MN 55402. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *turbines, steam condensers, and feed water heaters*, and (2) *parts* for the commodities in (1) above, between Charlotte, NC, and points in Delaware and Philadelphia Counties, PA, on the one hand, and, on the other, points in the United States (including AK but excluding HI). (Hearing site: Philadelphia, PA.)

MC 109708 (Sub-95F), filed March 5, 1979. Applicant: INDIAN RIVER TRANSPORT CO., d/b/a INDIAN RIVER TRANSPORT, INC., P.O. Box AG, Dundee, FL 33838. Representative: Marshall D. Becker, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fruit juices*, from Carlstadt, NJ, to De Land and Winter Haven, FL. (Hearing site: New York, NY, or Orlando, FL.)

MC 117119 (Sub-729F), filed March 5, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Del Pero Mondon Meat Co., at or near Booneville, AR, to points in CT, DE, GA, IL, IN, IA, KY, MA, MD, MI, MN, NJ, NY, NC, OH, PA, RI, SC, TN, WI, WV, and VA, restricted to the transportation of traffic originating at the named origin facilities and destined to the indicated destinations. (Hearing site: Kansas City, MO, or San Francisco, CA.)

MC 119489 (Sub-58F), filed March 5, 1979. Applicant: PAUL ABLER, D/B/A CENTRAL TRANSPORT COMPANY, P.O. Box 249, 2500 North 13th Street, Norfolk, NE 68701. Representative: Scott E. Daniel, 800 Nebraska Savings Building, 1623 Farnam, Omaha, NE 68102. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Nucor Corporation, Vulcraft Division, at or near Norfolk, NE, to points in CO, IL, IA, KS, MI, MN, MO, MT, SD, UT, and WI, restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Omaha, NE.)

MC 119489 (Sub-59F), filed March 5, 1979. Applicant: PAUL ABLER d.b.a. CENTRAL TRANSPORT COMPANY, P.O. Box 249, Norfolk, NE 68701. Representative: Steven K. Kuhlmann, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *tallow* in bulk, in tank

vehicles, from the facilities of Spencer Foods at or near Schuyler, NE, to points in IL, IN, and IA. (Hearing site: Lincoln, NE.)

MC 124078 (Sub-951F), filed March 7, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *fly ash*, from the facilities of the Iowa Public Service Company, Port Neal Industrial Complex, in Woodbury County, IA, to points in MN, NE, MO, and SD, and (2) *fly ash*, in bulk, from Council Bluffs, IA, to points in KS, MN, MO, NE, and SD. (Hearing site: Omaha, NE.)

MC 124078 (Sub-952F), filed March 7, 1979. Applicant: SCHWERMAN TRUCKING CO., a corporation, 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *hydraulic systems fluid*, in bulk, in tank vehicles, from Carrollton, GA, to points in NC, SC, VA, and those in TN on and east of U.S. Hwy 27. (Hearing site: Atlanta, GA.)

MC 126119 (Sub-3F), filed March 7, 1979. Applicant: EASTERN MOTOR TRANSPORT, INC., P.O. Box 501, Richmond, VA 23204. Representative: Mel P. Booker, 110 South Columbus Street, Alexandria, VA 22314. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *petroleum and petroleum products* (except petrochemicals), in bulk, from points in Fairfax County, VA, to points in Grant, Berkeley, Morgan, Hampshire, Mineral, and Hardy Counties, WV. (Hearing site: Washington, DC, or Chicago, IL.)

MC 130198 (Sub-2F), filed March 9, 1979. Applicant: ROBERT GARVIN & ASSOCIATES, INC., 2258 South Kinnickinnic Avenue, Milwaukee, WI 53207. Representative: F. Thomas Olson, 211 West Wisconsin Avenue, Milwaukee, WI 53203. To engage in operations in interstate or foreign commerce, as a *broker*, at Milwaukee, WI, in arranging for the transportation, by motor vehicle, of *passengers and their baggage*, in special and charter operations, between points in the United States, including AK and HI. (Hearing site: Milwaukee or Madison, WI.)

Note.—Applicant is cautioned that arrangements for charter parties or groups should be made in conformity with the requirements set forth in *Tauck Tours, Inc., Extension New York, N.Y.* 54 M.C.C. 291 (1952).

MC 134838 (Sub-21F), filed March 8, 1979. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39236, Bolton Station, Atlanta, GA 30318. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities used by Three-D Steel Supply, Inc., at or near Greenville, SC, on the one hand, and, on the other, points in AL, FL, GA, KY, MS, NC, and TN. (Hearing site: Atlanta, GA.)

MC 134838 (Sub-22F), filed March 7, 1979. Applicant: SOUTHEASTERN TRANSFER & STORAGE CO., INC., P.O. Box 39236 Bolton Station, Atlanta, GA 30318. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *machinery and machinery parts, contractors' equipment, and iron and steel articles* (except commodities which because of size or weight require the use of special equipment), and (2) *commodities* which because of size or weight require the use of special equipment, between points in GA, on the one hand, and, on the other, points in AL, FL, NC, SC, and TN. (Hearing site: Atlanta, GA.)

MC 135078 (Sub-44F), filed March 7, 1979. Applicant: AMERICAN TRANSPORT, INC., 7850 "F" Street, Omaha, NE 68127. Representative: Arthur J. Cerra, P.O. Box 19251, Kansas City, MO 64141. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*, (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) from Philadelphia and Allentown, PA, to Denver, CO, and Chicago, IL, and (2) from Chicago, IL, to Denver, CO. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 136168 (Sub-32F), filed March 1, 1979. Applicant: WILSON CERTIFIED EXPRESS, INC., P.O. Box 3326, Des Moines, IA 50316. Representative: Donald L. Stern, Suite 610, 7171 Mercy Rd., Omaha, NE 68106. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766, (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Omaha, NE, to points in the United States (except AK, HI, and NE), under continuing contract(s) with Wilson Foods Corporation, of Oklahoma City, OK. (Hearing site: Omaha, NE, or Dallas, TX.)

Note.—Dual operations may be involved.

MC 138308 (Sub-63F), filed March 8, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Fred W. Johnson, Jr., 1500 Deposit Guaranty Plaza, P.O. Box 22628, Jackson, MS 39205. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition flooring title, composition facing tile*, and *adhesives*, from the facilities of National Floor Products Company, Inc., at or near Florence, AL, to points in AZ, CA, CO, ID, LA, NV, NM, OR, TX, UT, and WA. (Hearing site: Jackson, MS, or Birmingham, AL.)

Note.—Dual operations may be involved.

MC 140839 (Sub-189F), filed March 5, 1979. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlan, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by manufacturers of (a) cleaning compounds, (b) vending machines, and (c) deodorants, (1) between the facilities of Rochester Germicide Company, at or near (a) Montgomery, IL, and (b) Rochester, NY, and (2) from the facilities of Rochester Germicide Company, at or near Montgomery, IL, to Los Angeles, San Diego, and San Francisco, CA, Denver, CO, Tampa, FL, Atlanta and Macon, GA, Des Moines, IA, New Orleans, LA, St. Paul, MN, St. Louis, MO, Memphis, TN, Indianapolis, IN, and Dallas, TX. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-190F), filed March 8, 1979. Applicant: CARGO CONTRACT CARRIER CORP., P.O. Box 206, Sioux City, IA 51102. Representative: William

J. Hanlan, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *household appliances*, from points in IL, to points in PA, NY, VT, and WV. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142059 (Sub-64F), filed March 5, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *sand and sand with additives*, (except commodities in bulk, in tank vehicles,) from the facilities of Acme Resin Corporation, near Oregon, IL, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 142059 (Sub-65F), filed March 6, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except commodities in bulk), from the facilities of Durkee Foods, Division of SCM Corporation, at or near Bethlehem, Mechanicsburg, and Shiremanstown, PA, to points in the United States (except AK and HI). (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 142449 (Sub-3F), filed March 8, 1979. Applicant: SPEEDWAY HAULERS, INC., P.O. Box 1463,South Bend, IN 46624. Representative: James L. Beattey, 130 East Washington Street, Suite One Thousand, Indianapolis, IN 46204. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, and *electric motors*, between Bluffton, IN, on the one hand, and, on the other, Chicago, IL. (Hearing site: South Bend or Fort Wayne, IN.)

MC 142999 (Sub-11F), filed March 1, 1979. Applicant: TRANSPORT MANAGEMENT SERVICE CORPORATION, P.O. Box 39, Burlington, NJ 08016. Representative: Ronald N. Cobert, Suite 501, 1730 M Street, NW, Washinton, DC 20036. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *chemicals* (except in bulk), from Mapleton and Peoria, IL, and Gary, IN, to points in NJ, OH, PA, and RI, under continuing contract(s) with Lonza, Inc., of Fair Lawn, NJ. (Hearing site: Washington, DC.)

MC 143059 (Sub-60F), filed March 8, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th and Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, between the facilities of (1) Commercial Shering, at (a) Youngstown, OH, (b) Berkeley Springs, WV, and (c) Hagerstown, MD, (2) Gregory Galvanizing at Canton, OH, (3) Dura-Bond, Inc., at Export, PA, (4) Young Galvanizing Co., at Pulaski, PA, (5) Hanlon Gregory Co., at Pittsburgh, PA, and (6) Commercial Stamping & Forging, at Bedford Park, IL, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143059 (Sub-63F), filed March 8, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles, plastic articles, and aluminum articles*, and (2) *materials, equipment, and supplies* used in the installation of the commodities in (1) above, from the facilities of Chicago Bridge & Iron at or near Greenville, PA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin facilities. (Hearing site: Louisville, KY, or Washington, DC.)

MC 144939 (Sub-2F), filed March 9, 1979. Applicant: LARRY A. HOUSEHOLDER d.b.a. HOUSEHOLDER TRUCKING, R.R. 1, Fenton, IA 50539. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meat scrapes, bone meal, and blood meal*, from the facilities of John Morrell & Co., at or near Esterville, IA, to points in AR, IL, KS, MN, MO, NE, ND, OK, SD, and WI. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 145508 (Sub-1F), filed March 8, 1979. Applicant: A M & M, INCORPORATED, P.O. Box 1627, Jackson, TN 38301. Representative: R. Connor Wiggins, Jr., Suite 909, 100 North Main Bldg., Memphis, TN 38103. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *plastic pipe*, from the facilities of Johns-Manville Sales Corporation, at or near Jackson, TN, to points in NC, SC,VA, and WV; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of plastic pipe, from AL, AR, FL, GA, IL, IN, IA, KY, LA, MS, MO, NC, OH, OK, SC, TX, VA, WV, and WI, to the facilities named in (1) above, under continuing contract(s) with Johns-Manville Sales Corporation, of Oak Brook, IL. NOTE: Dual operations may be involved. (Hearing site: Chicago, IL, or Jacksonville, TN.)

MC 145679 (Sub-7F), filed March 5, 1979. Applicant: A & A TRANSPORT SERVICES, INC., Maple Tree Industrial Park, Boston Road, P.O. Box 12, Palmer, MA 01069. Representative: Arlyn L. Westergren, Suite 106, 7101 Mercy Road, Omaha, NE 68106. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products and meat byproducts, and articles distributed by meat-packing houses*, as described in sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities used by Wilson Foods Corporation, at Omaha, NE, to points in CT, ME, MA, NH, NJ, NY, RI, and VT. (Hearing site: Dallas, TX, or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 146078 (Sub-5F), filed March 2, 1979. Applicant: CAL-ARK, INC. 854 Moline St., P.O. Box 394, Malvern, AR 72104. Representative: Thomas W. Bartholomew (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *paper and paper articles, and materials and supplies used in the manufacture and distribution of paper and paper articles* (except commodities in bulk, in tank vehicles), between Mobile, AL, Bastrop and Springhill, LA, and Moss Point, MS, on the one hand, and, on the other, points in AZ, CA, CO, OR, UT, and WA. (Hearing site: Baton Rouge, LA, or Little Rock, AR.)

Note.—Dual operations may be involved.

MC 146268 (Sub-2F), filed March 1, 1979. Applicant: HUBERT HENRY, d.b.a. HENRY LEASING COMPANY, 908 Kamberly Terrace, Manchester, MO

63011. Representative: B. W. LaTourette, Jr., 11 S. Meramec, Suite 1400, St. Louis, MO 63105. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *carpets*, between points in Murray, Whitfield, Gordon, Bartow, Walker, and Catoosa Counties, GA, and Chattanooga, TN, on the one hand, and, on the other, St. Louis, MO, and points in St. Louis County, MO. (Hearing site: St. Louis or Jefferson City, MO.)

MC 146279 (Sub-2F), filed March 5, 1979. Applicant: RUSTIC MATERIALS, INC., 99 Chevalier Avenue, South Amboy, NJ 08879. Representative: Charles J. Williams, 1815 Front Street, Scotch Plains, NJ 07076. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ilmenite*, in dump vehicles, from Tahawus, NY, to Sayreville, NJ, under continuing contract(s) with N L Industries, Inc., of Tahawus, NY. (Hearing site: Newark, NJ, or New York, NY.)

MC 146379 (Sub-1F), filed March 8, 1979. Applicant: AUTO EXPRESS, INC., 50 Oak Street, Lodi, NJ 07644. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *used automobiles*, in secondary movements, in truckway service, (1) between Boston, MA, Philadelphia, PA, and New York, NY, on the one hand, and, on the other, points in FL, (2) between Manheim, PA, and Bordentown, NJ, on the one hand, and, on the other New York, NY, and (3) between Boston, MA, on the one hand, and, on the other Albany and New York, NY. (Hearing site: New York, NY, or Washington, DC.)

[FR Doc. 79-16791 Filed 5-29-79; 8:45 am]
BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 59]

Permanent Authority Applications; Decision-Notice

Decided: May 10, 1979.

The following applications filed on or before February 28, 1979, are governed by Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). For applications filed before March 1, 1979, these rules provide, among other things, that a protest to the granting of an application must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register**. Failure to file a protest, within 30 days, will be considered as a waiver of opposition to the application. A protest under these rules should comply with Rule 247(e)(3) of the Rules of Practice which requires that it set forth specifically the grounds upon which it is made, contain a detailed statement of protestant's interest in the proceeding, (as specifically noted below), and shall specify with particularity the facts, matters, and things relied upon, but shall not include issues or allegations phrased generally. A protestant should include a copy of the specific portions of its authority which protestant believes to be in conflict with that sought in the application, and describe in detail the method—whether by joinder, interline, or other means—by which protestant would use such authority to provide all or part of the service proposed.

Protests not in reasonable compliance with the requirements of the rules may be rejected. The original and one copy of the protest shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named. If the protest includes a request for oral hearing, such request shall meet the requirements of section 247(e)(4) of the special rules and shall include the certification required in that section.

On cases filed on or after March 1, 1979, petitions for intervention either with or without leave are appropriate.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If applicant has introduced rates as an issue it is noted. Upon request an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings:

With the exeptions of those applications involving duly noted programs (e.g., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminarily, that each common carrier applicant has demonstrated that its proposed service is required by the public convenience and necessity, and that each contract carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United States Code, and the Commission's regulations. Except where specifically noted this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a protestant, that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such conditions as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient protests, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of this decision-notice. To the extent that the authority sought below may duplicate an applicant's existing authority, such duplication shall not be construed as conferring more than a single operating right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,

Secretary.

MC 43269 (Sub-72F), filed February 21, 1979. Applicant: WELLS CARGO, INC., 1775 E. 4th St., Reno, NV 89512.

Representative: David N. Inwood, P.O. Box 1511, Reno, NV 89505. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1)(a) *buildings*, complete, knocked down, or in sections, (b) *building sections and building' panels*, and (c) *metal prefabricated structural components*, from the facilities of American Buildings Co., in NV, to points in AZ, CA, CO, ID, MT, NV, NM, OR, TX, UT, WA, and WY, and (2) *materials and supplies* used in the manufacture and servicing of the commodities in (1) above, from points in the United States (except AK and HI), to Carson City, NV. (Hearing site: Reno or Carson City, NV.)

MC 43269 (Sub-73F), filed February 21, 1979. Applicant: WELLS CARGO, INC., 1775 E. 4th St., Reno, NV 89512. Representative: David N. Inwood, P.O. Box 1511, Reno, NV 89505. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pre-cut log buildings*, and (2) *materials, and supplies* used in the construction and erection of pre-cut log buildings, from points in Lyon County, NV, to points in the United States in and west of MN, IA, NE, CO, and NM (including AK, but excluding HI). (Hearing site: Reno or Carson City, NV.)

MC 109638 (Sub-36F), filed February 9, 1979. Applicant: EVERETTE TRUCK LINE, INC., P.O. Box 145, Washington, NC 27889. Representative: Cecil W. Bradley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *woodpulp, paper, and waste paper*, from Cape Fear (Brunswick County) and Riegelwood, NC, to points in CT, DE, MD, MA, NH, NJ, NY, PA, RI, VA, VT, and DC. (Hearing site: Raleigh, NC, or Washington, DC.)

MC 119349 (Sub-12F), filed January 16, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Harry C. Ames, Jr., 805 McLachlen Bank Building, Washington, DC 20001. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by retail grocery stores, in containers, from Jamaica, NY, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 124579 (Sub-30F), filed February 23, 1979. Applicant: WIKEL BULK EXPRESS, INC., Route 2, Huron, OH 44839. Representative: James Duvall, P.O. Box 97, Dublin, OH 43017. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *fruit juices*, in bulk, between points in Van Buren County, MI, on the one hand, and, on the other, points in Niagara County, NY, and (2) *sugar, sirups*, and *blends* of sugar and sirups, in bulk, between Cleveland, OH, on the one hand, and, on the other, points in MI, NY, PA, and WV. (Hearing site: Columbus, OH.)

MC 144329 (Sub-4F), filed January 23, 1979. Applicant: JOE RIDDLE AND CHARLES RIDDLE, a partnership, d.b.a. RIDDLE TRUCKING COMPANY, Route 6, Tazewell, TN 37839. Representative: William P. Jackson, P.O. Box 1240, Arlington, VA 22210. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coal*, in bulk, in dump vehicles, from points in Letcher, Leslie, Harlan, Bell, Knox, Whitley, Clay, Laurel, Jackson, and Pulaski Counties, KY, to points in Madison County, AL, and those in TN on and east of Interstate Hwy 65. (Hearing site: Knoxville, TN, or Washington, DC.)

MC 144759 (Sub-2F), filed January 5, 1979. Applicant: AIR FREIGHT, INC., Terminal Box No. 2, Natrona County International Airport, Casper, WY 82602. Representative: Vincent J. Horn, Jr., Suite 200, City Center Bldg., 100 W. "B" Street, Casper, WY 82601. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in Campbell, Converse, Johnson, Natrona, and Sheridan Counties, WY, restricted to the transportation of traffic having a prior or subsequent movement by air. (Hearing site: Casper or Cheyenne, WY.)

MC 146068 (Sub-6F), filed January 12, 1979. Applicant: CONSOLIDATED CARRIERS CORPORATION, 2119 N. Davidson Rd., Charlotte, NC 28205. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *mobile home tires mounted on wheels, mobile home axles, and lug nuts* for mobile home axles, from the facilities of West Coast Mobile Tire Co., at (a) Tacoma, WA, (b) Portland, OR, (c) Tucson, AZ, (d) Reno, NV, and (e) Lodi, CA, to points in the United States (except AK and HI). (Hearing site: San Francisco, CA.)

Note.—Dual operations may be involved.

MC 146958F; filed January 25, 1979. Applicant: TRANSPORTATION SERVICES, INC., 1320 East Glendale Avenue, P.O. Box 769, Sparks, NV 89431. Representative: Robert G. Harrison, 4299 James Drive, Carson City, NV 89701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *polyvinyl chloride pipe*, from the facilities of Epco II, Inc., in Washoe County, NV, to points in ID, UT, OR, WA, and those in CA in and north of Monterey, Kings, Tulare, and Inyo Counties, CA; (2) *materials, equipment, and supplies* used in the manufacture of polyvinly chloride pipe, from points in CA, to the facilities of Epco II, Inc., in Washoe County, NV; and (3) *polyvinyl chloride pipe* and materials, equipment, and supplies used in the manufacture of polyvinyl chloride pipe, between the faiclities of Epco I, at Santa Ana, CA, and the facilities of Epco II, in Washoe County, NV, under continuing contract with Epco II, Inc., of Santa Ana, CA. (Hearing site: Reno, NV.)

Note.—Dual operations may be involved.

MC 146678F, filed January 8, 1979. Applicant: SOUTHLAND TRANSPORTATION, INC. P.O. Box 7760, Ben Franklin Station, Washington, DC 20044. Representative: Henry E. Seaton, 929 Pennsylvania Building, 425 13th Street NW., Washington, DC 20004. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by variety and department stores, between Nashville, TN, on the one hand, and, on the other, points in AL, MS, GA, SC, KY, AR, MO, and TN, restricted to the transportation of traffic originating at or destined to the facilities of Kuhn's Big K Stores. (Hearing site: Nashville, TN.)

Note.—Dual operations may be involved.

The person or persons who apear to be engaged in common control must either file an application under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

[FR Doc. 79-16792 Filed 5-29-79; 8:45 am]

BILLING CODE 7035-01-M

[Permanent Authority Decisions Volume No. 60]

Permanent Authority Applications; Decision-Notice

Decided: May 10, 1979.

The following applications, filed on or after March 1, 1979, are governed by

Special Rule 247 of the Commission's *Rules of Practice* (49 CFR § 1100.247). These rules provide, among other things, that a petition for intervention, either in support of or in opposition to the granting of an application, must be filed with the Commission within 30 days after the date notice of the application is published in the **Federal Register.** Protests (such as were allowed to filings prior to March 1, 1979), *will be rejected.* A petition for intervention without leave must comply with Rule 247(k) which requires petitioner to demonstrate that it (1) holds operating authority permitting performance of any of the service which the applicant seeks authority to perform, and has the necessary equipment and facilities for performing that service, and (2) has either performed service within the scope of the application or has solicited business which is controlled by those supporting the application and which would have involved transportation performed within the scope of the application.

Persons unable to intervene under Rule 247(k) may file a petition for leave to intervene under Rule 247(1) setting forth the specific grounds upon which it is made, including a detailed statement of petitioner's interest, the particular facts, matters, and things relied upon, the extent to which petitioner's interest will be represented by other parties, the extent to which petitioner's participation may reasonable be expected to assist in the development of a sound record, and the extent to which participation by the petitioner would broaden the issues or delay the proceeding.

Petitions not in reasonable compliance with the requirements of the rules may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission, and a copy shall be served concurrently upon applicant's representative, or upon applicant if no representative is named.

Section 247(f) provides, in part, that an applicant which does not intend timely to prosecute its application shall promptly request that it be dismissed, and that failure to prosecute an application under the procedures of the Commission will result in its dismissal.

If an applicant has introduced rates as an issue it is noted. Upon request, an applicant must provide a copy of the tentative rate schedule to any protestant.

Further processing steps will be by Commission notice, decision, or letter which will be served on each party of record. *Broadening amendments will not be accepted after the date of this publication.*

Any authority granted may reflect administratively acceptable restrictive amendments to the service proposed below. Some of the applications may have been modified to conform to the Commission's policy of simplifying grants of operating authority.

Findings

With the exception of those applications involving duly noted problems (e.gs., unresolved common control, unresolved fitness questions, and jurisdictional problems) we find, preliminary, that each common carrier applicant has demonstrated that its proposed service is required by the present and future public convenience and necessity, and that each contrast carrier applicant qualifies as a contract carrier and its proposed contract carrier service will be consistent with the public interest and the transportation policy of 49 U.S.C. § 10101. Each applicant is fit, willing, and able properly to perform the service proposed and to conform to the requirements of Title 49, Subtitle IV, United Stated Code, and the Commission's regulations. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment nor a major regulatory action under the Energy Policy and Conservation Act of 1975.

In those proceedings containing a statement or note that dual operations are or may be involved we find, preliminarily and in the absence of the issue being raised by a petitioner that the proposed dual operations are consistent with the public interest and the transportation policy of 49 U.S.C. § 10101 subject to the right of the Commission, which is expressly reserved, to impose such terms, conditions or limitations as it finds necessary to insure that applicant's operations shall conform to the provisions of 49 U.S.C. § 10930(a) [formerly section 210 of the Interstate Commerce Act].

In the absence of legally sufficient petitions for intervention, filed within 30 days of publication of this decision-notice (or, if the application later becomes unopposed), appropriate authority will be issued to each applicant (except those with duly noted problems) upon compliance with certain requirements which will be set forth in a notification of effectiveness of the decision-notice. To the extent that the authority sought below may duplicate an applicant's other authority, such duplication shall not be construed as conferring more than a single operation right.

Applicants must comply with all specific conditions set forth in the grant or grants of authority within 90 days after the service of the notification of the effectiveness of this decision-notice, or the application of a non-complying applicant shall stand denied.

By the Commission, Review Board No. 3, Members Parker, Fortier, and Hill.

H. G. Homme, Jr.,

Secretary.

MC 25798 (Sub-371F), filed March 12, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., P.O. Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *frozen foods,* from Greenville, MI, to points in MS. (Hearing site: Grand Rapids, MI, or Tampa, FL.)

MC 40978 (Sub-56F), filed March 12, 1979. Applicant: CHAIR CITY MOTOR EXPRESS CO., a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: Daniel R. Dineen, 710 N. Plankinton Avenue, Milwaukee, WI 53203. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *new furniture,* from the facilities of the Simmons Company, at Columbus, OH, to the facilities of the Simmons Company, at Munster, IN, and points in IL, IN, and WI, and the Upper Peninsual of MI. (Hearing site: Milwaukee, WI, or Chia Chicago, IL.)

MC 85718 (Sub-13F), filed March 9, 1979. Applicant: SEWARD MOTOR FREIGHT, INC., 1041 Elm Street, P.O. Box 126, Seward, NE 68434. Representative: Michael J. Ogborn, P.O. Box 82028, Lincoln, NE 68501. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery products,* from Chicago, IL, to points in ID, NV, OR, UT, and WA. (Hearing site: Chicago, IL.)

MC 95098 (Sub-1F), filed March 9, 1979. Applicant: BOONTON TRANSPORT, a corporation, 62 Water Street, Newton, NJ 07005. Representative: Ronald I. Shapss, 450 Seventh Avenue, New York, NY 10001. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *passengers and their baggage,* in the same vehicle with passengers, in special and charter operations, between points in Morris, Sussex, and Warren Counties, NJ, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Newark, NJ.)

MC 103498 (Sub-57F), filed March 12, 1979. Applicant: B & L TRUCK LINES, INC., 339 East 34th Street, Lubbock, TX 79404. Representative: Richard Hubbert, P.O. Box 10236, Lubbock, TX 79408. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *composition board, composition sheets, lumber, and lumber products*, from the facilities of Champion International Corporation, at or near (a) Oxford, MS, and (b) Camden, Corrigan, and Galveston, TX, to points in AR, IA, KS, LA, MO, MN, NE, OK, and TX. (Hearing site: Dallas or Lubbock, TX.)

Note: The person or persons who appear to be engaged in common control with another carrier must either file an applicaton under 49 U.S.C. § 11343(a) (formerly Section 5(2) of the Interstate Commerce Act), or submit an affidavit indicating why such approval is unnecessary.

MC 106398 (Sub-870F), filed March 9, 1979. Applicant: NATIONAL TRAILER CONVOR, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from points in Georgetown County, SC, to points in the United States in and east of WI, IA, MO, AR, and TX. (Hearing site: Charleston, SC.)

MC 106398 (Sub-871F), filed March 12, 1979. Applicant: NATIONAL TRAILER CONVOR, INC., 525 South Main, Tulsa, OK 74103. Representative: Fred Rahal, Jr. (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building materials and asbestos fiber cement pipe*, from the facilities of Johns-Manville Sales Corp., at or near Waukegan, IL, (2) *insulation board*, from the facilities of Johns-Manville Sales Corp., at or near Rockdale, IL, and (3) *plastic pipe*, from the facilities of Johns-Manville Perlite Corp., at or near Wilton, IA, to points in AL, AR, DE, FL, GA, LA, MD, MI, MO, MS, NJ, NY, NC, OH, PA, SC, VA, and WV. (Hearing site: Chicago, IL or Joliet, IL.)

MC 107478 (Sub-43F), filed March 9, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., 1791 Westchester Drive, P.O. Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue Washington, DC 20014. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from Carnegie, PA, to points in FL, GA, NC, SC, TN, and VA. (Hearing site: Pittsburgh, PA. or Washington, DC.)

MC 109449 (Sub-25F), filed March 9, 1979. Applicant: KUJAK TRANSPORT, INC., Junction Avenue, Winona, MN 55987. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs*, from the facilities of Jeno's, Inc., at Duluth, MN, and Superior, WI, to points in IL, IN, MI, OH, and WI. (Hearing site: St. Paul, MN.)

MC 109689 (Sub-345F), filed March 12, 1979. Applicant: W. S. HATCH CO., a corporation, P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 West Broadway, No. 400, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *perlite*, in bulk, from Antonito, CO, to points in AZ, CA, CO, ID, KS, MT, NE, NV, NM, ND, OK, OR, SD, TX, UT, WA, and WY. (Hearing site: Salt Lake City, UT.)

MC 109689 (Sub-346F), filed March 12, 1979. Applicant: W. S. HATCH CO., a corporation, P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 West Broadway, No. 400, Salt Lake City, UT 84101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lime and limestone products*, from points in Lincoln County, NV, to points in AZ, CA, CO, ID, NM, OR, UT, WA, and WY. (Hearing site: Salt Lake City, UT.)

MC 112588 (Sub-30F), filed March 9, 1979. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, OH 44870. Representative: Peter H. Hanley (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (a) from the facilities of Jones & Laughlin Steel Corp., at Aliquippa and Pittsburgh, PA, to points in the Lower Peninsula of MI, points in Erie, Sandusky, Ottawa, Wood, Henry, Fulton, Lucas, Williams, Defiance, Richland, Ashland, Huron, and Seneca Counties, OH, and points in IN on and south of IN Hwy 28, and (b) from the facilities of Jones & Laughlin Steel Corp., at Warren, MI, to the facilities of Jones & Laughlin Steel Corp., at Aliquippa and Pittsburgh, PA, and Cleveland, OH. (Hearing site: Pittsburgh, PA, or Washington, DC.)

MC 112588 (Sub-31F), filed March 9, 1979. Applicant: RUSSELL TRUCKING LINE, INC., 2011 Cleveland Road, Sandusky, OH 44870. Representative: William J. Lavelle, 2310 Grant Building, Pittsburgh, PA 15219. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, from the facilities of Jones & Laughlin Steel Corp., at Louisville, Cleveland, Warren, and Youngstown, OH, to points in IN and the Lower Peninsula of MI. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 113158 (Sub-35F), filed March 12, 1979. Applicant: TODD TRANSPORT COMPANY, INC., Box 158, Secretary, MD 21664. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs* (except frozen foods and commodities in bulk), from points in Shenandoah, Rockingham, and Frederick Counties, VA, and Berkely County, WV, to points in FL, GA, NC, NJ, NY, and SC. (Hearing site: Philadelphia PA.)

MC 113678 (Sub-784F), filed March 7, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same addresses as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *carpets, carpeting, and rugs*, and (2) *material and supplies* used in the installation of the commodities in (1) above, from the facilities of J.P. Stevens & Company, Gulisten Carpet Division, at or near Aberdeen, NC, to points in CO, ID, UT, and WY. (Hearing site: Denver, CO.)

MC 113678 (Sub-785F), filed March 7, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *meats, meat products, and meat byproducts, and articles distributed by meat-packing houses* as described in sections A and C of Appendix I to report in *Descriptions in Motor Carrier Certificates* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from Hawarden, IA, to points in CT, MA, NJ, NY, and PA, restricted to the trasnportation of traffic originating at the named origin and destined to the

indicated destinations. (Hearing site: New York, NY.)

MC 118159 (Sub-323F), filed March 9, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commerical Blvd., Fort Lauderdale, FL 33308. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *porch swings*, and *accessories* for porch swings, from the facilities of A & D Chair Company, Inc., at Clanton, AL, and Yellville, AR, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 124839 (Sub-39F), filed March 9, 1979. Applicant: BUILDERS TRANSPORT, INC., P.O. Box 7057, Savannah, GA 31408. Representative: William P. Sullivan, 1320 Fenwick Lane, Suite 500, Silver Spring, MD 20910. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *wood chips*, (2) *paper, paper products, building materials, plastic, plastic products, chemicals, and naval stores*, (except commodities in bulk), and (3) *materials, equipment, and supplies* used in the manufacture of the commodities in (1) and (2) above, (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Union Camp Corporation, of Wayne, NJ. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 126118 (Sub-135F), filed March 9, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: Duane W. Acklie (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of furniture, from El Cajon and Santa Ana, CA, to Grand Junction, CO, and those points in the United States on and east of U.S. Hwy 85. (Hearing site: Los Angeles, CA, or Lincoln, NE.)

Note.—Dual operations may be involved.

MC 127579 (Sub-17F), filed March 8, 1979. Applicant: HAULMARK TRANSFER, INC., 1100 North Macon Street, Baltimore, MD 21205. Representative: Glenn M. Heagerty (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass containers*, from the facilities of Metropak Containers at Carteret and Jersey City, NH, to points in MD, VA, and DC. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 129149 (Sub-14F), filed March 9, 1979. Applicant: JOHN W. HIEL, R.R. #2, Prairie City, IL 61470. Representative: Robert T. Lawley, 300 Reisch Bldg., Springfield, IL 62701. To operate as a *contract carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *refuse containers, wagon boxes, and livestock equipment and tanks*, from Bushnell, IL, to points in the United States in and east of ID, UT, and AZ, under continuing contract(s) with Bushnell Illinois Tank Company, of Bushnell, IL. (Hearing site: Chicago, IL, or St. Louis, MO.)

