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Tuesday
February 26, 1980

Highlights

12369 **Application of Certain Laws of the United States to the Northern Mariana Islands** Presidential proclamation

12373 **President's Commission on United States-Liberian Relations** Executive order

12577 **Alcohol Consumption** HEW and Treasury have been requested to prepare a joint report for the President regarding related health hazards; comments by 3-27-80

12415 **Income Tax** Treasury / IRS provides final regulations on acts of self-dealing between private foundations and disqualified persons; effective 10-4-76

12416 **Occupational Exposure to Cotton Dust** Labor / OSHA establishes new effective date for standards in general industry

12722, 12724, 12737 **Hazardous Waste** EPA publishes final regulations providing an overview and definitions, standards applicable to generators and standards applicable to transporters; effective 8-26-80 (3 documents) (Part III of this issue)

12746 **Hazardous Waste Activity** EPA issues a notice of procedures and forms applicable when meeting notification requirements (Part IV of this issue)

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Highlights

12682 **Obstetrical and Gynecological Devices** HEW / FDA issues in final rule form general provisions applicable to classification; effective 3–27–80 (Part II this issue)

12682 **Obstetrical and Gynecological Devices** HEW / FDA publishes as final regulations the classification of medical devices; effective 3–27–80 (69 documents) (Part II of this issue)

12457 **Over-the-Counter Drugs** FTC publishes staff summary of comments; effective 2–26–80

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12501 **Consumers' Education Program** HEW / OE extends the closing date for the transmittal of applications from 12–19–79 to 5–12–80

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Presidential Documents

Title 3—

The President

Proclamation 4726 of February 21, 1980

Application of Certain Laws of the United States to the Northern Mariana Islands

By the President of the United States of America

A Proclamation

The Northern Mariana Islands, as part of the Trust Territory of the Pacific Islands, are administered by the United States under a Trusteeship Agreement between the United States and the Security Council of the United Nations (61 Stat. 3301). Pursuant to Article 6, paragraph 2 of the Trusteeship Agreement, the United States has undertaken to promote the economic advancement and self-sufficiency of the inhabitants and to encourage the development of the fisheries of the Trust Territory of the Pacific Islands.

The United States and the Northern Mariana Islands have entered into a Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America (Public Law 94–241; 90 Stat. 263) pursuant to which many provisions of the laws of the United States have become applicable to the Northern Mariana Islands as of January 9, 1978 (Proclamation No. 4534, Sec. 2). Section 1004(a) of the Covenant provides that if the President finds a provision of the Constitution or laws of the United States to be inconsistent with the Trusteeship Agreement, the application of that provision to the Northern Mariana Islands may be suspended until the termination of that Agreement.

Certain provisions of the vessel documentation laws of the United States, applicable to the Northern Mariana Islands, prevent citizens of the Northern Mariana Islands and the Government of the Northern Mariana Islands from using foreign-built, United States registered fishing vessels owned by such citizens or owned by or in the custody of the Government of the Northern Mariana Islands to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and to land their catch of fish in the Northern Mariana Islands. Because of the considerable distance of the Northern Mariana Islands from American shipyards and resultant high transportation costs associated with the purchase of American-built ships for use in the Northern Marianas fisheries, this result is inconsistent with the undertakings assumed by the United States in the Trusteeship Agreement to provide for the economic advancement and self-sufficiency of the inhabitants and to encourage the development of the fisheries of the Northern Mariana Islands.

NOW, THEREFORE, I, JIMMY CARTER, President of the United States of America, by the authority vested in me by the Constitution and laws of the United States, including Section 1004(a) of the Covenant to Establish a Commonwealth of the Northern Mariana Islands in Political Union with the United States of America, do hereby find, declare and proclaim as follows:

1. Any provision of the vessel documentation laws of the United States which prevents the citizens of the Northern Mariana Islands or the Government of the Northern Mariana Islands from using foreign-built, United States registered fishing vessels, owned by such citizens or owned by or in the custody of the Government of the Northern Mariana Islands, to fish in the territorial sea and fishery conservation zone around the Northern Mariana Islands and to land their catch of fish in the Northern Mariana Islands, including that part of R.S. 4132, as amended, 46 U.S.C. 11, which reads "* * * which are to engage

only in trade with foreign countries, with the Islands of Guam, Tutuila, Wake, Midway, and Kingman Reef * * *," would be inconsistent with the objectives of the Trusteeship Agreement to the extent it has this effect.

2. The application of any such provision to foreign-built, United States registered fishing vessels owned by citizens of the Northern Mariana Islands or owned by or in the custody of the Government of the Northern Mariana Islands, is suspended to the extent it is inconsistent as described in Section 1 above until the termination of the Trusteeship Agreement for the Former Japanese Mandated Islands in the Pacific (61 Stat. 3301). Foreign-built fishing vessels owned by citizens of the Northern Mariana Islands or owned by or in the custody of the Government of the Northern Mariana Islands may therefore be registered under R.S. 4132, as amended, 46 U.S.C. 11, and any restrictive endorsement upon such register, prescribed by 46 CFR 67.63–9(b) pursuant to 46 U.S.C. 11, shall be without effect insofar as it would prevent the citizens of the Northern Mariana Islands or the Government of the Northern Mariana Islands from using foreign-built, United States registered fishing vessels owned by such citizens or owned by or in the custody of the Government of the Northern Mariana Islands to fish in the territorial sea and fishery conservation zone surrounding the Northern Mariana Islands and to land their catch of fish in the Northern Mariana Islands.

3. For the purposes of this proclamation, the seaward limit of the fishery conservation zone surrounding the Northern Mariana Islands is 200 nautical miles from the baseline from which the breadth of the territorial sea is measured, except that to the north of the Northern Mariana Islands, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

1. 20°52′42″N., 141°20′53″E.
2. 23°02′19″N., 144°00′56″E.
3. 23°53′25″N., 145°05′59″E.

and, except that to the south of the Northern Mariana Islands, the limit of the fishery conservation zone shall be determined by straight lines connecting the following points:

4. 15°43′28″N., 142°05′43″E.
5. 14°55′18″N., 143°15′29″E.
6. 14°47′43″N., 143°26′23″E.
7. 14°30′07″N., 143°51′50″E.
8. 14°11′10″N., 144°26′36″E.
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26. 13°00′17″N., 146°41′05″E.
27. 12°33′02″N., 147°29′57″E.
28. 12°14′34″N., 148°03′11″E.
29. 12°13′55″N., 148°04′31″E.

4. For the purposes of this proclamation, a "citizen of the Northern Mariana Islands" is defined as: (1) an individual citizen of the Trust Territory of the

Pacific Islands who is exclusively domiciled, within the meaning of Section 1005(e) of the Covenant, in the Northern Mariana Islands; (2) a partnership, unincorporated company, or association whose members are all citizens of the Northern Mariana Islands as defined in (1) above; or (3) a corporation incorporated under the laws of the Northern Mariana Islands, of which the president or other chief executive officer and the chairman of the board of directors are citizens of the Northern Mariana Islands as defined in (1) above and no more of its directors than a minority of the number necessary to constitute a quorum are not citizens of the Northern Mariana Islands as defined in (1) above.

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

Jimmy Carter

[FR Doc. 80-6060
Filed 2-22-80; 3:41 pm]
Billing code 3195-01-M

Presidential Documents

Executive Order 12195 of February 22, 1980

President's Commission on United States-Liberian Relations

By the authority vested in me as President by the Constitution and statutes of the United States of America, and in order to review and recommend ways to improve United States-Liberian relations, it is hereby ordered as follows:

1–1. *Establishment.*

1–101. There is established the President's Commission on United States-Liberian Relations.

1–102. (a) The membership of the Commission shall be composed of not more than sixteen persons, as follows. Twelve shall be appointed by the President. The President of the United States Senate and the Speaker of the United States House of Representatives are each invited to designate two members.

(b) The President shall designate a Chairman from among the members of the Commission.

1–2. *Functions.*

1–201. The Commission shall conduct a comprehensive review of our relations with Liberia and will provide recommendations to improve this relationship. In particular, the Commission shall:

(a) Make an overall assessment of United States-Liberian relations.

(b) Identify problem areas and constraints to a better functioning relationship.

(c) Develop appropriate recommendations based on the Commission's findings.

1–202. The Commission shall prepare and transmit to the President of the United States and to the Secretary of State, a final report of its findings and recommendations.

1–3. *Administration.*

1–301. Members of the Commission who are not otherwise full-time officers or employees of the Federal government shall receive no compensation for their work on the Commission. All members shall be entitled to travel expenses, including per diem in lieu of subsistence, as authorized by law.

1–302. The Department of State shall, to the extent permitted by law and subject to the availability of funds, provide the Commission with such funds, facilities, support and services as may be necessary for the performance of the Commission's functions.

1–4. *Final Report and Termination*

1–401. The final report required by Section 1–202 of this Order shall be transmitted not later than two months from the date of the Commission's visit to Liberia.

1–402. The Commission shall terminate upon the transmittal of its final report, but in any event not later than six months from the date this Order is issued.

Jimmy Carter

THE WHITE HOUSE,
February 22, 1980.

[FR Doc. 80–6136
Filed 2–25–80; 11:06 am]
Billing code 3195–01–M

Editorial Note: A White House announcement of Feb. 22, 1980, on the establishment of the Commission and the designation of the Chair and Vice Chair, is printed in the Weekly Compilation of Presidential Documents (vol. 16, no. 8).

Rules and Regulations

Federal Register
Vol. 45, No. 39
Tuesday, February 26, 1980

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 890

Federal Employees Health Benefits Program; Benefits for Medically Underserved Areas

AGENCY: Office of Personnel Management.

ACTION: Interim Regulations with comments invited for consideration in final rulemaking.

SUMMARY: The Office of Personnel Management (OPM) is amending its Federal Employees Health Benefits (FEHB) regulations to add a new Subpart G pertaining to benefits for individuals in medically underserved areas. This action is necessary to implement a recent amendment to the FEHB law which mandates special consideration for enrollees of certain FEHB plans who receive covered health services in States with critical shortages of primary care physicians.

DATES: Effective Date: January 1, 1980, and until final regulations are issued.

Comment Date: Written comments will be considered if received no later than April 28, 1980.

ADDRESS: Send or deliver written comments to Craig B. Pettibone, Director, Office of Pay and Benefits Policy, Compensation Group, Office of Personnel Management, 1900 E Street, NW (Rm. 4351), Washington, D.C. 20415.

FOR FURTHER INFORMATION CONTACT: Bonnie Rose, Legislation and Special Policies Staff, (202–254–9574).

SUPPLEMENTARY INFORMATION: On June 5, 1979, OPM published proposed rules (44 FR 32223) to facilitate administration of benefits under the Federal Employees Health Benefits (FEHB) Program with respect to members of medically underserved populations in accordance with subsection 8902(m)(2) of title 5, United States Code. This subsection, added to the FEHB law by Pub. L. 95–368, authorized a 5-year experiment beginning on January 1, 1980, during which FEHB plans (except comprehensive prepayment plans) would be required to pay benefits, up to the limits of the plan's contract, for health services provided by any practitioner properly licensed under applicable State law, when service was rendered to an enrollee who was a member of a medically underserved population (within the meaning of section 1302(7) of the Public Health Service (PHS) Act).

Section 8902(m)(2) presented problems of administration and equity for the FEHB Program, particularly in metropolitan areas. Designations of medically underserved areas (MUA's) published by the Secretary of Health, Education, and Welfare pursuant to section 1302(7) of the PHS Act (41 FR 45718–45777, October 15, 1976) correspond to U.S. Census of Population boundaries. Metropolitan MUA's are listed by census tract number; each census tract represents about 4,000 residents. This fact obscures geographic boundaries and would have made FEHB enrollee status difficult to determine for carriers and individual subscribers alike.

One FEHB carrier who commented on the June 5, 1979, proposed rulemaking suggested that this experiment would be more comprehensible to enrollees and more efficiently administered if it were conducted on a Statewide basis in States with the most critical overall shortages of physician services. Publication of final rules pertaining to FEHB coverage for members of medically underserved populations was delayed while OPM worked with carrier representatives and congressional staff to develop amendatory legislation to permit this.

Pub. L. 96–179, approved January 2, 1980, amended 5 U.S.C. 8902(m)(2)(A). The law now provides that, effective January 1, 1980, and continuing through December 31, 1984, if a health insurance contract under the FEHB Program specifies payment or reimbursement for a particular treatment or service only when rendered by a particular category of practitioner (e.g., physician), the plan (except comprehensive prepayment medical plans) must also provide benefits up to the limits of its contract for the same service or treatment provided by any other category of health practitioner (e.g., chiropractor, midwife) who is licensed under applicable State law to render such service when the service is provided to a plan member "in a State where 25 percent or more of the population is located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e)."

Section 332 of the PHS Act provides that the Secretary of Health, Education, and Welfare shall promulgate regulations establishing criteria for designating health manpower shortage areas. Interim-final regulations which appeared in the **Federal Register** of January 10, 1978 (43 FR 1586; 42 CFR Part 5), set out criteria for seven different types of manpower shortage areas (primary medical care, dental, psychiatric, vision care, podiatry, pharmacy, and veterinary). The Bureau of Health Manpower, Health Resources Administration, DHEW, has responsibility for designating shortage areas under the established criteria. A list of primary medical care manpower shortage areas was published on September 28, 1978, in the **Federal Register** (43 FR 44758–44796); additions to and deletions from this list are made continuously and updated lists will appear periodically in the **Federal Register**.

By comparing State-by-State statistics furnished by the Bureau of Health Manpower on population counts for areas meeting the criteria for primary medical care manpower shortage areas prescribed in regulations issued pursuant to 42 U.S.C. 254e (42 CFR Part 5, Appendix A; 43 FR 44758–44796) with U.S. census figures on State resident populations (Current Population Reports, Series P–25, No. 799, April 1979), OPM has determined that 5 U.S.C. 8902(m)(2)(A), as amended by Pub. L. 96–179, is applicable in the following 10 States as of January 1, 1980: Alabama, Alaska, Mississippi, Missouri, Nevada, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming. Each year while this provision of the FEHB law remains in effect, OPM will review current data on primary medical care manpower shortage areas and State populations. If OPM determines that the status of any State has changed

for purposes of 5 U.S.C. 8902(m)(2)(A), OPM will publish an amendment to its regulations (5 CFR Part 890, Subpart G) by October 1, which amendment will be effective the following January 1.

Note.—Pursuant to section 553(d)(3) of title 5, United States Code, the Director of OPM finds that good cause exists for making this amendment effective in less than 30 days, in order to give immediate and timely effect to the appropriate provisions of the Federal Employees Health Benefits law, as amended by Pub. L. 96–179, approved January 2, 1980. OPM has determined that this is a significant regulation for the purposes of E.O. 12044.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Accordingly, a new Subpart G is added to Part 890, Title 5, Code of Federal Regulations, as set out below:

Subpart G—Benefits in Medically Underserved Areas

Sec.
890.701 Definitions.
890.702 Payment to any licensed practitioner.

Authority: 5 U.S.C. 8913.

Subpart G—Benefits in Medically Underserved Areas

§ 890.701 Definitions.

For purposes of this subpart—

"Health benefits plan" means the Government-wide Service Benefit Plan, the Government-wide Indemnity Benefit plan, of an employee organization plan, as described under 5 U.S.C. 8903(1), (2), and (3), respectively.

"Medically underserved area" includes any of the 50 States of the United States where the Office of Personnel Management determines that 25 percent or more of the residents are located in primary medical care manpower shortage areas designated pursuant to section 332 of the Public Health Service Act (42 U.S.C. 254e). The Office has determined that the following States are "medically underserved areas" for purposes of this subpart: Alabama, Alaska, Mississippi, Missouri, Nevada, Oklahoma, South Carolina, South Dakota, West Virginia, and Wyoming.

§ 890.702 Payment to any licensed practitioner.

(a) Except as provided in paragraph (b) of this section, if a contract between the Office and a group health insurance carrier offering a health benefits plan subject to this subpart provides for payment or reimbursement of the cost of health services for the care and treatment of a particular health condition only if such service is rendered by a certain category of practitioner, the plan must also provide benefits, up to the limits of its contract, for the same service when rendered and billed for by any other individual who is licensed under applicable State law to provide such service, if the service is provided to an enrollee of the plan in a medically underserved area as defined by this subpart.

(b) Paragraph (a) of this section only applies to health services provided before January 1, 1985, under contracts which become effective after December 31, 1979.

[FR Doc. 80–5979 Filed 2–25–80; 8:45 am]

BILLING CODE 6325–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 91

Ports of Embarkation for Animals; Deletion of Helena, Mont.

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: This amendment deletes Helena, Montana, from the list of airports designated as ports of embarkation for animals. This action is being taken because the airport no longer has export inspection facilities approved to handle livestock intended for export. The intended effect of this action is to update the list of ports of embarkation through which animals may be exported.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Dr. H. A. Waters, USDA, APHIS, VS, Room 826, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8383.

SUPPLEMENTARY INFORMATION: Title 9, Code of Federal Regulations, Part 91, provides for the designation of ports of embarkation with export inspection facilities approved to handle livestock intended for export (9 CFR 91.3).

Section 91.3(d) of the regulations provides for the denial, revocation or suspension of approval of export inspection facilities for failure to meet the standards for such facilities in § 91.3(c).

The approved export inspection facilities at the Helena, Montana airport were inspected by a representative of Veterinary Services and were found not to comply with the standards for export inspection facilities in § 91.3(c) of the regulations. Specifically pens and inspection implements are no longer available at the facility for the inspection and segregation of livestock prior to export.

In accordance with the provisions of § 91.3(d), a written notice of the proposed revocation was sent to the operator of the facility on October 26, 1979. The operator of the facility did not object to the proposed revocation nor was a hearing requested as provided in § 91.3(d).

Therefore, as approved export inspection facilities are no longer available at the airport of Helena, Montana, export livestock shipments can no longer be handled through this airport. Consequently, this airport is being removed from the list of ports of embarkation in § 91.3(a)(1).

Accordingly, Part 91, Title 9, Code of Federal Regulations is amended as follows:

Section 91.3(a)(1) is revised to read:

§ 91.3 Ports of embarkation and export inspection facilities.

(a) * * *

(1) *Airports.* (1) Chicago, Illinois; Harrisburg, Pennsylvania; Richmond, Virginia; Miami and Tampa, Florida; New Iberia, Louisiana; Brownsville and Houston, Texas; Los Angeles, California; Moses Lake, Washington; and Newburgh, New York.

* * * * *

(Sec. 10, 26 Stat. 417; secs. 4, 5, 23 Stat. 32, as amended; sec. 1, 32 Stat. 791, as amended; sec. 3, 76 Stat. 130; sec. 11, 76 Stat. 132; secs. 12, 13, 14, 18, 34 Stat. 1263, as amended; secs. 1, 2, 26 Stat. 833, as amended; secs. 1, 2, 26 Stat. 833, as amended; (21 U.S.C. 105, 112, 113, 120, 121, 134b, 134f, 612, 613, 614, 618; 46 U.S.C. 466a, 466b); 37 FR 28464, 28477; 38 FR 19141)

The deletion of Helena, Montana, as a port of embarkation with approved export inspection facilities must be made promptly in order to inform exporters of the current situation so that they can make appropriate plans to export their animals through designated ports of embarkation with approved export inspection facilities. The continued listing of Helena, Montana, as a designated port of embarkation with approved export inspection facilities is misleading to exporters since there are no approved inspection facilities located at this airport, and, consequently, it is impossible to inspect animals at the airport.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than

30 days after publication of this document in the **Federal Register.**

Further, this rule has not been designated as "significant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Dr. M. J. Tillery, Director, National Program Planning Staffs, VS, APHIS, USDA, that the emergency nature of this final rule warrants publication without opportunity for prior public comment and preparation of an impact analysis statement at this time.

This final rule implements the regulations in Part 91 and will be scheduled for review in conjunction with the periodic review of the regulations in that part required under the provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Done at Washington, D.C., this 19th day of February, 1980.

Pierre A. Chaloux,

Deputy Administrator, Veterinary Services.

[FR Doc. 80-5681 Filed 2-25-80; 8:45 am]

BILLING CODE 3410-34-M

NUCLEAR REGULATORY COMMISSION

10 CFR Parts 40 and 150

Uranium Mill Tailings Licensing

AGENCY: U.S. Nuclear Regulatory Commission.

ACTION: Immediate revocation of effective rules.

SUMMARY: On August 24, the Nuclear Regulatory Commission published in the **Federal Register** (44 FR 50012) effective amendments to its regulations in 10 CFR Parts 40 and 150 to conform to requirements of the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). Recent amendments to the UMTRCA have removed the legal basis of certain of the effective regulations set forth in the August 24 **Federal Register** notice. Accordingly, these amendments to the Commission's regulations are intended to make the rules in 10 CFR Parts 40 and 150 conform to the statutory mandate that the NRC shall not exercise direct licensing authority over uranium mill tailings already licensed by Agreement States. As such, they must become effective upon publication in the **Federal Register.**

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Don F. Harmon, Office of Standards Development, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Telephone: (301)-443-5910.

SUPPLEMENTARY INFORMATION: On August 24, 1979, the U.S. Nuclear Regulatory Commission published in the **Federal Register** (44 FR 50012) amendments to its regulations 10 CFR Parts 40 and 150 to be effective immediately. The purpose of these amendments, as discussed in detail in the August 24th notice, was to set forth in the Commission's regulations certain of the requirements contained in the Uranium Mill Tailings Radiation Control Act of 1978 (UMTRCA). The Commission also published at the same time (44 FR 50015) more detailed *proposed* rule changes implementing other requirements contained in the UMTRCA as well as certain conclusions reached in a draft generic environmental impact statement (GEIS) on uranium milling (NUREG-0511; see Notice of Availability, April 26, 1979, 44 FR 24963).

As was discussed in the **Federal Register** notice of August 24, 1979, the purposes of §§ 40.2a, 40.26(b)(2) and 150.15(a)(7) were to: (1) Govern the Commission's licensing of byproduct material (i.e., uranium mill tailings) in Agreement States; (2) provide for a general license authorizing possession of uranium mill tailings by certain persons in Agreement States so as to prevent existing milling operations from being in technical violation of the Atomic Energy Act; and (3) specify that individuals in Agreement States were not exempt from Commission licensing requirements governing uranium mill tailings, respectively.

Legislation was enacted on November 9, 1979 (Pub. L. 96-106) to provide clarification to Sections 204(h) and 204(e) of the UMTRCA. This legislation provides that the Commission shall no longer have direct licensing authority over byproduct material (i.e., uranium mill tailings) licensed by Agreement States at least until November 8, 1981. Accordingly, to conform to the requirement of Pub. L. 96-106, there is a need to revoke certain of the immediately effective rules (viz., §§ 40.2a, 40.26(b)(2), and 150.15(a)(7)) which were published in the August 24 **Federal Register** notice (44 FR 50012).

It should be noted, however, that the effective regulations granting a general license for possession of such byproduct material to NRC licensees in non-Agreement States are not revoked. These regulations remain necessary to prevent licensees from being in technical violation of UMTRCA's requirements concerning byproduct material licenses from the NRC.

The Commission finds that because the §§ 40.2a, 40.26(b)(2), and 150.15(a)(7) are in conflict with the requirements of Pub. L. 96-106, they must be revoked immediately. Because these regulations no longer have any basis in law, good cause exists pursuant to 5 U.S.C. 553 to waive the 30-day comment period, as impracticable and contrary to the public interest, and make the following amendments immediately effective.

Pursuant to the Atomic Energy Act of 1954, as amended, the Energy Reorganization Act of 1974, as amended, the Uranium Mill Tailings Radiation Control Act of 1978, as amended by the Surface Transportation Assistance Act of 1978 (Pub. L. 96-106), and sections 552 and 553 of Title 5 of the United States Code, the following amendments to Title 10, Parts 40 and 150, Code of Federal Regulations, are published as a document subject to codification.