MC 140829 (Sub-191F), filed March 12, 1979. Applicant: CARGO, INC., P.O. Box 206, Sioux City, IA 51102. Representative: William J. Hanlon, 55 Madison Avenue, Morristown, NJ 07960. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *folding cartons*, (2) *carton-forming machinery*, and (3) *plastic film*, (a) from the facilities of Malnove, Inc., at or near Omaha, NE, to points in CT, IL, IN, ME, MD, MA, MO, NH, NJ, NY, OH, PA, RI, VT, and DC, and (b) from Bridgeport, CT, and Chicago, IL, to the facilities of Malnove, Inc., at or near Omaha, NE. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 143059 (Sub-62F), filed March 8, 1979. Applicant: MERCER TRANSPORTATION CO., a corportation, 12th & Main Streets, Louisville, KY 40232. Representative: Louis J. Amato, P.O. Drawer "E" Bowling Green, KY 42101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregualr routes, transporting (1) *air cleaners, air coolers, and air pollution control equipment*, and (2) *parts and attachments* for the commodities in (1) above, and (3) *materials, equipment, and supplies* (except commodities in bulk), used in the manufacture of air pollution control equipment, between the facilities of American Air Filter Company Inc., at or near Elizabethton and Brownsville, TN, and Louisville KY, on the one hand and, on the other, points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to points in the above-described territory (Hearing site: Louisville, KY, or Washington, DC.)

MC 143059 (Sub-64F), filed March 8, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, P.O. Box 35610, Louisville, KY 40232. Representative: J. L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *lumber, forest products, wood products, and mill products*, from the facilities of Northern Cheyenne Forest Products at or near Ashland, MT, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Louisville, KY, or Washington, DC.)

MC 143059 (Sub-65F), filed March 12, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th & Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: James L. Stone (same address as applicant). To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *iron and steel articles*, (1) from the facilities of Connors Steel Company, Inc., at or near Birmingham, AL, to points in the United States (except AL, AK, and HI), and (2) from the facilities of Connors Steel Company, Inc., at or near Huntington, WV, to points in the United States (except WV, AK, and HI), restricted to the transportation of traffic originating at the named origins. (Hearing site: Louisville, KY, or Washington, DC.)

MC 146448 (Sub-1F), filed March 9, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72801. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in or used by manufacturers and distributors of home products, from the facilities of Stanley Home Products at or near Easthampton, MA, to Torrance, CA, St. Louis, MO, Memphis, TN, and Irving and San Antonio, TX. (Hearing site: Boston, MA.)

MC 146708F, filed March 9, 1979. Applicant: MAPLE LEAF EXPRESS, LTD., 3600 South Western Avenue, Chicago, IL 60609. Representative: H. Barney Firestone, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *general commodities*

(except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between points in IL, on the one hand, and, on the other, ports of entry on the International Boundary line between the United States and Canada, located in MI, NY, NH, VT, and ME, restricted to the transportation of traffic moving on bills of lading of freight forwarders, as defined in 49 U.S.C. § 10102(8). (Hearing site: Chicago, IL.)

[FR Doc. 79-16793 Filed 5-29-79; 8:45 am]
BILLING CODE 7035-01-M

Sunshine Act Meetings

Federal Register
Vol. 44, No. 105
Wednesday, May 30, 1979

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

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1

[M-223, May 24, 1979]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 10 a.m., May 31, 1979.

PLACE: Room 1027, 1825 Connecticut Avenue, N.W., Washington, D.C. 20428.

SUBJECT:

1. Ratification of items adopted by notation.

2. Docket 31571, Northwest Alaska Service Investigation—Questions for Instruction. (OGC)

3. Docket 29410, Remedies for charter overbooking by direct air carriers. (Memo 6468-A, OGC, BCP)

4. Docket 34502, Petition by Hausman and Rosenthal to amend the Board's Rules of Practice. (Memo 8840, OGC)

5. Amendment of escrow accounting requirements for Public Charters. (OGC)

6. Docket 30654, Rulemaking to exempt carriers from filing tariffs for their charter flights. (Memo 7350-B, OGC)

7. Docket 34030, *Nondiscrimination on the Basis of Handicap.* (OGC, BDA, BCP)

8. Nondiscrimination on the basis of handicap in the employment practices of carriers receiving federal financial assistance. (BCP)

9. Docket 33712, *Tiger International Seaboard Acquisition Case*—Draft Order Denying Reconsideration of Order 78-12-91 concerning approval of a voting trust for Tiger's stock holdings. (Memo 8346-G, OGC)

10. Docket 28178, *World-Jet Inc. d/b/a Silvas Air Lines;* Petition for reconsideration of Order 79-2-4. (Memo 8304-A, OGC)

11. Dockets 32343 and 32709; *Dallas/Ft. Worth/Houston-Philadelphia Service Investigation; Tucson-San Diego Nonstop Route Investigation.* (Memo 8834, OGC)

12. Docket 21162, *Ohio/Indiana Points Nonstop Service Investigation*—Tentative opinion and order disposing of deferred issues. (OGC)

13. Docket 30635, *Arizona Service Investigation,* Additional certification for Sky West Aviation. (Memo 8158-F, OGC)

14. Docket 29001, *TWA-Southern Route Exchange*—Order Finalizing Tentative Findings and Conclusions. (Memo 8525-A, OGC)

15. Docket 32711, *Dallas/Ft. Worth-Florida Service Investigation*—Draft Opinion and Order. (OGC)

16. Docket 31574, *California-Nevada Low-Fare Route Proceeding.* (Memo 7433-F, OGC)

17. Dockets 31290 and 21866-4, Notice of Proposed Rulemaking proposing to eliminate the mandatory joint fare program established in phase 4 of the DPFI (BDA, OGC)

18. Docket 34138, In the Matter of Commuter/Certificated Joint Fares. (OGC)

19. Docket 35639, Contingent Application of Pacific Southwest Airlines for exemption. (OGC)

20. Docket 33073, Application of Air Midwest for certificate authority to provide New Mexico and Texas service. (Memo 8351-I, BDA)

21. Dockets 33932, 34077, 34179, 33888, 33932, and 33628; Applications of Continental and Ozark, respectively, for nonstop Houston-St. Louis-Chicago Authority; American's Application for Houston-Chicago Nonstop Authority; Motion of Continental to Consolidate Application for Houston-Memphis Authority in Docket 33888 with its Application in Docket 33932 for Houston-St. Louis-Chicago Authority and American's application in Docket 33628 for Houston-Memphis Authority. (BDA)

22. Docket 35176, Texas International's application for Houston-Brownsville authority. (Memo 8844, BDA)

23. Dockets 33509, 34014, and 33683; Piedmont's applications for Richmond-Baltimore / Philadelphia / Pittsburgh nonstop authority, Raleigh / Durham-Washington, D.C. / Baltimore / Philadelphia / Pittsburgh / New York nonstop authority, Washington, D.C. / Baltimore-Philadelphia / Pittsburgh / New York nonstop authority, Philadelphia-Pittsburgh / New York / Norfolk nonstop authority and Pittsburgh-New York nonstop authority, and motion to consolidate with Altair's application in Docket 33683 for nonstop authority between and among New York / Newark, White Plains, N.Y., Islip, N.Y., Pittsburgh, Philadelphia, Allentown, Scranton, Baltimore, Washington, D.C., Raleigh / Durham, Wilmington, Richmond, Norfolk and Newport News, and Altair's motion to consolidate its application with that of Piedmont's in Docket 33509. (Memo 8845, BDA)

24. Dockets 33683, 33304, 33367, 33683, 34931, and 35115; Allegheny, Piedmont, Braniff, North Central, requesting nonstop authority between Pittsburgh and Washington National / Dulles, and (Altair) requesting the same authority between Pittsburgh and Washington Dulles; Allegheny's additional request for modification of its two-stop Toledo-Washington restriction. (Memo 8467-A, BDA)

25. Dockets 34803 and 34804, Empire Airlines application for a certificate of public convenience and necessity and for disclaimer of jurisdiction under Section 408(a). (Memo 8842, BDA, OGC, BLJ)

26. Docket 34853, Redesignation of Islip, N.Y. as Long Island MacArthur, N.Y. (Memo 8695-A, BDA)

27. Docket 34251, Southeast Airlines' petition for review of Orders 79-3-117, 79-3-179, and 78-12-177 to the extent that we revoked its New York-San Juan authority and awarded this authority to Aeroamerica pursuant to the unused authority provisions of the Act. (Memo 8838, BDA, OGC)

28. Dockets 34232, 34252, and 34253; Applications of Nevada Airlines, Inc., for a charter air carrier certificate; motion for expeditious treatment of these applications; and application for a *pendente lite* exemption. (Memo 8832, BDA, OGC, BLJ, BIA)

29. Dockets 31652, 31853, and 31894; Requests of Sedalia-Marshall-Boonville Stage Line, Inc., Astro Airways Corp., and Nicholson Air Services, Inc. d.b.a. Cumberland Airlines for revocation of their 418 all-cargo certificates. (Memo 8839, BDA)

30. Dockets 35018 and 35019, petition of Texas International for reconsideration of Order 79-4-90. (Memo 8682-A, BDA, OCCR)

31. Dockets 34513, 26681, and 34565; Petition of the Port of Astoria for determination of essential air transportation; Hughes Airwest petition for modification of orders granting temporary suspension, and notice of intent to terminate service at Astoria / Seaside, Oregon. (Memo 4737-G, BDA, OCCR)

32. Dockets 35120 and 35160; Delta's notice under section 401(j)(1) and section 401(j)(2), respectively, of its intent to terminate all service at Springfield, Missouri; Delta's application for exemption to terminate service prior to the statutory 90-day notification period. (Memo 8847, BDA, OCCR)

33. Docket 34721, Notice of Key Airlines, a Part 298 commuter carrier, to terminate service to Sun Valley-Hailey-Ketchum, Idaho. (BDA)

34. Docket 35553, application of Spantax, S.A., for exemption. (BDA)

35. Petition of British Calendonian Airways, Limited for review of staff action denying its request for special tariff permission to file a one-way cargo charter charge from Houston to Singapore. (Memo 8305-A, BDA, BIA, OGC)

36. Docket 32660, IATA agreement establishing Mid Atlantic passenger fares through March 1980. (Memo 8841, BDA, BIA)

37. Dockets 32679 and 32729; Caribbean International Airways and Laker Airways Limited, Applications to amend foreign air carrier permits. (Memo 8837, BIA, OGC, BLJ)

38. Dockets 35386 and 35449, Applications of Continental Air Lines, Inc. for exemptions pursuant to section 416(b) of the Federal Aviation Act of 1958, as amended. (BIA, OGC, BDA, BLJ)

STATUS: Open.

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, 202–673–5068.

[S–1066–79; Filed 5–25–79; 3:48 pm]

BILLING CODE 6320–01–M

2

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2 p.m. on Tuesday, May 29, 1979.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street, N.W., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Disposition of minutes of previous meetings.

Requests by the Comptroller of the Currency for reports on the competitive factors involved in proposed mergers:

Wells Fargo Bank, National Association, San Francisco, California, and First Central Coast Bank, San Luis Obispo, California.

The Farmers National Bank of Cynthiana, Cynthiana, Kentucky, and Union Bank of Berry, Berry Kentucky.

The First National Bank of Farmville, Farmville, Virginia, and The Bank of Buckingham, Dillwyn, Virginia.

Recommendations with respect to payment for legal services rendered and expenses incurred in connection with liquidation activities:

Lemle, Kelleher, Kohlmeyer & Matthews, New Orleans, Louisana, in connection with the liquidation of International City Bank & Trust Company, New Orleans, Louisiana.

Rogers, Towers, Bailey, Jones & Gay, Jacksonville, Florida, in connection with the liquidation of The Peoples State Savings Bank, Auburn, Michigan.

Schumann, Hession, Kennelly & Dorment, Jersey City, New Jersey, in connection with the liquidation of First State Bank of Hudson County, Jersey City, New Jersey.

Strasburger & Price, Dallas, Texas, in connection with the liquidation of Franklin National Bank, New York, New York.

Kaye, Scholer, Fierman, Hays & Handler, New York, New York, in connection with the liquidation of Franklin National Bank, New York, New York.

Reports of committees and officers:

Minutes of the actions approved by the Committee on Liquidations, Loans and Purchases of Assets pursuant to authority delegated by the Board of Directors.

Reports of the Director of the Division of Bank Supervision with respect to applications or requests approved by him and the various Regional Directors pursuant to authority delegated by the Board of Directors.

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425.

[S–1060–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 6714–01–M

3

FEDERAL DEPOSIT INSURANCE CORPORATION.

TIME AND DATE: 2:30 p.m. on Tuesday, May 29, 1979.

PLACE: Board Room, 6th floor, FDIC Building, 550 17th Street, N.W., Washington, D.C.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

Applications for Federal deposit insurance:

Southwest Suburban Bank, a proposed new bank to be located at 225 Lily Cache Lane, Bolingbrook, Illinois, for Federal deposit insurance.

American State Bank, a proposed new bank to be located at the northwest corner of Kinzie Avenue and North Street, Bradley, Illinois, for Federal deposit insurance.

The Independent Bank of Sandy, a proposed new bank to be located at 38561 Proctor Avenue, Sandy, Oregon, for Federal deposit insurance.

Recommendations regarding the liquidation of a bank's assets acquired by the Corporation in its capacity as receiver, liquidator, or liquidating agency of those assets:

Case No. 43,916–L—The Drovers' National Bank of Chicago, Chicago, Illinois.

Case No. 43,922–L—American City Bank & Trust Company, National Association, Milwaukee, Wisconsin.

Case No. 43,923–L—Franklin National Bank, New York, New York.

Case No. 43,926–L—Franklin National Bank, New York, New York.

Case No. 43,927–L—The Hamilton National Bank of Chattanooga, Chattanooga, Tennessee.

Case No. 43,928–L—Banco Credito y Ahorro Ponceno, Ponce, Puerto Rico.

Memorandum re: Bank of Woodmoor, Woodmoor (P.O. Monument), Colorado.

Memorandum re: Franklin National Bank, New York, New York.

Memorandum re: American Bank & Trust, Orangeburg, South Carolina.

Recommendations with respect to the initiation or termination of cease-and-desist proceedings, termination-of-insurance proceedings, or suspension or removal proceedings against certain insured banks or officers or directors thereof:

Names of persons and names and locations of banks authorized to be exempt from disclosure pursuant to the provisions of subsections (c)(6), (c)(8), and (c)(9)(A)(ii) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(6), (c)(8), and (c)(9)(A)(ii)).

Personnel actions regarding appointments, promotions, administrative pay increases, reassignments, retirements, separations, removals, etc.:

Names of employees authorized to be exempt from disclosure pursuant to the provisions of subsection (c)(2) and (c)(6) of the "Government in the Sunshine Act" (5 U.S.C. 552b (c)(2) and (c)(6)).

CONTACT PERSON FOR MORE INFORMATION: Mr. Hoyle L. Robinson, Executive Secretary (202) 389–4425

[S–1062–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 6714–01–M

4

FEDERAL HOME LOAN BANK BOARD.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: Notice to be published in the Federal Register Tuesday, May 29, 1979.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: May 31, 1979; 9:30 a.m.

PLACE: 1700 G Street, N.W., Sixth Floor, Washington, D.C.

STATUS: Open meeting.

CONTACT PERSON FOR MORE INFORMATION: Franklin O. Bolling (202–377–6677).

CHANGES IN THE MEETING: The following items have been withdrawn from the agenda for the open meeting.

Consideration of regulations regarding interstate branching within an SMSA.

Consideration of regulations regarding 100-mile restriction on branching.

No. 242, May 25, 1979.

[S1064–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 6720–01–M

5

LEGAL SERVICES CORPORATON.

Committee on Operations; Cancellation of Meeting

The meeting scheduled for May 31, 1979, at 7:30 p.m. at the George Washington University, Room 405, 800 21st Street N.W., Washington, D.C., has been cancelled because of the need to extend the meeting of the Presidential Search Committee.

CONTACT PERSON FOR MORE INFORMATION: Dellanor Young, Office of the President, telephone (202) 376–5100.

Issued: May 24, 1979.

Alice Daniel,

Acting President.

[S1061–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 6820–35–M

6

METRIC BOARD.

TIME AND DATE: 2:00 p.m., Thursday, June 21, 1979; 8:30 a.m., Friday, June 22, 1979.

PLACE: The Boston Park Plaza Hotel, Arlington Street at Park Plaza, Georgian Room, Boston, Mass. 02117.

STATUS: Open.

MATTERS TO BE CONSIDERED:

Thursday, June 21

Approval of Agenda.
Review/Approval of minutes of April 4–5, 1979 meeting.
Presentation by the Metric Commission of Canada.
Presentation by the Consumer Liaison Committee of the American National Metric Council.
Staff report on gasoline pump conversion hearing.

Friday, June 22

Staff and Committee reports.
Status report on Middlesex Research contract.
Discussion on interim guidelines for conversion planning.
Discussion of Research Committee priorities.
Approval of 1980 Board meeting schedule/locations.
Introduction of agenda items for August meeting.

SUPPLEMENTARY INFORMATION: Notice of a public forum to be held by the U.S. Metric Board on June 21, 1979, which will provide individuals and groups the opportunity to comment on metric conversion, appears elsewhere in this issue.

CONTACT PERSON FOR MORE INFORMATION: Joan Phillips, 703–235–1933.

Louis Polk,

Chairman, United States Metric Board.

[S–1056–79 Filed 5–25–79; 3:49 p.m.]

BILLING CODE 3510–13–M

7

NATIONAL MEDIATION BOARD.

TIME AND DATE: 2 p.m., Wednesday, June 6, 1979.

PLACE: Board Hearing Room, 8th floor, 1425 K Street, NW., Washington, D.C.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Ratification of Board actions taken by notation voting during the month of May, 1979.
2. Other priority matters which may come before the Board for which notice will be given at the earliest practicable time.

SUPPLEMENTARY INFORMATION: Copies of the monthly report of the Board's notation voting actions will be available from the Executive Secretary's Office following the meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Rowland K. Quinn, Jr., Executive Secretary, telephone 202–523–5920.

Date of notice: May 22, 1979.

[S–1063–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 7550–01–M

8

NATIONAL TRANSPORTATION SAFETY BOARD.

TIME AND DATE: 10 a.m., Tuesday, May 29, 1979 [NM–79–17].

PLACE: NTSB Board Room, National Transportation Safety Board, 800 Independence Avenue SW., Washington, D.C. 20594.

STATUS: Open.

MATTER TO BE CONSIDERED: A majority of the Board has determined by recorded vote that the business of the Board requires that the following item be discussed on this date and that no earlier announcement was possible:

Request for depositions in the Edison, N.J., railroad accident of April 20, 1979.

CONTACT PERSON FOR MORE INFORMATION: Sharon Flemming, 202–472–6022.

May 25, 1979.

[S–1065–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 4910–58–M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: May 30 and 31, 1979.

PLACE: Commissioners' Conference Room, 1717 H Street NW., Washington, D.C.

STATUS: Open and closed.

MATTERS TO BE CONSIDERED:

Wednesday, May 30; 9:30 a.m.

1. Discussion of Options Regarding Deferral of Licenses (approximate 2½ hours, public meeting).

Wednesday, May 30; 1:30 p.m.

1. Briefing on Shutdown—Pipe Stress Issue at Beaver Valley (approximate 1½ hours, public meeting).
2. Briefing on Incident Response Program (approximate 2½ hours, public meeting).
3. Affirmation Session (approximate 10 minutes, public meetings):
   a. Petition on Security Personnel, and
   b. NRDC Petition for Rule Making.

Thursday, May 31; 1:30 p.m.

1. Discussion of Task Force on NRC Safeguards Policy and Upgrade Rule (approximate 1½ hours, closed—exemption 1).
2. Discussion of Personnel Matter (approximate 1 hour, closed—Exemption 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee, 202–634–1410.

Dated: May 23, 1979.

Roger M. Tweed,

Office of the Secretary.

[S–1059–79 Filed 5–25–79; 3:49 pm]

BILLING CODE 7590–01–M

federal register

Wednesday,
May 30, 1979

Part II

Department of Health, Education, and Welfare

Office of Education

Basic Educational Opportunity Grant Program; Revision in the 1979-80 Family Contribution Schedules

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

45 CFR Part 190

Basic Educational Opportunity Grant Program; Revision in the 1979–80 Family Contribution Schedules

AGENCY: Office of Education, HEW.

ACTION: Final Regulations.

SUMMARY: This regulation makes two revisions in the Family Contribution Schedules for the Basic Educational Opportunity Grant Program which were published as final regulations on March 23, 1979. The Family Contribution Schedules are the formulas used in determining student eligibility for Basic Grants on the basis of financial need. These revisions affect the determination of Basic Grant eligibility for independent students.

EFFECTIVE DATE: These regulations are expected to take effect 45 days after they are transmitted to Congress. Regulations are usually transmitted to Congress several days before they are published in the **Federal Register.** The effective date is changed by statute if the Congress disapproves the regulations or takes certain adjournments. It should be noted, however, that these regulations apply only to Basic Educational Opportunity Grants made for the period of July 1, 1979 through June 30, 1980. If you want to know the effective date of these regulations, call or write the Office of Education contact person.

FOR FURTHER INFORMATION CONTACT: William Moran, Chief, Basic Grants Policy Section, Division of Policy and Program Development/BSFA, ROB–3, Room 4318, 400 Maryland Avenue, S.W., Washington, D.C. 20202, (202) 472–4300.

SUPPLEMENTARY INFORMATION:

General Background

On March 23, 1979, the Office of Education published in the **Federal Register** the final regulations for the 1979–80 Family Contribution Schedules. These regulations contained a number of revisions in the 1978–79 schedules intended to increase program equity and to make Basic Grants available to more students from middle income families. There were, however, two proposed revisions for 1979–80—included in the notice of proposed rulemaking for the 1979–80 schedules published on August 14, 1978—which were not included in the final regulations. These two proposed changes were: (a) to calculate the family size offset for single independent students in the same manner as all other family size offsets are calculated, and (b) to assess the assets of independent students with dependents at the same rate, and with the same asset reserves, as the assets of dependent students' parents. Identical changes were later enacted into law on November 1, 1978 as provisions of the Middle Income Student Assistance Act (MISAA).

Earlier this year, however, at the time the Fiscal Year 1980 budget was submitted, the Office of Education decided to postpone the implementation of the two independent student provisions until the 1980–81 award period. For budgetary reasons, the Department did not take steps to overcome certain legal impediments to carrying out these two provisions for the 1979–80 award period. The decision not to implement these provisions was an especially difficult one and was based on the need for fiscal constraint with respect to Fiscal Year 1980 expenditures. Thus, when the 1979–80 Family Contribution Schedules were published as final regulations on March 23, these two liberalizations in the treatment of independent students were not included.

However, since the Fiscal Year 1980 budget was submitted last January, it has become apparent that our earlier projections of program expenditures for 1978–79 were somewhat higher than we now feel are necessary to fund the program during this award period. Thus steps are now being taken to overcome the legal obstacles to carrying out these two provisions for the 1979–80 award period. Consequently, it will be possible to use the additional savings from 1978–79 to fund the independent student provisions without increasing the outlay or budget authority estimates contained in the President's budget for Fiscal Years 1979 and 1980.

Therefore, the two liberalizations for the independent student contained in the August 14, 1978 NPRM and MISAA are being implemented for the 1979–80 award period. This regulation incorporates those two provisions into the 1979–80 Family Contribution Schedules.

(Catalog of Federal Domestic Assistance No. 13.539 Basic Educational Opportunity Grant Program.)

Dated: April 19, 1979.

Ernest L. Boyer,

U.S. Commissioner of Education.

Dated: May 17, 1979.

Joseph A. Califano, Jr.,

Secretary of Health, Education, and Welfare.

Part 190 of Chapter I of Title 45 of the Code of Federal Regulations is amended as follows:

PART 190—BASIC EDUCATIONAL OPPORTUNITY GRANT PROGRAM

1. The following definitions are added to § 190.42.

§ 190.42 Special definitions.

* * * * *

"Business assets" means property that is used in the operation of a trade or a business, including real estate inventories, buildings, machinery and other equipment inventories, patents, franchise rights, and copyrights.

"Farm assets" means any property owned and used in the operation of a farm for profit, including real estate, livestock, livestock products, crops, farm machinery, and other equipment inventories. A farm is not considered to be operated for profit if crops or livestock are raised mainly for the use of the family, even if some income is derived from incidental sales.

* * * * *

2. In § 190.44, the family size offset for a single independent student in paragraph (b)(1) is amended as follows:

§ 190.44 Computation of the expected family contribution for an independent student from effective family income.

* * * * *

(b) * * *

(1) * * *

Family size offsets

Family members:	Amount
1	$3,450

* * * * *

3. § 190.45 is amended as follows:

§ 190.45 Computation of the expected contribution from the assets of the independent student and spouse.

(a) For a single independent student with no dependents, except as provided for in paragraph (c), the expected contribution from the net assets of the student equals 33% of the amount of those assets.

(b) For an independent student with dependents, except as provided for in paragraph (c), the expected contribution from the assets of the student and spouse is determined in the following manner:

(1) If the net assets do not include farm or business assets, deduct an asset reserve of $25,000 from the net assets.

(2) If the net assets include farm or business assets as defined in § 190.42, deduct an asset reserve from the net assets as follows—

(i) If farm or business assets are less than farm or business debts, deduct an asset reserve of $25,000 from the net value of all assets.

(ii) If farm or business assets exceed farm or business debts, and the net value of non-farm and non-business assets is *$25,000 or more*, deduct an asset reserve of,

(A) $25,000 from non-farm and non-business assets, and

(B) $25,000 from farm and business assets.

(iii) If farm or business assets exceed farm or business debts and the net value of non-farm and non-business assets is *less than $25,000*, deduct an asset reserve of $50,000 from the net value of all assets.

(iv) If the result obtained in (2)(i), (2)(ii)(B), or 2(iii) is a negative amount, it shall be changed to zero.

(3) The expected contribution from assets equals 5% of the remainder obtained in subparagraph (1) or (2).

(c) If the calculation of discretionary income required by § 190.44(b) produces a negative number, the expected contribution from the student's (and spouse's) assets calculated under paragraph (a) or (b)(3) shall be reduced by the amount of that negative discretionary income.

(20 U.S.C. 1070a(a)(3)(B).)

[FR Doc. 79-16361 Filed 5-29-79; 8:45 am]

BILLING CODE 4110-02-M

federal register

Wednesday
May 30, 1979

Part III

Department of Defense

Corps of Engineers

Procedures for Leasing of Real Estate and Interests for Military and Civil Work Purposes

DEPARTMENT OF DEFENSE

Engineers Corps

32 CFR Part 644

[EP 405-1-2]

Procedures for Leasing of Real Estate and Interests for Military and Civil Work Purposes

AGENCY: U.S. Army Corps of Engineers, DoD.

ACTION: Final rule.

SUMMARY: This amendment describes the existing procedures of the U.S. Army Corps of Engineers relating to acquisition of real property by leasing, acquisition of rights-of-entry, and procurement of options for military requirements prior to the issuance of the real estate directive. It is included in the Real Estate Handbook (Engineer Pamphlet 405-1-2) and replaces Engineer Regulations 405-1-660, 405-1-625, and 405-34-110.

EFFECTIVE DATE: June 18, 1979.

FOR FURTHER INFORMATION CONTACT: Mr. Leslie L. Pitchford, Jr., Chief, Programs Division, Real Estate Directorate, Office of the Chief of Engineers, Washington, DC 20314 (202-693-6285).

SUPPLEMENTARY INFORMATION: On January 15, 1979 a final rule was published in the **Federal Register** (44 FR 3168) and amended on February 8, 1979 (44 FR 8184) to describe existing procedures pertinent to certain other real estate activities of the Corps of Engineers. Further amendments will be published as existing Engineer Regulations are changed to the new format of the Real Estate Handbook.

Since this handbook only provides procedural guidance to personnel of the Office of the Chief of Engineers and Corps of Engineers field operating agencies having real estate responsibilities, notice of proposed rulemaking and the procedures thereto are considered unnecessary.

Note.—The Chief of Engineers has determined that this rule does not contain a major proposal requiring preparation of an Inflation Impact Statement under Executive Order 11821 and OMB Circular A-107.

Dated: May 11, 1979.

Thorwald R. Peterson,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

In consideration of the above, Part 644 is amended by adding §§ 644.131 through 644.168 to Subpart C and changing the Table of Sections to read as follows:

Subpart C—Acquisition

* * * * *

Acquisition by Leasing

Sec.

644.131 General.
644.132 Authority.
644.133 Responsibilities.
644.134 Definitions.
644.135 Lease Authorization and Approvals.
644.136 Leasing Guidelines.
644.137 Maneuver Agreements.
644.138 Family Housing Leasing Program.
644.139 Leasing for Civil Works Purposes.
644.140 Physical Protection.
644.141 Alterations and Construction on Leased Real Property.
644.142 Lease Forms and Instructions.

Acquisition of Rights-of-Entry

644.155 General.
644.156 Definitions.
644.157 Procedures.

Procurement of Options prior to Real Estate Directives (Military)

644.165 Purpose and Scope.
644.166 Authority and Applicability.
644.167 Implementation.
644.168 Exercise of Options.

Authority: 5 U.S.C. 301; 10 U.S.C. 3012

Source: EP 405-1-2

Part 644, Subpart C is amended by adding §§ 644.131 through 644.168 to read as set forth below:

Note: Subparts H and I will be published at a later date.

Subpart C—Acquisition

Acquisition by Leasing

§ 644.131 General.

Sections 644.131 through 644.142 outline the procedures of the Corps of Engineers for the leasing of real estate and interests therein for military and civil works purposes. They are applicable to all division and District Engineers having real estate responsibilities. To the extent practicable, these procedures will be followed by overseas commanders, in conjuction with the provisions of AR 405-10, Chapter 3. In general, these procedures also apply to the leasing of land and improvements for other Government agencies which authorize the Corps to acquire leasehold interests.

§ 644.132 Authority.

(a) Authority to lease real property interests for the Department of the Army in the United States, the Commonwealth of Puerto Rico, and the Virgin Islands is derived from annual appropriation acts.

(b) Title 10 U.S.C. 2675 authorizes the acquisition by lease, in any foreign country, of structures and real property relating thereto that are needed for military purposes. Leases under Section 2675 may not be for a period of more than five years, except that a lease under this section for military family housing facilities and real property relating thereto may be for a period of more than five years but may not be for a period of more than ten years.

§ 644.133 Responsibilities.

(a) The Corps is responsible for acquiring space in buildings, or land, or both land and buildings, under its own authority or through the General Services Administration (GSA) in designated urban centers, for the Departments of the Army and Air Force; Department of the Navy, including the Marine Corps, for recruiting and main stations; Department of Energy and the Nuclear Regulatory Commission, excluding space in GSA urban centers; National Aeronautics and Space Administration, as requested; and other agencies, such as the Department of Defense, upon request. In carrying out these responsibilities, Division and District Engineers will:

(1) Furnish staff supervision to using services on all leasing matters, as well as technical assistance and guidance.

(2) Develop plans and studies, usually in the form of Lease Planning Reports, for commanders of using services when appropriate.

(3) Make recommendations to the using services and/or the Chief of Engineers on important lease and lease planning matters.

(4) Report controversial or unusual leasing matters to HQDA (DAEN-REA-L) WASH DC 20314 by the submission of a summary of the facts, copies of proposed lease documents, and other data, together with recommendations thereon.

(b) In accordance with Reoganization Plan No. 18 of 1950 (40 U.S.C. 304c) and under the provisions of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 471), the Public Buildings Service of GSA assumed all functions with respect to the acquisition by lease of general-purpose space; the assignment and reassignment of such leased space and of Government-owned space; and the operation, maintenance, and custody thereof in selected urban centers. The Administrator, GSA, is authorized to assign and reassign office space in the United States upon his determination that such assignments or reassignments are advantageous to the Government in terms of economy, efficiency, or national security after

consulting with the heads of the executive agencies concerned.

(c) Reorganization Plan No. 18 also provided that the Administrator may delegate any function transferred to him to the head of any agency of the executive branch of the Government.

(d) Reorganization Plan No. 18 did not transfer to the Administrator any function with respect to:

(1) Buildings or space in buildings located on a military installation, or similar facility of the Department of Defense unless a permit for its use shall have been issued by the Secretary of Defense, or his duly authorized representative; or

(2) Space in Government-owned or leased buildings utilized for special purposes and not generally suitable for use by other agencies.

§ 644.134 Definitions.

(a) General-purpose space is space-in buildings, including land incidental thereto, suitable for the general use of Government agencies, including but not limited to office space, general storage space, inside parking space, and warehouse space.

(b) Special-purpose space is space in buildings, including land incidental thereto, wholly or predominantly utilized for the special purposes of an agency, and not generally suitable for general-purpose use, including but not limited to hospitals, housing, and laboratories.

(c) Initial alterations are any improvements, additions, repairs or structural changes which are necessary to adapt leased premises or facilities to needs of the using service and which are approved prior to occupancy.

(d) Subsequent alterations or upgrades are any improvements, additions, repairs or structural changes which are found to be necessary to further adapt leased property to the needs of the using service after occupancy.

(e) Temporary improvements are those which can be removed without damage either to the property installed or the leased property, and to which the Government retains title.

§ 644.135 Lease authorization and approvals.

(a) *Title 10 Reports.* Under the provisions of 10 U.S.C. 2662, a lease proposal or renewal with an estimated annual rental in excess of $50,000 (gross rent as recited in the lease or for each project covered by one or more leases) must be reported to the Armed Services Committees of Congress. The General Services Administration (GSA) charges a Standard Level User Charge (SLUC) for furnishing space. For Title 10 reporting purposes, where GSA leases space at Corps request, the SLUC figure, if greater than the gross contract rental figure, shall control. For all leases which require Title 10 clearance, the Division/District Engineers will prepare and submit an Acquisition Report to HODA (DAEN–REA–L), WASH DC 20314 in the format shown in Figure 5–10 in EP 405–1–2. The report will support an action to obtain approvals from the Assistant Secretary of the Army (Installations, Logistics and Financial Management) and the Deputy Assistant Secretary of Defense (Installations and Housing) for the proposed lease prior to its submission to the Committees, and will serve as a basis for a hearing before the Real Estate Subcommittee of the House Armed Services Committee. Draft acquisition report pursuant to Title 10 for a lease renewal should be submitted at least 12 months in advance of the termination date of the lease. An explanation for any delay in forwarding the draft acquisition report is required in the transmittal letter if lease terminates prior to one year. Supporting data for this report will include the following:

(1) The geographical area in which the availability of Government-owned space was surveyed, together with reasons for limiting the area. The mission is to be set forth in detail, along with the reason(s) why space in this particular geographical area is essential to the performance of the mission.

(2) Current and required space (including parking) for each using service. For GSA leases the square feet should be the same as reported on the SLUC. Corrected square feet may be reported if a letter of concurrence from the appropriate GSA Region is provided.

(3) Statement covering all Government-owned buildings and facilities under the control of the military departments in that area, together with the reasons why each was rejected. Even though no space is available, a list of the installations in the area will be furnished.

(4) Statement from (GSA) indicating that no space is available to that agency and other Federal agencies in the area or, in the alternative, a list of space that is available, together with reasons why the space is not acceptable to the using service.

(5) Identification of the headquarters and personnel making the determination that any available Government-owned space is not suitable.

(6) Original request, signed by the responsible head of the using agency that action be taken to obtain required clearances under 10 U.S.C. 2662. The using service shall advise whether or not a long-range use is contemplated.

(7) A statement of the current and anticipated contract rentals and current and anticipated SLUC for GSA leases. The SLUC should be as reported by GSA, unless an explanation is provided.

(b) *The Economy Act.* Section 322 of the Act of Congress approved 30 June 1932, as amended (40 U.S.C. 278a) provides that no appropriation shall be obligated or expended for the rent of any building or part of a building to be occupied for Government purposes at a rental in excess of the per annum rate of 15 percent of the fair market value of the rented premises at date of the lease under which the premises are to be occupied by the Government, nor for alterations, improvements, and/or repairs of the rented premises in excess of 25 percent of the amount of the rent for the first year of the rental term, or for the entire rental if the full term is less than one year. The provisions of Section 322, as applicable to rentals, shall apply only where the rental to be paid shall exceed $2,000 per annum.

(c) *Exception to Economy Act.* The Act of Congress approved 28 April 1942 (40 U.S.C. 278b) provides that 40 U.S.C. 278a shall not apply during war or a national emergency declared by Congress or by the President to such leases or renewals of existing leases of privately-owned or publicly-owned property as are certified by the Secretary of the Army or the Secretary of the Navy or by such person or persons as he may designate, as covering premises for military or civilian purposes necessary for the prosecution of the war or vital in the nation emergency. The provisions of the National Emergencies Act, Public Law 94–412 (90 Stat. 1255), 14 September 1976, shall not apply to the powers and authorities conferred by 40 U.S.C. 278b and actions taken thereunder.

(d) *Federal Property and Administrative Services Act.* The Administrator, GSA is authorized by 40 U.S.C. 490a(8) to alter and improve rented premises without regard to the 25 percent limitation of 40 U.S.C. 278a upon a determination by the Administrator that the alterations and improvements are advantageous to the Government in terms of economy, efficiency, or national security, and that the total cost of the proposed work to the Government for the expected life of the lease shall be less than the cost of alternative space which needs no such improvements.

(e) *Certificates of Necessity.* Department of the Army requests for Certificates of Necessity pursuant to 40

U.S.C. 278b will be forwarded to the Assistant Secretary of the Army through DAEN–REA–L. In any case requiring the issuance of a Certificate of Necessity, the amount requested will be sufficient to provide for all improvements which can be foreseen and that will be required during the term of the lease. Should unforeseen, essential requirements arise at a later date, an additional Certificate of Necessity to cover such work will be necessary. It is required that the using service furnish Division or District Engineers with a request for a Certificate of Necessity, explaining the circumstances, followed by a statement that the continued use of the leased premises, or the work to be performed, as the case may be, is vital in the national emergency. All requests by Division and District Engineers will include a completed ENG Form 869–R, 15 percent Valuation Certificate.

(f) *Approval—Chief of Engineers.* (1) The Chief of Engineers is authorized to approve leases where proposed temporary construction to be placed on land by the Government has an estimated cost equal to or in excess of the current market value of the property, or where the estimated rentals to be paid in the future, plus the cost of restoration, would exceed 50 percent of the current market value of the property.

(2) Leases, renewals, or lease extensions, which are controversial, unusual, or inconsistent with existing policies, require the approval of the Chief of Engineers.

(3) Any lease involving clearances by higher authority will be submitted to HQDA (DAEN–REA–L) WASH DC 20314.

(4) Leases, renewals, or lease extensions of industrial properties, other than for bakeries, laundries, and drycleaning facilities, are to be submitted to DEAN–REA–L for prior approval.

(5) Division and District Engineers, and Chiefs of the Real Estate Divisions, are authorized to perform emergency maintenance and repairs to leased premises not in excess of $500 where lessors refuse to perform, or under such circumstances that the lessor cannot perform. Where the cost exceeds $500, approval by DAEN–REA–L is required. The Comptroller General has ruled that where the lessor is obligated to perform maintenance and repairs under the terms of the lease and after demand of and refusal by the lessor, the Government makes such repairs in order to utilize the property to the fullest extent, the cost should be withheld from rental payments under the lease as soon as possible after work is completed (15 Comp. Gen. 1064). However, no rental payments will be withheld and no repairs made after demand and a refusal by the lessor, without prior approval of DAEN–REA–L.

(g) *Division and District Engineer Authorization.* (1) Division Engineers and their Chiefs of the Real Estate Division have been delegated, without authority to redelegate, leasing authority to approve leases where the annual rent, excluding services and utilities, unless said services and utilities are included in the recited rental consideration, is in excess of $25,000, but not in excess of $50,000. The $50,000 limitation will be strictly observed because of the reporting requirements under the provisions of 10 U.S.C. 2662.

(2) District Engineers and their Chiefs of the Real Estate Divisions are authorized to approve leases wherein the rental excluding utilities and services, unless included in the recited rental consideration, does not exceed $25,000 per annum.

(3) Except for space in the National Capital Region, Division and District Engineers are authorized to process all requests for the assignment of space in Government-owned buildings or leased space in the GSA urban centers to the regional GSA office having jurisdiction.

§ 644.136 Leasing Guidelines.

Division and District Engineers, and the Chiefs of the Real Estate Divisions, are authorized to execute leases, or renewals of leases, negotiated in accordance with the procedures expressed herein, upon receipt of a proper request from an authorized command, service, or agency, subject to any required approvals or clearances. When there is no Real Estate Division, as such, but the Division or District Engineer has responsibility for leasing activities, he may delegate this authority to the officer or civilian in charge or real estate activities.

(a) *Leasing Requests.* Requests for space or land will be received by the Chief of Engineers, or the appropriate Division or District Engineer. Requests will include the data outlined in AR 405–10 (para 2–2c). Division and District Engineers will coordinate space or land requirements with appropriate commanders to assure responsive lease processing. If required, a Lease Planning Report, or narrative report covering essential information, will be furnished the using service for review and recommendations. Funding requirements, usually in the form of fund citations, will have been met by the using service prior to lease execution. If approvals by higher authority are required, the Division or District Engineer will initiate appropriate action to obtain the necessary clearances.

(1) *Army Commands.* Upon receipt of a request from an Army Command, negotiations for obtaining acceptable leases will be carried to completion in accordance with present procedures for military leases.

(2) *Air Force.* Upon receipt of a lease request approved by Headquarters, U.S. Air Force, or an Air Force major command, the appropriate Division or District Engineer will negotiate and lease the required property. The provisions of AFR 87–1 prescribe the Department of the Air Force policies and procedures that are to be followed.

(3) *National Guard.* All requests for the leasing of facilities for National Guard purposes will emanate from the Chief, National Guard Bureau. Army National Guard leasing requirements will be transmitted through DAEN–REZ–R to DAEN–REA–L. Air National Guard requirements will be transmitted to DAEN–REA–L through Headquarters, U.S. Air Force.

(i) Upon receipt of authority from the Chief of Engineers, negotiations will be conducted for obtaining an acceptable lease, in accordance with the approved lease request. The appropriate United States Property and Fiscal Officer generally makes separate service contracts for utilities, except sewage disposal, and services, and is responsible for the maintenance of all buildings used exclusively by the Air National Guard. Representatives of the Corps of Engineers do not participate in obtaining contracts for utilities and services. In cases where such a contract is impracticable, the lease may include any and all utilities and services as part of the rental consideration, with the cost of the various services and utilities to be itemized. The "use clause" in the lease will provide for occupancy of the premises for "Government purposes". The wording, "For use by the Air National Guard and/or United States Air Force, and, in time of war or national emergency, by other units of the Armed Forces of the United States or for any other use by the Federal Goverment," will be acceptable if it is not possible to insert the for "Government purposes" provision.

(ii) Leases made by representatives of a State with private parties for use of premises by the National Guard of the State involved, under which State funds are used for rental payments, are not the responsibility of the Division or District Engineer.

(4) *Department of Energy/Nuclear Regulatory Commission.* Space is

acquired by these agencies direct from GSA in the designated urban centers pursuant to Reorganization Plan No. 18. In instances where general purpose space is not obtained through GSA and instances involving the leasing of special-purpose space, managers of field offices of subject agencies are authorized to initiate requests to Division or District Engineers for the leasing of properties where the net per annum rental does not exceed $50,000. Leasing of properties where the net rental per annum exceeds $50,000 requires the prior approval of the appropriate agency head, i.e., the Secretary of Energy, the Chairman of the Nuclear Regulatory Commission, or their designees.

(5) *Metropolitan Washington, D.C.* All requests for leased space in the National Capital Region will be processed in accordance with DOD Instruction 5305.5.

(b) *Requirements Survey.* The availability, use, and adaptability of property owned by the Government, whether under control of the GSA or other agencies, shall be thoroughly explored before additional space is leased, or existing leases are renewed, or construction commenced. Particular attention is to be given to the availability of space, or land, at military reservations, camps, posts, or stations.

(1) A statement covering the non-availability of Government-owned space, or if such is available and not suitable, reasons why it is not suitable, for occupancy by the requesting using service, should be made for each lease executed by the Corps of Engineers, excluding family housing leases.

(2) Suitable privately-owned space shall be acquired only when satisfactory Government-owned space is not available. Rental charges will be consistent with prevailing rates in the community for comparable facilities.

(3) The quality of office space for Government occupancy shall be appropriate for the efficient and economical performance of required operations, affording employees safe, healthful and convenient facilities.

(4) Full consideration shall be given to the efficient performance of the mission and programs of the using service.

(c) *Government-Owned and General Services Administration Furnished Space.* If Government-owned space is available, the Division or District Engineer will inform the using agency, and details of occupancy will be developed. If it is necessary for GSA to lease space, the Division or District Engineer will make a careful review to determine if there are any statutory or regulatory limitations involved. If so, appropriate action will be taken to satisfy the limitations. During the processing of all GSA space assignments and leases, the Division or District Engineer is the only official contact representative with GSA. This procedure is to be emphasized at all time with the using service.

(1) The Division of District Engineer will submit a Standard Form 81, Request for Space, to the appropriate GSA Regional Office for space assignment in urban centers under the jurisdiction of GSA. The requirement to this form applies to lease renewals or lease supplements, and for space assignments in Federal office buildings. Excluded from this procedure is a proposed space assignment in the National Capitol Region.

(2) Except for the acquisition of general-purpose space of 2,500 square feet or less, outside the designated urban centers, and special-purpose space of 2, 500 square feet or less, irrespective of the location, the need for any type of building space will be made kown to the appropriate GSA Regional Office by filing Standard Form 81, Request for Space.

(3) The designated urban centers are listed in Figure 5–11 in EP 405–1–2.

(d) *Advertising.* As a general rule, procurement of space will be by formal advertising. However, in leasing certain types of premises where only one location will serve the Government's purpose, such as municipal airports, recruiting stations, and similar facilities, negotiations without advertising are permissible. In instances where building space is needed and the requirement cannot be met through the use of existing buildings, there must be advertising to solicit bids for the furnishing of the space. In every instance, it is essential that efforts be made to seek competition. For each lease, a statement will be prepared concerning competition in the solicitation for space or land and Standard Form 1036, Statement and Certificate of Award, will be used. Where specific space or land is needed, and competition is therefore not involved, the facts and circumstances will be fully explained and such explanation will be made a part of the lease file for future reference.

(e) *Appraisals.* Appraisals are required as a basis for making rental determinations in all leases except those for a nominal consideration. At the discretion of the Division and District Engineers, and the Chiefs of the Real Estate Divisions, formal or detailed appraisals can be dispensed with for leases wherein the annual rent does not exceed $5,000. Where the rental of a building or part of a building, or family housing unit, exceeds $3,600 per annum, excluding services and utilities, it may be necessary to estimate the fee value of the property contemplated for leasing to determine whether or not the rental rate is in excess of 15 percent of the fee value of the property. For family housing leases, the opinion of fee value will be in short summary form and will be supported by general evidence of comparable values of the unit to be leased. If the proposed annual rental, excluding services and utilities, of a family housing unit exceeds 15 percent of the estimated fee value, the unit will not be leased.

(f) *Determination of Valid Interest.* Persons executing leases for and on behalf of the United States of America will satisfy themselves, before executing leases, that the prospective lessors have an interest in the real estate which will assure the validity of the lease. Where leased lands are used as a site for contruction, the land records of the county will be examined by a staff attorney familiar with land title records, who will execute a certificate that he has examined the said records and that title is vested in the lessor, subject to the infirmities, liens and encumbrances noted in the certificate. In lieu of such examination, a certificate from the Register of Deeds, County Recorder or other qualified officer is acceptable. If considered advisable in unusual cases, title evidence may be obtained from commercial sources.

(g) *Outstanding Rights and Damages.* (1) Where the land is subject to outstanding oil, gas, mineral, or similar interests, the Division or District Engineer will determine, from the appropriate command, in advance of the consummation of the lease, whether the continued exercise of the mineral or outstanding rights will interfere with the contemplated use of the premises.

(2) Where buildings, structures, or growing crops are located on land to be leased, a determination will be made by the Division or District Engineer, in coordination with the appropriate command, as to whether they will interfere with the use of the premises.

(3) Where the lessor will not be permitted to harvest crops or remove improvements and timber which will be destroyed by the Government, the appraised value thereof will be determined, and such amount will be included in the rental for the initial term of the lease, together with an express provision relieving the Government of restoration.

(4) Leases of land for bombing, artillery, rifle ranges, and other extraordinary usage will specify that the leased premises are to be used for such purpose, and an effort will be made to include in the lease a provision waiving restoration and claims for damages, particularly where the premises are wastelands or unproductive.

(5) Where the lessor will not consent to a waiver of restoration, the estimated value of such damage, if it can be determined in advance, will be included in the rental for the initial term of the lease, and the lease will contain an express provision relieving the Government from responsibility for restoration.

(6) If restoration is not waived, and the damages cannot be determined in advance, a provision may be included in the lease to the effect that the rental payments do not include compensation for damages arising from the use of the premises for the purpose leased and that, upon termination of the lease, the damages, mutually determined, will be paid by supplemental agreement to the lease. In event the amount of the loss or damage cannot be mutually determined, the lessor may file a claim for the alleged loss or damage in accordance with Subpart H.

(h) *Services and Utilities.* Services, such as janitorial, heat, air conditioning, light and water, should be included in leases for building space wherever possible. Whether services are paid for as part of the rent or by a service contract, the time period for furnishing heat, air conditioning and light, i.e., usual business hours, 24-hour basis, Saturdays and Sundays, should be clearly stated.

(i) *Other Contracts.* The negotiation and execution of contracts not involving an interest in real estate are the responsibility of the services concerned.

(j) *Condition Surveys.* (1) Whenever possession of any premises is acquired by lease or other agreement, or by condemnation for a term of years, the Division or District Engineer will cause a survey and inspection of the condition of the real and personal property to be made as of the time the Government takes possession.

(2) The survey and inspection required above will be made jointly with the lessor or his duly authorized representative. The report will be signed by both parties.

(3) The initial survey report must be made with great care since it is the basis for future restoration claims by a lessor. The use of photographs is encouraged. Full explanatory data covering condition of the premises will be added to the report if, in the opinion of the Chief, Real Estate Division, a useful purpose will be served thereby. The survey report of real property, and the inventory and condition report of personal property, will be made with care, as the condition reflected as of the date of initial occupancy will be compared with the condition shown by the terminal reports made upon vacation of premises.

(4) A survey is not required of unimproved land where an appraisal has been made and the condition of the land is set forth by the appraiser and made a part of the record.

(5) A survey will be made wherever property of another Federal agency is used, with the exception of post offices and Federal buildings. In the event privately-owned buildings, crops, or other property, are on the Federal property, a report will be made outlining the terms and conditions under which they were placed thereon, and the value thereof will be appraised as of the date of possession.

(6) Normally, ENG Forms 3143 and 3143A, Joint Survey and Inspection of Condition of Government Leased Property, are adequate for the joint survey and inspection. In certain cases, narrative reports may, at the discretion of the Division or District Engineer, be considered preferable; however, local forms will not be developed for this purpose.

(k) *Possession.* Possession of real property will not be taken until required approvals and clearances are obtained and a lease is executed. When requested by an appropriate command, rights-of-entry for exploration and survey, or construction, will be obtained in accordance with instructions in §§ 644.155 through 644.157.

(l) *Condemnation of Leaseholds.* Where the required leasehold interest cannot be acquired by a negotiated lease, the recommendation of the Division or District Engineer for the institution of condemnation proceedings will be submitted to HQDA (DAEN–REA–C) WASH DC 20314, in accordance with § 644.121, setting forth the negotiations that have been conducted with the property owner(s) and all other factors supporting the recommendation.

(m) *Decease of Lessor.* (1) Any claim on account of death of a lessor (except uncurrent depository check claims) may be settled without submission to the Chief of Engineers where no doubt exists as to the amount and validity of the claim or as to whom payment may be made under the laws of the domicile of the decedent.

(2) Any claim for rent or services due a deceased lessor which is considered doubtful will be forwarded to HQDA (DAEN–REM) WASH DC 20314 in accordance with Subpart H.

(n) *Recording Leases.* If the property is located in a State requiring the recording of leases, all statutory requirements will be met. Leases, and supplemental agreements prior to termination, involving property upon which substantial Government improvements are to be constructed, will be recorded in all cases.

(o) *Change in Ownership.* (1) When the title to premises leased to the Government is transferred, the contracting officer shall satisfy himself that the new owner has a valid interest in the premises covered by the lease, and thereafter enter into a supplemental agreement between the old and new owners and the Government, for distribution in the same manner as the original lease.

(2) Upon being notified or otherwise determining that a foreclosure proceeding has been filed against the leased premises, or that the enforcement of a deed of trust or mortgage is imminent, the Division or District Engineer will take such action as is appropriate under State laws for protection of the United States. This would consist of filing by the United States Attorney with the court, or with the trustee, receiver, or commissioner, as the case might be under local law, of a notice of the Government's lease on the property, with request that the foreclosure proceedings be made subject thereto. If the proceeding is made subject to the lease, an abstract of such proceeding will be made, certified by a staff attorney, and distributed in the same manner as the original lease. If considered advisable, a supplemental agreement to the old lease will be made with the new owner; or a superseding lease may be executed and distributed. If the proceeding results in vesting title in a new owner, free and clear of the Government's lease, attempt will be made to negotiate a new lease; if this fails, condemnation action will be taken sufficiently early to protect the interests of the United States. Negotiation and condemnation in this latter type of situation must be based on a current appraisal.

(p) *Supplemental Agreements.* Modification of existing leases will be in the form of supplemental agreements and will be prepared, executed, and distributed in the manner prescribed for the original lease. Where a supplemental agreement provides for an increase in space at an increased rental,

the supplemental agreement should contain appropriate recitals of this fact, and provide that the Government, thereafter, may, upon 30-days notice, partially reduce, or discontinue, the use of the space covered by either the supplemental agreement, the basic lease, or both. Supplemental agreements enlarging or reducing space will show the total area and rental comprising the basic lease and preceding supplemental agreements.

(q) *Annual Review of Leases.* Annual review of leasing requirements and space assignments from GSA are to be initiated by the Division or District Engineer not later than one year before the end of the lease term for each lease.

(1) Special attention will be given by Division and District Engineers to leases which expire by their own terms and continued occupancy is required at annual rentals of $50,000 or more. These leases require approval by the Department of Defense and reporting to the Armed Services Committees of the Congress by the Chief of Engineers. An Acquisition Report together with full justification, as set forth in § 644.135(a), in support of each lease (or project covered by more than one lease) must be furnished. For leases in which it is not clear whether Title 10 reporting is required, DAEN–REA–L will be informed of the facts for decision. Attention will be given also to existing leases having annual rentals between $30,000 and $50,000. It is probable that current appraisals will indicate annual rental rates in excess of $50,000 and, therefore, require a Title 10 report.

(2) If the using command anticipates that there will be further need for the leased property, and the total estimated rentals to be paid by the Government, excluding utilities and services, for the additional period, plus the cost of restoration, will exceed, 50 percent of the estimated current market value of the property, DAEN–REA–L will be informed of all details in order that the review required by paragraph 1–8, AR 405–10, may be made. Only estimated future rent payment is to be considered and not the rental paid in the past for the property. In applying this formula, if the period of future use cannot be ascertained but it is likely that a property will be used for a long period of time, use a period of five years for calculations.

(r) *Lease Renewals and Extensions.* (1) Lease entered into under authority of the annual appropriation acts may include a provision for automatic renewal after expiration of the initial term subject to the availability of appropriated funds. However, if the property is still needed after lease expiration, a new lease is required and the old lease will not be extended by supplemental agreement for the new term. Where the lease requires notice in writing to be given to the lessor to exercise the option of renewal, notice will be served by the use of ENG Form 221, Notice of Renewal of Contract or Lease, in accordance with the terms of the lease. The notice, properly addressed, will be sent by certified mail, with return receipt requested. Adequate time, in addition to the number of days specified in the lease, will be allowed for delivery to, and receipt by, the lessor. The Division or District Engineer will maintain adequate records to assure prompt service of notice to avoid the lapse of leases.

(2) No lease will be renewed or kept in existence unless it has been administratively determined, through advertising or otherwise, that other suitable property at a lower rental is not obtainable. At all times, and in particular during the lease renewal review period, the Division or District Engineer will take cognizance of the availability of property in the area of the using service that is Government-owned, or property under GSA control.

(s) *Payment of Rents.* (1) One of the most important factors involving good relationships between the Government and the lessor is the prompt payment of the rent. Under existing regulations, the rent is paid by the using commands. The Division or District Engineer makes rental payments for leases when the Corps is the using service and for recruiting facilities, since the Chief of Engineers is the Department of Defense Executive Agent for recruiting facilities acquisition. It is therefore appropriate for the Division or District Engineer to inquire periodically of the using commands whether delays in processing payments are encountered. If payments are not being made within seven working days after payment is due, appropriate action will be taken to correct the delay; if no action is taken after a reasonable time allowed for correction of procedures, DAEN–REA–L will be informed fully of the facts and an investigation will be conducted.

(2) Prior to payment, the Division or District Engineer, or his designee, will certify for submission to the Disbursing Officer that the leased property was occupied or available for use. The following certification, contained on Standard Form 1166, Voucher and Schedule for Payments, is used: "I hereby certify that the leases identified hereon were in effect for the month (or other period) indicated, and that the space was occupied, or available for use, by the Department of the Army."

§ 644.137 Maneuver Agreements.

Joint training exercises or maneuvers are conducted by elements of the Department of Defense. Land use requirements vary with the exercise objectives and the force elements which participate. The Corps participates in the planning and acquires rights to use land and other facilities for Department of the Army exercises. The current Memorandum of Understanding by Department of the Army, United States Readiness Command (USCINCRED), and United States Army Forces, Readiness Command (USCINCARRED) on acquisition of maneuver rights for United States Readiness Command (USREDCOM) Joint Training exercises is included as Figure 5–13 in EP 405–1–2. This Memorandum covers timing of requests for preliminary surveys, real estate studies, funding and acquisition of maneuver rights. The Corps also responds to requests from other Department of Defense commands for maneuver rights, and the same procedure is envisioned although no Memoranda of Understanding have been entered into. Upon receipt of a request for real estate services, an estimate of the funds required for the report should be forwarded to the using command.

(a) *Procedures.* The appropriate Division or District Engineer will be responsible for negotiating maneuver agreements and short-term leases and, after the maneuver is completed, will be responsible for negotiating restoration settlements and/or releases, as appropriate. Real estate acquisition will be in the form of agreements with landowners, granting the right to conduct maneuvers at a given time, or periodically. Short-term leases for exclusive use may also be acquired for special areas (such as headquarters areas, radio relay sites, base camp sites, field hospital sites and supply dumps), and buildings needed for warehouses, ordnance shops and similar purposes directly related to the maneuver. Permits will be obtained to cover the use of lands under the jurisdiction of another Government department or agency.

(b) *Claims and Restoration.* Notwithstanding the assignment of restoration responsibility, understanding may be reached with the maneuver director at field level whereby the command will assume responsibility for settlement of real estate damages using claim funds. However, in instances where the damage exceeds the monetary claims jurisdiction of the

Army Commander pursuant to AR 27–20 and is cognizable as a contractual obligation under the maneuver permit, settlement will be accomplished by the Division or District Engineer either by supplement to the permit or by processing a claim under AR 405–15 [see § 552.16 of this chapter) since the Division or District Engineer can usually accomplish settlements more quickly for claims in excess of that amount. Therefore, it should be suggested to the maneuver director that all claims, cognizable as a contractual obligation, in excess of his monetary claims jurisdiction be handled by the Division or District Engineer. Funds appropriated for field exercises and maneuvers are allotted to Army Commanders and include administrative costs. The reporting requirements included in Figure 5–13 in EP 405–1–2 will be established by the Chief of Engineers upon receipt of a specific request from the using command to acquire maneuver rights.

§ 644.138 Family housing leasing program.

Section 515 of Pub. L. 84–161 (69 Stat. 324), as amended by Pub. L. 95–82, approved 1 Aug 1977, authorizes the expenditure of an average of $280 per month for each military department for housing facilities in the United States (other than Alaska and Hawaii) and in the Commonwealth of Puerto Rico, and an average of $350 per month for each military department for housing facilities in Alaska, Hawaii and Guam. In both cases the maximum rental rate per unit per month including utilities, operations and maintenance is $450. These rental figures are subject to change each year in the annual Military Construction Authorization Acts. Updated rental figures should be obtained from the current MCA Act. The Department of Defense allocates to each department of the military the number of units it can acquire pursuant to the authorization, and each year Division and District Engineers are informed of the unit allocations by the Chief of Engineers.

(a) *Leasing Requests.* The Departments of the Army and Air Force direct their requests for the leasing of family housing units to the Division or District Engineer. Each military element involved has the responsibility of maintaining the national rental average. Each command prescribes the procedures to be followed in acquiring family housing units. Such procedures which include size of accommodations and maximum rental rate will be followed by the Division or District Engineer.

(b) *Use of Available Housing.* Priority shall be given to the leasing of adequate Federal Housing Administration (FHA) and Veterans Administration (VA) held units to the extent that such units may be available at locations which are granted lease allocations. FHA Form 2372A, as modified, will be used in leasing FHA housing for use as public quarters by military personnel. A similar form, modified as needed, will be used for VA held housing units.

(c) *Nondiscrimination Provision.* All leases for family housing units which are executed on behalf of the United States shall contain the following nondiscrimination clause: "It is understood and agreed that the Government will assign the demised premises to military personnel in accordance with Executive Order 11063, dated 20 November 1962, which provides that housing and related facilities shall be available without discrimination among tenants because of race, color, creed, sex or national origin."

(d) *Pest Control.* In agreement with the lessor, whenever possible, the lessor will affirmatively assume responsibility for pest control in family housing units. The following clause will be included in family housing leases: "It is understood and agreed that the lessor will be responsible to provide pest control measures and pesticides, which conform to local health department regulations, to keep the premises free from pests and in a tenantable condition." It is intended that the occupant will maintain the leased premises in a clean and sanitary condition in conformance with normal standards of good housekeeping, and that the lessor will furnish leased housing in pest-free condition and maintain the premises free of pest infestation.

(e) *Leasing Actions.* (1) Division and District Engineers will proceed with acquiring the family housing units within the framework of the leasing requests. Care is to be taken to assure that there are no violations of the Economy Act, i.e., the net rental will not exceed 15 percent of the estimated fee value of the space or building contemplated for leasing.

(2) At the discretion of the Division or District Engineer and the Chief of the Real Estate Division, Standard Form 2B may be used for family housing leases, regardless of the rental rate.

(3) Emergency repairs may be accomplished in accordance with § 644.135(f)(5).

(f) *Supplemental Payments.* All leases for family housing units which are executed on behalf of the United States shall contain the following clause prohibiting supplemental payments: "The Lessor hereby agrees that the rental consideration specified herein is the only consideration to be received for the demised premises and includes payment for all utilities, maintenance and services specified herein. No other remuneration will be paid by the Government's occupant, members of his family, or any other person on their behalf."

§ 644.139 Leases for Civil Works Purposes.

Division and District Engineers and the Chiefs of the Real Estate Division are authorized to execute leases, and renewals of leases, for river and harbor or flood control purposes, subject to necessary approvals and clearances. The provisions of 10 U.S.C. 2662, which require reporting of certain leases proposals to the Armed Services Committees of the Congress, do not apply to leases for civil works.

(a) *Approvals Required.* The following lease actions for civil works projects will be referred to DAEN–REA–L for consideration:

(1) Where the annual rental is in excess of $50,000.

(2) Where the leasing involved is for space for both military and civil functions, and the rental for the portion used for military purposes is in excess of $50,000. The report required is covered in § 644.135(a).

(b) *Records.* The originals of leases for civil works purposes, together with supporting data, will be retained at the Division or District Engineer offices for site audit in accordance with Section 7530, "General Accounting Office Policy and Procedures Manual for Guidance of Federal Agencies."

§ 644.140 Physical Protection.

It is essential that the Division or District Engineer make provision for the physical protection for all facilities under Corps control. Coordination with state, county, and city law enforcement officials as well as the U.S. Attorney's Office is required. These officials should be alerted at the first indication of possible disturbances. The U.S. Attorney's Office should be provided with an up-to-date list of the locations of such facilities.

(a) *Self-Protection Plan.* Space or property controlled by GSA is the responsibility of GSA for physical protection. In accordance with 41 CFR 101–20.504, a Facility Self-Protection

Plan is to be established by agencies in GSA-controlled space. This requirement should be coordinated with appropriate GSA Regional personnel. A similar plan should be made operational, where feasible, in other space over which the Corps has responsibility.

(b) *Funding.* Space under GSA control may require protection and the GSA Regional Offices may not have funds. In these situations, the facts will be made known to DAEN–REA–L, accompanied by a request for funds. Likewise, for Corps leases, funds for physical protection shall be requested from DAEN–REP if they are not already available to the Division or District Engineer.

§ 644.141 Alterations and Construction on Leased Real Property.

(a) *General.* Division and District Engineers will be available to the military elements for consultation and review of requirements involving construction on leased land or in leased space. Detailed instructions are furnished in DOD Directives 4165.12, 4165.16, 4165.20, 4270.24, 5160.58, 7040.2; DOD Instruction 5305.5; Army Regulations 140–485, 405–10, 415–25, 415–35, 420–10. Section 644.135(b) covers the requirements of the Economy Act which are applicable to alterations and construction on leased real property. The work to be performed must be essential. Guidelines are furnished as follows:

(1) The proposed alterations and improvements must be advantageous to the Government in terms of economy, efficiency, and, where applicable, to national security.

(2) For office space, the cost should be less than the cost of other space that is available and which does not require alterations or improvements to any appreciable extent.

(3) Due regard is to be given to the convenience of the public that is served and the maintenance and improvement of safe and healthful working conditions of employees.

(4) Where the proposed temporary construction at a leased facility has an estimated cost equal to or in excess of the current market value of the property, the facts will be reported promptly to DAEN–REA–L.

(b) *Initial and Subsequent Alterations.* (1) Initial alterations to facilities leased by the Corps are the responsibility of the appropriate Division or District Engineer.

(2) Effort will be made to include all required alterations in the rental package with the lessor performing all of the work. Careful attention will be given to possible violations of the Economy Act. Payment for initial alterations may be in a lump sum or by the month with the rent, provided the provisions of the Economy Act are complied with and the alterations costs are stated separately in the file or in the voucher.

(3) Alterations or improvements of any nature in GSA furnished space are the responsibility of GSA. Under certain circumstances, GSA may require a Certificate of Necessity in order to perform the required construction.

(4) Although alterations and improvements subsequent to occupancy are not the responsibility of the Corps, the Division or District Engineer should always review subsequent alteration projects to determine whether or not the limitations of the Economy Act are applicable. See AR 415–34, AR 415–35, and AR 420–10 for procedures and instructions.

(c) *Army National Guard.* No initial alterations regardless of cost will be made to properties leased for the Army National Guard without prior approval of the Chief, National Guard Bureau. (Funds will be made available by the National Guard Bureau.)

(d) *Air Force.* All alterations to premises leased for the Department of the Air Force, including Air Force Reserve and Air National Guard Units, are the responsibility of that Department including the issuance of any Certificate of Necessity for Department of Air Force elements. The only exception is the leasing and modification of leased premises for recruiting facilities.

(e) *Recruiting Facilities.* The Chief of Engineers, as the Department of Defense Executive Agent for recruiting facilities, is responsible for initial alterations for all recruiting facilities located on military reservations or leased by the Corps. This responsibility includes recruiting offices and recruiting main stations and detachments, whether single-service or collocated. However, as to recruiting facilities acquired by GSA, all alterations are the responsibility of GSA and processing is accomplished through the Division or District Engineer.