PART 40—DOMESTIC LICENSING OF SOURCE MATERIAL

§ 40.2a [Revoked]

1. Section 40.2a is revoked.

§ 40.26 [Amended]

2. Section 40.26 is amended by revoking paragrpah 40.26(b)(2); by removing the paragraph designation (1) under 40.26(b); and by substituting a period for "; or" after "as defined in this Part" at the end of 40.26(b).

PART 150—EXEMPTIONS AND CONTINUED REGULATORY AUTHORITY IN AGREEMENT STATES UNDER SECTION 274

§ 150.15 [Amended]

3. Section 150.15 is amended by revoking paragraph 150.15(a)(7).

(Secs. 11.e(2), 81, 83, 84, 161b, 274; Pub. L. No. 83-703, 68 Stat. 948 et seq. (42 U.S.C. 2014E,(2), 2111, 2113, 2114, 2201b, 2021); Sec. 22, Pub. L. No. 96-106)

Dated at Washington, D.C. this 19th day of February, 1980.

For the Nuclear Regulatory Commission,

Samuel J. Chilk,

Secretary of the Commission.

[FR Doc. 80-5693 Filed 2-25-80; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

17 CFR Parts 200, 230 and 240

[Release Nos. 33-6189, 34-16589, File No. S7-758]

Collection and Dissemination of Transaction Reports and Last Sale Data

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission amends and redesignates its rule governing the collection and dissemination of transaction information with respect to equity securities listed on a national securities exchange. The amendment adds explicit procedures for amending transaction reporting plans filed with and approved by the Commission pursuant to the rule and provides that no national securities exchange or association may prohibit retransmission of the entire data stream of transaction reports or last sale data on a current and continuing basis for the purpose of creating a moving ticker display. The Commission also amends others of its rules to conform their references to this rule.

EFFECTIVE DATE: April 5, 1980.

FOR FURTHER INFORMATION CONTACT: Brandon Becker, Room 321, Division of Market Regulation, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–2829.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today that it has amended and redesignated Rule 17a–15 [1] under the Securities Exchange Act of 1934 ("Act") [2] which currently governs the manner of collecting and disseminating transaction information with respect to equity securities listed or admitted to unlisted trading privileges on a national securites exchange ("exchange"). The amendments restate Rule 17a–15 in revised format, redesignate Rule 17a–15 as Rule 11Aa3–1 ("Rule") under the Act,[3] add explicit procedures for amending transaction reporting plans filed with and approved by the Commission and provide that no exchange or national securities association ("association") may prohibit retransmission of the entire data stream of transaction reports or last sale data made available through the consolidated transaction reporting system ("consolidated system") on a current and continuing basis for the purpose of creating a continuous moving ticker display ("moving ticker"). In addition, those provisions of Rule 17a–15 which currently govern the display of market information are eliminated from the Rule and are included in Rule 11Ac1–2 which the Commission has also adopted today.[4]

[1] 17 CFR 240.17a–15.

[2] 15 U.S.C. 78a *et seq.*, as amended by Pub. L. No. 94–29 (June 4, 1975), 89 Stat. 97, (1975) U.S. Code Cong. & Ad. News 97.

[3] 17 CFR 240.11Aa3–1.

[4] *See* Securities Exchange Act Release No. 16590 (February 19, 1980), ("Rule 11Ac1–2 Adopting Release").

I. Introduction and Background

A. General

On October 20, 1978, as part of its efforts to facilitate the establishment of a national market system [5] and in order to promote the widespread availability of transaction information in accordance with Section 11A(c)(1) of the Act,[6] the Commission proposed to amend Rule 17a–15 which currently governs operation of the consolidated system.[7] In determining to propose these amendments, thue Commission noted that, since the adoption of Rule 17a–15 in 1972, the Securities Acts Amendments of 1975 ("1975 Amendments") [8] had effected changes in the Act not reflected in Rule 17a–15.[9] For example, Rule 17a–15 contained procedures permitting any person whose access to transaction information disseminated pursuant to an effective transaction reporting plan is denied or limited to appeal such action to the Commission. These procedures [10] were redundant and in some technical respects inconsistent with the extensive procedures set forth in Section 11A(b)(5) of the Act which govern such denials or limitations by registered securities information processors. [11]

[5] *See* Securities Exchange Act Release No. 14416, at 41–44, (January 26, 1978) ("January Statement"), 43 FR 4354, 4360 in which the Commission described six initiatives designed to facilitate the establishment of a national market system. One of the initiatives was considering "further action with respect to * * * permitting * * * retransmission of the entire data stream of [transaction] information contained in * * * the consolidated system on a continuous basis by securities information processors other than [the Securities Industry Automation Corporation ("SIAC")], the current processor for the consolidated system." *Id.* at 44, 43 FR at 4360 (footnote omitted).

[6] *See* Section 11A(c)(1)(B) of the Act, 15 U.S.C. 78k–1(c)(1)(B). *See also* Sections 2, 6(a), 6(b)(5), 9, 10, 11A(a)(1)(C), 11A(a)(2), 11A(b), 15(c), 15A(a), 15A(b)(6), 17(a) and 23(a) of the Act, 15 U.S.C. 78b, 78f(a), 78f(b)(5), 78i, 78j, 78k–1(a)(1)(C), 78k–1(a)(2), 78k–1(b), 78*o*(c), 78*o*–3(a), 78*o*–3(b)(6), 78q(a) and 78w(a); Securities Exchange Act Release No. 15926, at 30–31, (June 15, 1979), 44 FR 36912, 36917.

[7] Securities Exchange Act Release No. 15250 (October 20, 1978) ("Transactions Reports Release"), 43 FR 50606.

[8] Pub. L. No. 94–29 (June 4, 1975), 89 Stat. 97, [1975] U.S. Code Cong. & Ad. News 97.

[9] Rule 17a–15, as adopted on November 8, 1972, required every exchange and association, and every broker-dealer not an exchange or association member which executed transactions in listed securities not reported by an exchange or association pursuant to the rule, to file with the Commission a plan providing for collecting, processing and disseminating transaction information in securities registered or admitted to unlisted trading privileges on an exchange. The rule also provided that, after January 22, 1973, no person subject to its provisions could make available transaction information on a current and continuing basis except pursuant to such a plan approved by the Commission. *See* Securities Exchange Act Release No. 9850 (November 8, 1972) ("Adopting Release"), 37 FR 24172. *See also* Securities Exchange Act Release Nos. 9530 (March 8, 1972) ("First Proposal Release") and 9731 (August 14, 1972) ("Second Proposal Release"), 37 FR 5761 and 19148.

On March 2, 1973, various self-regulatory organizations filed with the Commission a joint industry plan ("CTA Plan" or "Plan") to govern the implementation and operation of the consolidated system. The Plan provided for the creation of the Consolidated Tape Association ("CTA") to administer the Plan and for SIAC to act as the initial processor for the consolidated system. *See* Securities Exchange Act Release Nos. 9924 (January 3, 1973), 9981 (February 2, 1973), 10026 (March 5, 1973), 10218 (June 13, 1973) ("First Plan Release"), 10671 (March 8, 1974) ("Second Plan Release"), 38 FR 1121, 3591, 6443 and 15999 and 39 FR 10034. The Plan was approved by the Commission on May 10, 1974. *See* Securities Exchange Act Release No. 10787 (May 10, 1974) ("Approval Release"), 39 FR 17799.

The Plan requires dissemination of transaction information in "Eligible securities" which are defined to include: (1) stocks and long-term warrants listed or admitted to unlisted trading privileges on the American ("Amex") or New York ("NYSE") Stock Exchanges on April 30, 1976, (2) stocks and long-term warrants listed or admitted to unlisted trading privileges on any exchange which, on April 30, 1976, substantially meet either Amex or NYSE original listing requirements, (3) stocks and long-term warrants listed or admitted to unlisted trading privileges on any exchange after April 30, 1976, which substantially meet either Amex or NYSE original listing requirements and (4) any right to acquire any of the securities described in (1)–(3) which is traded on the same exchange as the eligible security. *See* CTA Plan, "Plan Submitted Pursuant to Rule 17a–15 of Securities Exchange Act of 1934," § VI, at 19–23, contained in File No. S7–433.

The Plan provides that the consolidated system consist, in part, of two networks of information, Network A and Network B. Network A includes transaction information from all reporting markets for eligible securities listed or admitted to unlisted trading privileges on the NYSE. Network B includes transaction information for eligible securities listed or admitted to unlisted trading privileges on, or substantially meeting the listing requirements of, the Amex. The reporting markets are the Amex, Boston ("BSE"), Cincinnati ("CSE"), and Midwest ("MSE") Stock Exchanges, NYSE, Pacific ("PSE") and Philadelphia ("Phlx") Stock Exchanges and over-the-counter ("OTC") transactions by members of the National Association of Securities Dealers, Inc. ("NASD") and transactions effected through the Instinet System operated by Institutional Networks Corporation ("Instinet"). The Commission has granted the Intermountain ("ISE") and Spokane ("SSE") Stock Exchanges exemptions from the reporting requirements of Rule 17a–15. Securities Exchange Act Release Nos. 11385 (April 30, 1975 and 14651 (April 11, 1978), 40 FR 1988 and 43 FR 16852. The Commission also has granted a temporary exemption to OTC market makers with respect to OTC trading in Pacific Resources, Inc., Securities Exchange Act Release No. 16454 (December 27, 1979), 45 FR —. Redesignation of the rule under Section 11A(a) of the Act will not affect the status of these, or any other, exemptions from Rule 17a–15 which do not directly conflict with a provision of Rule 11Aa3–1. *See* note 137, *infra*.

A pilot phase of the consolidated system began operation on October 18, 1974 and the entire system became fully operational on April 30, 1976. *See* Transactions Reports Release, *supra* note 7, at 4–7, 33 n.63, 43 FR at 50606–07, 50611 n.63.

[10] *See* Rule 17a–15(i), as amended in 1974. Securities Exchange Act Release No. 11097 (November 13, 1974), 39 FR 40941.

[11] For example, Section 11A(b)(5)(A) of the Act is substantively identical to Rule 17a–15 (i)(1) and (i)(2) but the Act requires registered securities information processors to file a notice of denial with

Footnotes continued on next page

Similarly, Rule 17a–15 indirectly imposed certain minimal display standards on vendors of market information by requiring any plan filed by an exchange, association or non-member broker-dealer pursuant to that Rule to impose these display standards on vendors. This indirect procedure had been utilized because the Commission did not directly regulate securities information processors prior to the adoption of the 1975 Amendments. However, because Section 11A(c)(1) now provides the Commission with plenary authority to regulate the manner in which vendors display transaction information this indirect regulation is no longer necessary.[12] In addition, Rule 17a–15 was limited in its application to "securities registered on admitted to unlisted trading privileges on an exchange," [13] whereas Section 11A(a)(2) permits the Commission to designate any security (other than an exempted security) as qualified for trading in the national market system.[14] In response the Commission determined to proposed amendments to Rule 17a–15 which would restate the rule in revised format, address the changes in the Act discussed above and redesignate the rule as Rule 11Aa3–1 under the Act.[15]

In addition, Proposed Rule 11Aa3–1 explicitly set forth the manner in which any effective transaction reporting plan could be amended. The proposal required that any proposed amendment to a plan be filed with the Commission, noticed for public comment and approved by the Commission prior to effectiveness.[16] However, if the Commission found that the proposed amendment was of a technical or ministerial nature, or, if such action were necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to facilitate the establishment of a national market system or otherwise in furtherance of the purposes of the Act, the Rule permitted the Commission to approve an amendment, on a temporary basis not to exceed 120 days, upon publication of notice of such amendment.[17] Rule 11Aa3–1 also required a specific statement regarding the terms of access to information made available pursuant to a plan which should conform to the general standards set forth in Section 11A(b) of the Act.[18]

B. Retransmission

In addition to these procedural matters, proposed Rule 11Aa3–1 addressed one substantive matter concerning the operation of the consolidated system, those provisions of the CTA Plan which currently prohibit securities information processors from retransmitting to their subscribers, on a current and continuing basis, the data stream of transaction reports contained in the consolidated system for purposes of creating a moving ticker display ("retransmission").

1. Background of the Retransmission Prohibition

The concerns raised by retransmission primarily arise from the manner in which transaction information is disseminated through the consolidated system and the method of financing that system. Since the full implementation of the consolidated system on April 30, 1976, transaction information has been disseminated to vendors and their subscribers by two means, a "high" speed data stream containing all transaction information disseminated through the consolidated system and two "low" speed data streams, designated Network A, which includes transaction information regarding NYSE listed securities, and Network B which includes transaction information on all other reported securities.[19] Securities information processors who are engaged in the business of disseminating transaction information ("vendors") [20] are permitted to use the transaction information they receive to create a data base from which their subscribers can, upon separate inquiry, recall transaction and other information for display on interrogation devices. In addition, transaction information is distributed over the low speed data streams for purposes of display on moving tickers via nationwide networks of low speed data transmission lines provided to CTA by Western Union ("ticker networks").[21]

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the Commission and permits the Commission to grant stays summarily. In order to resolve these inconsistencies, the appeals provisions of the proposal were limited to actions which were not reviewable pursuant to Section 11A(b)(5) or Section 19(d) of the Act. However, the procedures of Rule 17a–15(i) were retained in the proposal of Rule 11Aa3–1 in modified form because those provisions are somewhat broader in scope than the provisions of Section 11A(b)(5).

[12] *See* Section 11A(c)(1) (A) and (B). These display requirements, currently contained in Rule 17a–15, have been relocated in Rule 11Ac1–2 which was proposed simultaneously with these amendments. *See* Rule 17a–15(b) and Rule 11Ac1–2, Securities Exchange Act Release No. 15251 (October 20, 1978) ("Vendor Display Release"), 43 FR 50615. Rule 11Aa3–1 would, however, continue to contain the requirement that any transaction reporting plan filed pursuant to the Rule provide that transaction reports or last sale data made available to any vendor for purposes of display on interrogation devices be accompanied by a market identifier. Rule 11Aa3–1(b)(4). The Commission has adopted Rule 11Ac1–2 simultaneously with the adoption of Rule 11Aa3–1. *See* Rule 11Ac1–2 Adopting Release, *supra* note 4.

[13] Rule 17a–15(a).

[14] *See* January Statement, *supra* note 5, at 45–46, 43 FR at 4360–61. Since the Commission published the Transactions Reports Release, the Commission has also published for comment proposed rule 11Aa2–1 which would establish certain procedures and requirements for the designation of securities as qualified for trading in a national market system. Securities Exchange Act Release No. 15926 (June 15, 1979), 44 FR 36912. As proposed, the rule contemplates that certain securities, some of which are not presently listed on an exchange, will automatically be designated for trading in a national market system (defined as tier-one securities in that release) and that under the procedures in the rule other securities may become designated for trading in a national market system (defined as tier-two securities). Depending on the form of Rule 11Aa2–1, if and when adopted, changes may be required in Rule 11Aa3–1. If so, the Commission anticipates making conforming amendments to Rule 11Aa3–1.

[15] Rule 17a–15 was adopted prior to the passage of the 1975 Amendments which specifically direct the Commission to facilitate the establishment of a national market system (Section 11A(a)(2) of the Act) and grant the Commission plenary authority: (1) to regulate, among other matters, the manner in which securities information processors collect, process, distribute or publish transaction information and (2) to ensure the availability of such information. Sections 11A(c) and 11A(a)(C)(1)(iii) of the Act. Therefore, the Commission determined to propose Rule 11Aa3–1 under Section 11A of the Act and the other sections of the Act under which Rule 17a–15 was originally promulgated. *See* Transactions Reports Release, *supra* note 7, at 10–13, 43 FR at 50607–08, and note 6 *supra*.

[16] Proposed Rule 11Aa3–1(b)(5), (c)(1) and (c)(2). Since the publication of Rule 11Aa3–1 as a proposal, the Commission has also proposed Rule 11Aa3–2 which would establish genetic procedures and requirements for national market system plans. *See* Securities Exchange Act Release No. 16410 (December 7, 1979) ("Rule 11Aa3–2 Release"), 44 FR 72606. *See also* Securities Exchange Act Release No. 15838 (May 18, 1972), 44 FR 30924. If Rule 11Aa3–2 is adopted, the Commission plans to conform Rule 11Aa3–1 with Rule 11Aa3–2.

[17] Proposed Rule 11Aa3–1(c)(3). *CF.* Section 19(b)(3) of the Act.

[18] Proposed Rule 11Aa3–1(b)(4)(vi), Rule 17a–15(b)(4).

[19] For a more complete description of those securities included in Networks A and B, *see* note 9, *supra*.

[20] Rule 11Aa3–1(a)(12), as adopted, defines the term "vendor" to mean: any securities information processor engaged in the business of disseminating transaction reports or last sale data with respect to transactions in reported securities to brokers, dealers or investors on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device.

[21] The ticker networks provide information to moving tickers at the rate of 900 characters per minute, the generally accepted maximum speed at which a linear wall display of this information would be readable. As a result of this speed limitation, during periods of active trading, complete transaction information cannot be disseminated without considerable delay. Therefore, the CTA has adopted procedures whereby during such periods certain information, such as a transaction's volume, is deleted from the relevant low speed data stream, but not the high speed data stream. Despite these measures, the ticker networks often report transactions several minutes after they are reported on the high speed data stream. It has been argued

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The CTA Plan provides, in effect, that any moving ticker, regardless of the device on which displayed (*e.g.*, on an interrogation device or on a separate wall unit) only be supplied data directly from these ticker networks.[22] This provision is commonly known as the retransmission prohibition.

In order to defray some of the costs of collecting, processing and disseminating transaction information, the CTA Plan requires vendor subscribers to pay a fee directly to the CTA for the receipt of transaction information. The CTA presently assesses fees on the basis of the number of display and interrogation devices used by a subscriber.[23] The highest CTA charge to a subscriber is for receiving transaction information on a ticker tape device furnished by the CTA with information supplied through a ticker network; a lesser CTA charge is imposed if transaction information is displayed on a moving ticker device furnished by a vendor (*e.g.*, on a separate wall unit or through an interrogation device); and the smallest CTA charge is for receiving transaction information through an interrogation device upon separate inquiry, which information is supplied over the vendor's communication system.[24]

The retransmission prohibition has been contained in the CTA Plan since its initial filing with the Commission in 1973. In a release commenting on the Plan, the Commission determined not to object to the inclusion of the prohibition[25] noting four potentially harmful effects which might result from retransmission. First, because vendors might concentrate their marketing efforts on easily accessible, more profitable urban areas thereby leaving service to more remote, less profitable areas to the CTA, the CTA might be forced to increase its general level of charges which might in turn threaten the financial viability of the ticker networks. Second, because vendors would be free to charge rates for the provision of moving ticker displays which differ from the rates charged by the CTA, the financial viability of the ticker networks might be threatened and the dissemination of transaction information to distant locations thereby impeded. Third, there might be a deterioration of ticker reliability because vendors might not maintain sufficient back-up systems. Fourth, there might be a loss of direct regulatory oversight by the Commission because vendors were not then subject to express Commission regulation.[26]

2. Reuters' Request

In 1976, the Commission received a letter from Reuters Limited ("Reuters")[27] requesting the Commission to eliminate the retransmission prohibition. Reuters proposed to offer its subscribers a new service, a moving ticker in a novel format created from the high speed data stream which would not be subject to the delays and deletions to which the ticker networks are subject. The Commission published Reuters' letter[28] and in response received comments from the CTA, Reuters and four vendors.[29] This commentary raised many of the concerns discussed by the Commission in its release commenting on the retransmission prohibition in the CTA Plan.[30]

In addition to these concerns, commentators discussed the competitive implications of the prohibition. Reuters argued that the prohibition inhibited competition in distribution and display services by, among other matters, (1) raising the cost of entry through requiring high and low speed receptor mechanisms, (2) precluding any competition in the distribution of transaction information for display on moving tickers, and (3) limiting innovation in the display of that information.[31] In contrast, others argued that removing the prohibition would permit Reuters to begin retransmission before other vendors and would enable Reuters to avoid certain costs already incurred by other vendors. In addition, these commentators argued that, if retransmission were permitted, those vendors which both distribute and display market information would have a marketing advantage over vendors only providing ticker display services because integrated vendors could market their services as a package with interrogation services. They also argued that the demise of the ticker networks

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that the flexibility of interrogation device cathode ray tube terminals would permit a vendor creating a moving ticker from the high speed data stream to avoid these delays or at least include deleted information without incurring further delays. *See* text accompanying notes 27–28, *infra*. In addition, the CTA has approved certain types of moving tickers which display transaction information only with respect to selected securities. Because the retransmission prohibition requires that these "selective" moving tickers be supplied data from the ticker networks, they are subject to the same delays and deletions as are moving tickers displaying transaction information for all securities on the networks. If vendors are permitted to retransmit data to create a selective moving ticker, such a display would not be delayed, even if information were displayed at 900 characters per minute. Transactions Reports Release, *supra* note 7, at 29 n.55, 43 FR at 50610 n.55. *See generally id.* at 7 n.12 and 15–16, 43 FR at 50609 n.12 and 50610.

[22] *See* CTA Plan, *supra* note 9, § VIII(b), at 28 ("Vendors will not be permitted to retransmit on a continuous basis the consolidated last sale prices received by them, except as may be incidental to the operation of approved interrogation devices or display devices."); § V(e), at 18, ("Consolidated last sale prices shall be made available to * * * [v]endors * * * by means of a high speed line * * * for the purpose of servicing approved interrogation devices * * * and not for the purpose of furnishing a ticker display."). The CTA does, however, provide a delayed dissemination service which is not subject to this restriction. Persons receiving this low speed data stream (which is delayed 15 minutes and so identified) are permitted to retransmit without restriction and subscribers ultimately receiving the information are not required to pay subscriber charges to the CTA.

[23] A subscriber pays the CTA a first unit charge for the first ticker as well as for the first interrogation device. If an interrogation device is capable of displaying a moving ticker, two fees are assessed: one for the moving ticker and one for receiving transaction and other information through the interrogation device itself. A subscriber pays an additional, lesser charge for each additional ticker or interrogation device. The fees to the CTA are in addition to the fees subscribers pay to vendors for furnishing particular ticker display or interrogation devices. Vendors are also required to pay various charges to the CTA for receipt of transaction information from the high speed data stream.

[24] These CTA charges are uniform throughout the continental United States.

[25] *See* Second Plan Release, *supra* note 9.

[26] *Id.* at 8–10, 39 FR at 10035–36. *See* Transactions Reports Release, *supra* note 7, at 18–19, 43 FR at 50608–09. The 1975 Amendments eliminated the Commission's concern regarding its regulatory jurisdiction with respect to the retransmission issue. *See id.* at 12–13, 43 FR at 50607.

[27] Letter from Phillip Siegel, Reuters to the Securities and Exchange Commission ("SEC"), dated February 4, 1976, and letter from Dennis J. Block, Weil, Gotshal & Manges, to Bart Friedman, Division of Market Regulation, SEC, dated February 4, 1976. These letters are contained in File No. S7–620.

[28] *See* Securities Exchange Act Release Nos. 12161 (March 3, 1976) and 12318 (April 6, 1976), 41 FR 10499 and 15924.

[29] *See* Letter from Richard Brandt, President, Trans-Lux Corporation ("Trans-Lux") to George A. Fitzsimmons, Secretary, SEC, dated March 29, 1976; Letter from M. Sumner, Securities Industry Liaison, Information Systems Division, Bunker Ramo Corporation ("Bunker Ramo"), to George A. Fitzsimmons, Secretary, SEC, dated March 31, 1976; Letter from Francis J. Palamera, Chairman, CTA, to George A. Fitzsimmons, Secretary, SEC, dated April 28, 1976 ("1976 CTA Letter"); Letter from Dennis J. Block, Weil, Gotshal & Manges, to Eric C. Little, Division of Market Regulation, SEC, dated May 21, 1976; Letter to Desmond Maberly, Reuters, from Carl Bolton, CTA, dated August 3, 1976; Letter to CTA Legal and Policy Committee, from George W. Hernan, Vice President Business Planning, GTE Information Systems, Inc. ("GTE"), dated August 11, 1976; Letter to Robert J. Birnbaum, Chairman, CTA Legal and Policy Committee, from Richard Brandt, President, Trans-Lux, dated August 12, 1976; Letter to Carl Bolton, CTA Legal and Policy Committee, from George H. Levine, Vice President, Quotron Systems, Inc. ("Quotron"), dated August 13, 1976; Letter to CTA Legal and Policy Committee, from Desmond Maberly, Assistant Manager, North America, Reuters, dated August 13, 1976; Letter to CTA Legal and Policy Committee, from Carl L. Bolton, CTA, dated August 16, 1976. These letters are contained in File No. S7–620. *See* Transactions Reports Release, *supra* note 7, at 21–24, 43 FR at 50609.