(f) *Permanent Construction Requirements.* If permanent construction is to be placed on land, the Government must have fee title or acquire title to the land or a permanent easement must be secured, with the following exceptions:

(1) Real property, including land or buildings, which the Government currently holds the right to reuse by exercise of the National Security Clause.

(2) Real property, including land or buildings, which the Government holds the right to reuse by exercise of a National Emergency Use Provision. Since such rights apply only during the period or periods of national emergency and are extinguished by the termination thereof, every effort will be made to negotiate a lease covering such property under terms that would provide the Government the right of continuous possession for a minimum of 25 years.

(3) Real property required for installation of utility lines and necessary appurtenances thereto, provided a long-term easement or lease can be secured at a consideration of $1.00 per term or per annum.

(4) Real property required for air bases, provided such property can be acquired by lease containing provisions for:

(i) Right of continuous use by the Government under firm term or right of renewal for a minimum of 50 years.

(ii) A rental consideration of $1.00 per term or per annum.

(iii) Reserving to the Government, title to all improvements to be placed on the land and the right to dispose of such improvements by sale or abandonment.

(iv) Waiver by the lessor of any and all claims for restoration of the leased premises.

(v) Use of the property for "Government purposes" rather than for a specific military purpose.

(5) Property required for facilities for the Reserve Components of the Armed Forces, provided such property can be acquired by lease containing provisions detailed in paragraph (f)(4) of this section. Whenever possible, the insertion in a lease of a provision restricting the use of land to a specific purpose will be avoided; use a term such as "Government purposes".

(6) Property required for air defense sites, provided such property can be acquired by lease containing provisions in paragraph (f)(4)(ii), (iii), and (iv) of this section and the right of continuous use by the Government under a firm term or right of renewal for as long as required for defense purposes.

(7) Assistant Secretary of Defense (MRA&L) approval is required when leases for air bases, Reserve Components facilities, or air defense sites can be obtained containing some but not all of the above listed provisions. Such approval is also required for leases for all other types of installations upon which permanent construction is to be placed by the Government when leases can be obtained containing similar provisions. In all cases, it must be in the best interest of the Government to acquire a lesser interest than fee title.

(8) Construction projects estimated to cost less than $25,000 will not be considered a permanent construction for purposes of the above policy.

(g) *GSA Reimbursement.* Reimbursement to GSA for Standard Level User Charges (SLUC) and other costs incident to leasing will be in accordance with the applicable provisions of the Federal Property Management Regulation.

(h) *Nominal Rent Leases.* (1) Where premises are occupied by the Government at a nominal rent or rent-free basis, any alterations, improvements, and repairs necessary for occupancy may be considered as a cost of occupancy, i.e., in lieu of rent, for each year of the rental term. However, the total cost of such alterations, improvements, and repairs, plus the nominal rental, during any year of the rental term may not exceed 15 percent of the fair market value at the date of the lease, unless the total cost plus nominal rental does not exceed $2,000 per annum.

(2) When rental plus amounts to be spent by the Government for alterations, improvements, and repairs total more than $2,000 and more than 15 percent of the fair market value of the premises at the date of the lease, a Certificate of Necessity is required.

(3) A Certificate of Necessity is not required for the cost of installing equipment, apparatus, appliances, machinery, fixtures, movable partitions, etc., which are not intended to become an integral part of the building and which may be removed without injuring or defacing the item or the building. Such property is considered to be the property of the Government. The lease or a supplement thereto should provide for the installation and removal of such equipment, etc.

(4) Under the limitations in 40 U.S.C. 278a, not more than 25 percent of the net rental for the original lease period, if less than one year, may be expended before a lease is actually renewed. If the whole period, including renewals, is less than a year, not more than 25 percent of the rent for such whole period may be expended for alterations, repairs, and improvements (20 Comp. Gen. 30; 29 Comp. Gen. 299). Where a lease, entered into by the Government for an original term of less than a year, is renewed for the following fiscal year, the net rental for the first year of the rental term, as distinguished from the original term, is for consideration in the computation of the amount that may be paid under the 25 percent limitation, after the lease is actually renewed.

(i) *Items Not Within the Purview of the Economy Act.* (1) The limitations in 40 U.S.C. 278a are not applicable to leases of unimproved land (38 Comp. Gen. 143).

(2) Where fixtures, alterations, and improvements are of such characters to be of a temporary nature, and are not permanently attached to the realty so as to prevent removal thereof without destroying their usefulness or damaging them or the realty, they do not constitute alterations or improvements of the leased premises within the meaning of 40 U.S.C. 278a and therefore do not fall within the 25 percent limitation of that Act. Title to such temporary fixtures, alterations, and improvements remains in the Government (18 Comp. Gen. 144; 20 Comp. Gen. 105).

(3) Upon termination of leases, restoration of leased premises to the original condition is not considered an alteration within the purview of 40 U.S.C. 278a.

(4) When the Government is required by the terms of the lease to maintain the leased premises, such maintenance, together with the cost of such improvements and alterations as may be made by the Government, may not exceed the 25 percent restriction of the Act.

(5) Leaseholds acquired through condemnation proceedings are excluded from the purview of the Act of 30 June 1932, as amended (40 U.S.C. 278a).

(j) *Architectural Barriers Act.* The Architectural Barriers Act of 1968 (Public Law 90–480), 82 Stat. 718, 142 U.S.C. 4151, et seq., as amended, requires that when Federal funding is used in the design, construction, or alteration of certain buildings or facilities, the buildings or facilities must be designed, constructed or altered to insure that physically handicapped persons will have ready access to, and use of, such buildings. In the Corps' leasing program, when Federal funds are used to make improvements to leased premises, it is necessary that the plans and specifications for the construction or alteration work be approved in accordance with guidelines published by the American National Standards Institute (ANSI), as implemented by DOD Construction Criteria Manual 4270.1–M, Section 5–1.6.

§ 644.142 Lease Forms and Instructions.

ENG Form 856 will be used for Corps of Engineers leases in the United States and possessions, and overseas, for the leasing of unimproved land. ENG Form 527 is recommended for leases of improved property in overseas areas. Standard Forms 2, 2A, or 2B (short form) will be used for all Corps of Engineers leases of improved property in the United States and possessions. Standard Form 2B is limited to rentals not exceeding $3,600 per annum. The General Provisions are on the reverse side of the short form lease.

(a) *Mandatory Clauses.* The following clauses must be included in all Corps of Engineers leases:

(1) Officials Not to Benefit clause (para 15 of ENG Form 527) is required by 18 U.S.C. 431.

(2) Gratuities clause (para 16a of ENG Form 527) is required by 5 U.S.C. 174d.

(3) Covenant against Contingent Fees (para 14, ENG Form 527) is required by 10 U.S.C. 2306(b).

(4) An Examination of Records clause (para 17, ENG Form 527) is required by 10 U.S.C. 2313(b). Exceptions to the use of this clause in 10 U.S.C. 2313(c) are permitted when the contractor is a foreign Government or agency thereof, or when the laws of the country involved preclude it. Also, if the Head of the Agency determines, with the concurrence of the Comptroller General, that the use of the clause would not be in the public interest, it may be omitted in leases covering land in foreign countries.

(5) The Nondiscrimination clause (Executive Order No. 11063, dated 20 November 1962) is required in all leases in the United States. It is desirable, but is not considered mandatory in overseas leases.

(b) *Hold Harmless Clauses.* "Hold harmless" clause will not normally be added to the lease forms. Where lessors insist upon such a clause, however, the following is suggested for use: "The Lessors (licensors) shall not be responsible or liable for injuries to persons or damage to property when such injuries or damage are caused by or result from the Government's use of the premises under the terms of this agreement and are not due to the negligence of the Lessors."

(c) *Escalator Clauses.* In those cases where a lessor expresses an unwillingness to enter into a lease, extending for a number of years, with a rental consideration that includes a fixed amount for utilities, the following clause may be inserted in the standard lease: "After the first term of the lease, the Lessor or the Government may, by giving notice at lease 90 days prior to the anniversary date of the lease, request an adjustment in rental payments based on an increase or decrease in the cost of utilities. The request must be supported with full justification to include documentary evidence of actual utility costs incurred

by the Lessor which are in excess of the amounts estimated at the beginning of the lease term. The requested adjustment in rent will be subject to negotiation, and if granted, will be provided by a Supplemental Agreement to this lease."

Acquisition of Rights-of-Entry

§ 644.155 General

Sections 644.155 through 644.157 describe the procedures of the Corps of Engineers relative to obtaining rights-of-entry on lands for both military and civil works projects and in the Corps' acquisition programs for other Federal Government agencies. These procedures are applicable to all Division and district Engineers having real estate responsibilities.

§ 644.156 Definition.

A right-of-entry is a bare authority to do a specified act or series of acts upon non-Government-owned property or non-Government-controlled property without acquiring any estate or interest therein. The principal effect of a right-of-entry is to authorize an act which, in the absence of the right-of-entry, would constitute a trespass. The written instrument furnishes evidence of the permission granted to the government and the obligations, responsibilities, and liabilities assumed by the Government. It does not authorize any uses of the property by the Government other than those specified in the instrument.

§ 644.157 Procedures

(a) ENG Form 1258, Right-of-Entry for Survey and Exploration, will be used to obtain authority from the owner of lands to be used for the purpose of making surveys, test borings, and other exploratory work as may be necessary to complete the particular investigation.

(b) ENG Form 2803, Right-of-Entry for Construction, will be used to obtain authority from the owner of lands to be used for construction purposes when all of the following conditions apply:

(1) A Real Estate Directive has been issued on an Army (military) or Air Force project, or the Chief of Engineers has approved acquisition in connection with a civil works project or for another Government agency.

(2) The construction schedule does not allow sufficient time to secure the right of possession by normal acquisition procedures.

(c) Upon execution of an ENG Form 2803, a copy thereof shall be forwarded to HQDA (DAEN–REA–L) WASH DC 20314 on Army Military and Air Force acquisitions, and in all other cases to HQDA (DAEN–REA–P) WASH DC 20314, together with a proposed schedule of final acquisition of the necessary interests in real estate. If final acquisition is not contemplated within six months from the date of the right-of-entry, an explanation should also be furnished as to the reason for the delay.

(d) Division and District Engineers may modify ENG Forms 1258 and 2803, where necessary, to meet requirements of landowners, provided such modifications do not increase the scope of the liability or responsibility of the Government over that contained in the standard forms.

(e) It is necessary to recognize not only the effects of entry upon a particular parcel of land, but also the effects of the passage of any vehicle (land, air, or water) on the area traversed. All possibilities of disturbing effects on the countryside shall be considered and routes selected to eliminate or minimize such disturbances.

(f) Any cash settlements in lieu of restoration for damages, incurred under ENG Forms 1258 and 2803, will be consummated by supplemental agreement in accordance with subpart I.

Procurement of Options Prior to Real Estate Directives (Military)

§ 644.165 Purpose and scope.

Sections 644.165 through 644.168 describe the procedures relating to the procurement of options to purchase real estate interests for Army or Air Force military requirements prior to the issuance of a real estate directive. These procedures are applicable to all Division and District Engineers having military real estate responsibility.

§ 644.166 Authority and applicability.

(a) *Authority.* Subsections (a) and (b) of Section 2677 of Title 10, United States Code, as amended by Section 707 of the Act of Congress approved October 27, 1971 (85 Stat. 412), provide that:

(1) The Secretary of a military department may acquire an option on a parcel of real property before or after its acquisition is authorized by law, if he considers it suitable and likely to be needed for a military project of his department.

(2) As consideration for an option so acquired, the Secretary may pay from funds available to his department for real property activities, an amount that is not more than five percent of the appraised fair market value of the property.

(3) For each six-month period ending on June 30 or December 31, during which he acquires options under paragraph (a) of this section, the Secretary of each military department shall report those options to the Committees on Armed Services of the Senate and House of Representatives.

(b) *Applicability.* (1) Where land is needed for proposed construction and the siting of said construction is firm.

(2) When there is a definite indication of material enhancement in value due to change, or proposed change, in use by the land owner, price increase due to publicity given to contemplated Government acquisition, or abnormal increases in market value.

(3) Where there is a definite possibility of private construction which would constitute obstructions in existing or proposed glide angle planes and transitional planes at air bases.

§ 644.167 Implementation.

When a District or Division Engineer determines that any of the conditions described in § 644.166(b) exist in connection with any proposed land acquisition project for military purposes not yet authorized by law, or if authorized, not yet covered by a real estate directive, he will initiate the following actions:

(a) *Planning Report.* A planning report will be developed and submitted in accordance with Subpart A. The report will include the purpose for which the property is "likely to be needed"; the estimated probable increase in value, if applicable; and the justification for negotiating for options under the authority cited in § 644.166. The report will identify any real estate planning reports previously prepared which included the land in question. Any future planning reports relating to the same land will contain appropriate references to this report.

(b) *Property Identification.* Upon receipt of authority to acquire options and determination that funds are available, the District or Division Engineer will obtain and verify ownership data. If it is deemed necessary, title evidence may be obtained in accordance with §§ 644.61 through 644.72.

(c) *Appraisal.* Detailed tract appraisals will be prepared in accordance with Subpart B.

(d) *Procurement of Options.* (1) Negotiations for the option will be in accordance with procedures outlined in §§ 644.83 through 644.85, except that ENG Form 2926, Option to Purchase Real Property, will be used. An attempt should be made to include a provision in the option giving the Government the right to acquire all or part of the land covered by the option where the land held in a single ownership can be

separated into definable parcels and the possibility exists that, as planning is developed, the entire tract will not be required.

(2) The following instructions for the use of ENG Form 2926 will be followed:

(i) Insert amount to be paid for the option privilege. This amount cannot exceed five percent of the appraised value.

(ii) If the land has been separated into definable parcels in accordance with paragraph (d)(1) of this section, the option should describe each parcel and provide for a separate purchase price inclusive of any severance damage, as well as an agreed purchase price for the entire tract. The amount to be paid for the option privilege will be apportioned among the separate parcels.

(iii) The expiration date of the option on unauthorized projects should be far enough in advance to permit the insertion of a land acquisition line item in the next available budget; enactment of legislation; apportionment of funds by the Office of Management and Budget; clearance within the Department of Defense; clearance with the Committees on Armed Services of the Senate and House of Representatives, if required; issuance of a real estate directive; and allotment of funds.

(iv) Since options obtained under this section will normally be recorded, ENG Form 2926 will be acknowledged in the form used in the jurisdiction in which the real property is located.

(e) *Report.* When all options within the approval area have been acquired, and prior to their being exercised by the Government, a report will be made to HQDA (DAEN–REA–L) WASH DC 20314 including, but not limited to, the following items:

(1) Project identification.

(2) Directive authorizing acquisition of options.

(3) Number of tracts optioned.

(4) Expiration date of options.

(5) Total acreage optioned.

(6) Total amount to be paid if options are excercised.

(7) Total amount paid for option privilege.

(8) One copy of each option.

(9) One copy of each appraisal.

§ 644.168 Exercise of options.

Upon issuance of a real estate directive for acquisition of the optioned real property, the District or Division Engineer will exercise the option and proceed with the acquisition in accordance with the procedures outlined in §§ 644.61 through 644.88.

[FR Doc. 79–16585 Filed 5–29–79; 8:45 am]

BILLING CODE 3710–92–M

federal register

Wednesday
May 30, 1979

Part IV

Department of Defense

Engineers Corps

Navigation Policy: Cost Apportionment of Bridge Alterations

DEPARTMENT OF DEFENSE

Engineers Corps

33 CFR Part 277

[ER 1165-2-25]

Navigation Policy: Cost Apportionment of Bridge Alterations

AGENCY: U.S. Army Corps of Engineers.

ACTION: Final rule.

SUMMARY: This regulation provides policies and guidelines for the apportionment of bridge alteration costs required in connection with navigation improvements recommended in reports transmitted to the Chief of Engineers for approval or submitted to Congress for authorization. The Corps of Engineers has historically followed the cost sharing policies of the "Truman-Hobbs Act" (33 U.S.C. 516), first enacted by Section 6, Pub. L. 647, 21 June 1940, in apportioning bridge alteration costs. The policies and procedures were previously found in an Engineer Regulation, which was rescinded when the responsibility for the administration of the "Truman-Hobbs Act" was transferred from the Secretary of the Army to the Secretary of Transportation by Pub. L. 89-670, 15 October 1966. The principles of cost apportionment as specified in the "Truman-Hobbs Act" have been adopted by the Chief of Engineers as a matter of policy, as an equitable sharing of costs between the Federal Government and a non-Federal bridge owner when a bridge is to be altered or relocated for a proposed navigation improvement. These principles will be utilized by reporting officers to determine the apportionment of costs for bridge alterations in connection with navigation improvements during all preauthorization planning activities including studies conducted under the Continuing Authorities Program.

EFFECTIVE DATE: 30 May 1979.

FOR FURTHER INFORMATION CONTACT: Maurice B. Jackson, Policy and Analysis Branch (DAEN-CWR-R), Office, Chief of Engineers, Washington, D.C. 20314 (202-693-6807).

SUPPLEMENTARY INFORMATION: On 11 February 1976, the Chief of Engineers published proposed policies and procedures (originally published as 33 CFR Part 277) for determining the sharing of costs between the Federal Government and a non-Federal bridge owner when a bridge is to be altered or relocated for a proposed navigation improvement. The public was given until 31 March 1976 to provide comments to the Chief of Engineers on the publication.

Comments were received from Corps of Engineers field offices and 17 transportation industry organizations. All comments were given careful consideration. Issues raised by respondents are discussed below, followed by a summary of changes made to the regulation.

Two respondents requested clarification as to what Federal agency is responsible for implementing the Truman-Hobbs Act while another respondent commented the Corps has no jurisdiction over the Truman-Hobbs Act, and should withdraw the proposed regulation since the Coast Guard is the only agency that is directed to apply the cost sharing policies of the Act. Prior to 1966, the Corps of Engineers was responsible for administering the Truman-Hobbs Act. In 1966 the responsibility was transferred from the Corps to the Department of Transportation by Pub. L. 89-670, 49 U.S.C. 1655(g). The Secretary of Transportation is responsible for administration of the Truman-Hobbs Act. As a matter of policy, the Chief of Engineers is adopting the cost sharing principles of 33 U.S.C. 516 as an equitable sharing of costs between the bridge owners and the Federal Government when a bridge is to be altered or relocated for a proposed navigation improvement.

Several respondents raised comments on the replacement-in-kind concept stated in § 277.6(c) of the regulation. The commentators contend the general procedures are outmoded and do not satisfy the interests of the bridge owner, do not provide for a fair or equitable apportionment to the bridge owner, and are contrary to the goals of the Federal Special Bridge Replacement Program (23 U.S.C. 144). They recommended that altered or replaced bridges be constructed to current design standards applicable to the type of road systems affected and be accomplished in accordance with Section 13 of Pub. L. 93-251, 76 Stat. 1196, Water Resources Development Act of 1974. When a bridge must be altered or replaced in the interest of a navigation improvement, the limit of Federal participation and the type of facility the Federal Government is required to provide is as stated in § 277.6(b) through (d) of the regulation. The Federal Government has no legal responsibility to incur the costs of any required bridge alteration or modification to meet navigable requirements on Federal projects. This is because the bridge is located over navigable waters of the United States and is subject to the dominant Federal navigation servitude. The bridge owner, alone, therefore, is responsible for 100 percent of the costs for alterations to meet navigation requirements. The Truman-Hobbs Act, however, chose to have the Federal Government share in some of those costs to a limited extent. The Federal participation is limited to providing a replacement-in-kind. Congress did not intend highway bridges, which must be altered or modified or relocated for a proposed navigation improvement project, to fall within the scope of Section 13 of Pub. L. 93-251, 76 Stat. 1196.

Several respondents commented on the matter of betterments as stated in the regulation. They contend that items listed in § 277.8(c)(4) should not be considered as betterments since such items are typically integral parts of standard modern installations, and betterments should not include bridge design or components that are required solely by Federal, State or local statutes or ordinances. Betterments as related to the Truman-Hobbs Act for bridge alterations as required in the interest of navigation are according to procedures established by the U.S. Coast Guard. Additions or improvements to a new bridge that are beyond the needs of navigation and the needs and desires of the bridge owner would be the responsibility of a third party, and the incremental costs for such modifications would not enter into the cost apportionment between the bridge owner and the Federal Government.

Two respondents commented on the unfairness of having costs imposed upon them for projects which provide little or no local benefits and for which priorities may not be consistent with their own transportation improvement programs. Also, a bridge alteration should not be done to the detriment of an owner who is unable to meet the required financial obligation, unless the Corps of Engineers develops a reasonable repayment method for the bridge owner. If a proposed navigation project would require the alteration or replacement of a bridge because it would be an obstruction to navigation, the Corps would, subsequent to authorization of the project by Congress, appropriately coordinate the bridge modification with the bridge owner and other affected interests. The Truman-Hobbs Act provides no means to assist bridge owners for meeting their share of costs for a bridge alteration, and the Corps has no existing authorities whereby a bridge owner could repay their share of costs over an extended period of time.

One respondent commented on several specific sections of the proposed regulation. The comments along with appropriate responses follow. The respondent advised that 33 USC 516 specifically enumerates those items and those items alone for which the bridge owner has financial responsibility, and 33 USC 516 is equally clear the Federal Government should bear the remaining costs as a benefit to navigational interests. Section 6 of Pub. L. 647 (33 USC 516) does specify those items for which the bridge owner has financial responsibility. Those items are stated in more detail in § 277.8 (a) to (g) of the regulation. Appendix B provides an example of how the principles are applied to a bridge alteration. The commentator noted that nothing in the provision of § 277.8(c)(1) covers the circumstances where there is no benefit to the bridge owner. The bridge owner is only required to pay for the portion of removal cost that the used service life bears to the total estimated service life. This is in keeping with the principles of the Truman-Hobbs Act which requires parties to pay only according to the benefits received. The respondent commented that the provision of § 277.8(c)(2) should allow for the distinct possibility that a bridge owner will derive no benefit from the project and, therefore, should have no liability for the fixed charges. In a bridge alteration project, fixed charges are shared in the ratio that each party shares in the cost of construction less fixed charges. Table II of Appendix B shows how the bridge owner's share of fixed charges are determined. The principles of the Truman-Hobbs Act require that parties involved in a bridge replacement or removal project shall only pay according to the extent of benefits realized. Hence, if there are no benefits to the bridge owner, that party will be assessed no costs. The respondent commented that § 277.8(d)(1) of the proposed regulation falls short of an equitable apportionment unless it is revised to include increased operating and maintenance cost, particularly since any decrease in such costs are to be charged against the bridge owner. Also, in a related question, the respondent noted that § 277.8(d)(2) would require a bridge owner to contribute to a project in an amount equal to the cost of repairing a damaged structure. The respondent contends the rule would permit the government to seize the opportunity to declare a damaged bridge an obstruction to navigation at great expense to the bridge owner and at substantial savings to the government, all contrary to the intent of the Truman-Hobbs Act when enacted. The respondent recommended § 277.8(d)(2) be deleted from the regulation. Since 33 USC 516 does not mention bridge operating costs, any increase or decrease in such costs are not included in the cost of alteration to be apportioned. The language of Section 6 is clear in requiring expectable savings in both repair costs and maintenance costs to be included in the bridge owner's proportionate share of the total project cost. Each cost is to be considered separately in the apportionment of costs of every Truman-Hobbs project. Expectable savings in repair costs are as defined in § 277.8(d)(2) and an expectable savings in maintenance costs is defined in § 277.8(d)(1) of the regulation. The bridge owner must bear any savings in repair or maintenance costs, or both, which will accrue to him because of the bridge project. Accordingly, § 277.8(d)(2) was not deleted from the regulation. The respondent commented on § 277.8(e) that increased rail clearances and spacing of tracks should not be charged to the railroad if such clearances are to comply with Federal Government regulations. Also, additional right-of-way if necessary for bridge construction should be at Government expense. Increased train clearances, spacing of tracks and additional rights-of-way for the bridge are items attributable to the requirements of railway and highway traffic, and the costs therefor are a responsibility of the bridge owner. These items are listed in § 277.8(e) of the regulation. The respondent commented that the service life figures in § 277.8(g)(2) are too low and are of concern to their engineering department. The service life figures contained in § 277.8(g)(2) have been obtained from retirement curves based on mortality statistics, which represent an attempt to consider economic causes of retirement in addition to physical causes. The estimates of service life are generally in accordance with those utilized by the United States Coast Guard (USCG). As stated in the regulation ample consideration will be given to all factors in determining appropriate service life.

At the request of several respondents, § 277.4 was added to the regulation for the purpose of defining several key definitions applicable to this regulation. Definitions are provided for "Bridge," "Bridge Owner," "Navigable Waters," and "Alterations."

Section 277.6(f) was revised to indicate that if reporting officers cannot obtain a letter of intent from the bridge owner a statement is to be included in the feasibility report that the cost of such alteration shall be borne by the bridge owner, or, in the alternative, be apportioned between the bridge owner and the Government as provided under the principles of Section 6 of the Truman-Hobbs Act (33 U.S.C. 516).

In § 277.8(c)(2) realtor and counsel fees, and administrative expenses of the bridge owner were added as items to be considered in the category of fixed charges. This was revised to conform with the procedures utilized by the USCG for determination of fixed charges.

Paragraph 3c of Appendix B was revised to reflect the USCG determination that the provisions in Section 6 of the Act (33 U.S.C. 516) requiring a contribution as a condition precedent to the making of an order is applicable to third parties and not bridge owners. As a result, the contribution previously shown in Table B as a cost to be borne by the bridge owner was changed and shown as a contribution by a third party. This revision resulted in a change to Table II "Fixed Charges" since contribution by third parties does not enter into the apportionment between the bridge owner and the Federal Government.

Paragraph 4 of Appendix B was revised to show the costs for expectable savings in repair and maintenance as separate items. This was revised since Section 6 of the Truman-Hobbs Act specifically requires these items be shown separately in the cost apportionment. A cost of $100,000 for cost to repair the damaged bridge was added to the apportionment example for illustrative purposes.

With the above changes, and several other editorial revisions, the proposed regulation is adopted and 33 CFR Part 277 is added to read as set forth below.

Dated: May 21, 1979.

Thorwald R. Peterson,

Colonel, Corps of Engineers, Executive Director, Engineer Staff.

PART 277—WATER RESOURCES POLICIES AND AUTHORITIES: NAVIGATION POLICY: COST APPORTIONMENT OF BRIDGE ALTERATIONS

Sec.

277.1 Purpose.
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Appendix A.—Sec. 6, Pub. L. 647 as amended (33 U.S.C. 516)

Appendix B.—Hypothetical Example of Cost Apportionment

Authority—Sec. 2, River and Harbor Act of 1920, 41 Stat. 1009, June 5, 1920; 33 U.S.C. 547.

§ 277.1 Purpose.

This regulation provides policies and guidelines for the apportionment of bridge alteration costs required in connection with navigation improvements recommended in reports transmitted to the Chief of Engineers for approval or submitted to Congress for authorization.

§ 277.2 Applicability.

This regulation is applicable to all OCE elements and all field operating agencies having Civil Works responsibilities.

§ 277.3 References.

(a) Section 6, Pub. L. 647, 67th Congress, 21 June 1940, as amended (33 U.S.C. 516). (Appendix A).

(b) Section 6, Pub. L. 89–670, Department of Transportation Act, 15 October 1966 (49 U.S.C. 1655).

(c) Coast Guard reference: G–ECV–1, Truman-Hobbs Act.

(d) ER 1105–2–50.

(e) EP 1165–2–2 Appendix E.

§ 277.4 Definitions.

The following definitions are applicable to this regulation:

(a) "Bridge". The term bridge means a lawful bridge over navigable waters of the United States, including approaches, fenders, and appurtenances thereto, which is used and operated for the purpose of carrying railroad traffic, or both railroad and highway traffic, or if a State, county, municipality, or other political subdivision is the owner or joint owner thereof, which is used and operated for the purpose of carrying highway traffic.

(b) "Bridge owner". Bridge owner means any State, county, municipality, or other political subdivision, or any corporation, association, partnership, or individual owning, or jointly owning, any bridge, and, when any bridge shall be in the possession or under the control of any trustee, receiver, trustee in bankruptcy, or lessee, such term shall include both the owner of the legal title and the person or the entity in possession or control of such bridge.

(c) "Navigable waters". Navigable waters of the United States means those waterbodies, except the territorial seas, which are subject to the ebb and flow of the tide, or are presently, or have been in the past, or may be in the future susceptible for use for purposes of interstate or foreign commerce.

(d) "Alteration". The term alteration includes changes of any kind, reconstruction, or removal in whole or in part.

§ 277.5 General.

Pub. L. 647 as amended, (33 U.S.C. 511–523) commonly referred to as the "Truman-Hobbs Act" provides for the alteration of railroad and highway bridges when found unreasonably obstructive to navigation. Section 6 of that Act establishes policies for the apportionment of such bridge alteration costs. Public Law 89–670, transferred to the Secretary of Transportation from the Secretary of the Army the responsibility for administration of the Act. Pursuant to this responsibility, the Secretary of Transportation has established implementing procedures based on those previously adopted and utilized by the Chief of Engineers prior to 15 October 1966. This regulation adapts these cost apportionment procedures, found in reference § 277.3c, to Corps of Engineers planning.

§ 277.6 Basic policies.

(a) The cost apportionment principles of 33 U.S.C. 516, are applicable to the costs of bridge alterations recommended by reporting officers in the interest of navigation during preauthorization planning, including studies conducted under the Continuing Authorities Program (ER 1105–2–50).

(b) The bridge owner shall bear such part of the cost as is attributable to the direct and special benefits which will accrue to the bridge owner as a result of the alteration, including the expectable savings in repair or maintenance costs. That part of the cost attributable to the requirements of railroad or highway traffic shall also be borne by the bridge owner, to include any expenditure for increased carrying capacity of the bridge, and such proportion of the actual capital cost of the old bridge as the used service life bears to the total estimated service life.

(c) In general, the Federal government's participation in the cost of a bridge alteration shall be limited to providing a functional facility equal in every respect, as near as possible, to the existing facility, while also providing navigational clearances required to meet the anticipated and reasonable needs of navigation.

(d) If the bridge owner or other local interests desire improvements or modifications in the new bridge design for reasons other than that required by the navigation improvement project, the reporting officer may recommend such improvements if such local interests provide necessary assurances to pay the costs apportioned to them.

(e) In the case of small boat harbors and channels, the costs of bridge alterations, strictly for recreation navigation shall be apportioned in accordance with the procedures provided in this regulation. Bridge alteration costs associated with small boat harbors and channels and not apportioned to the bridge owner by the procedures in this regulation, shall be cost shared on the basis of 50 percent Federal and 50 percent non-Federal, the same as the costs of other general navigation facilities.

(f) Reporting officers shall obtain letters of intent from local interests for non-Federal costs apportioned under the provisions of this regulation, in accordance with established procedures for preauthorization feasibility studies. If such letters cannot be obtained from the bridge owner, the reporting officers shall then include in their report a statement that the cost of such alterations shall be borne by the bridge owner or, in the alternative, be apportioned between the bridge owner and the Government as provided under the principles of Section 6 of the Truman-Hobbs Act (33 USC 516).

§ 277.7 Coordination with the U.S. Coast Guard.

In accordance with an agreement signed by the Chief of Engineers on 18 April 1973, (EP 1165–2–2 for a copy of the agreement), reporting officers shall consult with the Coast Guard on contemplated and recommended navigation improvements which involve the consideration of bridge alterations. Determination of navigational requirements for horizontal and vertical clearances of bridges across navigable waters is a responsibility of the Coast Guard. The Chief of Engineers shall coordinate preauthorization feasibility reports, which include recommended bridge alterations, with the Commandant, U.S. Coast Guard.

§ 277.8 Procedures for apportionment of costs.

This paragraph provides the procedures for apportionment of costs of bridge alterations, as established by the U.S. Coast Guard (reference § 277.3c) and adapted for use in Corps planning and construction programs. A sample apportionment of the cost of a hypothetical bridge alteration is provided in Appendix B.

(a) *Calculate the Total Estimated Cost of Bridge Alteration.* The total estimated cost, to be apportioned by these procedures, includes the cost of all

necessary appurtenances required to complete the alteration for use by both highway and railway traffic, including engineering, design and inspection.

(b) *Determine the Salvage Value of Bridge to be Altered.* The salvage value represents the worth of the materials in the old bridge which may be used for scrap or for other purposes. The value will vary depending on the intended use of the materials.

(c) *Determine Direct and Special Benefits.*

(1) *Removing old bridge.* The bridge owner shall pay a share of the removal cost computed as that part of the removal cost that the used service life bears to the total estimated service life. The share of the bridge owner, thus computed, represents an obligation incurred by the owner now by reason of the needs of navigation which otherwise would not have to be met until the bridge had reached the end of its useful life. Accordingly, the present worth of the amount is computed deferred over the unexpired life. The discount rate to be used in the present worth computation is that established by the Water Resources Council, current at the time of the study.

(2) *Fixed charges.* A fixed charge such as engineering, design, and inspection costs, realtor and counsel fees, and the bridge owner's administrative expenses is an undistributed cost, shared in the ratio that each party shares in the cost of construction less fixed charges. In computing the bridge owner's share of the fixed charges, all other financial liabilities assigned to the bridge owner shall be included in the computation.

(3) *Contribution.* If a third party should be involved in a bridge alteration project, such as a party which might benefit from some reasonable modification beyond the needs of navigation and the needs and desires of the bridge owner, that party would be responsible for the incremental costs of such further modification, and such costs would not enter into the apportionment between the bridge owner and the Federal Government.

(4) *Betterments.* Items desired by the bridge owner, but which have no counterpart in the old bridge or are of higher quality than similar items in the old bridge, will be included under this heading. Items considered to fall within this category are listed below. It is intended this list serve as a guide to indicate the types of items that may be considered betterments. The cost of such items will be borne by the bridge owner.

(i) Access roads.

(ii) Concrete or stone finish of embankment slopes instead of seeding.

(iii) Water proofing and skid-resistant epoxy finish of masonry surfaces.

(iv) Steel or concrete spans instead of timber trestle.

(v) Ballasted deck instead of open deck.

(vi) Trainman's walkways and sidewalks.

(vii) Elevators costing more than stairways.

(viii) Materials of greater thickness or heavier weight than supported by design requirements.

(ix) Exotic materials for machinery and operator's house, including tinted and insulated windows.

(x) Heaters and insulation in the machinery house.

(xi) Operator's house furnishings, air-conditioners, water coolers, and medicine cabinets.

(xii) Hydraulic jacks for counterweight support.

(xiii) Fourth coat of paint, and exotic paint systems.

(xiv) Brass pipe and high alloy steel conduits.

(xv) Floodlights and metallic vapor arc lights.

(xvi) Spare parts.

(xvii) Lubricants and lubrication equipment, and tools in excess of minimum requirements.

(d) *Determine Expectable Savings in Repair or Maintenance Costs.* (1) The provisions of any features that would reduce annual maintenance costs of the altered bridge, such as a wider navigation span eliminating the requirement for protection works, reducing the overall length of the bridge by fill in lieu of a trestle, or replacing two bridges with one bridge, will be included under this heading. The bridge owner should bear the increased annual maintenance cost that will accrue as a result of providing any increased loading and width desired by the bridge owner or attributable to the requirements of railway or highway traffic. Since 33 U.S.C. 516 does not mention bridge operating costs, any increase or decrease in such costs shall not be included in the cost of alteration to be apportioned. The bridge owner's obligation is computed by capitalizing the estimated annual savings at the same rate of interest used in § 277.8e(1) above.

(2) Expectable savings in repair costs is that amount which the bridge owner will not have to pay to restore his bridge, which may be in a damaged condition or may be dilapidated, since the bridge is being altered or removed as a part of the contemplated navigation improvement.

(e) *Estimate Costs Attributable to Requirements of Railway and Highway Traffic.* Items desired by the bridge owner to meet the requirements of railway and highway traffic, but which have no counterpart in the old bridge, will be included under this heading. Items considered to fall within this category are listed below. This list does not contain all such items, but it is intended to serve as a guide in determining which items might fall within this category.

(1) Increased navigational clearances for the benefit of land traffic.

(2) Wider roadbed.

(3) Additional traffic lanes or track.

(4) Medians and wider traffic lanes.

(5) Increased train clearances and spacing of tracks.

(6) Larger cross and bridge ties.

(7) New and heavier rail and expansion joint devices.

(8) Additional signaling and communications systems.

(9) Additional right-of-way.

(f) *Estimate Expenditure for Increased Carrying Capacity.* The bridge owner is required to pay the difference in cost between a bridge meeting the navigation clearance requirements with the same live loading capacity as the old bridge and new or altered bridge having any increased live loading capacity desired. The cost of increased live loading capacity will be based on the estimated cost of the new or altered bridge with unit prices applied to the quantity of materials estimated for a hypothetical bridge with the same live loading as the old bridge, but with the increased clearances required by the navigation improvement. The live loading of the new or altered bridge should be compared with the live loading of the old bridge, based on normal working stresses without overstress, overload, or reduction of safety factor.

(g) *Determine Value of Expired Service Life of Old Bridge.* (1) Section 6 of the Act provides, among other things, that the bridge owner shall bear such proportion of the actual capital cost of the old bridge or such part of the old bridge as may be altered or rebuilt, as the used service life of the whole or a part bears to the total estimated service life of the whole or such part. Guide service life figures have been obtained from retirement curves based on mortality statistics, which represent an attempt to consider economic causes of retirement in addition to physical causes.

(2) For railroad bridges service life, figures of 100 years for substructure, 70

years for superstructure, 37 years for treated timber, 35 years for automatic signals, 20 years for main rail, 30 years for siding rail, and 20 years for crossties and bridge ties are considered to be reasonable and will be used in computing the bridge owner's liability. The service life of the operator's house and machinery house, including machinery, is considered to expire with the removal of the superstructure. For timber structures which have been in existence for more than 50 percent of their estimated service life, the expired service life is held usually at 50 percent providing the structure has been adequately maintained and is in a good state of repair.

(3) The service life of highway bridges, except for certain long span bridges, is usually limited by obsolescence as well as structural deficiency and deterioration. Obsolescence may be due to insufficent capacity for heavier loads and greater volume of traffic than the bridge was originally designed for, safety requirements, and location. Superstructures and pile bents are considered to have a service life of 50 years. Masonry substructure which could be reused in the renovation of a bridge is considered to have a service life of 100 years.

(4) The foregoing service life figures are not to be used arbitrarily, but as a basis for a fair judgment of the service life considering all other factors that pertain in any particular case.

Appendix A—Section 6, Pub. L. 647, as amended (33 USC 516)

At the time the Secretary* shall authorize the bridge owner to preceed with the project, as provided in Section 515 of this title, and after an opportunity to the bridge owner to be heard thereon, the Secretary shall determine and issue an order specifying the proportionate shares of the total cost of the project to be borne by the United States and by the bridge owner. Such apportionment shall be made on the following basis: The bridge owner shall bear such part of the cost as is attributable to the direct and special benefits which will accrue to the bridge owner as a result of the alteration, including the expectable savings in repair or maintenance costs; and that part of the cost attributable to the requirements of traffic by railroad or highway, or both, including any expenditure for increased carrying capacity of the bridge, and including such proportion of the actual capital cost of the old bridge or of such part of the old bridge as may be altered or changed or rebuilt, as the used service life of the whole or a part, as the case may be, bears to the total estimated service life of the whole or such part. Provided, that in the event the alteration or relocation of any bridge may be desirable for the reason that the bridge unreasonably obstructs navigation, but also for some other reason, the Secretary may require equitable contribution from any interested person, firm, association, corporation, municipality, county, or State desiring such alteration or relocation for such other reason, as a condition precedent to the making of an order for such alteration or relocation. The United States shall bear the balance of the costs, including that part attributable to the necessities of navigation: and provided further, that where the bridge owner proceeds with the alteration on a successive partial bid basis the Secretary is authorized to issue an order of apportionment of cost for the entire alteration based on the accepted bid for the first part of the alteration and an estimate of cost for the remainder of the work. The Secretary is authorized to revise the order of apportionment of cost, to the extent he deems reasonable and proper to meet any changed conditions. (June 21, 1940, ch. 409, Section 6, 54 Stat. 499; July 16, 1952, ch. 889, Section 2, 66 Stat. 733; Aug. 14, 1958, Public Law 85–640, Section 1(c), 72 Stat. 595.)

*Secretary of Transportation.

Appendix B—Hypothetical Example of Cost Apportionment

Following is the interpretation of the principles as applied to the alteration of a hypothetical highway—railroad bridge across Blank River between City A and City B.

		Reference table
1. Total estimated cost of alteration project	$10,917,300	A

The existing double deck swing span will be replaced with a new double deck lift span affording a horizontal navigation opening of 250 feet clear width between piers normal to the navigation channel and a vertical clearance of 125 feet above mean high water in the raised position.

2. Salvage	$77,300	

This value is deducted from the original cost to determine the actual capital cost (Table VII). It is also deducted from the Total Estimated Cost of Alteration Project to determine the cost to be apportioned.

3. Direct and special benefits:		
a. Removing old bridge (owner's share)	$165,489	I
b. Fixed charges (owner's share)	284,460	II

A fixed charge such as engineering, design and inspection costs, realtor's and counsel's fees, and bridge owner's administrative expenses is an undistributed cost shared in the ratio that each party shares the cost of construction less fixed charges. In computing the bridge owner's share of the fixed charges, all other financial liabilities assigned to the bridge owner shall be included in the computation. (Table II).

c. Contribution by third party	$432,000	

Section 6 of the Act provides that in the event the alteration or relocation of any bridge may be desirable for the reason that the bridge unreasonably obstructs navigation, but also for some other reason, the Secretary may require equitable contribution from any interested person, firm, association, corporation, municipality, county, or State desiring such alteration or relocation for such other reason, as a condition precedent to the making of an order for such alteration or relocation. In the instant case, testimony at the hearing developed that the bridge would require alteration because of the navigation project but also City A desires to relieve traffic on a nearby secondary road by providing access to the new bridge. It is considered that as an equitable contribution, City A should contribute an amount equal to one half of the expectable road user benefit accruing over the next 10 years. Other methods for determining the third party's contribution are acceptable depending on the circumstances.

d. Betterments	$18,360	III
4. Expectable savings in repair or maintenance costs		IV
Repair	$100,000	
Maintenance	16,288	

The new bridge is designed for increased loading and width greater than that of the old bridge. Therefore, the estimated annual maintenance cost was based on a hypothetical bridge designed, but not constructed, for the same loading and width as the old bridge but with increased clearances as required to meet the needs of waterborne navigation, and not on the estimated annual maintenance cost of the new bridge. The savings in repair costs represents a savings to the bridge owner who will not have to restore the bridge that was recently damaged since it is being altered as a part of a proposed navigation improvement.

5. Costs attributable to requirements of railway and highway traffic	$1,534,000	V

The old bridge carries a highway deck on the upper level consisting of a roadway 18 feet wide (no sidewalks) and a railway deck on the lower level with 110-lb. rails. The new bridge will carry a highway deck on the upper level consisting of one 28-foot roadway and two 5-foot sidewalks, and the railway deck will have new 130-lb. rails. In addition, the railway deck will be paved to carry highway traffic. Thus, the bridge may be kept in an intermediate raised position when not being used by railway traffic to pass small-boat traffic without delaying highway traffic. City A also desires to provide additional highway approaches and right-of-way to connect a nearby secondary road with the new bridge.

6. Expenditure for increased carrying capacity	$2,330,000	VI

The highway deck of the old bridge was designed for a live loading equivalent to AASHO H15–44 and the railway deck for live loading of Cooper E 45. The highway deck of the new bridge will be designed for live loading AASHO HS20–44, and the railway deck will be designed for live loading of Cooper E 60. Accordingly, the bridge owner will pay the additional cost for the increased carrying capacity of the new bridge.

7. Expired service life of old bridge	$511,300	VII

The structure of the old bridge was completed in 1908 and the superstructure completed in 1909. For this hypthetical example it was assumed the bridge would be replaced in 1970.

8. The following is an explanation of the procedure for determining the tabulation of proportionate shares of costs to be borne by the United States and the bridge owner presented in Table B.

(1) Cost of alteration to be apportioned is the total estimated cost of the project (excluding contingencies) less salvage value (§ 277.8(b)), less contribution by third party, if applicable (§ 277.8c(3)).

(2) Share to be borne by the bridge owner is the sum of the direct and special benefits (§ 277.8(c)) expectable savings in repair or maintenane costs (paragraph 8d), costs attributable to requirements of railway and highway traffic (§ 277.8(e)), expenditure for increased carrying capacity (§ 277.8(f)) and expired service life of old bridge (§ 277.8(g))

(3) Share to be borne by the United States is the difference between the cost of alteration to be apportioned and the share to be borne by the bridge owner.

(4) The exact amount of costs to be borne by the bridge owner will be determined upon completion of the project.

(5) Contingencies may be included in the total shares to be borne by both the United States and the bridge owner.

Tables

A. Summary of Estimated Project Costs.
B. Tabulation of Proportionate Shares of Cost To Be Borne by the United States and the Bridge Owner.
I. Bridge Owner's Share of Removing Old Bridge.
II. Fixed Charges To Be Paid by Bridge Owner.
III. Betterments.
IV. Expectable Savings in Repair or Maintenance Costs.
V. Costs Attributable to Requirements of Railway and Highway Traffic.
VI. Expenditure for Increased Carrying Capacity.
VII. Value of Expired Service Life of Old Bridge.

Table A.—*Summary of Estimated Project Costs*

No. and item	Cost	Fixed charges	Total
1 New bridge	$8,104,052	$570,000	$8,674,052
2 Removal of old bridge	521,908	500	522,408
3 Approaches	50,000	5,000	55,000
4 Additional highway approaches	1,530,000	15,000	1,545,000
5 Railroad force account work	41,800	3,500	45,300
6 Additional signaling	27,000	2,400	29,400
7 Right-of-way	13,240	900	14,140
8 Additional right-of-way	30,900	1,100	32,000
Total	10,318,900	598,400	10,917,300
Total estimated cost of project			10,917,300
Less salvage			—77,300
Less contribution by third party			—432,000
Total cost of alteration to be apportioned			10,408,000
Less right-of-way (items 7 and 8)			—46,140
Total Cost of construction			10,361,860

Table B.—*Tabulation of Proportionate Shares of Costs To Be Borne by the United States and the Bridge Owner*

Total estimated cost of project (excluding contingencies) (table A)		$10,917,300
Less salvage		77,300
Less contribution by third party		432,000
Total cost of alteration to be apportioned		10,408,000
Share to be borne by the bridge owner:		
Direct and special benefits:		
Removing old bridge	$165,489	
Fixed charges	284,460	
Betterments	18,360	
Expectable savings in repair or maintenance costs.		
a. Repair	100,000	
b. Maintenance	16,288	
Costs attributable to requirements of railway and highway traffic	1,534,000	
Expenditure for increased carrying capacity	2,330,000	
Expired service life of old bridge	511,300	
Total		4,959,897
Share to be borne by the United States		5,449,103
Contingencies 15 pct		817,365
Total		6,266,468
Share to be borne by the bridge owner		4,959,897
Contingencies 15 pct		743,985
Total		5,703,882

NOTE.—The exact amount to be borne by the bridge owner will be determined after completion of the project.

Table 1.—*Bridge Owner's Share of Removing Old Bridge*

Item to be removed	Age at time of removal (years)	Owner's share percent	Removal cost	Owner's share of removal	Years remaining	Present worth factor	Owner's present liability
	(1)	(2)	(3)	(4)	(5)	(6)	(7)
Substructure	62	62	$241,935	$150,000	38	.1639	$24,585
Protection Works	37	67	60,000	40,200	18	.4245	17,065
Superstructure	61	87	206,896	180,000	9	.6516	117,288
Signaling	61	100	440	440	0	1.0	440
Ties and Timber	20	67	6,000	4,000	10	.6213	2,485
Rail and Accessories:							
Rail, 110 lb	33	100	1,000	1,000	0	1.0	1,000
Rail, 110 lb	13	65	5,637	3,664			2,626
Total			521,908	368,104			165,489

Present Worth Factor based on 4⅞%, FY 1970, as established by Water Resources Council. The actual factor to be used shall be that current at the time of alteration.

Table II.—*Fixed Charges To Be Paid by Bridge Owner.*

Cost of construction	$10,361,860
Less fixed charges	598,400
Total	9,763,460
Owner's share less fixed charges:	
Removing old bridge	165,489
Betterments	18,360
Expectable savings in repair or maintenance costs:	
a. Repair	100,000
b. Maintenance	16,288
Costs attributable to requirements of railway and highway traffic (less righ-of-way)	1,503,100
Expenditure for increased carrying capacity	2,330,000
Expired service life of old bridge	511,300
Total	4,644,537
Fixed charges by owner	284,460

$$\frac{4,644,537}{9,763,460} \times 598,400 = 284,460$$

Table III.—*Betterments.*

New furniture and water cooler in control house	$1,050
Increased cost of elevators over stairways	13,360
Increased cost of galvanized steel grating walkways over timber walkways	3,950
Total	18,360

Table IV.—*Expectable Savings in Repair or Maintenance Costs.*

Repair Cost	
Cost in 1970 to repair damaged bridge	$100,000
Savings in repair costs	100,000
Maintenance Cost	
Average annual maintenance cost for old bridge	16,875
Estimated annual maintenance cost for new bridge	16,000
Total decrease in annual maintenance costs	875
Annual savings capitalized (50 years) @ 4⅞%:875 ÷ 0.05372	16,288

Present worth factor based on 4⅞ pct., F.Y. 1970, as established by Water Resources Council. The actual factor to be used shall be that current at the time of the study.

Table V.—*Costs Attributable to Requirements of Railway and Highway Traffic.*

Heavier running rail (130 lb in lieu of 110 lb)	$11,200
Paving, lower deck	34,900
Additional signaling	27,000
Additional highway approaches	1,430,000
Subtotal	1,503,100
Additional right-of-way	30,900
Total	1,534,000

Table VI.—*Expenditure for Increased Carrying Capacity.*

Cost of new bridge designed for Cooper E 60 and AASHO HS20–44 loading *	$8,609,592
Cost of replacement-in-kind (hypothetical) bridge designed for Cooper E 45 and AASHO H15–44 loading *	6,279,592
Total	2,330,000

* Excludes all items in table III and first two items in table V.

Table VII.—*Value of Expired Service Life of Old Bridge*

[Replacement year—1970]

Item to be removed	Year built	Original cost	Salvage value	Actual capital cost (2)–(3)	Estimated service life	Expired service life: Years 1970–(1)	Expired service life: Percent of total (6) (5)	Value of expired service life (4)×(7)
	(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
Substructure:								
Pivot Pier	1908	$34,500	$0	$34,500	100	62	62	$21,390
Right End Pier	1908	18,580	0	18,580	100	62	62	11,520
Left End Pier	1908	21,410	0	21,410	100	62	62	13,274
Right Abutment	1908	8,600	0	8,600	100	62	62	5,332
Left Abutment	1908	11,410	0	11,410	100	62	62	7,074
Protection Works:								
Pivot Pier	1909	5,800	0	5,800	37	61	[1]50	2,900
Right End Pier	1942	3,200	0	3,200	37	28	[1]50	1,600
Superstructure:								
Swing Span	1909	168,920	19,400	149,520	70	61	87	130,082
Electrification	1957	5,000	500	4,500	22	13	59	2,655
Left Approach Spans	1909	142,017	16,300	125,717	70	61	87	109,374
Right Approach Spans	1909	156,692	19,300	137,392	70	61	87	119,531
Signaling	1909	15,000	1,000	14,000	35	61	100	14,000
Ties and Timber	1909	8,120	0	8,120	20	61	[1]50	4,060
Rail and Accessories:								
Rail, 110 lb	1937	6,600	2,200	4,400	20	33	100	4,400
Rail, 110 lb	1957	43,679	18,600	25,079	20	13	65	16,301
Roadway Approaches: [2]								
Pavement	1908	17,841	0	17,841	20	62	[1]50	8,921
New Lane	1961	43,609	0	43,609	20	9	45	19,624
Subtotal	.....	.....	77,300	633,678	.....	.....	.....	492,038
Engineering	.....	24,695	0	24,695	.....	.....	[3]78	19,262
Total	.....	.....	77,300	.....	.....	.....	.....	511,300

[1] Held at 50% if maintained in good condition.
[2] Roadway approaches to be abandoned.
[3] Weighted average 100 ×492, 038/633, 678 = 78%.

EXPLANATION OF COLUMNS FOR TABLE VII

Column (1): Year Built is the original date that an item to be removed became a part of the bridge or the last known date that it was replaced. The items to be removed should be broken down to show as much detail as possible, particularly where there is a variation in the year built and/or the estimated service life.

Column (2): Original cost shall be supported by records furnished by bridge owner. Engineering cost should be estimated if unknown.

Column (3): Salvage—refer to § 277.8(b).

Column (4): Actual capital cost is the original cost of the item to be removed minus the salvage value.

Column (5): Estimated Service Life—refer to § 277.8(g).

Column (6) & (7): Expired Service Life—refer to § 277.8(g).

Column (8): Value of expired service life is the actual capital cost of the item to be removed multiplied by the percent of expired service life.

[FR Doc. 79–16696 Filed 5–29–79; 8:45 am]

BILLING CODE 3710–92–M

federal register

Wednesday
May 30, 1979

Part V

Department of Health, Education, and Welfare

Health Care Financing Administration

Medicare and Medicaid Programs, Exclusion of Practitioners, Providers, and Other Suppliers of Services and Suspension of Physicians and Other Individual Practitioners

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Health Care Financing Administration

42 CFR Parts 405, 420, 455

Medicare and Medicaid Programs; Exclusion of Practitioners, Providers, and Other Suppliers of Services and Suspension of Physicians and Other Individual Practitioners

AGENCY: Health Care Financing Administration (HCFA), HEW.

ACTION: Final Rules.

SUMMARY: These regulations provide that any physician or other individual practitioner who has been convicted on or after October 25, 1977, of a criminal offense related to his involvement in the Medicare or Medicaid program shall be suspended from participation in both programs. They implement Sections 7 and 13 of the Medicare-Medicaid Anti-Fraud and Abuse Amendments, Pub. L. 95–142. These regulations also revise the existing Medicare exclusion and termination procedures. Their purpose is to prevent and control fraud or abuse in Medicare and Medicaid.

DATE: These regulations are effective for Medicare on May 30, 1979, and for Medicaid on August 28, 1979.

FOR FURTHER INFORMATION CONTACT: Irwin Cohen, Director, Division of Planning and Development, Office of Program Integrity, Health Care Financing Administration, U.S. Department of Health, Education, and Welfare, Room 588, East High Rise, 6401 Security Boulevard, Baltimore, Md. 21235, Phone 301–594–5415.

SUPPLEMENTARY INFORMATION:

Background

The Medicare-Medicaid Anti-Fraud and Abuse Amendments (Pub. L. 95–142) contain several new measures designed to detect and prevent fraud or abuse in the Medicare and Medicaid programs. Section 7 of that law, which added Section 1862(e) to the Social Security Act, requires that physicians and other individual practitioners convicted of criminal offenses related to their participation in either program be automatically suspended from both programs. Section 13 of Pub. L. 95–142 abolishes program review teams (Section 1862(d)(4) of the Social Security Act).

This regulation contains rules which implement Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) enacted by Section 7 of Pub. L. 95–142, October 25, 1977. Section 1862(e) specifically requires that a physician or other individual practitioner who has been convicted, on or after October 25, 1977, of a criminal offense related to his involvement in the Medicare or Medicaid program be suspended from participation in the Medicare program. Medicare suspension requires that the State also suspend the convicted practitioner from participation in Medicaid (Section 1902(a)(39) of the Social Security Act).

In addition to the provisions added by Pub. L. 95–142, the Social Security Act contains the authority to impose administrative sanctions under certain circumstances. Section 1862(d) of the Social Security Act (42 U.S.C. 1395y(d)) authorizes the Secretary to exclude practitioners, providers and other suppliers of services who have:

(1) Falsified information related to a request for payment;

(2) Billed the program for charges substantially in excess of the person's customary charges or the costs incurred by the provider; or

(3) Furnished services found to be substantially in excess of an individual's needs or to be of a quality which fails to meet professionally recognized standards of health care.

This authority has been delegated to the Health Care Financing Administration (HCFA). When HCFA determines that one or more of these violations have occurred, Medicare reimbursement may be prohibited and consequently, Federal financial participation would not be available for title V (Maternal and Child Health and Crippled Children's Services) and title XIX (Medicaid) in State payments for services furnished to program beneficiaries by the excluded practitioner, provider, or other supplier of services.

Moreover, when HCFA determines that a provider of services has committed one or more of the violations cited above, action may be taken to terminate the provider agreement between the Secretary and the provider (42 CFR 405.614(a)(5)). In this way, all Medicare reimbursement for items or services rendered will be precluded. Federal financial participation under titles V and XIX will also be denied.

Major Changes

The Proposed Rules published in the **Federal Register** on June 8, 1978 (43 FR 24988) indicated that these rules would be at 42 CFR 405.315ff. However, because of recodification and redesignation of the Health Care Financing Regulations, the final rules will add a new Part (420. Program Integrity) to Title 42 of the Code of Federal Regulations. Therefore, the organizational structure and numerical designations of the final rules will differ from those set forth in the proposed rulemaking.

Pursuant to comments received or reevaluation, six major changes have been made in the policy or text of the proposed rule. These changes are as follows:

1. *Definition of "Practitioner".*— The proposed rule (§ 405.315–1(b)(7)) defined "practitioner" as a physician or other health care professional licensed under State law to practice his or her profession. Based on comments received and our own reevaluation, we have decided to limit the definition of practitioner (§ 420.2) to physicians and other practitioners who may directly render and receive reimbursement for items and services to Medicare beneficiaries; i.e., those defined in Section 1861(r) of the Social Security Act. The revised definition will limit the applicability of the sanction to doctors of medicine or osteopathy, dentistry or dental or oral surgery, podiatry or surgical chiropody, optometry, and chiropractors and physical therapists in independent practice. It is our view that the suspension sanction, as provided under Section 1862(e) of the Act, is intended to apply to only those practitioners eligible to participate under Medicare.

We recognize that the revised definition does not include those practitioners whose services may only be covered under Medicaid in States that provide "other medical or remedial care or service" (see 42 CFR 440.60). It is our opinion that while the statute provides authority to deal with such individuals, the procedures involved would be too circuitous to effectuate such actions. In order to assure that convicted Medicaid-only practitioners are suspended from participating in the Medicaid program, however, we are proposing alternative ways of dealing with these individuals; e.g., we published a notice of decision to develop regulations in the **Federal Register** on October 31, 1978 (43 FR 50717) to implement Medicaid regulatory authority requiring that State plans be amended to provide sanctions for these individuals and we have proposed a legislative amendment to *clarify* existing statutory authority.

2. *Definition of "Person".*—The proposed rule (§ 405.315–1(b)(6)) defined "person" for the purpose of the exclusion sanction under Section 1862(d) of the Act. However, upon reevaluation,

we have determined that the definition is unnecessary because we believe that the intent of the Congress in using this term instead of the term physician or provider was to include all individuals and entities who provide or supply items or services under the Medicare program.

Therefore, we have omitted the definition of person, have used the terms practitioner, provider or other supplier of services and have indicated that "payment will not be made under Medicare for items or services funished by a practitioner, provider or other supplier of services * * *" We believe that the use of these terms instead of the term "person" fully implements the intent of the statute and will prohibit Medicare reimbursement to those who violate these provisions of the Medicare program.

3. *Notice of Suspension.*—The proposed regulation discussed the need to expeditiously impose the 1862(e) suspension sanction and described our intent to notify the supended practitioner in the following manner: When HCFA received reliable, confirmed information that a conviction had been entered, it would notify the convicted individual by telegram that he was suspended from the Medicare program effective the day following the date on the telegram. Within thirty days thereafter, HCFA would send the individual a written notice setting forth the basis for the suspension, the duration of the suspension and the factors considered in setting the duration, and the requirements and procedures for reinstatement.

Based on comments received and our subsequent reevaluation, we have revised the proposed notification procedures (§ 420.111) because of a number of practical problems inherent in the telegram procedure:

(a) Contacts such as telegrams, because of their brevity, generate a high proportion of inquiries which in turn require responses. This would create a delay in processing the detailed suspension notice.

(b) The telegram would accomplish little in the way of protecting the program since, during the time of investigation and prosecution, payments to the individual are either withheld or processed under close scrutiny.

(c) The concurrent notification to the specific Medicaid State agency(ies) and the Medicare fiscal agents at the time of suspension and then again when the explanatory letter is sent would create double notification and may cause confusion.

The regulation has been revised to provide that HCFA will issue a detailed written notice which indicates that the suspension is effective 15 days from the date on the notice and which sets forth the term of the suspension and the appeal rights. This notification will be consistent with the notification procedures of the revised exclusion and termination regulation which is a part of this final rule (§ 420.102). We believe that the procedures will provide for uniform administration of sanctions within the Medicare program and will be consistent with the intent of Congress to suspend individuals convicted of program offenses as soon as possible.

4. *Medicaid State Agency Responsibilities in Notifying HCFA of State and Local Convictions.*—The proposed rules (§ 450.85(b) (1)) would have required Medicaid agencies to notify HCFA within 15 days of a judgement of conviction against a physician or practitioner for a criminal offense related to his involvement in the Medicaid program. We invited comments on the feasiblity of this requirement. As a result of those comments, we have revised the regulation (§ 455.212(b)) to require the State agency to report within 15 days those State or local convictions in which it (the State agency) has been involved during the investigation or prosecution. If the State agency has not been involved, it is required to notify HCFA within 15 days after it learns of a conviction.

5. *Notification to Health Systems Agencies.*—The proposed regulation stated that health systems agencies would be notified of suspensions (§ 405.315–2(e)(3)(iii)). One commenter questioned this procedure and stated that health systems agencies are responsible only for health planning. They have no responsibility for the delivery of medical services or the administration of the Medicare or Medicaid programs.

Based on this comment, we have revised this section of the regulation (§ 420.111(b)(1)(iii)) to indicate that instead of the health systems agency, the Public Health Service will be notified so that it can assess whether the suspension action is likely to create a health manpower shortage. If such a shortage is created, the Public Health Service will attempt to place appropritate National Health Service Corps personnel in the affected area. If that effort is unsuccessful and the Medicaid agency requests a waiver of suspension, the Secretary may grant it, and the practitioner's suspension under the Medicaid program would be lifted.

6. *Appeals Subsequent to Suspension.*—The proposed regulation stated that subsequent to a suspension under Section 1862(e), the practitioner could invoke the administrative hearing procecures set forth in 42 CFR Part 405, Subpart O (§ 405.315–2(e)(5)). Although the Act requires a suspension following a conviction of a Medicare or Medicaid related offense there are several limited issues which may appropriately be raised in the administrative review process: The length of the suspension; whether he is the convicted person; and whether the conviction was related to involvement in either Medicare or Medicaid. For this reason, we concluded that all of the procedures set forth in 42 CFR 405 Subpart O do not apply to the appeals process to which a suspended practitioner is entitled. Therefore, we have amended the regulation to indicate those issues which may be appealed as well as the applicable sections of Subpart O which specifically apply to such appeals (§ 405.113). The convicted practitioner will be given the opportunity for administrative and judicial review consistent with those provisions in Subpart O. The following sections are those which apply to the suspension hearings and reviews:

Section; Subject.	
405.1531	Filing a request for a hearing: time and manner of filing.
405.1533	Administrative Law Judge (ALJ).
405.1534	Disqualification of ALJ.
405.1540	Time and place of hearing.
405.1541	Change of time and place for hearing.
405.1543	Joint hearings.
405.1544	Subpoenas.
405.1545	Conduct of the hearing.
405.1546	Evidence.
405.1547	Witnesses.
405.1548	Oral and written summation.
405.1595	Appeals Council review, reopenings, representation, etc.

Discussion of other comments

PSRO Determinations

Two commenters proposed that HCFA be required to obtain Professional Standards Review Organization (PSRO) determinations on whether items or services furnished were excessive or of unacceptable quality (§ 405.315–1(c)(1)(ii) and redesignated at § 420–101(a)(2)) and to adopt the PSRO determination as its final finding.

HCFA is responsible for exclusion and termination determinations in cases of program abuse. The PSRO recommendation will serve as a primary resource in the deliberations. However, HCFA may take action based on information and evidence provided by the PSRO or by any other available source.

Congress deleted the requirement pertaining to the establishment and responsibilities of program review teams (Paragraph 4 of Section 1862(d) was deleted by Section 13 of Pub. L. 95-142), with the expectation that PSROs would be available to advise HCFA in cases that require the application of professional medical judgment. However, neither the Act nor the legislative history indicates that the PSRO must be used, nor that the PSRO determination must be accepted as final. Therefore, this suggestion was not adopted.

Definition of Convicted

Several commenters observed that the proposed definition of "convicted" (§ 405.315-1(b)(1)) does not take into consideration a nolo contendere plea. The term "convicted" relates to the court's finding, not the plea. As set forth in the proposed rule, the definition of "convicted" indicated that a judgment of conviction has been entered by a Federal, State, or local court, irrespective of whether an appeal from that judgment is pending. As defined in the Rules of Criminal Procedure for the United States District Courts (Rule 32b), a judgment of conviction sets forth the plea, the verdict or findings, and the adjudication and sentence. Therefore, we believe the existing definition of convicted (§ 420.2) encompasses the situation where a plea of nolo contendere is entered and accepted.

An additional comment on the definition of "convicted" indicated that an exception should be included for those instances where the defendant has undertaken an appeal of the conviction and the Secretary has information that the appeal is likely to be sustained. As discussed in the preamble to the proposed rule, there is no indication in the legislative history that suspensions should be delayed pending exhaustion of appeal rights and we do not believe that outcome is required by constitutional due process. Therefore, we are retaining the original definition. Provision has been made for immediate reinstatement should a practitioner's conviction by reversed or vacated. In such instances, the reinstatement would be retroactive to the effective suspension date since the reason for the initial action would have been removed by the court decision on appeal and payments will be made for services furnished during suspension. The regulation has been revised to reflect this policy (§ 420.120(f)(2)).

Duration of Medicaid Suspension

Several State Medicaid agencies disagreed with the requirement that suspension under Medicaid shall be effective on the date established by HCFA and remain in effect at least for the period of the Medicare suspension. The objections were based primarily on the contention that 15 days lead time was not sufficient. Based on our experience in implementing these procedures, it is our position that 15 days lead time is sufficient for both the Medicaid State agencies and the Medicare carriers to activate mechanisms which will identify claims by the suspended practitioner and deny payment as appropriate. The proposed rule indicated that the State agencies must comply with the statute and suspend a practitioner upon being notified by HCFA of a Medicare suspension (§ 450.85(b)(2)). We have issued several administrative directives to assist State agencies in planning for implementation of the requirement. We expect that they are now sufficiently prepared to comply with the final rules (§ 455.212(d)(1)).

Several other commenters felt that the length of the State Medicaid suspension should always be the same as the length of the Medicare suspension, except where special cause for additional State suspension is shown.

The language of the statute clearly indicates Congress' intent to permit the States to suspend for periods longer (but not shorter) than Medicare if they wish. In the interest of administrative simplicity and to avoid confusion by the public, we have recommended a technical statutory amendment to provide identical suspension periods for both programs. However, until such an amendment is enacted, the regulation will provide the States with the discretion to extend the length of the suspension for Medicaid purposes.

Payments to Practitioners During Court Proceedings

One commenter inquired as to the payment rights of a practitioner during the period between indictment and conviction. Although these regulations do not address this issue, Medicare regulations at 42 CFR 405.371(b) provide administrative procedures for withholding payments pending disposition of the case and for ensuring that any payments made during this period are proper.