[30] *See* text accompanying notes 25–26 *supra*.

[31] *See* note 61, *infra*.

might leave them without a source of information for their displays.[32]

These commentators also argued that the removal of the retransmission prohibition would erode the present equality of access to transaction information among brokers, dealers, and investors. Because of the unitary nature of the ticker networks, all moving tickers in the same network currently receive transaction information at the same time [33] and in the same format, including the deletion of certain information during periods of active trading.[34] Permitting retransmission might allow a vendor receiving the high speed data stream to display transaction information on a moving ticker prior to its display on a moving ticker fed by a low speed data stream, and possibly to include material deleted from that stream. Thus, subscribers to the various sources of transaction information would receive varying information at different times.[35]

Finally, there was some dispute about whether the ticker networks were of sufficient value to employ regulatory (and possibly anti-competitive) measures to ensure their continued existence. The CTA argued that the networks were important because they provide the complete and official record of transactions and a means to supply all investors throughout the country with identical transaction information. In contrast, one vendor argued the ticker networks are outmoded, redundant with more efficient vendor systems and should utimately be entirely replaced by the high speed data stream.[36]

3. *Transactions Reports Release.* In the Transactions Reports Release, after reviewing the prior history of the retransmission issue,[37] the Commission

> Initially determined that the prohibition against retransmission may have anti-competitive effects which are not necessary or appropriate in furtherance of the purposes of the Act. The prohibition, in effect, requires that vendors providing interrogation devices which also display a moving ticker pay for the maintenance of duplicative and redundant data transmission lines and receptor mechanisms * * * (and) may impede the development of innovative moving ticker displays * * *.[38]

The Commission therefore proposed to eliminate the retransmission prohibition. However, the Commission also concluded "that the ticker network(s are) an important mechanism for dissemination of market information and should be retained. (They) provide * * * a means whereby investors, brokers, and dealers can obtain current [transaction information] at a reasonable price" regardless of their geographic location.[39] Therefore, the Commission proposed that Rule 11Aa3–1 permit exchanges and associations to impose, by means of effective transaction reporting plans, certain conditions on vendors seeking to retransmit transaction information:

(1) In order to ensure the ongoing viability of the ticker networks as a means of providing widespread dissemination of transaction information, the Commission proposed a subscriber charge condition ("Subscriber Charge Condition") which would permit the CTA to require vendors to ensure that CTA charges for the display of transaction information on moving tickers are collected.[40]

(2) In response to concerns regarding equality of access to transaction information, the Commission proposed a synchronization condition ("Synchronization Condition") which would permit exchanges or associations to require vendors to ensure that "transaction reports which are retransmitted for display on moving tickers are displayed at substantially the same rate as reports distributed for display on moving tickers directly by a plan processor."[41]

(3) Finally, in response to concerns rgarding the accuracy and reliability of retransmitted transaction information, the Commission proposed an accuracy and reliability condition ("Accuracy and Reliability Condition") which would permit exchanges or associations to require vendors to ensure that "any securities information processor which retransmits transaction reports for display in moving tickers maintains procedures and facilities sufficient to ensure that such display in accurate and reliable."[42]

II. Comments Received in Response to the Transactions Reports Release

In response to its proposal of Rule 11Aa3–1, the Commission received comments from the CTA [43] and four vendors,[44] one exchange [45] and one individual.[46] Although the commentators provided limited technical comments on the procedural provisions of the Rule,[47] virtually all of the commentary focused on retransmission.[48]

A. General Comments and Subscriber Charge Condition

1. *Comments.* Most of the commentary concerning retransmission focused on the need to maintain the ticker networks through the retransmission prohibition and the efficacy of the Subscriber Charge Condition in ensuring the financial integrity of the networks. The CTA and Trans-Lux again argued that the retransmission prohibition furthered the goals of the Act by ensuring the ongoing viability of the ticker networks, which in turn provide widespread availability of transaction information at a reasonable cost.[49] In addition, the CTA argued that the ticker networks provide other unique benefits such as market center broadcasts of ex-dividend and other so-called administrative information, dissemination of transaction information 15 minutes

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[32] *Id.* at 24–27, 43 FR at 50609–10.

[33] *But see* note 21, *supra* and notes 64–81 *infra.*

[34] *See* note 21, *supra.*

[35] *Id.* at 28–29, 43 FR at 50610.

[36] *Id.* at 29–30, 43 FR at 50610.

[37] *Id.* at 13–30, 43 FR at 50608–10.

[38] *Id.* at 31, 43 FR at 50611.

[39] *Id.* at 30, 43 FR at 50610.

[40] Proposed Rule 11Aa3–1(e)(1). *See* Transactions Reports Release, *supra* note 7, at 15, 32, 51, 43 FR at 50608, 50611, 50614.

[41] Proposed Rule 11Aa3–1(e)(2). *See* Transactions Reports Release, *supra* note 7, at 15, 32 n.61, 51, 43 FR at 50608, 50611 n.61, 50614.

[42] Proposed Rule 11Aa3–1(e)(3). *See* Transactions Reports Release, *supra* note 7, at 15, 32, 51, 43 FR at 50608, 50611, 50614.

[43] Letter from Robert C. Hall, Chairman, CTA, to George A. Fitzsimmons, Secretary, SEC, dated January 11, 1979, ("1979 CTA Letter"), contained in File No. S7–758.

[44] Letter from Jerome M. Pustilnik, Chairman of the Board, Instinet, To George A. Fitzsimmons, Secretary, SEC, dated December 27, 1978 ("Instinet Letter"); Letter from Robert M. Steinberg, Executive Vice President, Quotron, to George A. Fitzsimmons, Secretary, SEC, dated October 18, 1978 ("Quotron Letter"); Letter from Lawrence Entel, Assistant House Counsel, Reuters, to SEC, dated April 18, 1979 ("1979 Reuters Letter"); Letter from Lawrence Entel, Assistant House Counsel, Reuters, to SEC, dated December 21, 1978 ("1978 Reuters Letter"); Letter from Richard Brandt, President, Trans-Lux, to George A. Fitzsimmons, Secretary, SEC, dated December 11, 1978 ("1978 Trans-Lux Letter"). These letters are contained in File No. S7–758.

[45] Letter from Joseph W. Sullivan, President, Chicago Board Options Exchange, Inc. ("CBOE"), to George A. Fitzsimmons, Secretary, SEC, dated December 19, 1978 ("CBOE Letter"), at 2–4, contained in File No. S7–758.

[46] Letter from Clyde A. Kelley, President, Clyde A. Kelley, Inc., ("Kelley"), to George A. Fitzsimmons, Secretary, SEC, dated December 8, 1978 ("Kelley Letter"), contained in File No. S7–758.

[47] *See* text accompanying notes 106–137, *infra.*

[48] In addition, CTA reaffirmed and Instinet and Reuters referred to their earlier comments on retransmission. 1979 CTA Letter, *supra* note 43, at 2–3, *citing,* 1976 CTA Letter, *supra* note 29, and Letter from the Amex and NYSE to the SEC, re: Industry Plan Submitted under SEC Rule 17a–15, dated June 1, 1973 ("1973 Amex/NYSE Letter"), contained in File No. S7–433. Instinet Letter, *supra* note 44, at 2 n.*, *citing,* Letter from Richard H. Paul, Paul, Weiss, Rifkind, Wharton & Garrison ("Paul Weiss"), to Ronald F. Hunt, Secretary, SEC, dated May 19, 1972; Letter from Richard H. Paul, Paul, Weiss, to Ronald F. Hunt, Secretary, SEC, dated April 6, 1973; Letter from ———, to ———, dated October 8, 1974; Letter from Richard H. Paul, Paul, Weiss, to the SEC, dated January 21, 1975. 1978 Reuters Letter, *supra* note 44, at 2, *citing* Reuters' early correspondence. *See* notes 27 and 29 *supra.*

[49] *See* 1979 CTA Letter, *supra* note 43, at 6–10; 1978 Trans-Lux Letter, *supra* note 44, at 2–6.

delayed at a minimal charge,[50] widespread distribution of information on eligible regional securities and high reliability from beneficial duplication of CTA and vendor distribution systems, which justify the continued maintenance of the ticker networks even by means which are arguably anticompetitive.[51] To the contrary, Instinet argued that the Subscriber Charge Condition is "anticompetitive in the extreme" because it is only designed to protect the ticker networks, "the principal purpose[s]" of which are "to advertise and encourage the buying and selling of securities * * *."[52]

The CTA and Trans-Lux[53] further argued that the Subscriber Charge Condition would not be sufficient to maintain the viability of the ticker networks. The CTA argued that, if vendors were permitted to retransmit transaction information for display in a moving ticker, subscribers "to such retransmission services cannot be expected to passively continue payment of the CTA charges in order to subsidize CTA's nationwide networks in addition to the fees charged by retransmission vendors for their services."[54] As a result, the CTA's revenues would be reduced and the CTA would be forced to raise remaining subscriber charges or abandon the networks.[55] In addition, the CTA seemed to suggest that because most vendors would concentrate their marketing efforts on low cost, urban and eastern areas, the particular revenues lost from the networks would tend to be those providing a geographic subsidy to more remote users.[56]

If retransmission were allowed, CTA further argued that preservation of the ticker networks required it to collect its full charge, including the costs of Western Union circuitry, from vendors' subscribers because the existence of lower charges to subscribers to retransmission services would create a disincentive to using the ticker networks.[57] While Quotron and Reuters did not object to a Subscriber Charge Condition, they argued that the charge should be reduced to reflect cost savings to CTA resulting from vendors providing distribution services previously provided by CTA.[58]

2. *Commission Response.* Sections 11A(a)(1)(C)(iii) and 11A(c)(1)(D) of the Act set forth as an objective of the national market system that transaction information should be made available to brokers, dealers and investors. In addition, Section 11A(c)(1)(B) of the Act specifically authorizes the Commission "to assure the prompt, accurate, reliable, and fair * * * distribution" of transaction information. The Act also contains broad, overriding statutory mandates to facilitate the establishment of a national market system with due regard for the necessity and propriety of any burdens on competition.[59]

In balancing these goals of the Act and the often conflicting views of commentators as to whether the purposes of the Act are furthered or impaired by the retransmission prohibition, the Commission has concluded that the prohibition unnecessarily inhibits competition among vendors in the distribution and display of transaction information without offsetting benefits which are in furtherance of the purposes of the Act.[60] The prohibition inhibits entry into the field by requiring vendors to maintain decentralized processing capabilities at each ticker display site and inhibits innovation by effectively precluding innovative display formats and more timely display of transaction information.[61] However, the Commission also continues to believe that the ticker networks presently provide valuable services to the investment community and should be preserved because the networks permit brokers, dealers and investors to obtain current transaction information at reasonable prices, regardless of geographic location.[62] Therefore, while the Commission believes that the retransmission prohibition should be eliminated, it has also concluded that the Subscriber Charge Condition should be retained in order to ensure the continued existence of the networks.

As adopted, the Rule should encourage the prompt distribution of transaction information by authorizing vendors to employ existing high speed distribution systems and by providing a competitive incentive to innovate further in distribution techniques. At the same time, the Subscriber Charge Condition in the Rule permitting the CTA to continue to levy charges on retransmission subscribers should reduce or eliminate the concerns raised by the commentators that the ticker networks might be destroyed. Rather, that Condition should allow the ticker networks to provide fair and

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[50] *See* 1979 CTA Letter, *supra* note 43, at 10–12, 14–15, 19–20. In addition, Trans-Lux argued that any anticompetitive aspects of the retransmission prohibition were not significant because vendors were still at liberty to compete in the manner of display of information. 1978 Trans-Lux Letter, *supra* note 44, at 3–5.

[51] *See* text accompanying note 38, *supra*.

[52] Instinet Letter, *supra* note 44, at 6.

[53] Trans-Lux also argued that the only real effect of retransmission would be anticompetitive. It would allow one vendor to enter the field immediately with the advantage of avoiding certain development costs which other vendors have already incurred. *See* 1978 Trans-Lux Letter, *supra* note 43, at 4; text accompanying notes 31–32 *supra*, and notes 94–100, *infra*.

[54] 1979 CTA Letter, *supra* note 43, at 6–7 (footnote omitted).

[55] The CTA also argued that, if it is permitted to collect the Subscriber Charge from customers of its competitors, it would no longer be acting as a neutral processor of information as contemplated by the Act. 1979 CTA Letter, *supra* note 43, at 34 n. 28. While the Commission understands that the Act requires the Commission to ensure that all exclusive processors, such as the CTA, act on a neutral basis, *see* Sections 11A(b)(3), 11A(c)(1)(B) and 11A(c)(1)(C) of the Act, the Commission does not believe such neutrality should prevent emerging competition which does not threaten the goals of the Act that neutrality was intended to further.

The CTA further argued that even if it is capable of collecting the Subscriber Charge, the only result would be that broker-dealers will pay more for transaction information because "competitive pressures" will force broker-dealers to subscribe to retransmitted data even though the data will only provide "minor" improvements over the information presently available. 1979 CTA Letter, *supra* note 43, at 9 n. 9 cont. at 10. Even assuming that retransmission services will increase total costs to the securities industry, the Commission is satisfied, at present, that, if broker-dealers are willing to subscribe to retransmission services, competitive pressures will ensure that vendor charges reasonably reflect the value of the services provided.

[56] *See* 1979 CTA Letter, *supra* note 43, at 7 n. 7. *See also* 1976 CTA Letter, *supra* note 29, at 14. CTA further argued that "there is no assurance that vendors would provide retransmission services except as part of a costly package including interrogation services." 1979 CTA Letter, *supra* note 43, at 15–16. *See id.* at 15–17, 29 n. 26. *See* note 62, *infra*.

[57] *See* 1979 CTA Letter, *supra* note 43, at 4 n. 5.

[58] *See* Quotron Letter, *supra* note 44, at 4; 1978 Reuters Letter, *supra* note 44, at 3–4.

[59] *See* Sections 11A(a)(2) and 23(a) of the Act.

[60] *See* Transactions Reports Release, *supra* note 7, at 30, 43 FR at 50610–11.

[61] For example, if a vendor sought to create a new type of display format for use by the vendor's subscribers, the vendor could not reformat the transaction information received over the high speed data stream and then retransmit the reformatted data to the vendor's subscribers. Instead, the vendor (and by implication the vendor's subscribers) would have to incur the expense of making each one of the vendor's display terminals capable of reformatting incoming transaction information over the low speed ticker networks.

[62] *See* Transactions Reports Release, *supra* note 7, at 31, 43 FR at 50611. Preservation of the ticker networks means that subscribers will not be forced to accept a "costly package" of services from a retransmission vendor. *See* note 56, *supra*.

In finding that the ticker networks should be preserved, the Commission is not, as suggested by one commentator (*see* Quotron Letter, *supra* note 44, at 3), seeking to preserve the CTA networks *per se*. Rather the Commission is simply recognizing that at present the ticker networks are the primary method of ensuring widespread distribution of transaction information at a nominal fee. Indeed, the Commission notes that virtually all of the benefits cited by the CTA, *see, e.g.*, text accompanying notes 49–51, *supra*, as being unique to the ticker networks are also provided by vendors over their communications systems to users of interrogation devices. In the future, transaction information distribution systems which supplement or replace the ticker networks may evolve.

widespread distribution of transaction information at a reasonable cost to brokers, dealers and investors no matter where they are located. While the Commission understands the concern expressed by the CTA that vendor subscribers receiving retransmitted moving ticker displays might refuse to pay CTA charges equal to those imposed on subscribers to the ticker networks, the Commission has no basis to conclude that such an event would necessarily occur. Moreover, even if ticker network revenues were to decline as a result of either differential charges (as between subscribers receiving a retransmitted ticker and a CTA generated ticker) or as a result of loss of ticker subscribers, the Commission believes the CTA would be able to maintain the ticker networks because of resultant cost reductions. Finally, if retransmission were to threaten the existence of the ticker networks, the Commission would consider appropriate regulatory responses at that time.

With respect to the concern of certain commentators that, if retransmission were to result in cost savings to the CTA, vendor subscribers should pay a reduced fee to the CTA which reflects those cost savings, the Commission believes it is premature to reach any conclusion at this time. Implementation of the Subscriber Charge Condition will require the participants in the CTA to agree upon and file an amendment to the CTA Plan.[63] Such an amendment would be considered under the procedures prescribed by the Rule and would provide an opportunity for all interested parties to comment on the specific amendment in light of the Rule's adoption.

B. Synchronization Condition

1. *Comments.* Rule 11Aa3–1(e)(2), as proposed, would have allowed an exchange or association, by means of an effective transaction reporting plan, to condition retransmission upon an undertaking by vendors to ensure that subscribers receive transaction information at substantially the same display rate (*i.e.*, at so many transactions or characters per second) as subscribers to the ticker networks.[64] In commenting on this provision, Trans-Lux argued that it is an important objective of the Act that "[a]ll subscribers receive identical data, identically sequenced, at the identical time." [65] The CTA concurred, noting "[a] potential ambiguity" in the Synchronization Condition,[66] which refers to display of transaction reports at the "same rate," not the "same time," and might therefore "be read to require mere synchronization of the frequency at which any transaction reports appear * * * without regard to whether any such report relates to the same transaction report being displayed at the same time by any other (vendor) system * * *." [67] The CTA argued that a more stringent requirement, display of transaction information at the same time, "is essential to (the Condition's) objective" [68] because otherwise "a retransmission service could display a report of a particular transaction at a time significantly earlier than that at which the same report is displayed by the comparable CTA moving ticker." [69] The CTA further argued that the more stringent requirement should include a "performance standard" which would require "the simultaneous appearance of price changes on all moving tickers." [70] The CTA believed that vendor compliance with such a performance standard and the CTA surveillance of that compliance would be technically and economically difficult [71] unless retransmission were limited to the low speed data streams.[72] Moreover, the CTA argued that limiting retransmission to the lowspeed data streams would not destroy the benefits of allowing retransmission, notably increasing "the arena for vendor competition," [73] and ensuring that "each investor * * * (is on) an equal footing with respect to this fundamental type of information" [74] which provides investors with an important "feel for the market." [75]

In contrast to the Trans-Lux and the CTA positions, Instinet, Quotron and Reuters argued that even the less stringent Synchronization Condition proposed by the Commission (*i.e.*, that transaction information be displayed at substantially the same rate) imposes additional costs on vendors which would discourage vendor entry and innovation with respect to distribution of transaction information and would eliminate some of the benefits of retransmission.[76]

Instinet argued that

> [t]he * * * objective of disclosure must be to disseminate [transaction information] just as rapidly and completely [77] as possible. * * * * * *
>
> The spur of competition among vendors will achieve that objective. Slowing the reporting pace of vendors to the low speed pace * * * will achieve the opposite.[78]

Reuters argued that

> [i]n effect, requiring any vendor to retransmit transaction reports at the same rate as the CTA ticker networks is like making the slowest means of retransmission, Western Union circuitry, the standard to which all vendors must slow down their display of (transaction) information. Such a result will foster stagnation among vendors with respect to the development of communications facilities designed to quicken the development of that system and will eliminate a significant potential area of competition among vendors.[79]

Quotron argued that

> [i]t may be argued by some, that to create a display of moving ticker faster than the current displays would produce at best an unreadable blur. [80] It seems to us that this is a specious argument on two counts: (1) * * * A moving ticker display, posting one more transaction per second than the current ticker during a busy period will have significantly less latency the longer the duration of the busy period * * * [and] (2) * * * the regulatory process should not presume the outcome of technical innovation. If * * * (a faster but readable display) cannot be achieved today, the rule should be revised to permit the possibility so that there be a motive for vendors to compete on the basis of improved service.[81]

2. *Commission Response.* The Commission proposed the

[63] The CTA Plan provides that "[a]ny additions, deletions or modifications in any * * * charges * * * shall be established by amendment to the Plan * * *." CTA Plan, *supra* note 9, § XI(c), as amended May 1976, at 20. *E.g.*, Securities Exchange Act Release No. 15253 (October 20, 1978), 43 FR 50520 (publishing for comment CTA Plan amendments regarding, among other matters, certain charges).

[64] *See* text accompanying notes 40–41 *supra*.

[65] 1978 Trans-Lux Letter, *supra* note 44, at 5. *See* 1979 CTA Letter, *supra* note 43, at 23–34, Appendix to 1979 CTA Letter, *id.*, ("1979 CTA Letter Appendix"), at 8–10.

[66] 1979 CTA Letter, *supra* note 43, at 5 n.6.

[67] 1979 CTA Letter Appendix, *supra* note 65, at 8 (emphasis deleted).

[68] *Id.*

[69] *Id.* at 9.

[70] 1979 CTA Letter Appendix, *supra* note 65, at 29.

[71] *Id.* at 29–31.

[72] *Id.* at 31–32.

[73] *Id.* at 33.

[74] *Id.* at 29.

[75] *Id.* at 28. The CTA further argued that even though subscribers to interrogation devices supplied by the high speed data stream can obtain the same information more quickly than subscribers to the ticker networks, this disparity "does not render the display controversy moot" because a ticker provides a "feel for the market." Moreover, the CTA argued that the availability of interrogation services "lessens the need for more rapid display" of transaction information on tickers and "reinforces the need to preserve the (ticker networks') * * * contribution towards market information equality * * *." *Id.* at 28 n.25.

[76] Instinet Letter, *supra* note 44, at 5–10; Quotron Letter, *supra* note 44, at 2–3; 1978 Reuters Letter, *supra* note 44, at 7–9.

[77] Instinet's reference to the completeness of transaction information is apparently to the fact that during periods of active trading various information is deleted from the low speed data streams. The high speed data stream, which vendors might use for their retransmission services, does not involve such deletions. *See* note 21, *supra*, and 1979 CTA Letter, *supra* note 43, at 26–28.

[78] Instinet Letter, *supra* note 44, at 9, 10.

[79] 1978 Reuters Letter, *supra* note 44, at 9.

[80] *See* note 21, *supra*.

[81] Quotron Letter, *supra* note 44, at 3.

Synchronization Condition in order to provide some minimal degree of synchronization in the presentation of transaction information on moving ticker displays, while still permitting vendors to utilize the advantages of high speed transmission in terms of the content of their displays (*i.e.*, permitting more complete data to accompany each transaction report) and the timeliness of data presentations on selective moving tickers.[82] The Commission had considered a more stringent standard, as proposed by the CTA,[83] but such a standard, as CTA recognized, is technically and economically difficult to satisfy, involves difficulties in monitoring compliance and precludes the principal benefits of retransmission. After consideration of the commentary, the Commission has determined that no Synchronization Condition should be included in the Rule. Neither the Condition as proposed nor the more stringent version suggested by the CTA can ensure that all vendor subscribers receive transaction information at the same time. Subscribers to interrogation devices, which receive transaction information over the high speed data stream, receive transaction information in certain securities more quickly than over the ticker networks and that infomation is more complete than that furnished subscribers to the ticker networks.

On balance, the Commission does not believe that the "feel for the market," if any, provided by the ticker network requires that the distribution of transaction information be retarded simply to ensure simultaneous receipt of transaction information available over a moving ticker, as opposed to other more timely sources. Moreover, in light of the importance of this information to brokers, dealers and investors, the Commission does not believe it should impose regulatory restraints which preclude the dissemination of that information as promptly as possible.

C. Accuracy and Reliability Condition

1. *Comments.* In various comment letters prior to the Transactions Reports Release, the CTA had expressed some concern that vendors might not adequately ensure the accuracy and reliability of ticker service if allowed to retransmit transaction information.[84] In response, the Commission proposed for comment the Accuracy and Reliability Condition in Rule 11Aa3–1(f)(3) which would have permitted a transaction reporting plan to condition retransmission on vendors undertaking to ensure the accuracy and reliability of their dissemination systems.

In commenting on this provision of the Rule, Instinet argued that competitive pressures alone should ensure adequate accuracy and reliability.[85] Instinet noted that "[i]n today's competitive securities industry, no broker, dealer or institutional investor will long make use of and pay for a vendor device which does not supply an accurate and reliable display of" transaction information.[86] To the contrary, in support of the Accuracy and Reliability Condition, the CTA went so far as to suggest that

> Confining retransmission to the low speed lines and prohibiting (vendors from combining their high and low speed services into a single information feed) * * * might be appropriate methods to achieve the reliability of vendor displays contemplated by the (Accuracy and R)eliability [C]ondition.[87]

2. *Commission Response.* The Commission understands that, at the present time, the CTA has not imposed any formal or informal accuracy or reliability standards on vendors in connection with either their interrogation device services or their moving ticker displays. To the contrary, the CTA has relied upon competitive pressures to ensure minimum levels of accuracy and reliability in the dissemination and display of market information.[88] Absent some showing of a unique need for accuracy and reliability standards with respect to retransmission for ticker displays, the Commission does not perceive any reason to permit the imposition of an Accuracy and Reliability Condition only on that type of service.

Moreover, given the apparent hesitancy of the CTA to impose accuracy and reliability standards on vendors providing information for use on interrogation devices, it would not appear that such regulation is necessary at this time. Accordingly the Commission has eliminated the Accuracy and Reliability Condition.

In adopting the Rule without this condition, the Commission is not suggesting that accuracy and reliability, which are explicit goals of the Act,[89] are unimportant. Rather, the Commission is deferring a decision on the necessity of such a Condition pending the submission of an actual plan amendment and a clear demonstration of a need for such standards.[90] If, in the future, the CTA determines that the level of accuracy and reliability is not sufficient to meet the purposes of the Act, the Commission is prepared to reconsider an Accuracy and Reliability Condition and an appropriate amendment to the CTA Plan. In addition, the Commission will continue to monitor vendor accuracy and reliability and is prepared to take appropriate regulatory actions to ensure achievement of the goals of the Act.

D. Other Comments on Retransmission

1. *Device Only Vendors.* One commentator expressed concern that, if the ticker networks are destroyed as a result of retransmission, those vendors which do not maintain any distribution system and who currently rely on the CTA to disseminate information to their display sites would not be able to obtain transaction information on reasonable terms.[91] In view of the Subscriber Charge Condition, the Commission does not believe that there is any substantial likelihood that the ticker networks would be destroyed as a result of retransmission. However, the Commission remains concerned that vendors providing only display services have a means of obtaining transaction information at potential display sites. While the CTA networks currently serve that function, in the event that the ticker networks are not available at some time in the future, the Commission expects vendors which maintain distribution systems to make available transaction information to other vendors on commercially reasonable terms. In the event that any vendor providing only display services finds it impossible to obtain information from other vendors on reasonable terms, the Commission will be prepared to exercise its authority under the Act to correct this situation.

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[82] *See* note 75, *supra.*

[83] *See* text accompanying notes 68–75, *supra.*

[84] *See, e.g.*, 1976 CTA Letter, *supra* note 29, at 17–18; 1973 Amex/NYSE Letter, *supra* note 48, at 8–9.

[85] Instinet Letter, *supra* note 44, at 10–11.

[86] *Id.* at 11.

[87] 1979 CTA Letter, *supra* note 43, 20 n.15. *See id.* at 5, 19–20. The CTA noted that

> [i]n any event, the need for reliability can be expected to lead CTA to insist that vendors upgrade their facilities in order to provide the requisite excess capacity needed to avoid the kind of delays initially experienced by some vendors in connection with the dissemination of quotation information.

Id. at 20 n.15.

[88] For example, soon after the adoption of Rule 11Ac1–1, certain vendors experienced delays in providing quotation information to their subscribers. However, pressures from vendor subscribers, the CTA, the Consolidated Quotation Plan participants and the Commission were apparently sufficient to cause these vendors to eliminate many of those problems within a very short time period.

[89] Section 11A(c)(1)(B).

[90] If the CTA determines to propose accuracy and reliability standards on vendors, the Commission would expect a submission describing, among other matters, (1) the reasonableness of such standards, (2) the ability of vendors to comply with such procedures, (3) the competitive implications of such conditions and (4) the consistency of such conditions with the purposes of the Act.

[91] 1978 Trans-Lux Letter, *supra* note 44, at 7. *See* 1979 CTA Letter, *supra* note 43, at 18.

2. *Discrimination Among Securities.* One commentator suggested that retransmitting vendors might seek to delete inactive stocks from their ticker displays.[92] The Commission shares this concern. However, given the current environment, in which vendors make available transaction information on all reported securities on their interrogation devices, the Commission sees no reason why vendors would choose to delete inactive stocks from a retransmitted ticker. Moreover, if this were to occur, the Commission would expect to take prompt action to correct the situation.[93]

3. *Date on which Retransmission Allowed.* One commentator argued that the Commission should delay the effective date of permitting retransmission for three years because not all vendors are presently capable of retransmission techniques and therefore certain vendors would be at a competitive advantage with respect to other vendors who have developed their systems to permit retransmission.[94] The Commission has had the prohibition on retransmission under active consideration since August 14, 1972,[95] and solicited comment on the issue at that time and in 1976 in connection with the Reuters' request.[96] More recently, in its January Statement, the Commission indicated that it would be considering the retransmission issue during 1978 [97] and on October 20, 1978,[98] in the Transactions Reports Release, the Commission published its current proposal. In light of this protracted consideration of the merits of retransmission, the Commission does not believe that any vendor has been unfairly disadvantaged. However, to provide vendors with some lead time to prepare the technical means to retransmit information, the Commission has delayed the effective date of permitting retransmission until July 5, 1980.

[92] 1979 CTA Letter, *supra* note 43, at 14–15.

[93] It should be noted, that current vendor display devices permit subscribers to the CTA tickers to delete information with respect to particular securities. These so-called selective tickers do not raise the same concerns identified by CTA because vendor subscribers (not the vendor itself) make this selection.

[94] 1978 Trans-Lux Letter, *supra* note 43, at 7.

[95] *See* Securities Exchange Act Release No. 9731 (August 14, 1972), 37 FR 19148. *Cf.* Letter from Richard Brandt, President, Trans-Lux, to SEC, dated May 8, 1972 ("1972 Trans-Lux Letter"), at 5–7 contained in File No. S7–433.

[96] *See* text accompanying notes 25–36, *supra.*

[97] January Statement, *supra* note 5, at 44, 43 FR at 4360. *Cf.* Letter from Richard Brandt, President, Trans-Lux, to George A. Fitzsimmons, Secretary, SEC, dated March 27, 1978, contained in File No. S7–735–A.

[98] *See* Transactions Reports Release, *supra* note 7.

E. Nationwide Availability and Uniform Pricing

1. *Comments.* In reformulating the provisions of Rule 17a–15 into proposed Rule 11Aa3–1, the Commission retained the substantive provisions of paragraph (f) of Rule 17a–15 pursuant to which any exchange or association, jointly or separately, may itself impose uniform fees for receipt of transaction information and may "require any vendor which distributes or displays transaction information to make the information it distributes or displays available to all qualified subscribers throughout the continental United States and to impose uniform charges on its subscribers (irrespective of geographic location)." [99] One commentator, Rueters, objected to the retention of that portion of paragraph (f) which would permit the CTA to require vendors to make available their services throughout the continental United States because it, in effect, would in their view preclude the use of distribution systems incapable of nationwide service. In particular, Reuters noted that its Monitor system relies on the use of coaxial cable and/or microwave channels (broad band communications) to distribute its signal and that such broad band communications facilities are available only in limited areas of the United States. Therefore, Reuters argued that the nationwide availability provision of the Rule, if implemented by the CTA, would, as a practical matter, preclude Reuters' use of the Monitor system. [100]

2. *Commission Response.* The nationwide availability provision contained in Rule 11Aa3–1(f)(2) is substantially identical to a similar provision contained in paragraph (f)(2) of Rule 17a–15. However, several factors arising since adoption of Rule 17a–15, in addition to Reuters' comment, indicate that the provision as well as the corollary uniform pricing provision should no longer be retained. [101]

As initially proposed in 1972, Rule 17a–15 did not include nationwide availbility or uniform pricing provisions. However, in response to the proposal of Rule 17a–15, the Commission received commentary and a recommendation of the Commission's Advisory Committee on Market Disclosure suggesting, among other matters, that nationwide uniformity of pricing was desirable. [102] In light of these comments and the considerable uncertainty at that time about who would distribute transaction information and in what manner, the Commission published a revised version of Rule 17a–15 which included the nationwide availability and uniform pricing provisions. The revised version of Rule 17a–15 contained those provisions "to make clear that the imposition by * * * vendors of reasonable, uniform charges for distribution of * * * [transaction] information * * * will be permitted and that vendors may be required to make the information they distribute available throughout the continental United States to all qualified subscribers." [103]

Notwithstanding this authority, the CTA did not then and has not since imposed uniform pricing and nationwide availability requirements on vendors. Although the CTA and certain vendors have apparently created geographically uniform rates for certain of their services, installation and maintenance charges in connection with these services may vary in differing locations and other services are directly priced in a non-uniform manner. Similarly, while the Commission understands that the CTA and certain vendors currently make available transaction information substantially throughout the United States, [104] the CTA and other vendors have indicated that they will not service areas which are so remote that telephonic or telegraphic linkages, are not available, and certain vendors have indicated that, even if lines are available, they may not furnish service if a subscriber is too remote from maintenance centers.

Notwithstanding the current lack of absolutely uniform pricing and nationwide availability, the Commission has no basis to believe that there is inadequate dissemination of transaction information throughout the continental United States or that the more remotely distributed services are at prices which create significant disincentives to remote use. To the contrary, the Commission understands that competitive pressures and the existence of the ticker networks ensure that this essential market information is

[99] Rule 17a–15(f)(2), Proposed Rule 11Aa3–1(f)(2).

[100] *See* 1978 Reuters Letter, *supra* note 43, at 4–5; 1979 Reuters Letter, *supra* note 43, at 1. ("Reuters does not, and never, has, intended to confine its broadband services to the New York City area, and in fact, is already paying substantial sums of money for [s]atellite capacity capable of transmitting these services to markets all across the country.")

[101] The nationwide availability and uniform pricing provisions are corollaries because each is necessary to ensure the efficacy of the other.

[102] *E.g.*, 1972 Trans-Lux Letter, *supra* note 95, at 4. *See* Advisory Committee on Market Disclosure, *Report to the SEC on a Composite Transaction Reporting System* 4 (July 17, 1972), and Securities Exchange Act Release No. 9731, at 2 (August 14, 1972), 37 FR 19148, 19148.

[103] *See* Securities Exchange Act Release No. 9731, at 2 (August 14, 1972), 37 FR 19148, 19148.

[104] The CTA provides service to approximately 1,081 cities throughout the United States. 1979 CTA Letter, *supra* note 43, at 7 n. 7.

available throughout the United States on commercially reasonable terms. Thus, the Commission questions whether it is necessary to retain the nationwide availability and uniform pricing provisions of the Rule. In addition, while it may be argued that the provisions of paragraph (f)(2) contemplate that the Commission would approve enabling provisions in the CTA Plan without additional inquiry, the Commission believes that such action on its part would not be appropriate, in light of the purposes of the Act, particularly the goals of the 1975 Amendments, including the competitive implications of such an amendment. [105]

In view of these concerns, the Commission has determined to remove the nationwide availability and uniform pricing provisions from paragraph (f)(2) of the Rule. The Commission emphasizes, however, that the elimination of these provisions is not meant to imply that the Commission would disapprove CTA Plan amendments requiring uniform pricing or nationwide availability. Rather, the Commission would review such a proposed amendment in light of the facts presented at that time and approve or disapprove such an amendment in accordance with the standards of the Act and the provisions of the Rule.

[105] *Cf. Bradford Nat'l Clearing Corp. v. SEC*, 509 F. 2d 1085 (D.C. Cir. 1978), where the Court "remanded for further exploration" a Commission decision to conditionally register the National Securities Clearing Corporation ("NSCC") despite its use of a pricing structure, geographic price mutualization ("GPM"), which imposed charges in a manner similar to uniform pricing.

The *Bradford* Court specifically noted, 509 F. 2d, at 1099 n.22, that

[GPM] achieves the objective of exanding the securities market into a geographically nationalized operation, rather than one dominated by New York. This objective is served by allowing brokers outside New York to "compete" more effectively with those inside New York.

Whether it also enhances competition in the stricter economic sense—*i.e.*, whether it allocates resources more efficiently—is a different question. It is conceivable that concentrating the securities market in one city, albeit to the disadvantage of securities operatives located elsewhere, allocates resources most efficiently. Such a situtation may well have existed prior to the advent of modern communication and data processing technology, and may even continue today. If so, [GPM] is actually anti-competitive and essentially subsidizes regional brokers at the expense of those located in New York.

Pursuant to the direction of the Court in *Bradford*, the Commission has solicited comment on the issue of NSCC's use of GPM, among other matters. *See* Securities Exchange Act Release Nos. 15640 and 15882 (March 14 and May 30, 1979), 44 FR 17838 and 33198. The Commission's adoption of Rule 11Aa3–1 and the deletion of paragraph (f)(2) thereof should not be construed as indicating the Commission's ultimate position on the resolution of NSCC's use of GPM or any other issues in those proceedings.

III. Technical Comments

In addition to the foregoing, the Commission has received a number of comments addressing technical aspects of the Rule.

A. The CTA noted that paragraph (b)(5) of Rule 11Aa3–1 as proposed provided that "[a]ny person or persons" may file with the Commission an amendment to an effective transaction reporting plan. The CTA objected to this language because it could be interpreted to permit one participant in the CTA Plan to propose an amendment to the Plan by filing the proposed amendment with the Commission notwithstanding detailed voting procedures in the Plan governing the manner in which amendments to the Plan must be approved. [106] The Rule has been changed to require "[a]ny person or persons" proposing an amendment to an effective transaction reporting plan to do so "in accordance with the terms of such plan. * * *." [107]

B. Another commentator argued that the procedure for Commission consideration of transaction reporting plans and proposed amendments to an effective plan should more closely parallel the procedures set forth in Section 19 of the Act governing Commission review of proposed rule changes by self-regulatory organizations. [108] Specifically, this commentator suggested that the Rule should establish time limits for the Commission's consideration of plans and amendments [109] and provide that a technical amendment may become effective on filing with the Commission subject to the Commission's right summarily to abrogate such an amendment. [110]

The Commission has determined, at this time, that it should not specify time periods in Rule 11Aa3–1 which may have the effect of unduly restricting the Commission in its consideration of plans or amendments filed under the Rule and commentary thereon because of its direct responsibilities to facilitate the establishment of a national market system and the evolving nature of such a system.

Similarly, the Commission does not believe it is appropriate to allow plans or amendments to become effective upon their filing with the Commission subject to later abrogation. However, Rule 11Aa3–1(c)(3) does provide that certain plan amendments may becme effective, on a temporary basis, upon their publication by the Commission. While these procedures provide the Commission with a greater degree of flexibility in dealing with transaction reporting plans, the Commission expects to exercise this responsibility in a reasonable manner, consistent with its mandate under Section 11A of the Act. [111] Moreover, the Commission has recently proposed Rule 11Aa3–2 under the Act to establish generic procedures for filing and amending a national market system plan. [112] The Commission has explicitly requested comment on this issue in the release proposing that rule and believes it would be more appropriate to consider these issues in the context of that proceeding.

C. One commentator suggested that the appeal procedures pursuant to the Rule should be no "broader than those set forth" in Sections 11A(b)(5) and 19(d) of the Act. [113] The appeals procedures set forth in the Rule were designed to supplement the provisions of Sections 11A(b)(5) and 19(d) of the Act, not to be redundant with them. These sections of the Act govern appeals resulting from certain types of actions by securities information processors and self-regulatory organizations. There are other types of action which are not expressly governed by the provisions of the Act over which the Commission believes it appropriate to exercise its adjudicative authority. These types of action would be included within the appeals procedures of the Rule. Therefore, the provisions of paragraph (g) of the Rule have been retained. [114]

D. One commentator recommended that vendors should be permitted to select whatever display format "they choose, rather than the CTA-approved format * * *". [115] The Rule does not specifically permit CTA or any other

[106] 1979 CTA Letter Appendix, *supra* note 43, at 5–6. *See* CTA Plan, *supra* note 9, §§ III(b) and III(c), at 4–5.

[107] Rule 11Aa3–1(b)(5). *See also* Rule 11Aa3–2 Release, *supra* note 16.

[108] *See* CBOE Letter, *supra* note 45, at 3.

[109] *Cf.* Section 19(b) of the Act.

[110] *See* CBOE Letter, *supra* note 45, at 3–4.

[111] CBOE also argued that a plan amendment could be "effectively disapproved" by the Commission's failure to act and, therefore, constitute a "denial of due process." *Id.* at 3. Even assuming athe Commission would pursue such a course of inaction, this conduct would be subject to normal judicial review.

[112] *See* Rule 11Aa3–2 Release, *supra* note 16. *See also* Securities Exchange Act Release No. 15838 (May 18, 1979), 44 FR 30924 (proposing amendments to and revisions of Rule 19b–4, 17 CFR 240.19b–4, which governs, among other matters, self-regulatory organizations' proposed rule changes under Section 19(b)).

[113] 1979 CTA Letter Appendix, *supra* note 65, at 10–11.

[114] Furthermore, these types of issues would be better addressed in the generic Commission proceedings to consider the appeal procedures appropriate for a national market system plan. *See* Rule 11Aa3–2 Release, *supra* note 16.

[115] Instinet Letter, *supra* note 44, at 11.

transaction reporting association to approve the display format of a vendor. However, the CTA pursuant to its individual contracts with vendors has retained that right. The CTA has indicated that it has reserved this right in order to prevent vendors from implementing misleading display formats or providing displays in violation of the requirements of Rule 17a–15. To the Commission's knowledge, the CTA has never disapproved a proposed vendor display format.[116] The Commission believes that, in light of the appeal provisions contained in Section 11A(b)(5) of the Act and the Rule, and the apparent limited extent to which the CTA has exercised its contractual authority, no Commission action is necessary at this time.

E. In addition, the Commission has made certain drafting changes to the Rule:

1. The definition of the term "transaction report" has been limited to "one or more round lots" to make clear that odd-lot broker-dealers need not report their transactions, a similar conforming amendment also has been made in Rule 11Ac1–1.[117]

2. The definitions of the terms "interrogation device," "moving ticker" and "vendor" have been modified to refer to "last sale data" as well as "transaction reports" to make clear that those terms include interrogation devices and tickers which display, and vendors which disseminate, partial reports of transactions as well as more complete reports.[118]

3. A new term, "listed equity security," has been added to the Rule to eliminate a suggested circularity in the definition of the term "reported security."[119]

4. The term "vendor" has replaced the term "securities information processor" in paragraph (e) of the Rule because vendors were the only parties directly affected by paragraph (e).[120]

5. The definition of "vendor" has been conformed with Section 11A(a)(1)(C)(iii) of the Act[121] to include investors.[122] A similar conforming change has been made in Rule 11Ac1–1.

6. The use of the word "execute" in the Rule as adopted has been substituted for the use of the word "effect" in the Rule as proposed to avoid the implication that the Commission intended distinctions between these words, drawn in different contexts.[123] to apply to this Rule.[124]

7. The Commission had changed paragraphs (b)(4) (ii) and (iii) of the Rule to make clear the Commission's intent that paragraph (b)(4)(ii) refer to intra-plan coordination and paragraph (b)(4)(iii) refer to coordination among multiple plans.[125]

8. Another suggestion was that the language in paragraphs (d)(1)(i) and (ii) of the Rule apparently did not recognize that particular types of transactions are excluded from the reporting provisions of the CTA Plan.[126] Rather than trying to define all the possible transactions that might by excluded by an effective transaction reporting plan, the Commission has changed those paragraphs to recognize that a transaction reporting plan, approved by the Commission, may exclude certain types of transactions from its reporting provisions.[127]

9. One commentator also argued that the term "make available" as used in the Rule might be construed to require making publicly available various private communications (*e.g.*, confirmations to customers of sales or purchases), and that use of the term in the Rule was inconsistent with its use in Rule 11Ac1–1.[128] To eliminate such possible confusion in the Rule and for consistency with Rule 11Ac1–1, the use of the term "make available" has been conformed throughout the Rule with the use in Rule 11Ac1–1.[129]

10. One commentator[130] requested further Commission definition of the terms "selective ticker"[131] and "moving ticker"[132] and another requested further definition of the term "market-minder."[133] These commentators were apparently concerned about the manner by which charges might be imposed, pursuant to a transaction reporting plan, for use of such devices under the portion of the Rule which allows imposition of "charges for the distribution of transaction reports in moving tickers."[134]

The Commission has determined to provide such definitions. Rule 11Aa3–1(a)(10) defines a moving ticker as "any continuous real-time moving display of transaction reports or last sale data (other than a market minder) provided on an interrogation or other display device." Within the class of moving tickers, a "selective ticker" consists of a moving ticker which provides transaction information for only a limited number of securities and is not required to display at all times transaction information for all securities selected. In contrast to a moving ticker or selective ticker, Rule 11Aa3–1(a)(11) defines a market minder as

> any service provided by a vendor on an interrogation device or other display which (i) permits real-time monitoring, on a dynamic basis, of transaction reports or last sale data with respect to a particular security, and (ii) displays the most recent transaction report or last sale data with respect to that security until such report or data has been superseded or supplemented by the display of a new transaction report or last sale data reflecting the next reported transaction in that security.

While these definitions should provide guidance to the CTA and

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[116] Transactions Reports Release, *supra* note 7, at 31 n. 58, 43 FR at 50611 n. 58

[117] Rule 11Aa3–1(a)(1). *See* Kelley Letter, *supra* note 46, at 1–2.

[118] Rule 11Aa3–1(a)(9), (a)(10) and (a)(12). *See* 1979 CTA Letter Appendix, *supra* note 65, at 1–2.

[119] Rule 11Aa3–1(a)(5). *See* 1979 CTA Letter Appendix, *supra* note 65, at 2.

[120] Rule 11Aa3–1(e). *See* 1979 CTA Letter Appendix, *supra* note 65, at 9–10.

[121] Section 11A(a)(1)(C)(iii) states that it is important to ensure "the availability to brokers, dealers, and investors of information with respect to * * * transactions in securities."

[122] Rule 11Aa3–1(a)(12). *See* 1979 CTA Letter, *supra* note 43, at 26–27.

[123] *See* Section 11(a) of the Act; Rule 11a2–2(T) (17 CFR 240.11A2–2(T)); Securities Exchange Act Release No. 14563 (March 14, 1978), 43 FR 11542.

[124] CTA Letter Appendix, *supra* note 65, at 3–4.

[125] Rule 11Aa3–1(b)(4)(ii) and (b)(4)(iii). 1979 CTA Letter Appendix, *supra* note 65, at 4–5.

[126] 1979 CTA Letter Appendix, *supra* note 65, at 6–7. *See* CTA Plan, *supra* note 9. § V(c), at 14–15. *See also* Letter from James E. Buck, Secretary, NYSE, to George A. Fitzsimmons, Secretary, SEC, dated January 12, 1979 ("NYSE Letter"), at 25–26, 28, contained in File No. S7–759.

[127] Rule 11Aa3–1(d)(i) and (d)(ii).