Notice to All State Medicaid Agencies

One commenter suggested that all State agencies be notified when a practitioner has been convicted and subsequently suspended from Medicare and Medicaid program participation. Section 1862(e)(2) of the Social Security Act states: "In any case where the Secretary * * * suspends any physician or other individual practitioner from participation in the program under (Medicare), he shall . . . promptly notify each single State agency which administers or supervises the administration of a State plan approved under title XIX." Therefore, when the initial suspension action is taken, HCFA will notify the single State agency in the State where the individual resides/practices. In addition, HCFA will periodically compile lists containing the names of suspended individuals and those who have been reinstated. Copies of the lists will be distributed to each State.

Waiver of Suspension

Two commenters questioned the waiver of suspension criteria set forth in the proposed rule at § 455.24(c). They believed that the criteria were more restrictive than required by section 1902(g) of the Act, which appears to allow the State to request a waiver when necessary for any number of reasons. They stated that the proposed rule did not give State agencies broad discretion in requesting waivers in unique situations.

Section 7 not only revised title XIX to allow for waiver of suspension in some instances, but also revised Section 332(c) of the Public Health Service Act relating to the designation of health manpower shortage areas. The committee reports accompanying the legislation indicate Congress' concern that imposition of suspension, under certain unusual circumstances, could deny adequate access to medical care to persons eligible for services under Medicare or Medicaid. (See H. Report 95-393 Part 1, pp. 62-64; H. Report 95-393 Part II, pp. 69-71; S. Report 95-453, pp. 26-27.) Accordingly, the law authorizes the Secretary, through the Public Health Service, to deal with such situations in one of two ways. He can designate a community as a health manpower shortage area and place National Health Service Corps personnel in the area. If that is not possible, he can waive the Medicaid suspension, if the State requests it. Therefore, we have not changed the proposed policy.

Due Process Requirements

One commenter suggested that the regulation should provide an opportunity for a formal adversary

hearing, which would permit the cross-examination of witnesses and the representation by legal counsel or other qualified representative, before exclusion is imposed under Section 1862(d).

We believe that the proposed regulation provides an adequate opportunity for the party facing the exclusion to present arguments as to why the exclusion should not be imposed (§ 405.315–1(d)(2) redesignated at § 420–102(a)(2)). The regulation provides for advance notice and a 30-day period during which the individual may present written or oral arguments to a HCFA official before final action is taken. Moreover, the affected party may request a hearing before an administrative law judge after the actual exclusion or termination takes place. Therefore, we are not adopting this suggestion.

Another commenter recommended that a physician or other practitioner be afforded the opportunity to provide documentation prior to an 1862(e) suspension in the same manner as is provided in an exclusion or termination action. We believe that such opportunity is contrary to the language of Section 1862(e). That section provides for an automatic suspension as the result of a conviction in a court of law.

Additionally, the suspended individual is entitled to a hearing before an administrative law judge on a limited number of issues including the propriety of the length of suspension. Therefore, we are not adopting this recommendation.

Intermediate Care Facilities

One commenter suggested that we include intermediate care facilities in the definition of provider, and extend to them the exceptions set forth in the Medicaid regulations for hospitals and skilled nursing facilities. We have revised the Medicaid regulation to authorize payment for up to 30 days after the suspension date to a recipient of services in an intermediate care facility, if the recipient was admitted before the effective date of suspension (§ 455.212(d)(3)). The Medicare definition of provider, however, was not changed to include intermediate care facilities because these facilities are not covered under Medicare.

Exceptions to Denial of Payments

Several commenters questioned the necessity of "Exceptions" to the denial of payments (§ 405.315–1(a)(3) and § 405.315–2(a)(3) and redesignated at § 420.103(b)(3) and § 420.112(c)(3)), while other commenters were concerned that the exceptions were inadequate and may still cause undue hardship to certain inpatient beneficiaries.

The exceptions are intended to protect patients who remain in the institutional setting after the effective date of a suspension or exclusion. This "grace period" provides opportunity for the patient to change doctors or for the instituton to assure that all patients who are in a "non-dischargeable" situation have attending physicians. This concept is not unique as it has been available for some time in the Medicare statute in the case of provider terminations (§ 1866(b)(3) of the Act).

Other commenters were concerned that the regulations provided for payment to the beneficiary only for the first bill submitted following a suspension or exclusion. They feared that the beneficiary would be unwittingly liable for subsequent bills.

Detailed instructions regarding the handling of claims for services furnished by excluded parties and suspended practitioners have been issued to Medicare fiscal agents. Under these instructions, all bills submitted for services of suspended or excluded individuals will be processed separately to assure that beneficiaries are informed of the administrative sanctions imposed and of the fact that items and services furnished after the date indicated in the notification are not covered. We have, however, in the notice to the Medicare beneficiary (§§ 420.103(c) and 420.112(d)(2)) extended the time during which claims will be paid from 6 to 15 days after the date on the notice. We believe the 15 day period is consistent with other notification procedures set forth in this rule and that it will better serve the beneficiary's need to obtain services elsewhere. The single State agencies will likewise monitor these situations and notify Medicaid recipients of the effect of the exclusion or suspension. The methods are to be developed by the Medicaid State agencies.

Determining the Length of Exclusion or Suspension

One commenter suggested that we add the consideration of convictions of related offenses such as insurance fraud to the factors used in determining the length of exclusions and suspensions since these actions could have an adverse impact on the excluded or suspended party's particiption in the Medicare program. Based on this comment, we have revised the regulation accordingly to reflect that the nature and the seriousness of related offenses will be used in determining the length of the exclusion or suspension (§ 420.103(a)(2)(v) and § 420.112(a)(2)(vi)).

Other Changes

In addition to changes pursuant to comments received, we have made the following changes to provide clarification and consistency within the regulations based on HCFA reevaluation of the proposed rule:

1. The definition of "furnished" has been amended to indicate that it does not include services which are ordered by one practitioner but billed for and provided by or under the supervision of another (§ 420.2);

2. Clarification of:

a. Reinstatement procedures to provide HCFA with the option to obtain documentation necessary for reinstatement determinations (§ 420.120);

b. The point at which reimbursement to a Medicare beneficiary is no longer available following a suspension action—either 15 days after the date on the notice to the beneficiary or on the effective date of suspension of the practitioner, whichever is later (§ 420.112(d)(2));

c. The beginning of certain time periods "*on* or after" certain dates (§ 420.103(b) and (c) and § 420.112(c) and (d));

d. Procedures to notify State or local licensing authorities of exclusions and terminations to conform to procedures relating to suspensions (§ 420.102(b)(4)(v));

e. Appeal rights—(i) to indicate that the decision to continue the exclusion, termination or suspension is not subject to administrative appeals set forth in 42 CFR Subpart O (§ 420.120(d)(2)(i); (ii) expand the notice of exclusion and suspension to include the available "appeal rights" (§ 420.102(b)(2)(vi) and § 420.111(a)(2)(iv)); (iii) to clarify language to indicate the difference in options offered to an excluded party who disagrees with a proposed exclusion or a denial of a request for reinstatement; and (iv) to indicate that dissatisfaction with the decision not to reinstate must be expressed either by presenting documentary evidence and written evidence or by requesting in writing the opportunity to present oral argument (§ 420.102(a)(2) and § 420.120(d)(2)).

3. Several editorial and technical changes have also been made.

42 CFR Chapter IV is amended as set forth below:

Part 405—Federal Health Insurance for the Aged and Disabled

§ 405.315a [Vacated—See Part 420]

1. Section 405.315a is vacated and its content is revised and transferred to a new Part 420.

§ 405.315b [Revoked]

2. Section 405.315b is revoked.

3. Section 405.614 is amended by revising paragraphs (a)(5)(iii) and (c) to read as follows:

§ 405.614 Termination by the Secretary.

(a) *Cause for termination.* The Secretary may terminate an agreement if the Secretary determines that the provider of services:

* * * * *

(5) (i) * * *

* * * * *

(iii) Has furnished items or services which HCFA has determined to be substantially in excess of the needs of individuals, or of a quality that fails to meet professionally recognized standards of health care. (See § 420.101 of his chapter.) HCFA will not terminate a provider agreement under this clause if it has waived a disallowance with respect to the services in question on the grounds that the provider and the beneficiary could not reasonably be expected to know that payment would not be made. (See section 1879(a) of the Act (42 U.S.C. 1395pp(a).)

* * * * *

(c) *Appeal by agency or institution.* A provider may appeal a termination of its ageement by the Secretary in accordance with Subpart O of this part. The termination of a provider's agreement on grounds specified in paragraphs (a)(5) of this section is subject to the additional procedures specified in § 420.102 of this chapter.

4. Section 405.1501 is amended by revising paragraphs (a)(6) and (f) to read as follows:

§ 405.1501 Providers of services, emergency service hospitals, independent laboratories, suppliers of portable X-ray services, end-stage renal disease treatment facilities and persons; determinations and appeals procedures.

(a) The provisions contained in this Subpart O shall govern the procedure for making and reviewing determinations with respect to:

* * * * *

(6) The exclusion from coverage of items and services furnished by a practitioner, provider, or other supplier of services under the provisions of section 1862(d) of the Act.

* * * * *

(f) Any practitioner, provider, or other supplier of services whose items and services have been excluded from coverage (see § 420.101 of this chapter) is entitled to a hearing and, if dissatisfied with the hearing decision, to Appeals Council review and then judicial review of that decision.

5. Section 405.1502 is amended by revising paragraph (e) to read as follows:

§ 405.1502 Initial determination.

* * * * *

(e) The denial of reimbursement for items and services furnished to a Medicare beneficiary by a practitioner, provider, or other supplier of services excluded from participation in accordance with § 420.101 of this chapter.

6. Section 405.1504 is amended to read as follows:

§ 405.1504 Effect of initial determination.

The initial determination shall be final and binding upon the parties to the determination unless: (a) it is revised (see § 405.1519); (b) in the case of a determination described in § 405.1502(a), (b)(1), or (d)(1), it is reconsidered in accordance with § 405.1514; or (c) in the case of a determination described in § 405.1502(b)(2), (c), (d)(2), or (e), a request for a hearing is filed and the initial determination is reversed.

7. Section 405.1505 is amended by adding a new paragraph (l) to read as follows:

§ 405.1505 Administrative actions which are not initial determinations.

* * * * *

(l) The finding that a physician or other individual practitioner, suspended from the Medicare program (under section 1862(e)(1) of the Act) because of a criminal conviction, has failed to present evidence to reasonably assure that he or she will not commit further criminal violations related to participation in Medicare or Medicaid. (Review rights for suspended practitioners are specified in § 420.113 of this chapter.)

8. Section 405.1542 is amended by correcting paragraph (a)(4), redesignating the second and third sentences of paragraph (a)(4) as paragraph (b), and redesignating paragraph (b) as (c), to read as follows:

§ 405.1542 Hearing on new issues.

(a) On the application of either party, or on his own motion, the Administrative Law Judge may give notice at any time after a request for hearing has been filed (see § 405.1531), but prior to the closing of the record, that he will consider any specific new issue which may affect the rights of the institution, agency, clinic, laboratory, portable X-ray supplier, end-stage renal disease treatment facility, or person, even though the Secretary has not made an initial and reconsidered determination with respect to the issue and even though the issue arose after the request for hearing or prehearing conference. Except that, in the case of an initial determination described in § 405.1502(b)(2), (c), (d)(2), or (e), the Administrative Law Judge shall not consider any issue which arose on or after:

(4) The effective date of the exclusion from coverage of items and services furnished by a practitioner, provider, or other supplier of services.

(b) Notice of the time and place of the hearing on any new issue shall, unless waived (see § 405.1550), be given to the parties within the time and manner prescribed in § 405.1540. Upon giving of such notice, the Administrative Law Judge shall, except as otherwise provided, proceed to hearing on such new issues in the same manner as he would on an issue in which an initial and reconsidered determination had been made by the Secretary and a hearing request with respect thereto had been filed.

(c) On the application of either party, or on his own motion, in lieu of considering any new issue in the manner described in paragraph (a) of this section, the Administrative Law Judge may remand the case for consideration of the new issue and, where appropriate, a determination. Where necessary the Administrative Law Judge may direct that the case be returned to him for further proceedings. See also § 405.1560.

PART 420—PROGRAM INTEGRITY

9. A new Part 420 is added to read as follows:

Subpart A—General Provisions

Sec.

420.1 Scope and purpose.
420.2 Definitions.
420.3 Applicability of other regulations.

Subpart B—Exclusion of Practitioners, Providers, and Other Suppliers of Services and Suspension of Practitioners

420.100 Basis and scope.
420.101 Bases for exclusion; Exceptions.
420.102 Exclusion procedures.
420.103 Duration and effect of exclusion.
420.110 Basis for suspension.
420.111 Suspension procedures.
420.112 Duration and effect of suspension.

420.113 Appeals subsequent to suspension.
420.120 Procedures for reinstatement after exclusion or suspension.

Authority: Secs. 1102, 1862(d)(1), (2), (3), and (4), 1862(e), 1866(b)(2) (D), (E), and (F), 1871, 1902(a)(39), and 1903(i)(2) of the Social Security Act (42 U.S.C. 1302, 1395y(d), 1395cc, 1395hh, 1396a, and 1396b).

Subpart A—General Provisions

§ 420.1 Scope and purpose.

This part sets forth provisions for the detection and prevention of fraud and abuse in the Medicare program. It implements statutory sections, specifically identified in each subpart, aimed at protecting the integrity of the Medicare program.

§ 420.2 Definitions.

"Convicted" means that a judgment of conviction has been entered by a Federal, State, or local court, regardless of whether an appeal from that judgment is pending.

"Exclusion" means that items or services furnished by a specified practitioner, provider, or other supplier of services will not be reimbursed under Medicare.

"Furnished" refers to items and services provided directly by, or under the direct supervision of, a practitioner (either as an employee or in his own capacity as a practitioner), a provider, or other supplier of services. It does not refer to services ordered by one party but billed for and provided by or under the supervision of another.

"Medicaid agency" means the single State agency designated to administer, or supervise the administration of, the State Medicaid plan approved under Title XIX of the Social Security Act.

"Practitioner" means a physician or other health care professional, licensed under State law to practice his or her profession, who may be eligible to receive reimbursement under the Medicare program.

"Provider" means a hospital, a skilled nursing facility, or a home health agency and, for the limited purposes of furnishing outpatient physical therapy or speech pathology services, a clinic, rehabilitation agency, or public health agency.

"PSRO" stands for Professional Standards Review Organization.

§ 420.3 Applicability of other regulations.

Part 405, Subpart O of this chapter, contains detailed procedures for hearings and reviews that are made available under this part for exclusions and terminations. Policies applicable to suspension are specified in §420.113.

Subpart B—Exclusion of Practitioners, Providers, and Other Suppliers of Services and Suspension of Practitioners

§ 420.100 Basis and scope.

This subpart implements Sections 1862(d) and 1862(e) of the Act. It sets forth criteria and procedures for excluding practitioners, providers, and other suppliers of services who have defrauded or abused the Medicare program and for suspending practitioners convicted of crimes related to their participation in Medicare or Medicaid. It also specifies the appeals rights and the procedures for reinstatement in these programs. The procedures set forth in §§ 420.101–103 of this subpart also apply to terminations of provider agreements under § 405.614(a)(5) of this chapter.

§ 420.101 Bases for exclusion; exceptions.

(a) Payment will not be made under Medicare for items or services furnished by a practitioner, provider, or other supplier of services that HCFA determines has:

(1) Knowingly and willfully made or caused to be made any false statement or misrepresentation of a material fact in a request for payment under Medicare or for use in determining the right to payment under Medicare;

(2) Furnished items or services that are substantially in excess of the beneficiary's needs or of a quality that does not meet professionally recognized standards of health care; or

(3) Submitted or caused to be submitted bills or requests for payment containing charges (or costs) that are substantially in excess of its customary charges (or costs).

(b) HCFA's determination under paragraph (a)(2) of this section, that the items or services furnished were excessive or of unacceptable quality, will be made on the basis of reports, including sanction reports, from the following sources:

(1) The PSRO for the area served by the practitioner, provider, or other supplier of services;

(2) State or local licensing or certification authorities;

(3) Peer review committees of fiscal agents or contractors;

(4) State or local professional societies; or

(5) Other sources deemed appropriate by HCFA.

(c) *Exceptions.* (1) Notwithstanding the circumstances specified in paragraph (a)(2) of this section, HCFA will not deny Medicare payments if it has waived a disallowance on the grounds that the beneficiary and the practitioner, provider, or other supplier of services coud not reasonably be expected to know that payment would not be made for a particular item or service. (See section 1879(a) of the Act (42 U.S.C. 1395pp(a)).)

(2) HCFA will not deny Medicare payment for bills or requests that are substantially in excess of customary charges or costs, if it finds the excess charges are justified by unusual circumstances or medical complications requiring additional time, effort, or expense in localities in which it is accepted medical practice to make an extra charge in such case.

§ 420.102 Exclusion procedures.

(a) *Notice of proposed exclusion or termination.* (1) If HCFA proposes to deny reimbursement in accordance with § 420.101, or to terminate a provider agreement in accordance with § 405.614(a)(5) of this chapter, it will send written notice of its intent and the reasons for the proposed exclusion or termination to the practitioner, provider or other supplier of services.

(2) Within 30 days of the date on the notice, the party may submit: (i) documentary evidence and written argument against the proposed action; or (ii) a written request to present evidence or argument orally to a HCFA official.

(3) For good cause shown by the party, HCFA may extend the 30-day period.

(b) *Notice of exclusion or termination.* (1) If, after exhaustion of the procedures specified in paragraph (a) of this section, HCFA decides to exclude a party under § 420.101 or to terminate a provider agreement under § 405.614(a)(5) of this chapter, it will send written notice of its decision to the affected party at least 15 days before the decision becomes effective.

(2) The notice will state (i) the reasons for the decision; (ii) the effective date; (iii) the extent of its applicability to participation in the Medicare program; (iv) the earliest date on which HCFA will accept a request for reinstatement; (v) the requirements and procedures for reinstatement; and (vi) the appeal rights available to the excluded party.

(3) This decision and notice constitute an "initial determination" and a "notice of initial determination" for purposes of the administrative appeals procedures specified in Part 405, Subpart O of this chapter.

(4) HCFA will also give notice of exclusion or termination and the effective date to the public, to beneficiaries (in accordance with § 420.103(c)) and, as appropriate, to:

(i) State Medicaid and title V agencies, State Medicaid Fraud Control Units, and PSROs;

(ii) Hospitals, skilled nursing facilities, home health agencies and health maintenance organizations (HMOs);

(iii) Medical societies and other professional organizations;

(iv) Contractors, health care prepayment plans and other affected agencies and organizations; and

(v) The State or local authority responsible for licensing or certifying the excluded party.

§ 420.103 Duration and effect of exclusion.

(a) *Duration of exclusion.* (1) Exclusion will continue until the excluded practitioner, provider, or other supplier of services is reinstated in accordance with § 420.120.

(2) The exclusion notice will specify the earliest date on which the excluded party may seek reinstatement. In setting that date, HCFA will consider:

(i) The number and nature of the program violations and other related offenses;

(ii) The nature and extent of any adverse impact the violations have had on beneficiaries;

(iii) The amount of any damages incurred by the Medicare program;

(iv) Whether there are any mitigating circumstances; and

(v) Any other facts bearing on the nature and seriousness of the violations or related offenses.

(b) *Denial of payments during exclusion.* (1) Except as provided in paragraph (b)(3) of this section, payment will not be made to an excluded practitioner, provider, or other supplier of services (that has accepted assignment of beneficiary claims) for items or services furnished on or after the effective date of exclusion specified in the exclusion notice.

(2) An assignment of a beneficiary's claim that is made on or after the effective date of exclusion will not be valid.

(3) *Exceptions.* (i) In the case of inpatient hospital services or posthospital extended care services furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of exclusion, payment will be available for up to 30 days after that date; and

(ii) In the case of home health services furnished under a plan established before the effective date of exclusion, payment will be available for services furnished through the end of the calendar year in which exclusion became effective.

(c) *Denial of payment to beneficiaries.* If a beneficiary submits claims for items or services furnished by an excluded practitioner, provider, or other supplier of services after the effective date of the exclusion:

(1) HCFA will pay the first claim submitted by the beneficiary and immediately give notice of the exclusion.

(2) HCFA will not pay the beneficiary for items or services furnished by an excluded party more than 15 days after the date on the notice to the beneficiary or after the effective date of the exclusion, which ever is later.

(d) *Effective date of termination of agreement.* For the effective date of termination of a provider's agreement under § 405.614(a)(5), see § 405.615 of this chapter.

§ 420.110 Basis for suspension.

An individual practitioner who has been convicted, on or after October 25, 1977, of a criminal offense related to his involvement in the Medicare or Medicaid program will be suspended from participation in the Medicare program.

§ 420.111 Suspension procedures.

(a) *Notice to practitioner.* (1) Whenever HCFA has conclusive information that a practitioner has been convicted of a crime related to this involvement in the Medicare or Medicaid program, it will give him written notice that he is suspended from the Medicare program, beginning 15 days from the date on the notice.

(2) The written notice will set forth:

(i) The basis for the suspension;

(ii) The duration of the suspension and the factors considered in setting the duration;

(iii) The requirements and procedure for reinstatement;

(iv) The appeal rights; and

(v) The fact that the State Medicaid agency is required to suspend the practitioner from Medicaid for at least as long as he is suspended from Medicare.

(b) *Notice to others.* (1) HCFA will concurrently notify:

(i) The State Medicaid agencies in order that they can promptly suspend the practitioner from participation in the Medicaid program (see § 455.212 of this chapter);

(ii) The State or local authority responsible for the licensing or certification of the suspended practitioner;

(iii) The Public Health Service so that it can assess whether the suspension is likely to create a shortage of health manpower in the area of practice of the suspended practitioner; and

(iv) Other appropriate entities as described in § 420.102(b)(4).

(2) The notice to the licensing or certifying authority will be accompanied by a request that the authority:

(i) Make appropriate investigations;

(ii) Invoke any sanctions available under State law and the authority's policies; and

(iii) Keep HCFA and the Inspector General of the Department fully and currently informed of any action it takes.

§ 420.112 Duration and effect of suspension.

(a) *Duration of suspension.* (1) Suspension will continue until the suspended practioner is reinstated in accordance with § 420.120.

(2) The suspension notice will specify the earliest date on which the practitioner may seek reinstatement. In setting that date, HCFA will consider:

(i) The number and nature of the program violations and other related offenses;

(ii) The nature and extent of any adverse impact the violations have had on beneficiaries;

(iii) The amount of the damages incurred by the Medicare and Medicaid programs;

(iv) Whether there are any mitigating circumstances;

(v) The length of the sentence imposed by the court; and

(vi) Any other facts bearing on the nature and seriousness of the violations or related offenses.

(b) *Effect of suspension.* Payment will not be made under the Medicare program for items or services furnished by the suspended practitioner during the period of suspension, except as specified in paragraphs (c)(3) and (d) of this section.

(c) *Denial of payments to practitioner.* (1) Payment will not be made to a suspended practitioner (who has accepted assignment of the beneficiary's claims) for items or services furnished on or after the effective date of suspension specified in the suspension notice, except as provided in paragraph (c)(3) of this section.

(2) An assignment of a beneficiary's claim that is made to a suspended practitioner on or after the effective date of suspension will not be valid.

(3) *Exception.* In the case of inpatient hospital services or posthospital extended care services furnished to a beneficiary who was admitted to a hospital or skilled nursing facility before the effective date of suspension,

payment for services furnished by the admitting physician will be available for up to 30 days after that date.

(d) *Denial of payment to beneficiaries.* If a beneficiary submits claims for items or services furnished by the suspended practitioner on or after the effective date of the suspension:

(1) HCFA will pay the first claim submitted by the beneficiary and immediately give notice of the suspension.

(2) HCFA will not pay the beneficiary for items or services furnished by an excluded party more than 15 days after the date on the notice to the beneficiary or after the effective date of the exclusion, whichever is later.

§ 420.113 Appeals subsequent to suspension.

(a) A suspended practitioner may request a hearing before an Administrative Law Judge on the following issues:

(1) Whether he was, in fact, convicted;

(2) Whether the conviction was related to involvement in the Medicare or Medicaid program; and

(3) Whether the length of the suspension is justified.

(b) A hearing under this section will be conducted in accordance with the procedures set forth in §§ 405.1531, 405.1533, 405.1534, 405.1540, 405.1541, 405.1543, and 405.1544 through 405.1558 of this chapter.

(c) If dissatisfied with the hearing decision, the suspended practitioner is entitled to Appeals Council review and to judicial review of the Council's decision as specified in §§ 405.1559 through 405.1595 of this chapter.

§ 420.120 Procedures for reinstatement after exclusion or suspension.

(a) *Timing and method of request.* An excluded practitioner, provider, or other supplier of services or a suspended practitioner may request reinstatement at any time after the date specified in the notice of exclusion or suspension by submitting to HCFA or authorizing HCFA to obtain:

(1) Statements from private health insurers, indicating whether there have been any questionable claims submitted during the period of exclusion or suspension;

(2) Statements from peer review bodies, probation officers, where appropriate, or professional associates, as required by HCFA, attesting to their belief, supported by facts, that the violations that led to exclusion or conviction will not be repeated; and

(3) A statement from the affected party setting forth the reasons why he should be reinstated.

(b) *Criteria for action on request.* HCFA will not grant reinstatement unless it is reasonably certain that the violations that led to exclusion or conviction will not be repeated. In making this determination, HCFA will consider, among other factors:

(1) Whether the applicant has been convicted in Federal, State or local court for activities related to his program participation; and

(2) Whether the State or local licensing authority has taken any adverse action against the party since the date of exclusion or suspension.

(c) *Notice of approval of request.* If HCFA approves the request for reinstatement, it will:

(1) Give written notice to the excluded or suspended party specifying the date when program participation may resume; and

(2) Give notice to the public and, as appropriate, to title V State agencies, State Medicaid agencies and Medicaid Fraud Control Units, hospitals, skilled nursing facilities, home health agencies, medical societies, other professional societies or associations, contractors, health care prepayment plans, health maintenance organizations (HMOs), PSROs, the State or local licensing or certifying authority, and other affected organizations.

(d) *Notice of denial of request.* (1) If HCFA does not approve the request for reinstatement, it will give written notice to the practitioner, provider or other supplier of services.

(2) Within 30 days of the date on the notice, the excluded or suspended party may submit:

(i) documentary evidence and written argument against the continued exclusion or suspension; or

(ii) a written request to present evidence or argument orally to a HCFA official. (The decision to continue the exclusion or suspension is not an initial determination under the provisions of Part 405, Subpart O of this chapter.)

(e) *Action following consideration of additional evidence.* After evaluating any additional evidence submitted by the excluded or suspended party (or at the end of the 30 day period, if none is submitted), HCFA will send written notice:

(i) Confirming the denial, and indicating that a subsequent request for reinstatement will not be accepted until 6 months after the date of confirmation; or

(ii) Approving reinstatement and specifying the date when program participation may be resumed. If HCFA approves reinstatement, it will notify the public and, as appropriate, the agencies and institutions as specified in paragraph (c)(2) of this section.

(f) *Reversed or vacated conviction.* (1) HCFA will reinstate a suspended practitioner whose conviction has been reversed or vacated.

(2) HCFA will reimburse that practitioner for items or services furnished during the period of suspension.

PART 455—PROGRAM INTEGRITY

10. Part 455 is amended by revising and redesignating § 455.23 as § 455.202 and adding a § 455.212, both under a new Subpart C, to read as follows:

* * * * *

SUBPART C—Exclusion of Providers and Suspension of Practitioners

Sec.

455.202 Denial of FFP: Parties excluded under Medicare.
455.212 Suspension of practitioners convicted of crimes related to Medicare or Medicaid.

Authority: Secs. 1102, 1902(a)(4)(A), and 1902(a)(30) of the Social Security Act (42 U.S.C. 1302, 1396(a)(4)(A), and 1396a(a)(30)).

* * * * *

Subpart C—Exclusion of Providers and Suspension of Practitioners

§ 455.202 Denial of FFP: Parties excluded under medicare.

(a) FFP is not available in payments for services furnished by a Medicaid provider while that party is excluded from the Medicare program under § 420.101 of this chapter for submitting false statements, submitting excessive claims, or furnishing services that exceed a beneficiary's needs or are of unacceptable quality.

(b) Except as specified in paragraph (c) of this section, the denial of FFP will apply to services furnished on or after the effective date of the exclusion from Medicare.

(c) *Exceptions.* (1) In the case of inpatient services furnished in a hospital, skilled nursing facility, or intermediate care facility to a recipient who was admitted before the effective date of the Medicare exclusion, FFP will be available in payments made for services furnished for up to 30 days after the exclusion date.

(2) In the case of home health services furnished under a plan established before the effective date of exclusion, FFP will be available in payments for services furnished through the end of the

calendar year in which exclusion became effective.

(d) FFP will be available for services furnished by a Medicaid provider after reinstatement in the Medicare program.

§ 455.212 Suspension of practitioners convicted of crimes related to Medicare or Medicaid.

(a) *State plan requirements.* The plan must provide that the agency will meet all requirements of paragraphs (b) through (e) of this section.

(b) *Notification of State or local conviction.* The agency must notify HCFA whenever a State or local court has entered a judgment of conviction against a practitioner for a criminal offense related to his involvement in the Medicaid program.

(1) If the agency was involved in the investigation or prosecution of the case, it must send notice within 15 days after the conviction.

(2) If the agency was not so involved, it must give notice within 15 days after it learns of the conviction.

(c) *Suspension.* If the agency is notified by HCFA that a practitioner has been suspended from participation under Medicare, it must suspend that practitioner from participation under Medicaid, effective on the date established by HCFA, and at least for the period of the Medicare suspension.

(d) *Denial of payment.* (1) Except as provided in paragraph (d)(3) of this section, the agency may not make Medicaid payments for any services furnished directly by, or under the supervision of, the suspended practitioner during the period of suspension.

(2) The agency may pay for services otherwise reimbursable under the plan, that are ordered by a suspended practitioner and furnished by a practitioner or provider in good standing.

(3) In the case of inpatient services furnished in a hospital, skilled nursing facility, or intermediate care facility to a recipient who was admitted before the effective date of suspension, payment may be made for services furnished by the admitting physician up to 30 days after that date.

(e) *Reinstatement.* If the agency is notified by HCFA that a practitioner has been reinstated under Medicare, it may automatically reinstate that practitioner under Medicaid effective on the reinstatement date specified by HCFA. If the agency does not automatically reinstate the practitioner, it must use the procedures followed by HCFA for reinstatement, as set forth in § 420.120 of this chapter.

(f) *Waiver of suspension.* (1) The agency may request HCFA to waive a suspension if it concludes that, because of the shortage of practitioners in the area, individuals eligible to receive Medicaid benefits would be denied adequate access to medical care.

(2) HCFA will approve a request for waiver only if:

(i) The Secretary designates the community as a health manpower shortage area; and

(ii) An insufficient number of National Health Service Corps personnel have been assigned to meet the needs of the area.

(g) *Notice of waiver or lifting of suspension.* HCFA will notify the agency if and when it:

(1) Waives suspension in response to the agency's request; or

(2) Lifts the suspension and reinstates the practitioner under Medicare.

(Secs. 1102, 1862(d) (1), (2), (3), and (4), 1862(e), 1866(b)(2) (D), (E), and (F), 1871, 1902(a)(30), and 1903(i)(2) of the Social Security Act; (42 U.S.C. 1302, 1395y(d), 1395cc, 1395hh, 1396a, and 1396b))

(Catalog of Federal Domestic Assistance Program No. 13.714, Medical Assistance Program, No. 13.773, Medicare—Hospital Insurance, and No. 13.774, Medicare—Supplementary Medical Insurance)

Dated: April, 10, 1979.

Leonard D. Schaeffer,

Administrator, Health Care Financing Administration.

Approved: May 18, 1979.

Joseph A. Califano, Jr.,

Secretary.

[FR Doc. 79-16612 Filed 5-29-79; 8:45 am]

BILLING CODE 4110-35-M

federal register

Wednesday
May 30, 1979

Part VI

Department of Defense

Semiannual Agenda of Regulations

DEPARTMENT OF DEFENSE

[32 CFR Chs. I, V, VI, VII]

[33 CFR Ch. II]

[36 CFR Ch. III]

Improving Government Regulations; Semiannual Agenda

AGENCY: Department of Defense.

ACTION: Publication of the Semiannual Agenda of Regulations, significant and non-significant, under review or development by the Department of Defense and its components.

SUMMARY: In November of 1978, the DoD published its initial semiannual agenda of regulations and its draft plan for implementing EO 12044, "Improving Government Regulations." The Department, although not considered in the category of a regulatory agency, attempted insofar as possible, to draft a plan and agenda that would meet the criteria established under the EO and yet be applicable to the non-regulatory nature of the DoD. The initial plan and agenda was designed therefore to meet the spirit and intent of the EO and establish the regulatory review process to be implemented by the Department and its components.

The original agenda contained many regulations which were internal in nature, mission oriented and did not specifically meet the "significant regulation" criteria as established under the EO. Although limited in public impact, it was published to increase public knowledge of the Defense Department's regulatory activities and allow for increased public participation in this review and development process. In addition to the semiannual agenda, the DoD has several ongoing regulatory reform programs which encompass the entire spectrum of the regulatory process, including its administration. This second agenda contains the individual reports submitted by the components of the DoD and their efforts in meeting the goals and objectives of EO 12044 and the DoD plan for Improving Government Regulations.

FOR FURTHER INFORMATION CONTACT: For information concerning the overall DoD Regulatory Improvement Program and general semiannual agenda questions contact Colonel Peter H. Karalus, telephone 202–695–4281 or write Directorate for Organizational and Management Planning, OASD(C), Pentagon, Washington, D.C. 20301

SUPPLEMENTARY INFORMATION: The agenda format has been revised to reflect the different organization structures and management arrangements within the separate activities of the DoD. Included are: the Office of the Secretary of Defense and the Departments of the Army, Navy, and Air Force. Each section also contains the following information:

Part I: Status of Regulations Previously Reviewed (Agenda November 30, 1978).