[128] 1979 CTA Letter Appendix, at *supra* note 65, 7–8. *See* Rule 11Ac1–1(a)(7) (17 CFR 240.11Ac1–1 (a)(7)) which states that

> [t]he term "make available," when used with respect to bids, offers, quotations sizes and aggregate quotation sizes supplied to quotation vendors by an exchange or association, shall mean to provide circuit connections at the premises of the exchange or association supplying such data, or at a common location determined by mutual agreement of the exchanges and associations, for the delivery of such data to quotation vendors.

See also NYSE Letter, *supra* note 126, at 28.

[129] A similar change has been made in the use of the term "disseminate."

[130] *See* Instinet Letter, *supra* note 44, at 5–6.

[131] *See, e.g.*, Transactions Reports Release, *supra* note 7, at 20 (*quoting*, Securities Exchange Act Release No. 10671 (March 8, 1974), at 10, 39 FR 10034, 10035), 29 n.55, 30 n.56, 32 n.59, 43 FR at 50609, 50611 n.56, 50611 n.59; Vendor Display Release, *supra* note 12, 15–16 (*citing* Securities Exchange Act Release No. 11317 (March 28, 1975), at 6, 40 FR 15461, 15466), 43 FR 50615, 50617; notes 21 and 93, *supra*.

[132] The term "moving ticker" is defined in the Rule and used throughout the Transactions Reports Release. Rule 11Aa3–1(a)(10). *See, e.g.*, Transactions Reports Release, *supra* note 7, at 3, 21, 21 n.42, 22 n.46, 29 n.55, 43 FR at 50606, 50609, 50609 n.42, 50609 n.46, 50610 n.55. *See also* Sections 3(a)(2) and 3(a)(22)(A)(ii) of the Act; Proposed Rule 11Ac1–2(a)(1); Vendor Display Release, *supra* note 12, at 3, 18, 20, 54 n.71, 43 FR at 50615, 50617, 50618, 50623 n.71; NYSE Letter, *supra* note 126, at 27.

[133] 1978 Trans-Lux Letter, *supra* note 44, at 7. *See, e.g.*, Proposed Rule 11Ac1–2(a)(18); Vendor Display Release, *supra* note 12, at 54 n.71, 43 FR at 50623 n.71.

[134] Rule 11Aa3–1(e).

vendors in determining whether any particular service is a moving ticker or market minder, the Commission believes that the CTA should make the initial determination, subject the discretionary Commission review, of whether a particular device is, for example, a "moving ticker." [135] In reviewing any CTA determination, the Commission may consider, among other matters, customary usage of the term within the industry, the purposes of an effective transaction reporting plan, and the purposes of the Rule in using the term.[136]

IV. Text of Amendments[137]

Title 17, Chapter II, of the Code of Federal Regulations is amended as follows:

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

1. By revising § 240.17a–15 and redesignating it as § 240.11Aa3–1 to read as follows:

[135] As the Commission stated in the Transactions Reports Release, if retransmission were permitted, "vendors would be provided with improved competitive opportunities with respect to the provision of moving ticker displays by permitting increased communications flexibility and more varied ticker formats." Transactions Reports Release, *supra* note 7, at 31–32, 43 FR at 50611 (footnote omitted).

[136] Thus, for example, the NYSE's factual observation, NYSE Letter, *supra* note 126, at 27, that the numerals displayed on a cathode ray tube screen by some "moving tickers" do not actually move vertically or horizontally within the screen is not dispositive of whether the device is a moving ticker because the device would still perform the same function as other moving tickers. Similarly, the suggestion that a market minder capable of displaying more than 18 securities would constitute a moving ticker, 1978 Trans-Lux Letter, *supra* note 44, at 7, is a conclusion the Commission is not prepared to accept at this time. Rather, such questions should be left initially to the interested parties. However, it is clear, *see* Rule 11Aa3–1(a)(10) and (a)(11), that the terms "moving ticker" and "market minder" are mutually exclusive and that a selective ticker is a subset of the class of moving tickers. Thus, the definition of a moving ticker does set a limit on the scope of "charges for the distribution of transaction reports or last sale data in moving tickers." Rule 11Aa3–1(e).

[137] Because Rule 11Aa3–1 is substantially a restatement of Rule 17a–15, outstanding actions by the Commission pursuant to Rule 17a–15, *e.g.*, plan approvals, interpretations of Rule 17a–15 and exemptions from Rule 17a–15, remain effective, except to the extent particular provisions of Rule 11Aa3–1 directly alter the nature of prior Rule 17a–15, *e.g.* retransmission. Note 9 *supra*; Transactions Reports Release, *supra* note 7, at 2–3, 9, 35 n.68, 37 n.75, 43 FR at 50607, 50611 n.68 and 50612 n.75; Securities Exchange Act Release No. 10851 (June 13, 1974), 39 FR 22194. *See* CBOE Letter, *supra* note 45, at 2–3. Thus, present transaction reporting plans appear to be in compliance with paragraph (b)(4) of the Rule. *See* 1979 CTA Letter Appendix, *supra* note 65, at 4–5.

§ 240.11Aa3–1 Dissemination of transaction reports and last sale data with respect to transactions in reported securities.

(a) *Definitions.* For purposes of this section:

(1) The term "transaction report" shall mean a report containing the price and volume associated with a transaction involving the purchase or sale of one or more round lots of a security ("transaction").

(2) The term "transaction reporting plan" shall mean any plan for collecting, processing, making available or disseminating transaction reports with respect to transactions in reported securities filed with the Commission pursuant to, and meeting the requirements of, this section.

(3) The term "effective transaction reporting plan" shall mean any transaction reporting plan approved by the Commission pursuant to this section.

(4) The term "reported security" shall mean any listed equity security or non-listed national market system security for which a transaction reporting plan with respect to transactions in such security is required to be filed pursuant to this section.

(5) The term "listed equity security" shall mean any equity security listed and registerd, or admitted to unlisted trading privileges, on a national securities exchange ("exchange").

(6) The term "non-listed national market system security" shall mean any security or class of securities which (i) is designated as qualified for trading in a national market system pursuant to Section 11A(a)(2) of the Act and the procedures established thereunder, and (ii) is not a listed equity security.

(7) The term "transaction reporting association" shall mean any person authorized to implement or administer any transaction reporting plan on behalf of persons acting jointly under paragraph (b) of this section.

(8) The term "plan processor" shall mean any exchange, national securities association ("association") or securities information processor acting as an exclusive processor with respect to any transaction reporting plan.

(9) The term "interrogation device" shall mean any securities information retrieval system capable of displaying transaction reports or last sale data, upon inquiry, on a current basis on a terminal or other device.

(10) The term "moving ticker" shall mean any continuous real-time moving display of transaction reports or last sale data (other than a market minder) provided on an interrogation or other display device.

(11) The term "market minder" shall mean any service provided by a vendor on an interrogation device or other display which (i) permits real-time monitoring, on a dynamic basis, of transaction reports or last sale data with respect to a particular security, and (ii) displays the most recent transaction report or last sale data with respect to that security until such report or data has been superseded or supplemented by the display of a new transaction report or last sale data reflecting the next reported transaction in that security.

(12) The term "vendor" shall mean any securities information processor engaged in the business of disseminating transaction reports or last sale data with respect to transactions in reported securities to brokers, dealers or investors on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device.

(13) The term "last sale data" shall mean any price or volume data associated with a transaction.

(b) *Filing of transaction reporting plans.* (1) Every exhange shall, with respect to transactions in listed equity securities executed through its facilities, and every association shall, with respect to transactions in listed equity securities executed by its members otherwise than on an exchange, file with the Commission a transaction reporting plan.

(2) Every broker or dealer who is not a member of an exchange or association and who executes transactions in any listed equity security (a "nonmember broker or dealer") shall file with the Commission a transaction reporting plan with respect to such transactions unless transaction reports with respect to such transactions are collected, processed, and made available by an exchange or association pursuant to an effective transaction reporting plan.

(3) All exchanges, associations, and nonmember brokers and dealers are authorized to act jointly in filing a transaction reporting plan or any amendment thereto, or implementing or administering an effective transaction reporting plan.

(4) Every transaction reporting plan filed pursuant to this section shall include copies of all governing or constituent documents relating to any transaction reporting association or other entity which may be established to implement or administer the plan and shall specify, at a minimum:

(i) Reporting requirements with respect to transactions in listed equity securities for any broker or dealer subject to the plan;

(ii) The manner of collecting, processing, sequencing, making available and disseminating transaction reports and last sale data reported pursuant to such plan;

(iii) The manner such transaction reports reported pursuant to such plan are to be consolidated with transaction reports from exchanges, associations, and non-member brokers and dealers reported pursuant to any other effective transaction reporting plan;

(iv) The applicable standards and methods which will be utilized to ensure promptness of reporting, and accuracy and completeness of transaction reports;

(v) Any rules or procedures which may be adopted to ensure that transaction reports or last sale data will not be disseminated in a fraudulent or manipulative manner;

(vi) Specific terms of access to transaction reports made available or disseminated pursuant to the plan; and

(vii) That transaction reports or last sale data made available to any vendor for display on an interrogation device identify the marketplace where each transaction was executed.

(5) Any person or persons who have filed a transaction reporting plan which has been approved by the Commission pursuant to this section may propose an amendment to such plan by filing, in accordance with the terms of such plan, the form of such proposed amendment with the Commission together with a statement of the purpose of, and the basis under the Act for, such amendment.

(c) *Effectiveness of transaction reporting plans.* (1) The Commission shall publish notice of the filing of any transaction reporting plan, or any proposed amendment to any effective transaction reporting plan ("proposed amendment"), together with the terms of substance in the filing or a description of the subjects and issues involved, and shall provide interested persons an opportunity to submit written comments.

(2) No transaction reporting plan filed pursuant to this section, or amendment to an effective transaction reporting plan, shall become effective unless the Commission, having due regard for the purposes of the Act, including the public interest, the protection of investors, the maintenance of fair and orderly markets, and the need to remove impediments to, and perfect the mechanisms of, a national market system shall, after appropriate notice and opportunity for comment, by order approve such plan or amendment, with such changes or subject to such conditions as the Commission may deem necessary or appropriate.

(3) Notwithstanding the provisions of paragraph (c)(2) of this section, a proposed amendment may be put into effect upon publication of notice of such amendment, on a temporary basis not to exceed 120 days, if the Commission finds that (i) such action is necessary or appropriate in the public interest, for the protection of investors or the maintenance of fair and orderly markets, to remove impediments to, and perfect mechanisms of, a national market system or otherwise in furtherance of the purposes of the Act, or (ii) the proposed amendment involves only technical or ministerial matters.

(d) *Prohibitions and reporting requirements.* (1) No broker or dealer may execute any transaction in, or induce or attempt to induce the purchase or sale of, any reported security,

(i) On or through the facilities of an exchange unless there is an effective transaction reporting plan with respect to transactions in such security executed on or through such exchange facilities; or

(ii) Otherwise than on an exchange unless there is an effective transaction reporting plan with respect to transactions in such security executed otherwise than on an exchange by such broker or dealer.

(2) No exchange or member thereof shall make available or disseminate, on a current and continuing basis, transaction reports or last sale data with respect to transactions in any reported security executed through the facilities of such exchange except pursuant to an effective transaction reporting plan filed by such exchange (either individually or jointly with other persons).

(3) No association or member thereof shall make available or disseminate, on a current and continuing basis, transaction reports or last sale data with respect to transactions in any reported security executed by a member of such association otherwise than on an exchange except pursuant to an effective transaction reporting plan filed by such association (either individually or jointly with other persons).

(4) Every broker or dealer who is a member of an exchange or association shall promptly transmit to the exchange or association of which it is a member all information required by any effective transaction reporting plan filed by such exchange or association (either individually or jointly with other exchanges and/or associations).

(e) *Retransmission of transaction reports or last sale data.* On and after July 5, 1980, notwithstanding any provision of any effective transaction reporting plan, no exchange or association may, either individually or jointly, by rule, stated policy or practice, transaction reporting plan or otherwise, prohibit, condition or otherwise limit, directly or indirectly, the ability of any vendor to retransmit, for display in moving tickers, transaction reports or last sale data made available pursuant to any effective transaction reporting plan: *Provided, however,* That an exchange or association may, by means of an effective transaction reporting plan, condition such qdsqmsmisshom upon sooropqhase undertakings to ensure that any charges for the distribution of transaction reports or last sale data in moving tickers permitted by paragraph (f) of this section are collected.

(f) *Charges.* Nothing in this section shall preclude any exchange or association, separately or jointly, pursuant to the terms of an effective transaction reporting plan, from imposing reasonable, uniform charges (irrespective of geographic location) for distribution of transaction reports or last sale data.

(g) *Appeals.* The Commission may entertain appeals in connection with the operation of any effective transaction reporting plan as follows:

(1) Any action taken or failure to act by any person in connection with an effective transaction reporting plan (other than a prohibition or limitation of access reviewable by the Commission pursuant to section 11A(b)(5) or section 19(d) of the Act) shall be subject to review by the Commission, on its own motion or upon application by any person aggrieved thereby (including but not limited to exchanges, associations, brokers, dealers, issuers, vendors, and other users of transaction reports or last sale data), filed within 30 days after such action or failure to act or within such longer period as the Commission may determine.

(2) Application to the Commission for review, or the institution of review by the Commission on its own motion, shall not operate as a stay of any such action unless the Commission determines otherwise, after notice and opportunity for hearing on the question of a stay (which hearing may consist only of affidavits or oral arguments).

(3) In any proceedings for review, if the Commission, after appropriate notice and opportunity for hearing, and upon consideration of any proceedings conducted in connection with such action or failure to act and such other evidence as it deems relevant, determines that the action or failure to act is in accord with the applicable provisions of such plan and is consistent with the public interest, the protection of investors, the maintenance of fair and

orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system, the Commission shall dismiss the proceeding. Otherwise, the Commission shall require such action with respect to the matter reviewed as the Commission deems appropriate in accordance with the public interest and the protection of investors and consistent with such plan, the maintenance of fair and orderly markets and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(h) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any exchange, association, broker, dealer or specified security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(Secs. 2, 3, 6, 9, 10, 15, 17 and 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897 and 901, as amended by secs. 2, 3, 4, 11, 14 and 18, Pub. L. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q and 78w); Sec. 15A, as added by sec. 1, Pub. L. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. 94–29, 89 Stat. 127 (15 U.S.C. 78–3); sec. 11A, as added by sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

2. By amending paragraphs (a)(1) and (e)(5) of § 240.10a–1 to read as follows:

§ 240.10a–1 Short sales.

(a)(1) No person shall, for his own account or for the account of any other person, effect a short sale of any security registered on, or admitted to unlisted trading privileges on, a national securities exchange, if trades in such security are reported pursuant to an "effective transaction reporting plan" as defined in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act), and information as to such trades is made available in accordance with such plan on a real-time basis to vendors of market transaction information, (i) below the price at which the last sale thereof, regular way, was reported pursuant to an effective transaction reporting plan; or (ii) at such price unless such price is above the next proceeding different price at which a sale of such security, regular way, was reported pursuant to an effective transaction reporting plan.

* * * * *

(e) * * *

(5) Any sale of a security covered by paragraph (a) of this section (except a sale to a stabilizing bid complying with § 240.10b–7) by a registered specialist or registered exchange market maker for its own account on any exchange with which it is registered for such security, or by a Qualified Third Market Maker which has filed a notice for such security with the Commission on Form X–17A–16(1) [§ 249.631 of this chapter] for its own account over-the-counter, effected at a price equal to or above the last sale reported for such security pursuant to an effective transaction reporting plan: *Provided, however,* That any exchange, by rule, may prohibit its registered specialists and registered exchange market makers from availing themselves of the exemption afforded by this paragraph (e)(5) if that exchange determines that such action is necessary or appropriate in its market in the public interest or for the protection of investors;

* * * * *

(Secs. 10 and 23, Pub. L. 78–291, 48 Stat. 891 and 901, as amended by sec. 18, Pub. L. 94–29, 89 Stat. 155 (15 U.S.C. 78j and 78w))

3. By amending paragraphs (a)(4), (5), (6), (8) and (15) and (b)(1)(ii) of § 240.11Ac1–1 to read as follows:

240.11Ac1–1 Dissemination of quotations for reported securities.

(a) * * *

(4) The term "quotation vendor" shall mean any securities information processor engaged in the business of disseminating to brokers, dealers or investors on a real-time or current and continuing basis, bids and offers made available pursuant to this section, whether distributed through an electronic communications network or displayed on a terminal or other display device.

(5) The terms "plan processor" and "effective transaction reporting plan" shall have the meaning provided in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act).

(6) The term "reported security" shall mean any security or class of securities for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan.

* * * * *

(8) The terms "bid" and "offer" shall mean the bid price or the offer price most recently communicated by an exchange member or third market maker to any broker or dealer, or to any customer, at which he is willing to buy or sell one or more round lots of a reported security, as either principal or agent, but shall not include indications of interest.

* * * * *

(15) The term "specified persons," when used in connection with any notification required to be provided pursuant to paragraphs (b)(3)(i) and (b)(3)(ii) of this section, shall mean: (i) Each quotation vendor; (ii) Every plan processor and (iii) The processor for the Options Price Reporting Authority (in the case of a notification with respect to a reported security which is a class of securities underlying options admitted to trading on any exchange).

(b) * * *

(1) * * *

(ii) Every association shall, at all times last sale information with respect to reported securities is reported pursuant to an effective transaction reporting plan, collect, process and make available to quotation vendors the highest bid and lowest offer communicated otherwise than on the floor of an exchange by each member of such association acting in the capacity of a third market maker for a reported security and the identity of that member (excluding any such bid or offer which is executed immediately after communication), except during any period when over-the-counter trading in that security has been suspended; and

* * * * *

(Secs. 2, 3, 6, 9, 10, 15, 17 and 23, Pub. L. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897 and 901, as amended by secs. 2, 3, 4, 11, 14 and 18, Pub. L. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78o, 78q and 78w); Sec. 15A, as added by sec. 1, Pub. L. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. 94–29, 89 Stat. 127 (15 U.S.C. 78o–3); Sec. 11A, as added by sec. 7, Pub. L. 94–29, 89 Stat. 111 (15 U.S.C. 78k–1))

4. By amending paragraph (a)(4) of § 240.12f–1 to read as follows:

§ 240.12f–1 Applications for permission to extend unlisted trading privileges.

(a) * * *

(4) Whether transaction information concerning such security is reported in the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Act (§ 240.11Aa3–1);

* * * * *

(Secs. 12 and 23, Pub. L. 78–291, 48 Stat. 894 and 901, as amended by secs. 8 and 18, Pub. L. 94–29, 89 Stat. 117 and 155 (15 U.S.C. 78*l* and 78w))

5. By amending paragraph (e) of § 240.31–1 to read as follows:

§ 240.31–1 Securities transactions exempt from transaction fees.

* * * * *

The following shall be exempt from section 31 of the Act:

* * * * *

(e) Transactions which are executed outside the United States and are not reported, or required to be reported, to a transaction reporting association as

defined in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) and any approved plan filed thereunder.

(Secs. 2, 3, 23 and 31, Pub. L. 78–291, 48 Stat. 881, 882, 901 and 904, as amended by secs. 2, 3, 18 and 22, 89 Stat. 97, 155 and 162 (15 U.S.C. 78b, 78c, 78w and 78ee))

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

6. By amending paragraph (a)(27) of § 200.30–3 to read as follows:

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

* * * * *

(a) * * *

(27) To approve amendments to the joint industry plan governing the consolidated transaction reporting system declare effective by the Commission on May 10, 1974, pursuant to then Rule 17a–15, now § 240.11Aa3–1 (Rule 11Aa3–1 under the Act).

* * * * *

(Pub. L. 87–592, 76 Stat. 394 (15 U.S.C. 78d–1, 78d–2))

PART 230—GENERAL RULES AND REGULATIONS, SECURITIES ACT OF 1933

7. By amending paragraph (e)(1) of § 230.144 to read as follows:

§ 230.144 Persons deemed not to be engaged in a distribution and therefore not underwriters.

* * * * *

(e) * * *

(1) *Sales by affiliates.* If restricted or other securities are sold for the account of an affiliate of the issuer, the amount of securities sold, together with all sales of restricted and other securities of the same class for the account of such person within the preceding three months, shall not exceed the greater of (i) one percent of the shares or other units of the class outstanding as shown by the most recent report or statement published by the issuer, or (ii) the average weekly reported volume of trading in such securities on all national securities exchanges and/or reported through the automated quotation system of a registered securities association during the four calendar weeks preceding the filing of notice required by paragraph (h), or if no such notice is required the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker, or (iii) the average weekly volume of trading in such securities reported through the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Securities Exchange Act of 1934 (§ 240.11A3–1) during the four-week period specified in subdivision (ii) of this paragraph.

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; secs. 201, 203, 209, 210, 48 Stat. 904, 906, 908; secs. 1–4, 6, 68 Stat. 683, 684; and sec. 12, 78 Stat. 580, (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)))

8. By amending paragraph (b)(1) of § 230.148 as follows:

§ 230.148 Persons deemed not to be underwriters of securities issued or sold in connection with bankruptcy proceedings.

* * * * *

(b) * * *

(1) *Volume limitation.* The amount of securities sold for the account of such person or entity during any three month period shall not exceed the greater of (i) one percent of the sum of the number of shares or other units of the class issued and outstanding and the number of shares or units of the class reserved for future issuance in respect of claims and interests filed and allowed under the plan, as shown by the most recent report or statement published by the issuer, or (ii) the average weekly reported volume of trading in such securities on all national securities exchanges and reported through the automated quotation system of a registered securities association during the four calendar weeks preceding the date of receipt of the order to execute the transaction by the broker or the date of execution of the transaction directly with a market maker, or (iii) the average weekly volume of trading in such securities reported through the consolidated transaction reporting system contemplated by Rule 11Aa3–1 under the Securities Exchange Act of 1934 (§ 240.11Aa3–1) during the four-week period specified in paragraph (e)(1)(ii) of this section. For the purpose of determining the limitation on the amount of securities sold, all securities of the same class sold under this rule by persons or entities acting in concert shall be aggregated.

* * * * *

(Secs. 2(11), 4(1), 4(4), 19(a), 48 Stat. 74, 77, 85; secs. 201, 203, 209, 210, 48 Stat. 904, 906, 908; secs. 1–4, 6, 68 Stat. 683, 684; and sec. 12, 78 Stat. 580, (15 U.S.C. 77b(11), 77d(1), 77d(4), 77s(a)))

* * * * *

V. Effects on Competition

Section 23(a)(2) of the Act requires the Commission, in adopting rules under the Act, to consider the anticompetitive effects of such regulation and to balance any anticompetitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act. The Commission has determined that the perceived anticompetitive effects of eliminating the prohibition are outweighed by the regulatory purposes to be achieved by the prohibition and has discussed in this release the competitive impact of the retransmission prohibition. The Commission's directive under Section 11A(a) of the Act to facilitate the establishment of a national market system and its authority granted under Section 11A(c) to ensure prompt, accurate, reliable and fair collection, processing, distribution and publication of transaction information in a fair and useful format would appear to be significantly furthered by the elimination of the prohibiton. For the reasons expressed in this release, the Commission finds that the rules do not impose any burden on competition which is not necessary or appropriate in furtherance of the purposes of the Act.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 19, 1980.

[FR Doc. 80–5851 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

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17 CFR Part 240

[Release No. 34–16590, File No. S7–759]

Dissemination and Display of Transaction Reports, Last Sale Data and Quotation Information

AGENCY: Securities and Exchange Commission.

ACTION: Final rule.

SUMMARY: The Commission adopts a rule establishing minimum requirements governing the manner in which transaction, quotation and market information is displayed by vendors of securities information and which prohibits any broker or dealer from operating or maintaining any display of transaction, quotation or market information which a vendor would be prohibited from operating or maintaining.

EFFECTIVE DATE: April 5, 1980.

FOR FURTHER INFORMATION CONTACT: Bruce Beatt, Division of Market Regulation, Securities and Exchange Commission, Room 390, 500 North Capitol Street, Washington, D.C. 20549, (202) 272–2883.

SUPPLEMENTARY INFORMATION: The Securities and Exchange Commission announced today the adoption of Rule 11Ac1–2 [1] under the Securities Exchange

[1] 17 CFR 240.11Ac1–2.

Act of 1934 ("Act").[2] Rule 11Ac1–2 is designed to improve the manner in which vendors [3] display price and volume information with respect to completed transactions in reported securities [4] ("transaction information") and bids, offers and quotation sizes ("quotation information") in reported and other securities. Rule 11Ac1–2 achieves this goal by establishing certain minimum display requirements governing the manner in which vendors display transaction and quotation information. Certain of these requirements are currently contained in Rule 17a–15 under the Act, the Commission's rule governing the collection, processing and dissemination of transaction information in listed securities.[5] In addition, Rule 11Ac1–2 imposes further requirements specifying the manner in which vendors must display transaction and quotation information. In particular, the Rule requires that (i) transaction reports or last sale data with respect to reported securities displayed on a continuous moving ticker display ("moving ticker") [6] either be reported without identification as to the market place of execution or include market identifiers, on a non-discriminatory basis, for all transaction reports with respect to a reported security (or an identifiable subset of all transaction reports for such security) from all reporting market centers in that security; (ii) transaction reports with respect to reported securities displayed on a securities information retrieval device ("interrogation device") [7] identify, on a non-discriminatory basis, the market place of execution; (iii) consolidated displays of transaction and quotation information with respect to reported securities available on interrogation devices be retrievable in response either to an inquiry consisting of fewer keystrokes than the inquiry used to retrieve individual market transaction and quotation information or to an inquiry consisting of the same number of key strokes as the inquiry used to retrieve individual market transaction and quotation information, provided that the information request or transmit key for recalling displays of consolidated transaction and quotation information is the more prominent; (iv) consolidated displays of transaction information with respect to reported securities available on interrogation devices contain (with a limited exception) all categories of market information included on any display of individual market transaction information; (v) vendors displaying quotation information with respect to reported securities and certain other securities on interrogation devices must display, at a minimum, a consolidated best bid and offer derived from quotations from all reporting market centers or a separate quotation montage; [8] and (vi) no vendor may provide any "representative" bid or offer with respect to reported securities and certain other securities.

I. Introduction

A. Background

Nationwide disclosure of market information, including transaction and quotation information, in a fair and useful form, has been an essential aspect of the Commission's efforts to facilitate the establishment of a national market system.[9] Such disclosure is necessary to assure the efficient pricing of securities, to maximize the depth and liquidity of the securities markets and to provide investors with the opportunity to receive the best possible execution of their orders.[10] As the first step in instituting a system for disclosure of transaction information, the Commission, in 1972, adopted Rule 17a–15.[11] That rule requires every national securities exchange ("exchange") and association ("association") and every broker-dealer not a member of an exchange or association to file with the Commission a plan providing for the collection, processing and dissemination of transaction reports in securities listed or admitted to unlisted trading privileges on an exchange.[12] On May 10, 1974, the Commission approved a joint industry plan ("CTA Plan") filed by various exchanges and the National Association of Securities Dealers, Inc. ("NASD") pursuant to Rule 17a–15 which provided for the creation of a consolidated transaction reporting system ("consolidated transaction reporting system")[13] and, on April 30, 1976, that system became fully operational.[14]

Subsequently, on January 26, 1978, the Commission took steps to ensure the nationwide disclosure of quotation information by adopting Rule 11Ac1–1 under the Act,[15] which requires that every exchange and association establish and maintain procedures to collect, process and make available to vendors quotations, including size, in all reported securities, and that every "responsible broker or dealer" communicate promptly to his exchange or association his quotation, including size. In addition, the rule requires that every responsible broker or dealer be obligated to execute any order presented to him at a price which is no worse than his or her published bid or offer up to the size displayed. In order to implement Rule 11Ac1–1, various exchanges filed a joint plan ("CQ Plan") to create a consolidated quotation system ("consolidated quotation system"), and, on July 26, 1978, the Commission approved that plan on a temporary basis.[16]

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[2] 15 U.S.C. 78a *et seq.*, as amended by the Securities Acts Amendments of 1975, Pub. L. No. 94–29 (June 4, 1975), 89 Stat. 97, (1975) U.S. Code Cong. & Ad. News 97 ("1975 Amendments").

[3] Rule 11Ac1–2(a)(2) provides that the term "vendor" shall mean any securities information processor engaged in the business of disseminating transaction reports, last sale data or quotation information with respect to subject securities to brokers, dealers or investors on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device.

[4] Rule 11Ac1–2(a)(20) provides that the term "reported security" shall mean any security or class of securities for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan.

[5] Simultaneously with the adoption of this Rule, the Commission is adopting amendments to Rule 17a–15, 17 CFR 240.17a–15, which, among other things, redesignates that rule as Rule 11Aa3–1 and deletes these display requirements from that rule. *See* Securities Exchange Act Release No. 16589 (February 19, 1980), ("Rule 11Aa3–1 Release"), 45 FR ——.

[6] Rule 11Ac1–2(a)(1) provides that the term "moving ticker" shall have the meaning provided in Rule 11Aa3–1. Rule 11Aa3–1(a)(10) defines that term to "mean any continuous real-time moving display of transaction reports or last sale data (other than a market minder) provided on an interrogation or other display device."

[7] Rule 11Ac1–2(a)(1) provides that the term "interrogation device" shall have the meaning provided in Rule 11Aa3–1. Rule 11Aa3–1(a)(9) defines that term to mean "any securities information retrieval system capable of displaying transaction reports or last sale data, upon inquiry, or on a current basis on a terminal or other device."

[8] Rule 11Ac1–2(a)(16) defines the term "quotation montage" to mean, "with respect to a particular subject security, a display on an interrogation device which disseminates simultaneously, includes quotations in that security from all reporting market centers."

[9] *See* Section 11A(c)(1)(B) of the Act, 15 U.S.C. 78k–1(c)(1)(B).

[10] *See* SEC, *Future Structure of the Securities Markets* at 6–7, (February 2, 1972), 37 FR 5286, 5287.

[11] *See* Securities Exchange Act Release No. 9850 (November 8, 1972), 37 FR 24172.

[12] *See* Rule 17a–15(a).

[13] *See* Securities Exchange Act Release No. 10787 (May 10, 1974), 39 FR 17799.

[14] *See* Securities Exchange Act Release No. 15250 at 4–7, (October 20, 1978) ("Rule 11Aa3–1 Proposal Release"), 43 FR 50606, 50606–07. For a complete description of the CTA Plan, *see id.* at 33 n.63, 43 FR at 50611 n.63.

[15] *See* Securities Exchange Act Release No. 14415 (January 26, 1978) ("Rule 11Ac1–1 Release"), 43 FR 4342.

[16] *See* Securities Exchange Act Release No. 15009 (July 28, 1978) ("Initial CQ Plan Release"), 43 FR 3485. The CQ Plan was initially approved for a 120 day period on a conditional basis (*id.*), which conditional approval was subsequently extended for an additional year. *See* Securities Exchange Act Release No. 15511 (January 24, 1979), 44 FR 6230. Recently, the Commission approved, on a permanent basis, the CQ Plan. *See* Securities

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Currently, several vendors disseminate transaction and quotation information received through the consolidated transaction reporting and quotation systems without, for the most part, any Commission regulation. The Commission has preferred and still would prefer to let competitive forces dictate the manner in which market information is displayed. However, the Commission has determined that it must take regulatory action to rectify deficiencies in the manner in which vendors operate their market information systems. On January 26, 1978, the Commission issued a statement on the development of a national market system ("January Statement"),[17] in which it indicated that, despite the success of the consolidated transaction reporting system, refinements in that system would be necessary to improve the way in which transaction information is distributed and recalled for display and in order to ensure that the system operates and is used in ways fully consistent with the purposes and objectives of a national market system.[18] Similarly, since the implementation of the consolidated quotation system, the Commission has observed that some aspects of quotation information display may also be inconsistent with the purposes of the Act, including the objectives of a national market system. Initially, the Commission and its staff sought to correct these deficiencies by requesting that vendors voluntarily modify their procedures for recall of consolidated transaction and quotation information and the content of those information displays.[19] However, some vendors refused to make those modifications absent the imposition of mandatory industrywide criteria. Accordingly, in order to assure that market information for reported securities is displayed in a proper manner, the Commission proposed Rule 11Ac1–2.[20]

In formulating proposals designed to improve the manner in which quotation information for reported securities is displayed, the Commission also addressed the manner in which quotations in securities traded primarily over-the-counter are displayed.[21] Currently, the only person collecting and disseminating those quotations is NASDAQ, Inc., a subsidiary of the NASD. NASDAQ offers three types of quotation information servicies: "Level 1," "Level 2," and "Level 3."[22] Level 1 service, which generally displays only a single,[23] two-sided quotation (*i.e.*, a bid and an offer) for each security authorized for inclusion in the NASDAQ system, is the service most broker-dealer firms provide to their registered representatives.[24] The two-sided quotation appearing on a Level 1 service display is not the "inside" market for a particular security but rather is the "representative" bid price (which is the median of all bids entered into the NASDAQ system by registered NASDAQ market makers) and the "representative" offer price (which is the representative bid plus the median spread between the bid and asked prices so entered) for the particular security ("RBA"). Because, by and large, individual investors deal solely with registered representatives, most investors are exclusively aware of bids and offers appearing on the Level 1 display. The Commission has been concerned that the display of "representative" quotations is misleading to investors and could give rise to opportunities for overreaching of customers by broker-dealers. Accordingly, the Commission included in proposed Rule 11Ac1–2 a provision requiring the display of the "inside" NASDAQ quotation on Level 1 displays and prohibiting the display of representative quotations.

B. Description of Proposed Rule 11Ac1–2

Proposed Rule 11Ac1–2, as published for comment, set forth comprehensive requirements with respect to the display of transaction information in reported securities and of quotation information in reported securities as well as any other equity security as to which transaction reports, last sale data or quotation information is disseminated through an electronic interdealer quotation system owned and operated, directly or indirectly, by an association (collectively, "subject securities").[25] The Rule, as proposed, would have applied to the display of market information by any vendor[26] with the limited exception that market information disseminated on the floor of an exchange would not be regulated by Rule 11Ac1–2, thereby permitting an exchange to make available to its members market information for trading and surveillance purposes which would otherwise be precluded by the Rule.[27] The proposal also would have prohibited any broker or dealer from operating or maintaining any display of market information which

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Exchange Act Release No. 16518 (January 22, 1980), 45 FR 6521. For a summary description of the CQ Plan, *see* Initial CQ Plan Release, at 3–15, 43 FR 3485. Currently, all self-regulatory organizations collecting quotation information disseminate quotation information pursuant to the CQ Plan.

[17] *See* Securities Exchange Act Release No. 14416 (January 26, 1978), 43 FR 4354.

[18] *Id.* at 41–42, 43 FR at 4360. The January Statement further noted that [o]f particular concern to the Commission is the manner in which vendors currently provide for the recall of [transaction] information retrieval display devices. These vendors now permit information from the primary market by input of the letter (or combination of letters) used to identify the particular security involved in the consolidated system (the "consolidated system symbol") followed by depression of an information request key. In most cases, entry of additional letters or symbols (plus depression of the information request key) is required in order to recall consolidated (transaction information) from any particular market other than the primary market.

Id. at 41–42, 43 FR at 4360.

[19] At the time that Rule 11Ac1–1 was adopted, the Commission considered mandating the manner in which vendors displayed that information. In determining to defer such requirements, the Commission attempted to advise vendors of the minimum display requirements which it then felt were necessary to avoid creating similar deficiencies in the displays of quotation information as were present in displays of transaction information. Thus, the Rule 11Ac1–1 Release indicated that the Commission expected that quotations will be displayed on a nondiscriminatory basis (*i.e.*, from all market centers) and that access to composite quotations will be provided in a manner which will allow recall of these quotations as readily as quotations from a single market. For example, if the consolidated system stock symbol and a single request key are utilized to obtain quotations from a particular market center, consolidated quotations must be available by use of the consolidated symbol and a single request key. In addition to the display of quotations and quotation sizes based upon information from all market centers, the Commission expects that vendors will also indicate to users when these quotations are not firm due to the Unusual Market Exception.

Rule 11Ac1–1 Release, *supra* note 15, at 38 n.48, 43 FR at 4347 n.48.

For a summary of other Commission efforts at convincing vendors to modify voluntarily their market information systems to conform to the purposes and objectives of a national market system, *see* Securities Exchange Act Release No. 15251 (October 20, 1978), at 8–9, ("Rule 11Ac1–2 Proposal Release"), 43 FR 50615, 50616.

[20] *Id.*

[21] *See* proposed Rule 11Ac1–2(c)(v).

[22] Level 1 service is supplied to subscribers through interrogation devices available from other vendors. Level 2 and 3 services are supplied to subscribers on NASDAQ cathode ray tube devices.

[23] Certain broker-dealers supplement the Level 1 service by displaying their own quotations.

[24] Other than Level 1, only the Level 2 service is available for general use. Level 2 displays, with respect to each security quoted in the NASDAQ system, a montage of the bid and offer prices of each registered market maker who enters quotations for security into the NASDAQ system. Level 3 service, which is available only to registered market makers, displays the same information as Level 2 and also permits market makers to enter their quotations. *See* NASD Manual-By Laws, Schedule D at ¶ 1653A.

[25] *See* proposed Rule 11Ac1–2(a)(2). At present the only such interdealer quotation system is NASDAQ. *See* text accompanying notes 21–24, *supra*.

[26] *See* proposed Rule 11Ac1–2(a)(12).

[27] Rule 11Ac1–2, as adopted, also excepts any display of transaction reports, last sale data, quotation information or market information operated or maintained by a self-regulatory organization solely for monitoring or surveillance purposes, Rule 11Ac1–2(f)(2).

a vendor would be precluded from making available.[28]

1. *Transaction Information.* With respect to the display of transaction information, the proposal included certain display requirements that were then contained in Rule 17a–15.[29] The rule proposal also addressed the retrieval procedures used by vendors. The proposal would have required that consolidated transaction information provided on an interrogation device be retrievable either by an inquiry consisting of fewer key strokes than is necessary to retrieve individual market transaction information or by a retrieval procedure involving the same number of key strokes and employing a more prominent information request or transmit key to retrieve the display of consolidated transaction information.[30] Moreover, proposed Rule 11Ac1–2 would have required that all individual market center displays be retrievable in response to inquiries consisting of the same number of key strokes.[31] The rule proposal also would have required that vendors provide, on a consolidated basis, the same categories of information on their consolidated displays of transaction information as they provide on their individual market displays of transaction information,[32] and that any vendor providing a market minder [33] of transaction information for an individual market also provide a market minder service of consolidated transaction information.[34] Finally, the proposal would have precluded vendors from identifying the market of execution associated with transaction information available on either moving tickers or on an interrogation device with respect to the display of consolidated transaction information.[35]

2. *Quotation Information.* With respect to the display of quotation information, the proposed rule set forth certain minimum display requirements designed to assure the dissemination of bids, offers, quotation sizes and aggregate sizes in subject securities. The rule would have required that any vendor which provides quotation information on an individual market basis with respect to a particular security must also provide a display of the highest bid and the lowest offer prices from all reporting market centers ("consolidated quotation") with respect to that security.[36] The proposal also set forth key stroke access requirements identical to those imposed for transaction information.[37] In addition, the proposal would have required (i) that the consolidated quotation display include an identifier indicating the market center responsible for the best bid and best offer, and (ii) that any display of quotation information with respect to reported securities include the quotation size or aggregate quotation size [38] associated with any displayed bid or offer.[39]

The rule proposal set forth two alternative formulas for determining the best bid or offer for reported securities.[40] Both formulas required the use of price as the first factor for determining the best bid or offer, *i.e.*, the best bid would be the bid which is highest in price and the best offer would be the offer which is lowest in price. However, the proposed formulas differed on the manner of selecting between two or more bids or offers at identical prices. One formula would have required selection of the best bid of offer first on the basis of time (*i.e.*, as between bids or offers at the same price the bid or offer received earliest in time by the vendor would be the best), then on the basis of size (*i.e.*, as between two bids or offers received simultaneously the bid or offer with the largest quotation size or aggregate quotation size would be the best). The other formula would rank bids or offers at identical prices first by size and then, as between bids or offers at identical prices with identical sizes, on the basis of time. The Commission indicated in the Rule 11Ac1–2 Proposal Release that it contemplated specifying in the Rule which of these formulas should be used, but solicited comment regarding the advisability of giving vendors the discretion to display the consolidated quotation in either fashion.[41]

The rule proposal also would have permitted vendors to display quotation information (including size) with respect to individual market centers on their interrogation devices either upon separate inquiry (provided that inquiry access routines for all market centers contain an equal number of key strokes) or in a montage.[42] If a vendor provided a quotation montage, the proposed rule would have required that the montage state separately the quotation of every market center except, in the case of a montage of quotations with respect to a reported security, the rule would have permitted all third market maker quotations to be condensed into a best third market bid with size and a best third market offer with size, each identified by the particular third market maker responsible for the bid or offer.[43]

Finally, the rule proposal would have precluded any vendor from displaying with respect to a subject security any bid or offer which is, or is derived from, the mean, median, mode, or weighted average of two or more bids or offers, or which is calculated by adding to or subtracting from an actual bid or offer a commission, commission equivalent, markup, or differential.[44]

3. *Joint Display of Transaction and Quotation Information.* Although the rule proposal specified separate minimum display requirements for transaction and quotation information, it permitted [45] a vendor to combine the consolidated transaction and quotation displays available on an interrogation device.[46] Moreover, if a vendor were to provide both the most recent transaction information and quotation for a security from a particular market center in a single display, paragraph (b)(2)(v) of the rule proposal would have required that vendor to combine the consolidated transaction information and quotation display with respect to that security. The proposal did not expressly prohibit

[28] *See* proposed Rule 11Ac1–2(e).

[29] Specifically, the proposal would have retained various interpretations of Rule 17a–15 taken by the Commission in a release in 1975. *See* Securities Exchange Act Release No. 11317 at 6 (March 28, 1975), 40 FR 15461, 15463. The proposal would have required that no moving ticker display exclude transaction information on the basis of the market of execution. In addition, the proposal would have continued to require that any vendor providing a display on an interrogation device of transaction information with respect to a particular reported security also display on that device a consolidated display of transaction information with respect to that security, including the most recent transaction information for that security reported by any market center pursuant to an effective transaction reporting plan as well as the volume of that transaction information or the cumulative volume of all transaction information for that security reported by any market center pursuant to an effective transaction reporting plan. *See* proposed Rule 11Ac1–2(b)(2)(i) and (iv). Rule 11Ac1–2, as adopted, incorporates all of these requirements.

[30] *See* proposed Rule 11Ac1–2(b)(2)(ii).

[31] *See* proposed Rule 11Ac1–2(b)(2)(ii).

[32] *See* proposed Rule 11Ac1–2(b)(2)(V).

[33] Rule 11Aa3–1(a)(11) defines the term "market minder" to "mean any service provided by a vendor on an interrogation device or other display which (i) permits real-time monitoring, on a dynamic basis, of transaction reports or last sale data with respect to a particular security, and (ii) displays the most recent transaction report or last sale data with respect to that security until such report or data has been superceded or supplemented by the display of a new transaction report or last sale data reflecting the next reported transaction in that security."

[34] *See* proposed Rule 11Ac1–2(b)(2)(iii).

[35] *See* proposed Rule 11Ac1–2(c).

[36] *See* proposed Rule 11Ac1–2(c)(2)(i).

[37] *See* proposed Rule 11Ac1–2(c)(2)(ii).

[38] Rule 11Ac1–2(a)(7) provides that the term "aggregate quotation size" has the meaning provided in Rule 11Ac1–1(a)(12).

[39] *See* proposed Rule 11Ac1–2(c)(2)(i).

[40] *See* proposed Rule 11Ac1–2(a)(15)(i).

[41] *See* Rule 11Ac1–2 Proposal Release, *supra* note 19, at 35–36, 43 FR at 50620–21.

[42] *See* proposed Rule 11Ac1–2(c)(2)(ii).

[43] *See* proposed Rule 11Ac1–2(c)(2)(iii).

[44] *See* proposed Rule 11Ac1–2(a)(19) which defines the term "representative bid or offer."

[45] *See* proposed Rule 11Ac1–2(d).

[46] *See* proposed Rule 11Ac1–2(b)(2)(V).

a vendor from combining, on a single display, consolidated and individual market center information; however, displays combining individual and consolidated transaction or quotation information would have been precluded by the provisions of the proposed rule which would have required that consolidated market information be accessed by a simpler inquiry sequence than is necessary to retrieve individual market information.[47]

II. Discussion

In response to its proposal of Rule 11Ac1–2, the Commission received comments from 21 persons,[48] including five vendors,[49] seven self-regulatory organizations[50], and four broker-dealer firms.[51] Most commentators, other than vendors, endorsed the general concept of a vendor display rule. The MSE indicated that they found the proposal to be "a carefully considered, appropriately measured and extremely important regulatory initiative to assure the accurate and fair publication of transactions in national market system securities."[52] The Phlx commended the Commission's efforts to resolve the anti-competitive effects of the current methods used by vendors to disseminate and display market information.[53] The CBOE also supported the proposed rule, indicating that it believed that a critical element of any national market system for stocks or options must be the availability of a means to access market information from all markets in a simple and nondiscriminatory fashion although it suggested that identical restrictions would not necessarily be applicable to standardized options.[54] Finally, the BSE was of the opinion that "the current state of the art in dissemination of market information" was clearly anticompetitive and "that improvement is urgently required and long overdue."[55]

However, four of the five vendors commenting on Rule 11Ac1–2, disapproved of the general concept of the Rule. Those commentators questioned the justification for and methodology of portions of the proposed rule, indicating that the release failed to establish that the secondary markets are at a competitive disadvantage vis-a-vis the primary markets or that such a disadvantage, if established, was a result of vendors' display techniques.[56]

Several vendors also argued that vendor display systems were designed to appeal to the users of those systems, and that the proposed standards would not only cause unwarranted expense and stifle further innovations by vendors but would also create systems which were less efficient to subscribers.[57] Specifically, Reuters stated that: "[I]f restricted technical controls are imposed, the field of securities information communications would no longer be a fertile one for innovation and technological advance."[58] In addition, Reuters insisted that the significant expense involved in complying with the programming and systems changes contemplated by the rule would seriously hamper, if not entirely foreclose, Reuters' entry into the industry.[59] After careful consideration of these comments, and in particular the issues discussed below, the Commission has determined to adopt the rule in revised form.

A. Statutory Authority and Constitutionality

1. *Comments.* Two vendors disputed the Commission's authority to adopt a rule dictating the manner and content of market information displays.[60] Bunker Ramo contended that neither the text nor the legislative history of Section 11A of the Act authorizes the Commission, except under limited circumstances,[61] to substitute its judgment for that of vendors regarding the proper design and programming of interrogation devices. Reuters similarly argued that

> serious questions exist with respect to whether the Commission would be overstepping its bounds by prohibiting certain market information from being displayed or regulating the format in which vendors display certain market information. Specifically, proposed Rule 11Ac1–2 may have the effect of creating arbitrary and unreasonable guidelines from which few vendors may stray, superseding subscribers' demands for particular information, and constituting for all intents and purposes a new and substantive "federal market news law." This we believe was not the intent of Congress.[62]

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[47] *See* proposed Rule 11Ac1–2(b)(2)(i) and (c)(2)(i).