Part II: Regulations Under Development.

Part III: Regulations Requiring Regulatory Analysis. Individual component variations may be found in the agenda due to the separate mission orientation and responsibilities of the Defense Department components.

Public Comments

Public comments on the DoD draft plan were primarily in the form of questions about the plan's impact on specific Defense Components or contractors. None were directed at its specific contents, nor were any changes suggested or recommended. Accordingly, the plan has been implemented as the final DoD plan for Improving Government Regulations.

This Agenda is published by authority of the Secretary of Defense.

David O. Cooke,

Deputy Assistant Secretary of Defense (Administration).

May 24, 1979.

Office of the Secretary of Defense—Semiannual Agenda

Action:

Publication of the Office of the Secretary of Defense (OSD) second semiannual agenda as required under EO 12044 and implemented under the DoD plan for Improving Government Regulations.

Summary:

In November of 1978, the OSD submitted its initial semiannual agenda of significant regulations. In that agenda, a proposed significant regulation, "Determinations of Active Duty and Discharge, Civilian or Contractual Personnel," was originally published as a proposed rule on September 13, 1978 (43 FR 40884) to implement the provisions of section 401 of Pub. L. 95–202, "The G.I. Bill Improvement Act of 1977." This Act directed the Secretary of Defense to determine if civilian employment or contractual service rendered by groups to the Armed Forces of the U.S. shall be considered active duty and, if the finding is affirmative, it shall issue each member of such group a discharge under honorable conditions if the service of each member so warrants. This proposed rule generated considerable Congressional and public interest. Accordingly, it was found affirmative and published as a final DoD Directive, (1000.20) and implemented immediately thereafter. Several recipients have already received honorable discharges under its provisions and several more are under review. In addition to the semiannual requirements, and in keeping with the intent and purpose of EO 12044, the Office of the Secretary of Defense is continuing its review program of all DoD Directives and Instructions implemented in early 1978. This ongoing update program along with the increased senior level oversight of the Department's Regulatory Review process are part of the overall efforts currently underway within DoD to meet the objectives and goals under the EO.

For Further Information Contact:

Where a contact officer is indicated, contact that individual. For other information on the agenda contact Ms Margarete S. Healy, Telephone 202–697–4111 or write Directorate for Correspondence and Directives, Rm 3C348, Pentagon, Washington, D.C. 20301.

Office of The Secretary of Defense—Semiannual Agenda

[Period Nov. 30, 1978–May 31, 1979]

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978)

CFR No.	Title	DoD directive/ DoD instruction	Status
32 CFR 47	Determinations of Active Duty and Discharge; Civilian or Contractual Personnel.	1000.20	Published 44 FR 11220 Feb. 28, 1979.
32 CFR 43a	Indebtedness of Military Personnel	1344.9	To be published as final rule May/June 1979.
32 CFR 67	Allocation of Reserve Forces Units to Local Communities.	1200.1	To be published as final rule May/June 1979.

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978) —Continued

CFR No.	Title	DoD directive/ DoD instruction	Status
32 CFR 75	Conscientious Objectors	1300.6	Withdrawn. Existing DoD Directive on this subject considered adequate.
32 CFR 89	Civilian Pay Allotments	1418.4	Published 44 FR 24547 Apr. 26, 1979.
32 CFR 157	Certification of Access to Scientific and Technical Information.	5200.21	To be published as final rule May/June 1979.
32 CFR 159	Information Security Program	5200.1	Published 44 FR 12669 Mar. 8, 1979.
32 CFR 168	Engineering and Technical Service Management and Control.	1130.2	Final manuscript in preparation. To be published as final rule May/June 1979.
32 CFR 169	Commercial or Industrial Activities	4100.15	In coordination. Estimated publication date:
32 CFR 169a	Commercial or Industrial Activities—Operation of	4100.33	In coordination. Estimated publication date:
32 CFR 177	Emergency Requirements, Allocations, Priorities, and Permits for DoD Use of Domestic Civil Transportation.	3005.7	Published 44 FR 5883 Jan. 30, 1979.
32 CFR 179	Use of Contractor and Government Resources for Maintenance of Material.	4151.1	To be prepared for coordination. Estimated completion date: December 1979.
32 CFR 195	Configuration Management	5010.19	To be published as final rule May 1979.
32 CFR 217	Use of Off-Road Vehicles on DoD Lands	6050.2	To be published as final rule May 1979.
32 CFR 239	Administration and Operation of the Homeowners Assistance Program.	4165.50	Final manuscript in preparation. To be published as final rule August/September 1979.
32 CFR 252	DoD Offshore Military Activities Program	3100.5	Published 44 FR 27095 May 9, 1979.
32 CFR 293	Control and Protection of "For Official Use Only" Information.	5029.9	Withdrawn. Will be incorporated into Part 286 when republished.

Part IA.—Existing Regulations Selected for Review

CFR No.	Description of regulation	DoD directive/ instruction No.	Reason regulations selected	Regulatory Analysis— Yes/No	Contact officer
32 CFR 41	Enlisted Administrative Separations	1332.14	Update	No	LTC G. Johnson, 697-9525
32 CFR 48	Retired Serviceman's Family Protection Plan	1332.17	Update	No	W. Amis, 695-3176.
32 CFR 59	Voluntary Military Pay Allotment	7330.1	Update	No	F. Fox, 697-6149.
32 CFR 65	Nomination of Chaplains for the Armed Forces	1304.19	Update	No	Col S. Powell, 697-9015.
32 CFR 67	Allocation of Reserve Forces Units to and Determinations of Manpower in Local Communities.	1200.1	Update	No	Col G. Bax, 697-0626
32 CFR 100	Unsatisfactory Performance of Ready Reserve Obligations.	1215.13	Update	No	Col E. Cocke, 695-6312.
32 CFR 101	Participation in Reserve Training Programs	1215.5	Change	No	Col D. O'Rear, 695-4125
32 CFR 115	Assignment To and Transfer Between Reserve Categories, Discharge from Reserve Status, Transfer to the Retired Reserve and Notification of Eligibility for Retired Pay.	1200.15	Update	No	W. Amis, 697-3514.

Part II.—Regulations Planned or Under Development

CFR No.	Description of regulation	Legal basis	Purpose	Regulatory analysis— Yes/No	Comment date (minimum 60 days)	Contact officer
32 CFR 214	Environmental Effects in the United States of DoD Actions.	42 U.S.C. 4321 et seq, EO 11514 as amended by EO 11991.	To supplement the CFR Regulations (40 CFR 1500-1508).	No	June 15, 1979	Col C. O. Sadler, 695-0221.
32 CFR 286	Freedom of Information Act Program	5 U.S.C. 552, as amended.	To implement Pub. L. 93-502.	No	Sept. 26, 1977	Arthur Fajans, 697-1171.
32 CFR 294	Obtaining Information from Financial Institutions; Rights to Financial Privacy Act of 1978.	92 Stat. 3697, et seq, 12 U.S.C. 3401, et seq.	To implement 12 U.S.C. 3401, Pub. L. 95-630.	No	May 10, 1979	LTC Aurelia Nepa, Jr., 694-3027.

CFR No.	Description of regulation	DoD directive/ instruction No.	Reason regulations selected	Regulatory analysis— Yes/No	Contact officer
32 CFR 164	Contract Cost Performance, Funds Status and Cost/Schedule Status Reports.	7000.10	Update	No	R. Kemps, 695-5166.
32 CFR 196	Work Breakdown Structures for Defense Materiel Items.	5010.20	Update	No	E. Ahearn, 697-7266.
32 CFR 209	Use of the metric System of Measurement	4120.18	Update	No	H. Ellsworth, 695-7915.
32 CFR 211	Department of Defense Foreign Tax Relief Program	5100.64	Update	No	B. Forman, 697-8343.
32 CFR 230	Credit Unions Serving DoD Personnel	1000.10	Update	No	B. Moyer, 697-8281.
32 CFR 231	Banking Offices in DoD Installations	1000.11	Update	No	B. Moyer, 697-8281.
32 CFR 237	Community Relations	5410.18	Update	No	LTC H. Jenkins, 695-2709.
32 CFR 239	Administration and Operations of the Homeowners Assistance Program.	4165.50	Update	No	J. Rollence, 695-7957.
32 CFR 244	Honorary Awards to Private Citizens and Organizations.	1432.2	Update	No	D. Green, 695-2439.
32 CFR 300	Nondiscrimination in Federally Assisted Programs	5500.11	Update	No	C. Haughten, 695-0105.

Department of the Army—Semiannual Agenda

Action:

Publication of the Department of the Army second semiannual agenda of significant regulations as required under EO 12044 and implemented under the DoD plan for Improving Government Regulations.

Summary:

The Department of the Army agenda of significant regulations is unique among the service departments in that it encompasses regulations supporting the two primary missions assigned to the Army. It contains those selected for review or development which support the National Defense mission and also those of a significant nature that support the Army's Civil Works mission. The regulations which support the Defense mission are primarily service oriented and do not impact upon the public directly whereas the Civil Works regulations more nearly meet the criteria established under the EO in a manner similar to other Federal Regulatory agencies. In keeping with the spirit and intent of the EO, all Army regulations regardless of mission orientation are being subjected to the DoD regulatory review program as outlined under the Defense Department plan for implementing EO 12044. This agenda therefore contains an additional section containing a regulatory review of the Army's Civil Works regulations. The Department of the Army has also initiated several other administrative and regulatory improvement programs which are in-house in nature but which support the objectives and goals of the EO. These additional improvement actions have been integrated into the Defense Department's total regulatory improvement program.

For Further Information Contact:

For specific information concerning the Department of the Army agenda, contact Mr. Jerome B. Hudson, telephone 202–697–6900 or write, Office of the Administrative Assistant, OASA, Pentagon, Washington D.C., 20301.

Department of the Army—Semi-Annual Agenda

[Period: Nov. 30, 1978–May 31, 1979]

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978)

CFR No.	Title	Public comments and consideration	Final status
32 CFR 513	Assistance of Creditor by DA	Revision has not been published	Estimated publication date: August 1979 Amendment to CFR will be submitted after publication of DoD Directive 1344.9
32 CFR 542	Schools and Colleges	One comment received in response to Proposed Rule in 43 FR 58832, Dec. 18, 1978, questioned the feasibility of removing the eligibility requirements for schools or for individual ROTC applicants, considered and will be incorporated in Final Rule.	Final rule to be published in September 1979.
32 CFR 562	Reserve Officer's Training Corps	Proposed Rule published in 43 FR 59519, Dec. 21, 1978. One comment same as above.	Same as above.
32 CFR 552	Regulations Affecting Military Reservations		
32 CFR 552.16	Real Estate Claims Founded Upon Contract	No comments received in response to Proposed Rule in 44 FR 7183, Feb. 6, 1979.	Final Rule to be published in early May, 1979.
32 CFR 552.18	Administration—Post Commander	Public comments not considered necessary	Final Rule to be published in 44 FR 7948, Feb. 8, 1979.
32 CFR 552.30, 32 CFR 552.74	Acquisition of Real Property and Interests Therein	No comments received in response to Proposed Rule in 43 FR 59328, Dec. 19, 1978.	Final Rule to be Published May 1979
32 CFR 564, 32 CFR 564.37, 32 CFR 564.38.	National Guard Regulations on Medical Care	Public comments not considered necessary	Final Rule published in 44 FR 16385, May 19, 1979.
32 CFR 564.41	Burial	Same as 32 CFR 564	Final Rule published in 44 FR 18489, Mar. 28, 1979.
32 CFR 571	Recruiting and Enlistments	Same as 32 CFR 564	Final Rule published in 44 FR 9745, Feb. 15, 1979.
32 CFR 574	U.S. Soldiers' and Airmen's Home	Same as 32 CFR 564	Final Rule published in 44 FR 10981, Feb. 26, 1979.
32 CFR 575	Admission to the U.S. Military Academy	Same as 32 CFR 564	Final Rule published in 44 FR 11781, May 2, 1979.

Part IA.—Existing Regulations Selected for Review

CFR No.	Description of regulation	Reasons regulation selected	Regulatory analysis—Yes/No
32 CFR 503	Apprehension and Restraint	To update CFR on DA policy of cooperation in civil criminal justice matters and provide inforamtion on procedures established to support the furtherance of the proper administration of criminal justice.	No
32 CFR 534	Military Court Fees	To update regulation and provide the public latest information on fees payable to persons that may be required to appear before any court in the U.S.	No
32 CFR 536	Claims Against the United States	To update CFR which contains information concerning the filing and settlement of Army generated non-contractural claims.	No
32 CFR 536	Military Absentee and Deserter Apprehension Program.	To update regulation and provide procedures for liaison between military and civil law enforcement authorities for the return of military absentees and deserters to military control.	No
32 CFR 552	Real Estate—Annexation	To update policies and procedures	No
32 CFR 552	State and Local Taxation of Leasee's Interest in Wherry Act Housing.	To update policies and procedures	No
32 CFR 657	Facilities Engineering Pest Control Services	Interaction with the public	No
32 CFR 579	Standard of Conduct for DA Personnel	32 CFR 579 duplicates information published in 32 CFR 40. Therefore, we propose to delete 32 CFR 579.	No
32 CFR 581	Physical Evaluation for Retention, Retirement or Separation.	Regulation is being rewritten. It prescribes procedures for appeal to the DA Disability Review Board.	No

Part II.—Regulations Under Development or Planned

CFR No.	Description of Regulation	Legal basis	Purpose	Regulatory analysis—Yes/No	Comment date (minimum 60 days)
32 CFR 504	AR 190-xx, Obtaining Information from Financial Institutions. Proposed regulation prescribes Department of the Army policy, procedures, and restrictions governing access to an individual's financial records from a financial institution during the conduct of Army investigations or inquiries.	12 U.S.C. 3401 (Right to Financial Privacy Act of 1978.	Informs the public of Army procedures for obtaining access to financial records of public rights under the law, and of actions that must be taken to pervent unauthorized disclosure of financial records. Advises institutions of Army procedures which comply with the Law.	No	Unknown at this time.

Part III.—Regulations Requiring Regulatory Analysis

The Department of the Army has no regulations under review or being developed which would require a regulatory analysis in accordance with the criteria established under EO 12044 and DoD plan for Improving Government Regulations.

Part IV.—Civil Works Regulations Under Review or Development

CFR No.	Title	Public comments and consideration	Final status
33 CFR 328	Harbour Lines	Has been reviewed and no changes are required	Regulations should dropped from agenda.
33 CFR 329	Definition of Navigable Waters of the United States.	Has been reviewed and no changes are required	Regulations should dropped from agenda.
36 CFR 327 (EC-1130-2-159)	Rules and Regulations Governing Public Use of Water Resources Development Projects administered by the Chief of Engineers.	Draft regulations were published in 43 FR 28 on Feb. 9, 1978. Six responses were received (1-Fed agency and 5-private citizens) during the 90 day comment period. Comments were adopted as appropriate.	Final rule was published on Mar. 8, 1979. Regulation should be dropped from agenda.
36 CFR 327 (ER-1130-2-411)	Regulations of Seaplane Operations at CW Water Resources Development Projects.	Regulation has been reviewed and no changes are required.	Regulation should be dropped from agenda.
33 CFR 321	Permits for Dams and Dikes in Navigable Waters of the United States.	These regulations are a "set" concerning the Army permit process for civil construction projects. New draft regulations are being staffed prior to being released for public comment. Meetings with Federal agencies will be held prior to publication for publication for public comment.	Final rules to be published in September 1979.
33 CFR 322	Permits for Structures of Work in or Affecting Navigable Waters of the United States.	Same as 33 CFR 321	Same as 33 CFR 321.
33 CFR 323	Permits for Discharges of Dredged or Fill Material into Waters of the United States.	Same as 33 CFR 321	Same as 33 CFR 321.
33 CFR 324	Permits for Ocean Dumping of Dredged Material	Same as 33 CFR 321	Same as 33 CFR 321.
33 CFR 325	Processing of Department of Army Permits	Same as 33 CFR 321	Same as 33 CFR 321.
33 CFR 326	Enforcement	Same as 33 CFR 321	Same as 33 CFR 321.
33 CFR 327	Public Heaings	Same as 33 CFR 321	Same as 33 CFR 321.

Part IV.—Regulations Requiring Regulatory Analysis

The Department of the Army has no regulations under review or being developed which would require a regulatory analysis in accordance with the criteria established under EO 12044 and the DoD plan for Improving Government Regulations.

DEPARTMENT OF THE NAVY SEMIANNUAL AGENDA

Action:

Publication of the Department of the Navy second semiannual agenda of significant regulations as required under EO 12044 and implemented under the DoD plan for Improving Government Regulations.

Summary:

The Department of the Navy published its first regulatory review agenda in November of 1978. Since Navy regulations are primarily directed toward supporting the Navy mission and its people, they do not normally impact upon the public directly. Therefore, agenda regulatory reviews will contain regulations which are primarily "in-house" in nature and not under the criteria expressed in EO 12044 or the DoD plan. In keeping with the spirit and intent of the EO, the Navy agenda will continue to publish regulations that may be of interest to the general public and provide an opportunity for public comment. The Navy Department has promulgated several other regulatory reform programs covering the full spectum of administrative requirements. It encompasses not only regulations, but directives, manuals, reports and information notices. Stringent control requirements must now be met with a view toward more effective management of the entire regulatory process. The goals and objectives of EO 12044 and the DoD plan for Improving Government Regulations are being actively pursued throughout the Department with the semiannual agenda being but one vehicle in the total reform process.

For Further Information Contact:

For further information concerning the agenda or the U.S. Navy regulatory reform program, contact Ms. Alcinda Wenberg, telephone 202-695-1921, or write to Department of the Navy, Chief of Naval Operations, OP-09B15, Pentagon, Washington D.C. 20350.

Department of the Navy—Semiannual Agenda

[Period Nov. 30, 1978-May 31, 1979]

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978)

CFR No.	Title	*Public comments and consideration	Status	Contact officer
32 Part 705	Public Affairs Regulations	Published as final rule	Revision appeared in the FEDERAL REGISTER on Feb. 1, 1979.	LT R. Morse, OI, Tel. 697-7371.

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978) —Continued

CFR No.	Title	*Public comments and consideration	Status	Contact officer
32 Part 714	Officer Personnel	To be published as final rule	Recommendation for delegation has been submitted to the Office of the Federal Register.	Mr. Minick, NMPC/Pers 14E, Tel. 694-3613. Capt. Meenach, HQSP, Tel. 694-3613.
32 Part 715	Support of Dependents and Paternity Complaints.	To be published as final rule	Review and revision expected to be completed by May 11, 1979.	Mr. Minick, NMPC/Pers 14E, Tel. 694-3613.
32 Part 716	Death gratuity	To be published as final rule	Revision has been submitted to the Office of the Federal Register.	Mr. Minick, NMPC/Pers 14E Tel. 694-3613. Capt. Meenach, HQSP, Tel. 694-3613.
32 Part 718	Missing Person Act	Published as final rule	Revision appeared in the FEDERAL REGISTER on Apr. 16, 1979.	Mr. Minick, NMPC/Pers 14E, Tel. 694-3613. Capt. Meenach, HQSP, Tel. 694-3613.
32 Part 725	Disposition of Cases	To be published as final rule	Under revision due to change in basic requirements. Minimum of 6 mos. for completion.	LCDR M. W. Kirkpatrick, NCPB, Tel. 696-4366.
32 Part 729	Navy and Marine Corps Military Personnel Security Program.	To be published as final rule	Revision has been submitted to the Office of the FEDERAL REGISTER.	Mr. Minick, NMPC/Pers 14E, Tel. 694-3613.
32 Part 730	Administrative Discharges and Related Matters Concerning Separations from the Naval Service.	To be published as final rule	Revision has been submitted to the Navy Judge Advocate General Processing and forwarding to the Office of the FEDERAL REGISTER.	Mr. Minick, NMPC/Pers 14E, Tel. 694-3613.
32 Part 744	Policies and Procedure for the Protection of Proprietary Rights in Technical Information Proposed for Release to Foreign Governments.	To be published as final rule	Revision will be submitted to the Office of the Federal Register by May 8, 1979.	Mrs. A. Wenberg, OPNAV, Tel. 697-2338.
32 Part 751	Personnel Claims	Published as final rule	Revision appeared in the FEDERAL REGISTER on June 13, 1978.	CDR Walsh, NJAG, Tel. 694-3555.

*No public comments received.

Part II.—Regulation Under Development

CFR No.	Title	Reason for review	Legal basis	Regulatory analysis	Closeout comment date	Contact officer
32 Part 724	Naval Discharge Review Board Manual	Revision required by recent DOD Directive 1332.28.	DOD Directive 1332.28.	None required, no sufficient economic or public impact.	None; to be published as a final rule.	LCDR Kirkpatrick, NCPB, Tel. 696-4366.

Part III.—Regulations Requiring Regulatory Analysis

The Department of the Navy has no regulations previously reviewed or under development this period requiring regulatory analysis.

For Further Information Contact:

For further information concerning the agenda or the USAF regulatory reform program, contact Ms Carol M. Rose, telephone 202-697-1861 or write, Department of the Air Force, AS/DASJR, Pentagon, Washington, DC 20330.

Department of the Air Force—Semiannual Agenda

Action:

Publication of the Department of the Air Force second semiannual agenda of significant regulations as required under EO 12044 and implemented under the DoD plan for Improving Government Regulations.

Summary:

In November of 1978, the Air Force published its first semiannual agenda of significant regulations. Most regulations under review or development within the Department are mission or service oriented and do not impact upon the public as defined under the EO. Therefore, the November agenda contained all regulations under review or development of a significant nature and within the scope and intent of the EO as applicable to the Department of the Air Force. The regulatory review and improvement process is continued within this second agenda and provides to the public an insight as to the reform currently underway within the Air Force. In addition to this agenda, several regulatory reforms have been initiated in the continuing effort to improve Air Force directives and regulations within the spirit of and scope of EO 12044 and the DoD plan for Improving Government Regulations.

Department of the Air Force—Semiannual Agenda

[Period Nov. 30, 1978–May 31, 1979]

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978)

CFR #	Title/description	Final status
32 CFR 806	Air Force Freedom of Information Act Program	The revision has been fully coordinated. Estimated date for publication of this regulation is June 1979.
32 CFR 806b	Air Force Privacy Act Program	Regulation was published for public comment on Feb. 5, 1979 (44 FR 6944). Estimated date for publication as final rule is April 1979.
32 CFR 813	Schedule of Fees for copying, Certifying and Searching Records and Other Documentary Material.	The revision has been fully coordinated. Estimated date for publication of this regulation is June 1979.
32 CFR 818a	Personnel Commercial Affairs	Regulation was published in FEDERAL REGISTER on Dec. 12, 1978 (43 FR 58087).

Part I.—Status of Regulations Previously Reviewed (Agenda Nov. 30, 1978) —Continued

32 CFR 825a	Gifts to the Department of the Air Force	Regulation was published in FEDERAL REGISTER on Apr. 6, 1979 (44 FR 20681).
32 CFR 835	Support of Non-Governmental Test and Evaluation	Regulation was published in FEDERAL REGISTER on May 23, 1978 (43 FR 22030).
32 CFR 837	Support of Non-Government Organizations	Regulation was published in FEDERAL REGISTER Aug. 10, 1978 (43 FR 35477).
32 CFR 920	Standards of Conduct	Estimated date of Publication in FEDERAL REGISTER May 1979.

NOTE.—No public comments were received on any of the above regulations.

Part II.—Regulations Under Development or Review

CFR #	Title	Purpose	Legal basis	Regulatory analysis	Contact person
32 CFR (Part # has not been assigned).	Air Force Technical Order System	To establish and explain the AF TO system	10 U.S.C. 8012.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.
32 CFR (Part # has not been assigned).	Environmental Impact Analysis Process	This regu'ation, which is a complete revision of the existing regulation, implements the Council on Environmental Quality regulations and DOD 6050.1, Environmental Considerations in DOD Actions. All Federal Agencies must have implementing regulations in effect by July 30, 1979..	42 U.S.C. 4321/4347.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.
32 CFR 901	Appointment to the U.S. Air Force Academy	This regulation explains the methods of application requirement and procedures for appointment of young men and women to the U.S. Air Force Academy.	10 U.S.C. 903, 8012.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.
32 CFR 903	Air Force Academy Preparatory School	Explains how young men and women may apply for the Air Force Academy Preparatory School, when the school will be conducted, how the students are selected, and how they are reassigned.	10 U.S.C. 8012.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.
32 CFR 988	Weather Modification	This reg applies to USAF organizations engaged in or actively planning to engage in weather modification activities, whether carried out by employees, agents, or independent contractors.	10 U.S.C. 8012.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.
32 CFR 953	Violations of Public Trust in Contract, Procurement, and Other Matters.	Prescribes procedures for reporting and investigating violations or suspected violations of public trust—in AF contract, procurement, and other matters—and Air Force standards of conduct.	10 U.S.C. 8012.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.
32 CFR 865	Personnel Review Boards	Establishes policies for the review of discharges and dismissal under DOD 1332.82, and explains the jurisdiction, authority, and actions of the AF Discharge Review Board.	10- U.S.C. 1552, 8012.	A regulatory analysis will not be required.	Carol M. Rose, AS/DASJR, 697-1861.

Part III.—Regulations Requiring Regulatory Analysis

The Department of the Air Force has no regulations under review or being developed which would require a regulatory analysis in accordance with the criteria established under EO 12044 and the DOD plan for Improving Government Regulations.

[FR Doc. 79-16767 Filed 5-29-79; 8:45 am]

BILLING CODE 3810-70-M

federal register

Wednesday
May 30, 1979

Part VII

Department of the Interior

Bureau of Indian Affairs

Election of Interim Yurok Governing Committee; Procedures for Conduct of Election and Duties of Interim Committee

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

[25 CFR Part 55a]

Election of Interim Yurok Governing Committee; Procedures for Conduct of Election and Duties of Interim Committee

AGENCY: Department of the Interior.

ACTION: Proposed rule.

SUMMARY: The Department of the Interior proposes to add a new part to its regulations in order to establish rules and procedures for the conduct of an election of an interim Yurok tribal governing committee, and to indicate the duties and responsibilities of this committee. This action is in accord with the November 20, 1978, message of the Assistant Secretary—Indian Affairs to the Hoopa Valley and Yurok people, and is intended as one of the first steps leading to participation by the Yurok Tribe in the management of the Hoopa Valley Indian Reservation. It follows the final publication on April 25, 1979, of regulations setting out voter's qualifications and establishing procedures for preparation of a Yurok voting list.

DATES: Comments must be received on or before June 29, 1979.

ADDRESSES: Written comments may be directed to: Director, Office of Indian Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, (202–343–2111)

FOR FURTHER INFORMATION CONTACT:

Theodore C. Kremzke, Director, Office of Indian Services, Bureau of Indian Affairs, 1951 Constitution Avenue, N.W., Washington, D.C. 20245, (202–343–2111)

William Finale, Area Director, Bureau of Indian Affairs, 2800 Cottage Way, Sacramento, California 95825 (916–484–4682)

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated by the Secretary of the Interior to the Assistant Secretary—Indian Affairs by 209 DM 8.

On November 20, 1978, the Assistant Secretary-Indian Affairs stated in a message to the Hoopa Valley and Yurok people of the Hoopa Valley Indian Reservation that a single reservation exists in which the Hoopa Valley and Uyrok Indian Tribes have an interest. It was also indicated in that message that it was his intent to provide both tribes the opportunity, within the policy of Indian self-determination, to participate in the management of the reservation. However, it was pointed out that while the Hoopa Valley Tribe was organized, the Yurok Tribe was not and that it was, therefore, not possible for the Yurok Tribe to participate in the management of the reservation until they had a functioning tribal governing body. The message stated further that the Assistant Secretary-Indian Affairs would take certain steps to provide the Yurok Tribe the opportunity to organize a tribal government. The initial step is the conduct of an election for an interim tribal governing committee.

In order to have an election for such a committee, it was first necessary to establish the eligibility criteria for voting and procedures for preparing a list of the voters. This was accomplished by publication of final regulations in the **Federal Register** on April 25, 1979 (44 F.R. 24536).

The next step is the election itself. To accomplish that action, this publication proposes the establishment of procedures for nominating candidates for the interim Yurok tribal governing committee and for the actual conduct of the election. It also addresses the size of the interim committee and defines its duties, responsibilities and tenure.

During the course of establishing the criteria for voting, considerable comment was received, both in writing and in the four meetings held on or near the reservation, that the efforts to organize the Yurok Tribe should be abandoned until the U.S. Court of Claims disposes of the remaining issues in *Short* v. *United States*, No. 102–63. The reason given most often for this recommendation was the belief this action would usurp the Court of Claim's role in the *Short* case. Some also felt the Development would grant rights in the reservation to undeserving persons by allowing a broad spectrum of individuals with claims of interest in the reservation to vote for an interim governing committee.

In the April 25, 1979, final publication on voting criteria, it was clearly indicated in the commentary that this proposed action of assisting the Yurok Tribe to organize is separate from the *Short* case and will not usurp the power of the court. Neither is it determinative of who might eventually be eligible to participate in the distribution of income from the assets of the reservation.

The Department is, furthermore, deeply concerned that if the Yuroks do not organize they will continue to be deprived of numerous benefits which go far beyond the assets and issues before the court and are available only through an organized tribal government. These include, but are not limited to, participation with the Hoopa Valley Tribe in the management of reservation resources; rehabilitation of reservation lands and fish and game environments; tribal development of improved housing; economic development; protection of children; certain educational benefits; and benefits to the tribe from a number of other Federal programs. Neither are the Yuroks able to exercise their inherent sovereignty and jurisdiction, including determination of membership.

Consequently, the Department intends to proceed with its plans to provide an opportunity whereby the Yurok Tribe may take the first steps toward creating a tribal governing body.

Additionally, it is noted that several comments were made at the recent meetings that any tribal organization should be set up in such a way that voting for representatives on any governing body should be by district, similar to the way the Hoopa Valley Tribe holds its elections. This is an excellent way to elect representatives when there is enough information available to allow equal apportionment of the districts. It is possible that such a concept could be included in the proposed tribal constitution to be developed by the interim governing committee. Because of the scattered location of the Yurok voters it would be extremely difficult to establish representative districts at this time that would comply with the one person, one vote concept. Accordingly, for the purpose of electing an interim government, it is more appropriate for all tribal officials to be elected on an at-large basis. It is proposed that both the nomination and election be conducted by mail rather than by the use of polling places.

The Department of the Interior has determined that this document is not a significant rule and does not require a regulatory analysis under Executive Order 12044 and 43 CFR Part 14.

The Department has also determined that these proposed regulations are not a major Federal action within the scope of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(c).

The primary authors of this document are Theodore C. Krenzke, Director, Office of Indian Services, Bureau of Indian Affairs, Department of the Interior, Washington, D.C. (202–343–2111), and Robert M. Farring, Tribal Relations Specialist, Bureau of Indian Affairs, Washington, D.C. 20245 (202–343–4045).

Therefore, it is proposed to amend Subchapter G of Chapter 1 of Title 25 of the Code of Federal Regulations by the addition of a new part to read as follows:

PART 55a—ELECTION OF INTERIM YUROK GOVERNING COMMITTEE—PROCEDURES FOR CONDUCT OF ELECTION AND DUTIES OF INTERIM COMMITTEE

Sec.

55a.1 Definitions.
55a.2 Purpose.
55a.3 Nomination of Candidates.
55a.4 Conduct of the Election.
55a.5 Election Protests.
55a.6 First Meeting of Interim Committee.
55a.7 Removal from Office.
55a.8 Vacancies.
55a.9 Duties and Responsibilities of Committee.
55a.10 Tenure.

(5 U.S.C. § 301, R.S. § 463 and 465, 43 U.S.C. § 1457, 25 U.S.C. § 2 and 9, and Reorganization Plan No. 3 of 1950 (64 Stat. 1262).

§ 55a.1 Definitions.

As used in this part:

(a) "Voters" means those persons who are at least 18 years of age and who otherwise meet the qualifications set forth in 25 CFR 55.3. Such individuals are eligible to participate in the nonimation and election of an interim Yurok tribal governing committee.

(b) "Petition" means the form prepared by the Sacramento Area Director to be used by the voters to nominate candidates for the interim Yurok tribal governing committee.

(c) "Petition Filing Deadline" means the thirtieth day following the date these regulations become effective.

(d) "Candidate" means a person who receives at least 15 valid signatures on a nominating petition to cause his or her name to be placed on a ballot for election to the committee.

(e) "Interim Yurok Tribal Governing Committee" means an eight-member committee of persons nominated from and by the voters and elected by the voters to serve as the temporary governing body of the Yurok Tribe, with those duties and powers described in this part.

(f) "Election Date" means the deadline established by the Area Director for receipt of ballots.

(g) "Area Director" means the Area Director, Bureau of Indian Affairs, Sacramento Office, or his authorized representative.

(h) "Superintendent" means the officer in charge of the Hoopa Agency, Bureau of Indian Affairs or his authorized representative.

§ 55a.2 Purpose.

The purpose of these regulations is to establish procedures for conducting an election to choose an interim Yurok tribal governing committee and to outline its duties, powers and tenure, once it is elected.

§ 55a.3 Nomination of Candidates.

(a) The Area Director shall prepare a petition form to be used by the voters of the Yurok Tribe to nominate candidates to be placed on the ballot. Each petition must be signed by at least 15 persons whose names appear on the voters list mentioned in 25 CFR 55.6.

(b) All nominating petitions shall be received by the Area Director no later than the petition filing deadline. Nominating petitions received after that date by the Area Director will not be counted.

§ 55a.4 Conduct of the Election.