[48] *See* Comments of Bunker Ramo Corporation ("Bunker Ramo"), dated December 15, 1979 ("Bunker Ramo Letter"); letter from Lawrence Entel, Assistant General Counsel, Reuters Limited ("Reuters"), to George A. Fitzsimmons, Secretary, Securities and Exchange Commission ("SEC"), dated December 21, 1979 ("Reuters Letter"); letter from Richard B. Walbert, President, Midwest Stock Exchange, Inc. ("MSE"), to Harold M. Williams, Chairman, SEC, dated November 24, 1978 ("MSE Letter"); letter from Nicholas A. Giordano, Executive Vice-President, Philadelphia Stock Exchange, Inc. ("Phlx"), to George A. Fitzsimmons, Secretary, SEC, dated December 13, 1978 ("Phlx Letter"); letter from Joseph S. Dimartino, Chairman, Institutional Traders Advisory Committee ("ITAC"), to George A. Fitzsimmons, Secretary, SEC, dated December 14, 1978 ("ITAC Letter"); letter from Joseph W. Sullivan, President, Chicago Board Options Exchange, Inc. ("CBOE"), to George A. Fitzsimmons, Secretary, SEC, dated December 14, 1978 ("CBOE Letter"); letter from James E. Dowd, President, Boston Stock Exchange, Inc. ("BSE"), to George A. Fitzsimmons, Secretary, SEC, dated December 15, 1978 ("BSE Letter"); letter from James E. Buck, Secretary, New York Stock Exchange, Inc. ("NYSE"), to George A. Fitzsimmons, Secretary, SEC, dated January 12, 1979 ("NYSE Letter"); letter from Charles J. Henry, President, Pacific Stock Exchange, Inc. ("PSE"), to George A. Fitzsimmons, Secretary, SEC, dated June 29, 1979 ("PSE Letter"); letter from Nicholas A. Giordano, Chairman, Operating Committee, Intermarket Trading System ("ITS") ("ITS Operating Committee") to George A. Fitzsimmons, Secretary, SEC, dated January 22, 1979 ("ITS Letter"); letter from Jerome M. Pustilnik, Chairman, Institutional Networks Corporation ("Instinet"), to George A. Fitzsimmons, Secretary, SEC, dated December 28, 1978 ("Instinet Letter"); letter from D. H. Bodell, Financial Services Division, GTE Information Systems Incorporated ("GTE"), to George A. Fitzsimmons, Secretary, SEC, dated December 28, 1978 ("GTE Letter"); letter from Robert M. Steinberg, Executive Vice President, Quotron Systems, Inc. ("Quotron") to George A. Fitzsimmons, Secretary, SEC, dated December 19, 1978 ("Quotron Letter"); letter from William A. Schreyer, President, Merrill Lynch, Pierce, Fenner & Smith, Inc. ("Merrill Lynch"), to George A. Fitzsimmons, Secretary, SEC, dated December 5, 1978 ("1978 Merrill Lynch Letter"); letter from William O. Sellers, Vice President, Merrill Lynch & Co., to Andrew M. Klein, Director, Division of Market Regulation, SEC, dated January 29, 1979 ("1979 Merrill Lynch Letter"); letter from Edward I. O'Brien, President, Securities Industry Association ("SIA"), to George A. Fitzsimmons, Secretary, SEC, dated January 12, 1979 ("SIA Letter"); letter from Gordon S. Macklin, President, NASD, to George A. Fitzsimmons, Secretary, SEC, dated December 6, 1978 ("NASD Letter"); letter from Lewis N. Dembitz, to George A. Fitzsimmons, Secretary, SEC, dated November 16, 1978 ("Dembitz Letter"); letter from H. C. Piper, Jr., President, Piper, Jaffray & Hopwood, Inc. ("Piper"), to George A. Fitzsimmons, Secretary, SEC, dated November 12, 1978 ("Piper Letter"); letter from Raymond B. Garcia, Daine, Kalman & Quail ("DKQ"), to George A. Fitzsimmons, Secretary, SEC, dated January 12, 1979 ("DKQ Letter"); letter from Boyd L. Jeffries, President, Jeffries & Company, Inc. ("Jeffries"), to George A. Fitzsimmons, Secretary, SEC, dated December 13, 1978 ("Jeffries Letter"); and letter from Fred Zimmerman, III, Vice-President and Trust Officer, Republic National Bank of Dallas ("Republic"), to George A. Fitzsimmons, Secretary, SEC, dated December 13, 1978 ("Republic Letter"). These letters are contained in File No. S7–759.

[49] Bunker Ramo, GTE, Instinet, Quotron and Reuters.

[50] BSE, CBOE, MSE, NASD, NYSE, Phlx and PSE.

[51] DKQ, Jeffries, Merrill Lynch, and Piper.

[52] MSE Letter, *supra* note 48, at 56.

[53] Phlx Letter, *supra* note 48, at 1.

[54] CBOE Letter, *supra* note 48, at 1.

[55] BSE Letter, *supra* note 48, at 1.

[56] *See* Bunker Ramo Letter, *supra* note 48, at 3–5, Quotron Letter, *supra* note 48, at 6–7; GTE Letter *supra* note 48, at 2; and Reuters Letter, *supra* note 48, at 5–6.

[57] *See* Quotron Letter, *supra* note 48, at 6–7; GTE Letter *supra* note 48, at 2; and Reuters Letter, *supra* note *48*,at 5–6.

[58] Reuters Letter, *supra* note 48, at 7.

[59] Reuters Letter, *supra* note 48, at 8–9, 11–12.

[60] *See* Bunker Ramo Letter, *supra* note 48, and Reuters Letter, *supra* note 48, at 2, 3, 8.

[61] Bunker Ramo contended that the Commission is empowered to regulate securities information processors only under certain provisions of the 1975 Amendments [*see* Section 11A(c)(1)(A–F) of the Act, 15 U.S.C. 78 k–1(c)(1)(A–F)] and that none of those provisions authorizes the Commission to adopt proposed Rule 11Ac1–2. *See* Bunker Ramo Letter, *supra* note 48, at 26–28.

[62] Reuters Letter, *supra* note 48, at 3.

Reuters further contended that Congress' purpose in enacting the 1975 Amendments was "that consumers should be the ones to decide what services are offered, what goods are produced, and that to this end, controls on prices, on market entry, on technological development, etc., should be limited to the extent necessary." [63]

In its comment letter, Reuters also argued that mandating display format and accessibility "impermissibly restrains Reuters' exercise of its First Amendment rights," [64] and thus, the adoption of the Rule would violate Reuters' freedom of speech and press.[65]

2. *Commission Response*—a. *Statutory Authority.* Prior to the enactment of the 1975 Amendments there existed some controversy as to the Commission's authority under the Act to require and to regulate the dissemination of market information.[66] In considering the 1975 Amendments, the Senate Banking, Housing and Urban Affairs Committee stated, with respect to the Commission's responsibility on matters related to the dissemination of market information, that

> [i]n the securities markets, as in most other active markets, it is critical for those who trade to have access to accurate, up-to-the-second information as to prices at which transactions in particular securities are taking place (*i.e.*, last sale reports) and the prices at which other traders have expressed their willingness to buy and sell (*i.e.*, quotations). For this reason, communications systems designed to provide automated dissemination of last sale and quotation information with respect to securities will form the heart of the national market system. The Committee has found, however, that there are significant questions as to the SEC's authority to regulate persons operating and administering those systems. As our trading markets shift from independent self-contained units to a single integrated system, clear regulatory control over the communications links among markets becomes imperative. [S. 249 [67]] would greatly expand the SEC's regulatory authority over the processors and distributors of market information. The goals of this pervasive authority would be to ensure the availability of prompt and accurate trading information, to ensure that these communications networks are not controlled or dominated by any particular market center, to guarantee fair access to such systems by all brokers, dealers and investors, and to prevent any competitive restriction on their operation not justified by the purposes of the Exchange Act.[68]

The Senate Report further noted that "[e]xamples of the types of subjects as to which the SEC would have authority to promulgate rules include * * * *what and how information is displayed* * * *." [69] Section 11(A)(c)(1)(B) was enacted to reflect these views by authorizing the Commission to adopt rules to assure the prompt, accurate, reliable and fair collection, processing, distribution, and publication of transaction and quotation information. Thus, the 1975 Amendments explicitly provide the Commission with the authority to adopt rules governing vendor display techniques.

b. *Constitutionality.* The resolution of the issue of whether the Rule violates vendors' first amendment rights of the press and free speech depends on both the type of speech proposed to be regulated and the nature of that regulation.[70] Regulation of most categories of speech (*e.g.*, political speech), with few exceptions, constitute impermissible prior restraints or "chilling effects" on publication.[71] However, regulations of certain categories of speech, such as commercial speech, are subject to less stringent standards of review.[72]

Rule 11Ac1–2 regulates communications which are directed at providing investors with market information that is considered necessary to investment decisions, *i.e.*, communications that are essentially commercial in nature. The courts have only recently recognized the applicability of the first amendment to commercial speech,[73] and the United States Supreme Court has yet to enunciate a definitive test for determining the validity of regulations governing the publication of commercial speech. However, recent cases suggest that, where a valid regulatory objective as well as a rational relationship between the regulation and the objective are demonstrated, the regulation would be upheld.[74] As is discussed at length below and in the release proposing Rule 11Ac1–2, the Commission believes that Rule 11Ac1–2 is rationally related to furthering the valid Congressional directive to establish a national market system and to provide added protections to investors by enhancing the availability and utility of consolidated market information. Rule 11Ac1–2, therefore, would not violate vendors' First Amendment rights of the press or free speech.

In this regard, the Commission should emphasize that the regulation provided in Rule 11Ac1–2 cannot be characterized as one of "prior restraint" since it generally does not require vendors to delete information from their displays.[75] Rather, the Rule merely requires vendors to include additional information on interrogation device displays of market information and to revise the current method for retrieving consolidated information. This type of regulation would therefore appear to be less onerous than the type of regulations that have been found to infringe on the protections afforded commercial speech,[76] and consistent with those decisions which have upheld regulation of commercial speech.[77] In addition, the Commission has considered alternative means of ensuring widespread dissemination of consolidated market information [78] but has determined that the Rule being adopted today is the most appropriate means, at this juncture in the evolution of a national market system, of attaining this important goal. Finally, if the application of Rule 11Ac1–2 has an onerous impact on any vendor and relief can be afforded without vitiating the purposes of the Rule, the Commission has reserved exemptive power under the Rule to ameliorate that impact.[79]

B. Display and Retrieval of Consolidated Information

1. *Comments.* All of the persons other than vendors that commented generally on Rule 11Ac1–2 endorsed the goal of

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[63] *Id.* at 8.

[64] *Id.* at 4.

[65] *Id.* at 3–4.

[66] *See* Rule 11Aa3–1 Proposal Release, *supra* note 14, at 10 n.19, 43 FR at 50607 n.19.

[67] The 1975 Amendments were based on S. 249.

[68] Senate Com. on Banking, Housing & Urb. Affs., *Report to Accompany S. 249*, S. Rep. No. 94–75, ("Senate Report") 94th Cong., 1st Sess, at 9 (1975), *reprinted in*, [1975] U.S. Code Cong. & Ad., News 179, 181.

[69] *Id.* at 11, [1975] U.S. Code Cong. & Ad. News at 189 (emphasis supplied).

[70] *See e.g., Virginia State Bd. of Pharmacy* v. *Virginia Consumers Council*, 425 U.S. 748 (1976) and *Bigelow* v. *Virginia*, 421 U.S. 809 (1975). *See also* L. Tribe, *American Constitutional Law* 653–54 (1978).

[71] *See, e.g., Cohen* v. *California*, 403 U.S. 15 (1971); *Street* v. *New York*, 394 U.S. 576; and *Chaplinksy* v. *New Hampshire*, 315 U.S. 368 (1942).

[72] *See e.g., Friedman* v. *Rogers*, 99 S. Ct. 887 (1979).

[73] *See, e.g., Valentine* v. *Chrestenson*, 316 U.S. 52 (1942), where the United States Supreme Court indicated that the first amendment imposed "no * * * restraint on government with respect to purely commercial advertising." *Id.* at 54. The leading Supreme Court decisions finding that a communication that proposes a commercial transaction is not "wholly outside the protection of the first amendment" were *Virginia State Bd. of Pharmacy* v. *Virginia Consumers Council* 425 U.S. 748 (1976), and *Bigelow* v. *Virginia*, 421 U.S. 809 (1975).

[74] *See e.g., Friedman* v. *Rogers*, 99 S. Ct. 887 (1979) and *Bates and O'Steen* v. *State Bar of Arizona*, 433 U.S. 350 (1977).

[75] Rule 11Ac1–2 does, however, prohibit the display of a representative bid and asked quotation. The Commission believes that this prohibition is a necessary measure designed to curb possibilities of overreaching.

[76] *See e.g., Ohralik* v. *Ohio State Bar Assoc.* 98 S. Ct. 1912 (1978); and *In Re Primus* 98 S.Ct. 1893 (1978).

[77] *See e.g., Friedman* v. *Rogers*, *supra* note 74.

[78] *See* text accompanying notes 113–118, *infra*.

[79] *See* text accompanying note 96, *infra*.

simplifying access procedures to and improving the content of the display of consolidated market information.[80] Those commentators found the proposals to be an important initiative in assuring publication of market information,[81] and in resolving the discriminatory fashion in which market information is currently provided to the public by vendors.[82] The ITS Operating Committee considered the "relevant aspects of the Rule to be beneficial to the efficient operation of ITS."[83] In addition, some of the commentators that supported the adoption of proposed Rule 11Ac1–2 believed that the rule did not go far enough to ameliorate the deficiencies in the manner in which market information is disseminated. In responding to that part of the proposal which would require vendors to provide a consolidated quotation display, two commentators contended that such a display is an inadequate reference for informing subscribers of the depth of the market for a security and suggested, as an alternative, that the Commission require vendors to display a complete montage of quotations.[84] In addition, two commentators suggested that the Commission require that individual market transaction information be displayed on a montage.[85]

Four of the five vendors commenting on proposed Rule 11Ac1–2 disagreed, arguing that the expense of compliance with the Rule would be substantial and that adoption of the rule would fail to achieve the Commission's objectives of increasing the use of consolidated information.[86] For example, Quotron argued that the relative ease by which market information may be accessed will not determine the frequency with which that information will be recalled and that, therefore, the proposed provision requiring vendors to simplify the method of recalling consolidated information would not have its intended effect. In support of its contention, Quotron pointed out that, following the implementation of the high speed data stream for transmitting transaction information, Quotron voluntarily revised its access procedures to permit recall of consolidated transaction information by the easiest method but that it reverted to its original access procedures (*i.e.*, easiest method for retrieval of primary market information) shortly thereafter in response to subscribers' complaints. Quotron also indicated that the current method of access to and content of market information displays reflects the fact that 95% of all current subscriber requests are for primary market information.[87] Quotron argued that by mandating display techniques that are not responsive to public demand the adoption of the rule would "inhibit the prompt production of information to the public."[88] Quotron therefore suggested that the Commission restrict rulemaking in this area to prohibiting only such information as is shown to be clearly false, misleading or manipulative.[89]

With respect to the proposal that each vendor provide a consolidated quotation display, GTE similarly contended that such a display would rarely be used, indicating that it has been providing such a consolidated quotation display since 1975, but that subscribers rarely request that display.[90] Bunker Ramo also suggested that the Commission not specify a minimum consolidated quotation display because, under present conditions, order by order routing of other than institutional size orders on the basis of displayed quotations generally would only take place on the floor of an exchange via ITS.[91] Bunker Ramo argued that, because registered representatives have virtually no order routing authority, there is no need to provide registered representatives with quotation information from the secondary markets.[92]

Two vendors suggested that the most direct means of ensuring the use of consolidated information would be the adoption of a "best execution" or similar rule. Bunker Ramo recommended the adoption of a rule which would require any person making an order routing decision to check every market,[93] while GTE recommended that a rule be adopted which would require all orders to be sent to the market displaying the best quotation.[94]

Certain vendors also argued that the expense involved in complying with the Rule as well as the detailed specificity of its provisions would hamper innovation and technical advances in the field of securities information communication.[95] For example, Reuters insisted that the significant expense involved in complying with the programming and systems changes contemplated by the Rule would seriously hamper, if not foreclose, Reuters' entry into the securities information industry.[96]

2. *Commission Response*—a. *Goals.* Notwithstanding the Commission's authority, granted in the 1975 Amendments, to regulate the display of market information, the Commission has elected, until this time, to refrain from establishing minimum standards for those displays in order to determine whether competitive forces would ensure that market information display systems would develop in a manner consistent with the evolving national market system.[97] As market information systems have developed, it has become

[80] *See* MSE Letter, *supra* note 48, at 56, Phlx Letter, *supra* note 48, at 1; ITAC Letter, *supra* note 48, at 1; CBOE Letter, *supra* note 48, at 1; BSE Letter, *supra* note 48, at 1; and PSE Letter, *supra* note 48 at 1.

[81] *See* MSE Letter *supra* note 48, at 1.

[82] *See* Phlx Letter, *supra* note 48, at 1; CBOE Letter, *supra* note *48*, at 4; and BSE Letter, *supra* note 48, at 1; and PSE Letter, *supra* note 48, at 3–4.

[83] *See* ITS Letter, *supra* note 48, at 1. The ITS is an intermarket communications linkage system designed to permit orders for the purchase and sale of multiply traded securities to be routed between market centers for execution. *See* Securities Exchange Act Release No. 15871, at 9–13, (March 22, 1979), ("Status Report"), 44 FR 20360, 20360–61.

[84] *See* MSE Letter, *supra* note 48, at 57–58 and Phlx Letter, *supra* note 48, at 2–3. One commentator suggested that the Commission permit vendors displaying a quotation montage to do so in lieu of a best bid and offer display. *See* Instinet Letter, *supra* note 48, at 6.

[85] *See* BSE Letter, *supra* note 48, at 1–2; and Phlx Letter, *supra* note 48, at 4–5.

[86] *See* Bunker Ramo Letter, *supra* note 48, at 3–5; Quotron Letter, *supra* note 48, at 6–9, 21; Reuters Letter, *supra* note 48, at 5–9; and GTE Letter, *supra* note 48, at 2–3. Instinet was the only vendor commenting on proposed rule 11Ac1–2 that did not oppose the adoption of the rule. *See* Instinent Letter, *supra* note 48.

[87] *See* Quotron Letter, *supra* note 48, at 6.

[88] *Id.* at 20.

[89] *Id.* at 22.

[90] *See* GTE Letter, *supra* note 48, at 2.

[91] *See* Bunker Ramo Letter, *supra* note 48, at 12.

[92] *Id.* at 4.

[93] *Id.* at 5, n *.

[94] *See* GTE Letter, *supra* note 48, at 2.

[95] *See* text accompanying notes 188–190, *infra.*

[96] *See* Reuters Letter, *supra* note 48, at 12. Reuters objected to the adoption of two provisions in the proposal. First, Reuters objected to the provision in the Rule which would require Reuters to place individual market and consolidated information on separate displays. *See* text accompanying notes 188–189, *infra.* Reuters indicated that it combines primary and consolidated information in one display and that requiring it to separate displays would not serve the purposes of the rule. Reuters Letter, *supra* note 48, at 10. In addition, Reuters indicated that it was unable to provide, without substantial reprogramming, a consolidated best bid and offer display. *Id.* at 11–12.

[97] In the release announcing the adoption of Rule 11Ac1–1, the Commission indicated that several commentators had suggested that the Commission imose specific obligations on vendors of quotation information to display quotations from all market centers. *See* Rule 11Ac1–1 Release, *supra* note 15, at 37, 43 FR at 4347. The Commission stated that, although the general availability of quotation information from all market centers by such vendors is a necessary prerequisite to the use of that information, it appeared that adequate dissemination of quotation information would be achieved without regulation. In this connection, the Commission believed that the inauguration by one vendor of a montage quotation service should ensure that other vendors would, due to competitive pressures, develop a similar or, at least, a best bid and offer display. *Id.* at 37–38, 43 FR at 4347. The Commission added, however, that it expected quotation displays to include certain features (*see* note 19, *supra*) and that it would continue to monitor vendor progress in providing quotation information in a comprehensive and nondiscriminatory manner. *Id.*

evident to the Commission that vendors have accorded displays of individual market information, particularly primary market information, greater prominence than displays of consolidated information.[98] The Commission recognizes that the current preference accorded displays of primary market information reflects vendors' perceptions of their subscribers' demands and not vendors' intentions to discriminate between the primary and secondary markets. The Commission is concerned, however, that, to some extent, subscriber preference for primary market information may be a product of market information systems which fail to adequately and fairly display consolidated market information. The Commission is also concerned that the failure by vendors to provide comprehensive and easily retrievable displays of consolidated information may impede progress toward a national market system by continuing to emphasize market information disseminated from the primary markets and may hamper the ability of investors to monitor whether their brokers are securing best execution of their customers' orders.

The Commission believes that the modifications in market information systems that are mandated by Rule 11Ac1–2 will enhance investor awareness of the presence of competing market centers, and, thus, alter the current pervasive preference for primary market information. These goals are fundamental to the development of a national market system. In this connection, the provision mandating a consolidated quotation display presents a particularly necessary improvement over the current method in which quotation information is displayed. Both the Congress and the Commission have long expressed the view that, given a consolidated quotation system, brokers and dealers should be able to determine, simply and directly, the best market for any security.[99] At present, that determination is made difficult by the display of individual market quotations on separate displays. Accordingly, the Commission believes that the availability of a single display of quotations for all markets should significantly improve the quality of executions of customer orders by broker-dealers. In addition, the knowledge by market makers in the secondary markets that quotations transmitted from their markets would be given an opportunity to be widely dissemisnated may increase their willingness to compete for order flow.[100]

b. *Provisions Designed to Enhance Displays of Consolidated Information.* The Rule, as adopted, imposes three requirements designed to remedy current deficiencies in the manner of display of consolidated information.[101] First, the Rule retains the proposed requirement that vendors make displays of consolidated transaction and quotation information retrievable either by an inquiry consisting of fewer key strokes than is necessary to retrieve displays of individual market information or by an inquiry consisting of the same number of keystrokes as is necessary to retrieve displays of individual market information, if the information request or transmit key necessary to retrieve consolidated information displays is more prominent.[102]

The Rule, as adopted, also retains the provision requiring vendors to display the consolidated quotation for a reported security[103] if they display any individual market quotation.[104] However, unlike the proposed rule, which would have mandated the display of a single consolidated quotation for

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[98] Briefly, the prominence accorded displays of primary market information is evidenced by the availability of complete market information (including quotation information) on such displays and the relative ease by which such displays may be retrieved. *See* Rule 11Ac1–2 Proposal Release, *supra* note 19, at 38–39, 43 FR at 4347.

[99] In the Commission's 1973 Statement on the Structure of a Central Market System, the Commission indicated that in order for active competition to exist "brokers representing investors must be able to determine at any given time the lowest price at which a particular security can be bought and the highest price at which it can be sold." Policy Statement of the Securities and Exchange Commission on the Structure of a Central Market System (March 29, 1973), at 25, *reprinted in*, [1973] Sec. Reg. & L. Rep. (BNA) No. 196 at D–1, D–5. Similarly, the House of Representatives' Security Industry Study advocated that bid and offer quotations would be published "in such fashion as to permit a comparison between specialists and market makers, who would be in competition with one another." Report of the Subcomm. on Com. & Fin. of the Comm. on Interstate & For. Com., *Securities Industry Study*, H.R. Rep. No. 92–1519, at xiv, (1972). Finally, the House Report on the 1975 Amendments indicated that the implementation of a composite quotation system would be necessary in order to "allow stock brokers to ascertain *at a glance* the market which offers the best price for their customers * * *." (emphasis supplied). Comm. on Interstate & For. Com., *Report to Accompany H.R. 4111 Securities Reform Act of 1975*, H.R. Rep. No. 94–123, at 91(1975).

[100] *But see* text accompanying note 187, *infra*.

[101] In an effort to minimize unintended effects on highly technical vendors systems the Rule addresses specific vendor systems at their current state of development and does not attempt to anticipate developments in a rapidly changing computer and communications technology. The Commission anticipates that, as vendors revise and enhance their systems, they will do so in a manner which is consistent with the policies underlying the Rule. However, the Commission is prepared to respond quickly to any action taken by vendors which may tend to circumvent the Rule.