(a) The Area Director shall cause ballots to be prepared listing those candidates whose nominating petitions are determined to be valid. The Area Director shall mail ballots to those on the voters list for whom addresses are known. Ballots shall also be mailed to any others on the voters list who furnish the Area Director with their current address. Ballots shall be sent and received only through the U.S. Postal Service.

(b) Each voter wishing to vote, shall mark the ballot provided and mail it to the *Sacremento Area Director*. Ballots received after the election date shall not be counted.

(c) The Area Director shall then cause the opening of the ballots, counting the votes, posting the results and the issuing of an election certificate.

(d) Each candidate, or a representative he or she chooses, shall have the right to be present to observe the counting of the ballots. The eight candidates receiving the highest number of votes cast will be certified as constituting the interim Yurok tribal governing committee. Tie votes shall be decided by the flip of a coin.

§ 55a.5 Election Protests.

(a) Any person whose name appears on the Yurok voters list may protest the manner in which the election was conducted by filing a written statement to be received by the Sacremento Area Director within five days following the date the election results are certified. The Area Director shall review all protests and promptly respond to each one in writing.

(b) Any person whose protest is denied may appeal the Area Director's denial directly to the Commissioner of Indian Affairs, who shall decide the protest finally for the Department and take whatever action, if any, is appropriate.

(c) In order to be considered, any appeal of the Area Director's decision must be in writing, state the complete basis for the appeal, and be received by the Commissioner within 7 days of receipt of the Area Director's decision.

§ 55a.6 First Meeting of Interim Committee.

As soon as possible following the protest period, the Superintendent shall call and conduct a meeting of the successful candidates to swear them into office. At that session, the committee shall be given the opportunity to achieve its internal organization by electing from its own number, a chairman, vice chairman, secretary and such other officers deemed necessary.

§ 55a.7 Removal from Office.

A committee member may be removed from office for cause by six committee members voting in favor of removal after the accused has been given at least 10 days written notice of the charges and an opportunity to respond to the charges by facing his or her accusers at a meeting held for that purpose.

§ 55a.8 Vacancies.

Vacancies resulting from removal, death or resignation shall be filled by the person who received the next highest number of votes after the first eight in the election of the interim committee. Such person shall serve for the remainder of that term of office unless earlier removed.

§ 55a.9 Duties and Responsibilities of Committee.

The interim Yurok tribal governing committee shall have only the following duties, responsibilities and powers:

(a) To draft a proposed constitution as top priority to be presented to the Secretary of the Interior within one year following the initial election of the interim governing committee. If such proposal can be approved by the Secretary, he shall authorize an election to permit the Yurok voters to adopt or reject the proposed governing document.

(b) To enter into contracts and grants with the Bureau of Indian Affairs under the authority of P.L. 93–638.

(c) To confirm judicial appointments in accordance with 25 CFR § 11.3.

(d) To adopt such procedural rules as may be required for the orderly conduct of business.

(e) To exercise such other duties and powers as the Secretary may from time to time delegate it.

§ 55a.10 Tenure.

The committee members shall remain in office until their successors are duly elected under the terms of a constitution that has been adopted by the Yurok voters and approved by the Secretary of the Interior, but in no event shall they remain in office longer than two years from the date of the interim committee's election.

May 23, 1979.

Forrest J. Gerard,

Assistant Secretary—Indian Affairs.

[FR Doc. 79-16806 Filed 5-29-79; 8:45 am]

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AGENCY PUBLICATION ON ASSIGNED DAYS OF THE WEEK

The following agencies have agreed to publish all documents on two assigned days of the week (Monday/Thursday or Tuesday/Friday). This is a voluntary program. (See OFR NOTICE FR 32914, August 6, 1976.)

Monday	Tuesday	Wednesday	Thursday	Friday
DOT/COAST GUARD	USDA/ASCS		DOT/COAST GUARD	USDA/ASCS
DOT/NHTSA	USDA/APHIS		DOT/NHTSA	USDA/APHIS
DOT/FAA	USDA/FNS		DOT/FAA	USDA/FNS
DOT/OHMO	USDA/FSQS		DOT/OHMO	USDA/FSQS
DOT/OPSO	USDA/REA		DOT/OPSO	USDA/REA
CSA	MSPB*/OPM*		CSA	MSPB*/OPM*
	LABOR			LABOR
	HEW/FDA			HEW/FDA

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

Comments on this program are still invited. Comments should be submitted to the Day-of-the-Week Program Coordinator, Office of the Federal Register, National Archives and Records Service, General Services Administration, Washington, D.C. 20408

***NOTE: As of January 1, 1979, the Merit Systems Protection Board (MSPB) and the Office of Personnel Management (OPM) will publish on the Tuesday/Friday schedule. (MSPB and OPM are successor agencies to the Civil Service Commission.)**

REMINDERS

The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance. Since this list is intended as a reminder, it does not include effective dates that occur within 14 days of publication.

Rules Going Into Effect Today

ENVIRONMENTAL PROTECTION AGENCY

25222 4–30–79 / Approval of revision of District of Columbia air quality implementation plan

25223 4–30–79 / Establishment of dissolved oxygen criterion for all water uses recognized by State of Mississippi

FEDERAL DEPOSIT INSURANCE CORPORATION

25194 4–30–79 / Requirements for establishing and operating foreign branches and for acquiring and holding ownership interests in foreign entities

NUCLEAR REGULATORY COMMISSION

29037 5–18–79/Interior fuel cycle rule, extension

Next Week's Deadlines for Comments On Proposed Rules

AGRICULTURE DEPARTMENT

Agricultural Marketing Service—

27424 5–10–79 / Limes grown in Florida and imported limes; comments by 6–4–79

Animal and Plant Health Inspection Service—

19423 4–3–79 / Importation of birds; approval of additional quarantine facility; comments by 6–4–79

28382 5–15–79 / Proposal to amend Japanese beetle program manual; comments by 6–4–79

Commodity Credit Corporation—

20164 4–4–79 / CCC intermediate credit export sales program for breeding animals (GSM–201); comments by 6–4–79

19411 4–3–79 / Grain and similiarly handled commodities; standards for approval of warehouses for grains, rice, dry edible beans and seed, comments by 6–4–79

19413 4–3–79 / Processed agricultural commodities; standards for approval of dry and cold storage warehouses, comments by 6–4–79

19416 4–3–79 / Standards for approval of warehouses for cotton or cotton linters; comments by 6–4–79

Farmers Home Administration—

20629 4–6–79 / Rural rental housing loan policies, procedures and authorizations; comments by 6–5–79

19419 4–3–79 / Rural housing loans and grants; comments by 6–4–79

Federal Crop Insurance Corporation—

27119 5–9–79 / Sugar beet crop insurance; comments by 6–8–79

27113 5–9–79 / Sugarcane crop insuance; comments by 6–8–79

CIVIL AERONAUTICS BOARD

20717 4–6–79 / Terminations, suspensions, and reductions of service; comments by 6–8–79

COMMERCE DEPARTMENT

Economic Development Administration—

29134 5–18–79 / Agency implementation of EO 11988 and 11990; comment period extended to 6–7–79 [Originally published at 44 FR 20471, 4–5–79]

19427 4–3–79 / Financial Assistance; designation of areas; comments by 6–4–79

National Oceanic and Atmospheric Administration—

28372 5–15–79 / Atlantic Bluefin tuna; comments by 6–4–79

25891 5–3–79 / Interim Guidelines for Development of Fishery Management Plans; Extension of comment period; comments by 6–4–79

ENERGY DEPARTMENT

20594 4–5–79 / Cooperative agreements; comments by 6–4–79

Economic Regulatory Administration—

27676 5–11–79 / Natural gas curtailment priority regulations, administrative procedures for adjustment; comments by 6–8–79

21651 4–11–79 / Unleaded gasoline price rules amendment; comments by 6–8–79

ENVIRONMENTAL PROTECTION AGENCY

27184 5–9–79 / Approval and promulgation of implementation plans; Georgia, proposed 1979 plan revisions; comments by 6–8–79

26767 5–7–79 / Approval of administrative order issued by Maine Board of Environmental Protection to Georgia Pacific Corp; comments by 6–6–79

27187 5-9-79 / Approval and promulgation of State implementation plans, Montana; comments by 6-8-79

27189 5-9-79 / Approval and promulgation of State plans for designated facilities and pollutants; Negative declarations; comments by 6-8-79

26767, 26768 5-7-79 / Approval of delayed compliance order issued by Wyoming Department of Environmental Quality to CF&I Steel Corp. and to United States Steel Corp.; comments by 6-6-79

26926 5-8-79 / Burning of higher sulfur fuel in central Massachusetts Air Pollution Control District; comments by 6-7-79

27188 5-9-79 / Commonwealth of Pennsylvania; State implementation plan; comments by 6-8-79

26750 5-7-79 / Feed and food additive tolerances for 4-amino-6-(1, 1-dimethylethyl)-3-(methylthio)-1,2,4-triazin-5 (4H)-one; comments by 6-6-79

26765 5-7-79 / Illinois air quality implementation plan; approval of administrative order issued by Illinois Pollution Control Board to Commonwealth Edison Co.; comments by 6-6-79

26928 5-8-79 / Proposed approval of administrative order issued by Ohio Environmental Protection Agency to Capitol University; comments by 6-7-79

26942 5-8-79 / Proposed approval of Administrative Order issued by Ohio Environmental Protection Agency to Lincoln Electric Co.; comments by 6-7-79

26940 5-8-79 / Proposed approval of Administrative Order issued by Ohio Environmental Protection Agency to Central Soya Co., Inc.; comments by 6-7-79

26939 5-8-79 / Proposed approval of Administrative Order issued by Ohio Environmental Agency to Lincoln Electric Co.; comments by 6-7-79

26937 5-8-79 / Proposed delayed compliance order for United Service Co.; comments by 6-7-79

26936 5-8-79 / Proposed delayed compliance order for Mannington Mills, Inc.; comments by 6-7-79

26932 5-8-79 / Proposed delayed compliance order for Gulf and Western Industries, Inc., Natural Resources Group; comments by 6-7-79

26929 5-8-79 / Proposed delayed compliance order for the City of White Plains, N.Y.; comments by 6-7-79

26931 5-8-79 / Proposed delayed compliance order for Wright-Patterson Air Force Base; comments by 6-7-79

FEDERAL COMMUNICATION COMMISSION

22763 4-17-79 / FM broadcast station, proposed changes in table of assignments; Incline Village, Nev.; comments by 6-6-79

22133 4-13-79 / FM broadcast stations in Ponce, Puerto Rico and Charlotte Amalie, Virgin Islands; comments by 6-4-79

22762 4-17-79 / Television broadcast station, proposed changes in table of assignments; Joplin, Mont.; comments by 6-6-79

FEDERAL HOME LOAN BANK BOARD

26892 5-8-79 / Mobile home loans; amendments making loans more available and affordable to consumers; comments by 6-8-79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Food and Drug Administration—

19430 4-3-79 / Acetic acid, ammonium acetate, sodium acetate, and sodium diacetate; proposed GRAS status; comments by 6-4-79

19434 4-3-79 / Adverse drug experience reporting requirements for marketed drug products; comments by 6-4-79

19894 4-3-79 / Classification of obstetrical and gynecological devices; comments by 6-4-79

13041 3-9-79 / Establishment of conditions for the safety, effectiveness, and labeling of over-the-counter drugs; comments by 6-7-79

26071 5-4-79 / Sterile Tobramycin Sulfate, certification; comments by 6-4-79

Health Care Financing Administration—

20722 4-6-79 / Medical assistance program; medicaid management information systems; comments by 6-5-79

20724 4-6-79 / Redesignation of professional standards review organization areas in North Carolina; comments by 6-5-79

Social Security Administration—

20176 4-4-79 / Federal old-age, survivors, and disability insurance supplemental security income for the aged, blind, and disabled; comments by 6-4-79

HOUSING AND URBAN DEVELOPMENT DEPARTMENT

Federal Disaster Assistance Administration—

21216 4-9-79 / Federal disaster assistance; hazard mitigation; comments by 6-8-79

Office of Assistant Secretary for Housing—Federal Housing Commissioner—

19394 4-3-79 / HUD Building Products Certification Programs; administrator qualifications and procedures; comments by 6-4-79

INTERIOR DEPARTMENT

Fish and Wildlife Service—

27190 5-9-79 / Reclassification of the American alligator; comments by 6-5-79

20228 4-4-79 / Seizure and forfeiture procedures; comments by 6-4-79

Land Management Bureau—

20724 4-6-79 / Wild free-roaming horse and burro protection, management, and control; comments by 6-5-79

MANAGEMENT AND BUDGET OFFICE

21051 4-9-79 / Federal acquisition regulation policy; comments by 6-5-79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

27161 5-9-79 / Policy on environmental quality and control; Procedures for implementing the National Environmental Policy Act (NEPA); comments by 6-8-79

NUCLEAR REGULATORY COMMISSION

20709 4-6-79 / Financial protection requirements and indemnity agreements for licensees; comments by 6-5-79

21023 4-9-79 / Human uses of byproduct material; change in license conditions for certain medical licenses; comments by 6-8-79

23089 4-18-79 / Rules of practice; comments by 6-4-79

PERSONNEL MANAGEMENT OFFICE

20699 4-6-79 / Civil Service reform; comments by 6-5-79

20696 4-6-79 / Part-time employment; comments by 6-5-79

TRANSPORTATION DEPARTMENT

Coast Guard—

28009 5-14-79 / Drawbridge operations provisions, Cerritos Channel, Calif.; comments by 6-8-79

18703 3-29-79 / Florida East Coast Railroad bridge across New River, Fla.; comments by 6-8-79

Federal Aviation Administration—

27434 5-10-79 / Designation of restricted area at Blanding, Utah; comments by 6-5-79

Materials Transportation Bureau—

27460 5-10-79 / Harmful characteristics of substances threatening public health and safety or property; comments period extended from 4-23-79 to 6-5-79

[Originally published at 44 FR 10767, Feb. 22, 1979]

National Highway Traffic Safety Administration—

12072 3–5–79 / Rims for motor vehicles other than passenger cars; safety standards; comments by 6–5–79

TREASURY DEPARTMENT

Alcohol, Tobacco, and Firearms Bureau—

14577 3–13–79 / Alcoholic beverages labeling and advertising; requirements for partial ingredients labeling; comments by 6–4–79

VETERANS ADMINISTRATION

26763 5–7–79 / Education benefits; approval of courses; comments by 6–6–79

26762 5–7–79 / Veterans benefits; proximate results, secondary conditions; comments by 6–6–79

Next Week's Meetings

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

29938 5–23–79 / Judicial Review Committee, Washington, D.C. (open), 6–6–79

29938 5–23–79 / Plenary Session, Washington, D.C. (open), 6–7 and 6–8–79

AGRICULTURE DEPARTMENT

Science and Education Administration—

25895 5–3–79 / Committee of Nine, Washington, D.C. (open), 6–6 and 6–7–79

ARTS AND HUMANITIES, NATIONAL FOUNDATION

25953 5–3–79 / Folk Arts Panel, Washington, D.C. (closed), 6–7–79

26815 5–7–79 / Humanities Panel, Washington, D.C. (closed), 6–4–79

28434 5–15–79 / Literature Advisory Panel, St. Louis, Mo. (partially open), 6–1 thru 6–3–79

CIVIL RIGHTS COMMISSION

29134 5–18–79 / Arizona Advisory Committee, Phoenix, Ariz. (open), 6–9–79

28394 5–15–79 / Delaware Advisory Committee, Wilmington, Del. (open), 6–5–79 (Amended at 44 FR 29941, 5–23–79)

28034 5–14–79 / District of Columbia Advisory Committee, Washington, D.C. (open), 6–5–79

26139 5–4–79 / Kentucky Advisory Committee, Louisville, Ky. (open), 6–5–79 (Originally published 44 FR 23900, 4–27–79)

24899 4–27–79 / Maine Advisory Committee, Portland, Me. (open), 6–7–79

24899 4–27–79 / Maine Advisory Committee, Portland, Me. (open), 6–8 and 6–9–79

29134 5–18–79 / Nebraska Advisory Committee, Lincoln, Nebr. (open), 6–7–79

25657 5–2–79 / New Mexico Advisory Committee, Albuquerque, N. Mex. (open), 6–7–79

27226 5–9–79 / New Mexico Advisory Committee, Albuqerque, N. Mex. (open), 6–6–79

COMMERCE DEPARTMENT

Industry and Trade Administration—

28835 5–17–79 / Management-Labor Textile Advisory Committee, Washington, D.C. (open), 6–5–79

28834 5–17–79 / Numerically Controlled Machine Tour Technical Advisory Committee, Washington, D.C. (partially closed), 6–5–79

26960 5–8–79 / Gulf of Mexico Fishery Management Council, New Orleans, La. (open), 6–5 through 6–7–79

25263 4–30–79 / Mid-Atlantic Fishery Management Council's Scientific and Statistical Committee, Philadelphia, Pa. (open), 6–4–79

29951 5–23–79 / Scientific adn Statistical Committee of the Western Pacific Fishery Management Council, Honolulu, Hi. (open), 6–6 and 6–7–79

DEFENSE DEPARTMENT

Air Force Department–

28701 5–16–79 / USAF Scientific Advisory Board, Kelly Air Force Base, Tex., 6–7 and 6–8–79

Army Department—

27706 5–11–79 / Armed Forces Institute of Pathology Scientific Advisory Board, Washington, D.C. (open) 6–7 and 6–8–79

27470 5–10–79 / Shoreline Erosion Advisory Panel, Geneva, Ohio (open) 6–5 and 6–6–79

Navy Department—

20243 4–4–79 / Board of Advisors to the President, Naval War College, Newport, R.I., 6–8–79

Office of the Secretary—

28837 5–17–79 / Defense Science Board Task Force on Naval Surface Ship Vulnerability, Washington, D.C. (closed), 6–5–79

25898 5–3–79 / DOD Advisory Group on Electron Devices; Advisory Committee Meeting, New York, New York (closed), 6–6–79

24335 4–25–79 / Department of Defense Wage Committee, Washington, D.C. (closed), 6–5–79

EMPLOYMENT AND UNEMPLOYMENT STATISTICS, NATIONAL COMMISSION

26982 5–8–79 / Meeting, Washington, D.C. (open), 6–7 and 6–8–79

ENERGY DEPARTMENT

Federal Energy Regulatory Commission—

29970 5–23–79 / Energy Research Advisory Board, Chicago, Ill. (open), 6–4—6–5–79

FEDERAL PREVAILING RATE ADVISORY COMMITTEE

29160 5–18–79 / Washington, D.C. (open), 6–7–79

FEDERAL RESERVE SYSTEM

29721 5–22–79 / Consumer Advisory Council, Washington, D.C. (open), 6–6 and 6–7–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Alcohol, Drug Abuse, and Mental Health Administration—

28726 5–16–79 / Alcohol Abuse Prevention Committee, Rockville, Md. (partially open), 6–4 and 6–5–79

27745 5–11–79 / Basic Behavioral Processes Research Review Committee, Washington, D.C. (partially open), 6–6 through 6–9–79

27745 5–11–79 / Basic Psychopharmacology and Neuropsychology Research Review Committee, Washington, D.C. (partially open), 6–7 and 6–8–79

28726 5–16–79 / Research Scientists Development Review Committee, Silver Springs, Md. (partially open), 6–6 through 6–9–79

Food and Drug Administration—

28413 5–15–79 / Antimicrobial Advisory Committee, Rockville, Md. (open), 6–8 and 6–9–79

Education Office—

29974 5–23–79 / Advisory Council on Developing Institutions, Washington, D.C. (open), 6–7—6–8–79

29974 5–23–79 / President's Commission on Foreign Language and International Studies, Washington, D.C. (open), 6–7—6–8–79

26166 5–4–79 / Consumer participation, Baltimore, Md. (open), 6–7–79

28419 5–15–79 / Consumers participation meeting, Los Angeles, Calif. (open), 6–5–79

22179 4–13–79 / Ionizing radiation: biological effects and dosimetry, Rockville, Md. (open), 6–6 through 6–8–79

29162 5–18–79 / Leukapheresis and donor safety workshop, Bethesda, Md. (open), 6–4–79

28413 5–15–79 / Miscellaneous Internal Drug Products Panel, Bethesda, Md. (open), 6–3–79

28416 5–15–79 / Orthopedic Devices Section of the Surgical and Rehabilitation Devices Panel, Washington, D.C. (open), 6–7–79

28413 5–15–79 / Oncologic Drugs Advisory Committee, Rockville, Md. (open), 6–4 and 6–5–79

Health Resources Administration—

29985 5–23–79 / Agenda Planning Subcommittee of the National Council on Health Planning and Development, Washington, D.C. (open), 6–7–79

National Institutes of Health—

27497 5–10–79 / Allergy and Immunology Study Section, Bethesda, Md. (open), 6–7 through 6–9–79

27497 5–10–79 / Applied Physiology and Orthopedics Study Section, Bethesda, Md. (open), 6–7 through 6–9–79

27497 5–10–79 / Bioanalytical and Metallobiochemistry Study Section, Washington, D.C. (open), 6–7 through 6–9–79

27497 5–10–79 / Biophysics and Biophysical Chemistry Study Section, Rosslyn, Va. (open), 6–8 through 6–10–79

27265 5–9–79 / Bladder and Prostatic Cancer Review Committee (Bladder Subcommittee), Des Plaines, Ill. (partially open), 6–7 and 6–8–79

27497 5–10–79 / Cardiovascular and Renal Study Section, Bethesda, Md. (open), 6–6 through 6–9–79

27497 5–10–79 / Chemical Pathology Study Section, Seattle, Wash. (open), 6–7 through 6–10–79

27498 5–10–79 / Endocrinology Study Section, Silver Spring, Md. (open), 6–4 through 6–7–79

25266 4–30–79 / High Blood Pressure Working Group, Bethesda, Md. (open), 6–8–79

27498 5–10–79 / Immunological Sciences Study Section, Bethesda, Md. (open), 6–6 through 6–8–79

27498 5–10–79 / Immunobiology Study Section, Bethesda, Md. (open), 6–6 through 6–8–79

27265 5–9–79 / Large Bowel and Pancreatic Cancer Review Committee (Large Bowel Subcommittee), Houston, Tex. (partially open), 6–7 and 6–8–79

27498 5–10–79 / Mammalian Genetics Study Section, Bethesda, Md. (open), 6–7 through 6–9–79

27498 5–10–79 / Medicinal Chemistry Study Commission, Bethesda, Md. (open), 6–6 through 6–9–79

27498 5–10–79 / Metabolism Study Section, Bethesda, Md. (open), 6–4 through 6–6–79

27498 5–10–79 / Microbial Chemistry Study Section, Bethesda, Md. (open), 6–6 through 6–8–79

27267 5–9–79 / Microbiology and Infectious Diseases Advisory Committee, Bethesda, Md. (partially open), 6–4 and 6–5–79

27498 5–10–79 / Molecular Biology Study Section, Bethesda, Md. (open), 6–7– through 6–9–79

27498 5–10–79 / Molecular Cytology Study Section, Bethesda, Md. (open), 6–7 through 6–9–79

27498 5–10–79 / National Advisory Committee on Black Higher Education and Black Colleges and Universities, Washington, D.C. (open), 6–4 and 6–5–79

24239 4–24–79 / National Institute of Dental Research Special Grants Review Committee, Bethesda, Md. (partially open), 6–5–79

27498 5–10–79 / Neurological Sciences Study Section, Arlington, Va. (open), 6–7 through 6–9–79

19541 4–3–79 / Physicians Education in Cancer Nutrition Workshop, Bethesda, Md. (open), 6–4 and 6–5–79

27498 5–10–79 / Pathology A Study Section, Bethesda, Md. (open), 6–5 through 6–8–79

27498 5–10–79 / Pharmacology Study Section, Bethesda, Md. (open), 6–6 through 6–8–79

27498 5–10–79 / Physiological Chemistry Study Section, Rosslyn, Va. (open), 6–7 through 6–9–79

27498 5–10–79 / Physiology Study Section, Reston, Va. (open), 6–7 through 6–9–79

27268 5–9–79 / Population Research Committee, Bethesda, Md. (partially open), 6–6 through 6–8–79

27498 5–10–79 / Reproductive Biology Study Section, Chevy Chase, Md. (open), 6–4 through 6–7–79

27498 5–10–79 / Surgery and Bioengineering Study Section, Bethesda, Md. (open), 6–7 through 6–8–79

25266 4–30–79 / Workshop on Biological Effects of Mineral Fibers and Particulates, Bethesda, Md. (open), 6–7–79

Education Office—

29163 5–18–79 / Community Education Advisory Council, Washington, D.C. (open), 6–7 and 6–8–79

28881 5–17–79 / National Advisory Council on Women's Educational Programs, Minneapolis, Minn. (open), 6–5 through 6–7–79

INTERIOR DEPARTMENT

Land Management Bureau—

24644 4–26–79 / Grand Junction District Grazing Advisory Board, Grand Junction, Colo. (open), 6–5–79

28885 5–17–79 / Paria Canyon, Paiute and Vermillion Cliffs Wilderness Study, Phoenix, Ariz. (open), 6–6–79

28885 5–17–79 / Paria Canyon, Paiute and Vermillion Cliffs Wilderness Study, Flagstaff, Ariz. (open), 6–7–79

27502 5–10–79 / Susanville District Grazing Advisory Board, Susanville, Calif. (open), 6–6–79

National Park Service—

27758 5–11–79 / Gateway National Recreation Area (open), Sandy Hook, N.J., 6–6–79 and Newark, N.J. 6–7–79

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

28892 5–17–79 / NASA Advisory Council, Aeronautics Advisory Committee, Washington, D.C., 6–5 through 6–7–79

NATIONAL SCIENCE FOUNDATION

29182 5–18–79 / Low Temperature Physics Ad Hoc Oversight Subcommittee, Washington, D.C. (closed), 6–7 and 6–8–79

29182 5–18–79 / Neurobiology Subcommittee, Washington, D.C. (closed), 6–4 through 6–6–79

NUCLEAR REGULATORY COMMISSION

29765 5–22–79 / Advisory Committee on Reactor Safeguards; Three Mile Island Nuclear Station, Unit 2 Subcommittee, Middletown, Pa. (open and closed), 6–6 and 6–7–79

UNEMPLOYMENT COMPENSATION, NATIONAL COMMISSION

11133 2–27–79 / Meeting, Cleveland, Ohio (open), 6–7 through 6–9–79

SCIENCE AND TECHNOLOGY POLICY OFFICE

28738 5–16–79 / Intergovernmental Science, Engineering, and Technology Advisory Panel, Denver, Colo. (open), 6–4 and 6–5–79

29999 5–23–79 / Intergovernmental Science, Engineering and Technology Advisory Panel, Washington, D.C. (open), 6–8–79

SOCIAL SECURITY, NATIONAL COMMISSION

28894 5–17–79 / Meeting, Washington, D.C. (open), 6–5–79

SMALL BUSINESS ADMINISTRATION

25961 5–3–79 / Region V Advisory Council; St. Joseph, Mich. (open), 6–7–79

STATE DEPARTMENT

Agency for International Development—

27525 5–10–79 / Board for International Food and Agricultural Development, Washington, D.C. (open), 6–5–79

29785 5–22–79 / Shipping Coordinating Committee, Subcommittee on Safety of Life at Sea, Washington, D.C. (open), 6–6–79

23398 4–19–79 / Shipping Coordinating Committee, National Committee for the Prevention of Marine Pollution, Washington, D.C. (open), 6–5–79

30002 5–23–79 / Study Group 4 of the U.S. Organization for the International Radio Consultative Committee, Washington, D.C. (open), 6–6–79

TRANSPORTATION DEPARTMENT

Coast Guard—

28124 5–14–79 / Chemical Transportation Advisory Committee, personal protection Subcommittee, Washington, D.C. (open), 6–6–79

24672 4–26–79 / Chemical Transportation Advisory Committee, Subcommittee on Commercial Explosives, Washington, D.C. (open), 6–6–79

25963 5–3–79 / Ship Structure Committee; Washington, D.C. (open), 6–5–79

Federal Aviation Administration—

28824 5–17–79 / Informal airspace meeting, St. Paul, Minn., 6–6– 79

National Highway Traffic Safety Administration—

15822 3–15–79 / Regional Child Restraint Workshops, Denver, Colo. (open), 6–4 and 6–5–79

15823 3–15–79 / Regional Safety Belt Usage Workshops, Boston, Mass. (open), 6–6 through 6–8–79

15822 3–15–79 / Regional Child Restraint Workshops, Chicago, Ill. (open), 6–7 and 6–8–79

15823 3–15–79 / Seventh International Technical Conference on Experimental Safety Vehicles, Paris, France (open), 6–5 through 6–8–79

[*See also* 44 FR 1813, January 8, 1979]

WORLD HUNGER, PRESIDENTIAL COMMISSION

29183 5–18–79 / Washington, D.C. (open), 6–6–79

Next Week's Public Hearings

COMMERCE DEPARTMENT

National Oceanic and Atmospheric Administration—

26147 5–4–79 / Alabama Coastal Area Management program, environmental impact statement, Mobile, Ala., 6–6–79

28395 5–15–79 / Apalachicola Estuarine Sanctuary, Fla., Apalachicola, Fla., 6–7–79

ENERGY DEPARTMENT

Economic Regulatory Administration—

26712 5–4–79 / Mandatory petroleum allocation, motor gasoline allocation base period and adjustments; Washington, D.C., 6–7–79

Federal Energy Regulatory Commission—

29090 5–18–79 / Alternative fuel cost ceiling on incremental pricing under the Natural Gas Policy Act of 1978, St. Paul, Minn., 6–6–79

29090 5–18–79 / Alternative fuel cost ceiling on incremental pricing under the Natural Gas Policy Act of 1978, Los Angeles, Calif., 6–8–79

HEALTH, EDUCATION, AND WELFARE DEPARTMENT

Education Office—

26298 5–4–79 / Direct grant programs, and State-administered programs; Atlanta, Ga.; Boston, Mass.; New York, N.Y.; Philadelphia, Penn.; Chicago, Ill.; 6–4 through 6–8–79

Food and Drug Administration—

23538 4–20–79 / Carcinogenic residues in food producing animals, Washington, D.C., 6–4–79

17070 3–20–79 / Chemical compounds in food-producing animals; carcinogenic residues; Rockville, Md., 6–4–79

[Corrected at 44 FR 20718, 4–6–79]

INTERIOR DEPARTMENT

Bureau of Reclamation—

26216 5–4–79 / Closed Basin Division—San Luis Valley Project, Alamosa, Colo., 6–5–79

Geological Survey—

27448 5–10–79 / Oil, gas and sulphur operations on Outer Continetal Shelf, hearing, Los Angeles, Calif., 6–7–79

Surface Coal Mining and Reclamation Operations—

28055 5–14–79 / Petition concerning bonding of surface coal mining operations, Washington, D.C., 6–5–79

LABOR DEPARTMENT

Wage and Hour Division—

26127 5–4–79 / Special minimum wages for handicapped workers in competitive employment and employment of handicapped clients in sheltered workshops, Washington, D.C., 6–5–79

SMALL BUSINESS ADMINISTRATION

29189 5–18–79 / Effects of gasoline shortage on small business, Los Angeles, Calif., 6–5–79

TRANSPORTATION DEPARTMENT

Federal Highway Administration—

28946 5–17–79 / Highway beautification program reassessment, hearing, Boston, Mass., 6–5–79

28946 5–17–79 / Highway beautification program reassessment, hearing, Chicago, Ill., 6–5–79

28946 5–17–79 / Highway beautification program reassessment, hearing, Portland, Oreg., 6–5–79

Office of the Secretary—

28696 5–16–79 / Standard time zone boundary in the State of Alaska; Juneau, Alaska, 6–7–79

List of Public Laws

Note: No public bills which have become law were received by the Office of the Federal Register for inclusion in today's **List of Public Laws.**

Last Listing May 25, 1979

Documents Relating to Federal Grants Programs

This is a list of documents relating to Federal grants programs which were published in the Federal Register during the previous week.

RULES GOING INTO EFFECT

30340 5–25–79 / HEW/PHS—Removal of eligibility restriction for program grants for coal miners' respiratory clinics; effective 5–25–79

30260 5–24–79 / HUD—Community Development Block Grant Program; environmental review procedures; effective 6–25–79

DEADLINES FOR COMMENTS ON PROPOSED RULES

30540 5–25–79 / HEW/OE—Women's Educational Equity Act Program provisions; comments by 7–24–79

30636 5–25–79 / MEW/OE—Metric Education Program grants provisions; comments by 7–9–79

APPLICATIONS DEADLINES

30640 5–25–79 / HEW/HDSO—Availability of grants for special projects for severely disabled individuals; apply by 7–13–79

29981 5-23-79 / HEW/HDSO—Collaborative research on community action to prevent child abuse and neglect; apply by 7-23-79

29975 5-23-79 / HEW/HDSO—Demonstration projects for child abuse and neglect program, apply by 8-6-79

29977 5-23-79 / HEW/HDSO—Research and development projects in aging; apply by 7-27-79 for FY 1979 and 11-1-79 for FY 1980

29981 5-23-79 / HEW/HDSO—Research projects for child abuse and neglect, community action to prevent abuse and neglect; apply by 10-15-79

30064 5-23-79 / HEW/HDSO—Youth employment and discretionary grants program; preapplication materials by 6-8-79, application closing date 7-30-79

29985 5-23-79 / HEW/HSA—Grants for clinical facilities for coal miners' respiratory impairment; apply by 7-1-79

29986 5-23-79 / HEW/SSA—Mental health projects for Indochinese refugees; apply by 7-5-79

29983 5-23-79 / HEW/PHS—Adolescent pregnancy prevention and services; apply by 7-9-79

OTHER ITEMS OF INTEREST

29984 5-23-79 / HEW/PHS/HSA—Health professions and nursing student loans; definition of low-income levels for loan payment

30174 5-24-79 / LSC—Grants and contracts; Iowa, Kansas, Illinois, Nebraska; comments solicited

29763 5-22-79 / LSC—Grants and contracts; Missouri; comments solicited

30174 5-24-79 / NSF—Report on "improving government regulations" for NSF