[102] Rule 11Ac1–2(b)(2)(i) and (c)(2)(i). Although this requirement would require separate displays of consolidated and individual market information, the Commission will consider providing exemptive relief from this requirement for Reuters or any other vendor who wishes to combine primary and consolidated information in one display. *See* note 95, *supra*.

[103] Because of the difficulty of updating firm quotations in a large number of securities, many regional exchange specialists employ systems which automatically update their quotations in securities they are not actively trading each time the primary market bid or offer quotation for that security is revised ("Autoquote"). Presently, however, because each regional exchange independently generates, through its Autoquote equipment, a new quotation, there may be a period of up to 60 seconds after the primary market quotation change before all revised regional "Autoquote quotations" have been reported to the consolidated quotation system for dissemination to vendors. The Commission believes that it would be desirable to eliminate these delays, to the extent possible, and, therefore, to enhance the accuracy and timeliness of the consolidated quotation display. There would appear to be at least two ways in which this may be accomplished. Specialists on each regional exchange, when using Autoquote, could communicate to a central processor the differentials which they wished to maintain between their quotations and primary market quotations for a particular security. The central processor could then recompute all regional quotations based on the differentials supplied to it, and report those new quotations simultaneously to the consolidated quotation system. Alternatively, regional exchange specialists employing Autoquote could supply their quotation differentials to each vendor and each vendor, upon receiving through the consolidated system a report of a primary market quotation change, could compute the appropriate change for each regional exchange for dissemination through its interrogation network. The Commission urges the vendors and the participants in the CQ Plan to jointly agree on one procedure which would ameliorate the quotation reporting delays discussed above.

The present use of Autoquote by regional exchange specialists has also raised more general concerns regarding those specialists' compliance with Rule 11Ac1–1 under the Act. The Commission understands that on certain occasions specialists on regional exchanges, when disseminating quotations in an automated mode, have rejected commitments to trade at their displayed quotation. Amongst other things, this practice has resulted in a general unwillingness of some users to send commitments to trade through ITS to any regional specialist whom they believe is employing Autoquote.

[104] Rule 11Ac1–2(c)(2)(A). The Commission is aware that some third market makers apparently make available quotations to the consolidated quotation system early in the day and rarely, if ever, change those quotations during that day.

As a result, frequently during the day, a "stale" third market bid or offer may become the best bid and offer and thereby possibly undermine the utility of the consolidated quotation display. The Commission reminds those market makers that insertion or maintenance of bid and offer prices which do not represent the actual prices at which the responsible broker or dealer is willing to effect transactions fails to comply with Rule 11Ac1–1 under the Act and violates the prohibition against fictitious quotations found in Section 15(c)(2) of the Act. The Commission expects the NASD to actively monitor the quotations of third market makers to assure compliance with Rule 11Ac1–1. *See* Rule 11Ac1–1 Release, *supra* note 15, at 35, 43 FR at 4347. *See also* NASD Manual—Rules of Fair Practice § 6, at ¶ 2158, (1978).

each reported security, the Rule, as adopted, permits vendors to provide either a single consolidated display of the best bid and offer or a single screen montage display of quotations for each reported security from all reporting market centers.[105]

Finally, Rule 11Ac1–2, as adopted, retains the proposed provisions requiring vendors to include the same categories of information on displays of consolidated information as are included on displays of individual market information.[106] This provision, however, has been modified in order to accomodate concerns raised by GTE that certain display screens, or the portion of these screens alloted to the display of specifically recalled market information,[107] contain a limited number of information fields.[108] Under the provisions of the Rule, interrogation device displays of transaction information must include one market indentifier [109] and displays of consolidated quotation information must include two market identifiers.[110] As a result of these provisions, there could be as many as three fewer fields of information available for collateral market information on a combined display of consolidated transaction and quotation information than on any combined display of individual transaction and quotation information. The Commission understands that the addition of fields of information on the consolidated display to comply with a strict comparability requirement would entail costly reprogramming and, in some instances, hardware modification for at least one vendor. Accordingly, Rule 11Ac1–2, as adopted, has been modified to permit vendors to delete up to three categories of consolidated information in order to comply with the market indentifier requirements of the Rule.[111]

The Commission has determined not to require vendors providing a market minder service [112] on an individual market basis to provide a similar service on a consolidated basis. Although the Commission believes that a consolidated market minder may be a useful tool to investors and would be consistent with the purposes of the Act, the adoption of a consolidated market minder requirement appears to be unwarranted given the supplementary function of market minders and the substantial expense that would be involved in providing that service universally. In addition, two of the three principal vendors already provide a market minder service on a consolidated basis, thus substantially negating the need for regulation. For these reasons the Commission believes that the development of market minders on a consolidated basis should be a function of competitive forces.

c. *Alternatives Considered.* In determining to adopt Rule 11Ac1–2, the Commission has considered a number of alternative regulatory measures, including those suggested by GTE and Bunker Ramo.[113] Initially, the Commission considered mandating minimum requirements that would specify the exact format of, and the precise inquiry sequence for recalling, displays of consolidated information. The Commission understood, however, that each vendor's market information system operates differently, and that a regulation that would prescribe display techniques unrelated to each vendor's capability might place some vendors at a competitive disadvantage. The Commission believed that, in order to avoid any substantial anticompetitive impact on certain vendors, it was necessary to design regulations that would permit each vendor to apply its own display techniques in complying with the regulation. The Commission therefore proposed flexible specifications for the display of consolidated information which would permit each vendor to apply its existing method of retrieving primary market information and require each to include the categories of market information that it already includes on its displays of individual market information to the retrieval and to the display of consolidated information.[114] The underlying premise of this approach is to ensure, at a minimum, that consolidated information would not be displayed in a fashion that would make that information appear to be less significant or less useful to investors than individual market information.

The Commission recognizes that it could ensure that investment decisions are based on nation-wide information by requiring that all orders be routed to the best displayed market, as suggested by GTE, or that all individual market displays be checked, as suggested by Bunker Ramo. In its recent status report on the development of a national market system,[115] the Commission stated that it had determined to defer proposal of a rule, such as the one suggested by GTE.[116] The Commission indicated that

> [i]n the current trading environment, in which quotations are not firm under all circumstances, and there are practical limitations on access for execution purposes and differences in clearing costs, it is questionable whether individualized routing

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[105] Although the Commission concurs with those commentators who suggested that a montage is more informative to investors and to their brokers than the consolidated quotation display, *see* text accompanying notes 84–85 *supra*, the Commission has determined not to require, at this time, that all vendors provide a montage. The Commission understands that the hardware, software and line costs inherent in providing a dynamic montage service on interrogation devices supplied to each registered representative would be far more significant than those associated with providing a best bid and offer display. In addition, the Commission recognizes that most users of interrogation devices are registered representatives who, for most practical purposes, do not possess either the authority or the means to route customer orders to the market displaying the best price. Accordingly, the Commission believes that the marginal benefit that may be provided to investors by a quotation montage, as compared to the best bid and offer display, would not warrant the expense involved in requiring that a montage be provided on all interrogation device displays. However, the Commission does expect that firms will provide their trading desks with a quotation montage service in order to provide officials responsible for order routing decisions with accurate and complete quotation information. For the same reasons, (*i.e.*, expense and the absence of a substantial benefit to be derived as a result) the Commission has also determined not to require a montage of transaction information.

[106] Rule 11Ac1–2(b)(V).

[107] Some interrogation devices display specifically recalled market information on an entire screen, while others allot only portions of the screen to the display of this information in order that other services may be provided on the remainder of the screen.

[108] *See* GTE Letter, *supra* note 48, at 5.

[109] *See* Rule 11Ac1–2(b)(i)(C).

[110] *See* Rule 11Ac1–2(c)(2)(i)(A)(1).

[111] *See* Rule 11Ac1–2(b)(F). A vendor would be permitted to delete up to three categories of collateral market information if consolidated transaction and quotation information are combined into a single display. If a vendor provides no consolidated quotation information on its consolidated transaction display that vendor would be permitted to delete only one category of information from the display of consolidated transaction information. In addition, if a vendor is required to provide a combined display, he may not elect to delete either the consolidated quotation or transaction information in reliance upon the exception to the equal categories of information requirement. *Id.*

Bunker Ramo indicated that the same categories of information requirement also represented a costly burden to vendors because it entails the expansion of consolidated information storage capacities. *See* Bunker Ramo Letter, *supra* note 48, at 9–11. The modification of the equal categories of information provision does not address the storage capacity problem raised by Bunker Ramo because the Commission believes that the importance of ensuring the usefulness of displays of consolidated information and the fact that vendors have developed sufficient storage capacities to permit collateral information to be included on displays of individual market information outweigh the expense involved in the expansion of current storage facilities for consolidated transaction information.

[112] *See* Rule 11Aa3–1(a)(11).

[113] *See* text accompanying notes *93–94, supra.*

[114] Accordingly, the proposal did not generally require vendors to provide specified categories of information unless that vendor already provided the same type of information on an individual market basis.

[115] *See* Status Report, *supra* note 83.

[116] *Id.* at 43–44, 44 FR at 20366.

of all orders on the basis of machine-displayed quotations should be required.[117]

The Commission has also determined not to pursue Bunker Ramo's suggestion that the Commission require brokers to survey each market prior to routing any order. The Commission believes that such requirement would be unenforceable and unnecessarily burdensome given the present limitations on the firmness of quotations and the manner in which most customer orders are currently routed.[118]

Finally, the Commission has also considered Bunker Ramo's suggestion that the Commission require deletion of all displays of individual market information as a means of ensuring use of consolidated information. The Commission has rejected this alternative in the belief that a reduction in the amount of information available to the public would be antithetical to the interests of investors and would impede the creation of a national market system.

C. Formula for Determination of the Consolidated Quotation

1. *Comments.* Seven commentators addressed the specific formula which would be used to determine the consolidated quotation when more than one market's quotation represents the highest bid or the lowest offer price. Three commentators, SIA, NASD and GTE, advocated permitting the vendor to determine whether the consolidated quotation under those circumstances would constitute the first bid or offer received by that vendor or the bid or offer with the greatest size. Those commentators indicated that, because investors could perceive a benefit from a consolidated quotation determined under either formula, vendors should be permitted to design their systems in a manner that would be responsive to their subscribers' needs.[119] GTE also suggested that the proposal be amended to permit it to display the aggregate size of the best quotations from all markets displaying the best bid or offer price.[120]

The four remaining commentators, NYSE, ITS Operating Committee Quotron and Merrill Lynch recommended that size be given priority over time in determining the consolidated quotation display.[121] The NYSE and the ITS Operating Committee based their recommendations on the advisability of having identical interrogation device and ITS displays.[122] Merrill Lynch advocated that size be the primary factor in determining the consolidated quotation since (i) determining the best bid and offer on the basis of time would be of no use to investors because strict time priority is not currently a feature of a national market system, and (ii) it is in the customer's best interest to have his order executed in one market and, therefore, customers should be aware of the best market in size.[123] Quotron recommended that size be considered before time because of concerns that vendors might compute the time of a quotation differently.[124]

2. *Commission Response.* The Rule, as adopted, requires that vendors provide a consolidated quotation which is determined first by reference to price (*i.e.*, the highest bid and the lowest offer), then, as to bids or offers at the same price, by reference to the bid or offer with the greatest size, and finally, as between bids or offers at identical price and size by reference to time of receipt.[125]

The Commission has determined not to grant vendors discretion to select size or time priority because, at present, orders are not routed on the basis of quotation time. Therefore, time receipt would appear to be a less useful factor in determining the "best" market than size. Moreover, it may be that the quotation received first in time may be less valuable to investors than more recent quotations because there is a greater likelihood that the "oldest" quotation is stale. The size priority formulation, on the other hand, does provide investors with important information in the current trading environment and may further certain national market system objectives. The size priority formulation provides investors and their brokers seeking to execute orders in excess of 100 shares with information regarding the depth of the market displaying the best price. In

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[117] *Id.* The Commission's statement concerning order routing on the basis of machine displayed quotations was intended only to explain the Commission's determination not to mandate order-by-order routing rather than to discourage individual industry efforts to experiment in this area. Recently, William A. Schreyer, President of Merrill Lynch, announced in testimony before the House of Representatives Subcommittees on Oversight and Investigation and on Consumer Protection and Finance of the House Committee on Interstate and Foreign Commerce that Merrill Lynch has developed a prototype of an electronic securities order routing system. This system is said to have the capability of scanning all quotations in the consolidated quotation system and sending customer orders to the best market. The Commission endorses this and similar experimental efforts directed at enhancing brokers' capabilities at achieving "best execution" on behalf of their customers and believes that the experience derived from such pilot programs will better enable the Commission to further explore the feasibility of systemwide order routing facilities.

[118] The Commission's determination to defer consideration of a "best execution" rule, given the current posture of the evolution of a national market system, is not intended to be an indication that the quality of individual markets (as reflected by transaction and quotation information disseminated from each market) should not be regarded as an important factor in determining to which market an order should be sent. In the release announcing the adoption of Ruke 11Ac1–1, the Commission indicated that it expected that that rule would improve the quality of quotation information available from all market centers and that brokers would utilize that information in making informed oruer routing decisions. *See* Rule 11Ac1–1 Release, *supra* note 15, at 37–43, 43 FR at 4346–47. Furthermore, the Commission has also indicated that it expects that those broker-dealers that automatically route retail customer orders in a particular security to a predesignated market, at a minimum, make periodic assessments as to the quality of such market. *See* Status Report, *supra* note 83, at 39, 44 FR at 20366. The Commission continues to believe that awareness of nationwide market information by brokers, dealers and investors is essential to improving the quality of order execution.

Furthermore, the Commission believes that broker-dealers who choose to automatically route their customer orders to a designated market should be alert for unusual market conditions in the designated market which would require brokers to take additional measures (such as disclosure of market conditions or special handling of customer orders). Examples of such unusual market conditions would include substantial price disparity between the designated market and other markets, extreme volatility of the market in the security and unusual trading patterns. In addition, the Commission notes that a broker's fiduciary responsibility to obtain the best execution of a customer's order under the circumstances may continue beyond the initial routing decision. In this regard, the Commission has proposed Rule 11Ac1–3 which would provide for nation-wide protection of certain displayed public limit orders. *See* Securities Exchange Act Release No. 15770 (April 26, 1979), 44 FR 26692.

[119] *See* SIA Letter, *supra* note 48, at 3; NASD Letter, *supra* note 48, at 3 and GTE Letter, *supra* note 48, at 6.

[120] *See* GTE Letter, *supra* note 48, at 6.

[121] *See* NYSE Letter, *supra* note 48, at 12–13; ITS Letter, *supra* note 48, at 2; Quotron Letter, *supra* note 48, at 22; 1978 Merrill Lynch Letter *supra* note 48; and 1979 Merrill Lynch Letter *supra* note 48, at 2.

[122] *See* NYSE Letter, *supra* note 48, at 13; and ITS Letter, *supra* note 48, at 2.

[123] *See* 1978 Merrill Lynch Letter, *supra* note 48; and 1979 Merrill Lynch Letter, *supra* note 48, at 2. Merrill Lynch's prototype order routing system, described *supra* note 117, is designed to direct orders to the market displaying the best price with a size equalling or exceeding the order in question. If more than one market is displaying such a quotation, Merrill Lynch will route the order to the predetermined "primary" market.

[124] For example, Quotron questioned whether a change in quotation size would be deemed an entirely new quotation or whether a change in a market center's bid would also be deemed a change in its offer. Quotron also requested advice with respect to whether it would be necessary for the vendors to recompute the best bid and offer when an exchange closes and when an unusual market condition exists. *See* Quotron Letter, *supra* note 48, at 16.

[125] Rule 11Acl–2(a)(15). The Commission has modified the proposed provision to exclude certain quotations if the market with the best quotation (in price and size) is reporting an usual market condition. While under those circumstances that market's quotation should not be included in computing the best bid or offer price, the Commission urges that vendors include a symbol on the display notifying investors that one or more markets are reporting an unusual market condition.

addition, market centers may be encouraged to display quotations in greater size (*i.e.*, disclosing a more complete indication of the actual buying and selling interest in their market or creating a willingness to assume greater market making risk).[126]

D. Display of Quotation Information in Non-Reported Securities

1. *Comments.* Most commentators who addressed those provisions of the proposed rule regulating the manner of display of quotations in nonreported securities supported the rule's requirements. These commentators felt that NASDAQ Level 1 should display the best bid and offer rather than the RBA,[127] and indicated their belief that the trading in subject securities would be benefited by the enhanced disclosure.[128] The SIA recommended, however, that the Commission request the NASD to monitor possible adverse effects of such a provision on market makers.[129]

On the other hand, the NSTA (on behalf of various of its members),[130] Piper, [131] and DKQ [132] opposed the elimination of the RBA. Those commentators noted that the "inside" quote could sometimes be misleading because NASDAQ market makers are not required to execute orders for greater than a single round lot at the displayed quotation and, thus, the best bid or offer might not accurately reflect the price at which orders of greater size could be executed.[133] Moreover, these commentators suggested that, because investors expect their entire orders to be executed at the quoted price, dissemination of the best bid and offer quotation to public investors would act as a disincentive to market making by forcing OTC marketmakers to match nominal "inside markets" for orders in excess of 100 shares or be faced with substantial customer dissatisfaction.[134] In addition, the NSTA believed that the adoption of this provision would be untimely in view of the unknown effects of then recent amendments to Rule 10b–10 under the Act,[135] and and the Commission's rule proposals relating to real-time reporting in national market system securities and the removal of off-board trading restrictions for certain securities.[136]

2. *Commission Response.* Transaction information is not presently reported on a real time basis with respect to non-reported securities. [137] As a result, the only electronically displayed real-time market information in non-reported securities available to investors is the RBA. In proposing Rule 11Ac1–2, the Commission indicated its concern that the behavior of certain broker-dealers in executing their customers' transactions in non-reported securities may be affected by their knowledge that their customers are unaware of all current quotations or of the "inside" market.[138] For example, the Commission noted that some customer transactions are being effected by certain firms at the RBA notwithstanding that the firm executing those order on behalf of their customers may have published a bid or an offer superior to the RBA.[139]

The Commission acknowledges that, under certain circumstances, the fact that customers receive an execution at a price inferior to the best published bid or offer price may be justified. For example, executions at other than the best price may also be explained by the fact that the market maker displaying the best bid or offer may not have been willing to purchase the full amount of a customer's order, and that, therefore, the remainder of the order was executed at a less favorable price. In addition, broker-dealers may elect to refrain from routing their orders to certain market makers because either the cost of execution and clearing transactions effected through those market makers do not justify routing orders to them or because those broker-dealers have reason to believe that it may be imprudent to deal with certain market makers.[140]

None of the foregoing is a basis, however, for denying customers the knowledge of the "inside" quotation. Broker-dealers who are fulfilling their fiduciary obligations would have the additional responsibility of responding to customer requests to explain the manner in which their orders were executed. The Commission believes that this would be a beneficial result of the Rule. The effort and costs involved in educating customers with respect to their transactions are not so burdensome as to outweigh the benefits to be derived from disclosing the best quotes to investors which may lead to an improvement in the execution of orders, or at least permit investors the opportunity to police those executions.

In the Commission's view, the failure to display "inside" quotations to investors in non-reported securities potentially misleads customers into believing that they are receiving the best price available on their orders. In addition, even if customers are aware that the quotations displayed to them are the RBA, the quality of execution of their orders is diminished by brokerage firms' knowledge of their customers' inability to determine, at a minimum, the best bid or offer. The benefits to be achieved by requiring the display of the "inside" market and the prohibition against the display of the "representative bid and offer" outweigh any perceived adverse effects of requiring the display of the "inside" market. The Commission has, therefore, adopted the provision requiring the display of, at a minimum, the best bid and offer of a security[141] and prohibiting the display of any "representative" quotation.[142]

E. Market Identifiers

1. *Comments.* In response to its proposal to delete market identifiers from moving ticker displays and from interrogation devices, the Commission received numerous comments. Only one

[126] In this regard, the Commission would consider a request by GTE (or any other vendor with a similar display) to permit the aggregation of size of all markets displaying the best price if a significant number of those markets is identified. *See* text accompanying note 79, *supra*.

[127] *See* NYSE Letter, *supra* note 48, at 15–16; SIA Letter, *supra* note 48, at 3–4; NASD Letter, *supra* note 48, at 2–3; Instinet Letter, *supra* note 48, at 7–8; GTE Letter, *supra* note 48, at 7; and Dembitz Letter, *supra* note 48.

[128] *See* Instinet Letter, *supra* note 48, at 8.

[129] *See* SIA Letter, *supra* note 48, at 4–5.

[130] *See* NSTA Letter, *supra* note 48.

[131] *See* Piper Letter, *supra* note 48.

[132] *See* DKQ Letter, *supra* note 48.

[133] The NASD Rules of Fair Practice require a member firm to buy and sell a normal unit of trading at its then prevailing quotation.

[134] *See* NSTA Letter, *supra* note 48, at 2–3; and Piper Letter, *supra* note 48.

[135] Rule 10b–10 was amended on October 8, 1978 to require over-the-counter market makers to disclose their markup in riskless principal transactions. *See* Securities Exchange Act Release No. 15219 (October 6, 1978), 43 FR 47495.

[136] *See* NSTA Letter, *supra* note 48, at 3.

[137] The Commission has recently proposed Rule 11Aa2–1 under the Act, which, if adopted, would provide procedures for the designation of securities (including certain over-the-counter securities) as qualified for trading in a national market system. *See* Securities Exchange Act Release No. 15926 (June 15, 1979), 44 FR 36912. Although proposed Rule 11Aa2–1 does not address the timing or manner of inclusion of over-the-counter national market system securities in the facilities of that system, the Commission proposed in the release that certain over-the-counter securities (denoted as tier 1 securities) would be included in the consolidated transaction reporting and quotation systems shortly after the designation of those securities as tier 1 securities. *Id.* at 44–45, 44 FR at 36920–21.

[138] *See* Rule 11Ac1–2 Proposal Release, *supra* note 19, at 43, 43 FR at 50622.

[139] *See* Prepared Statement of the MSE, August 4, 1977, at 47, contained in File No. 4–180.

[140] The Commission has, in the past, been informed that certain market makers displaying quotes in NASDAQ are not even "firm" for a single round lot as is required by the NASD. The Commission expects the NASD to take appropriate measures to preclude this contravention of its rules. *See* Piper Letter, *supra* note 48, and NSTA Letter, *supra* note 48, at 1–2.

[141] *See* Rule 11Ac1–2(c)(2)(i).

[142] *See* Rule 11Ac1–2(c)(2)(vi).

commentator, Bunker Ramo, supported the mandatory deletion of market identification from recall devices and from moving tickers. Bunker Ramo advocated this approach as a method of promoting the concept of a national market system and of shifting the focus of attention away from the display of transaction information to the display of quotation information in order to promote competitive market making. [143] On the other hand, one other commentator, Instinet, suggested that, to the contrary, the Commission mandate the inclusion of market identifiers. Instinet contended that market identifiers were necessary as a surveillance matter, to determine whether specialists were honoring their quotations, as is required by Rule 11Ac1–1. [144]

Most other persons commenting on this provision opposed any mandatory requirements regarding market identifiers. Three commentators suggested that market identifiers may be a useful investor tool and that vendors should be given discretion to determine whether to include market identifiers as part of transaction information. [145] One vendor indicated that it had relied on the Commission's earlier position requiring market identifiers to accompany the consolidated transaction information on interrogation devices and that it was unfair to require that vendor to expend funds to comply with the reversed position. [146] The MSE contended that while the removal of market identifiers from moving tickers was useful, the deletion from recall devices was unnecessary. [147]

Three commentors advocated the modification of the proposed provision to require inclusion on moving tickers of market identifiers for block trades. [148] In their views, market identifiers are essential for monitoring executions and trends in purchases and sales, as well as identifying potential sources of supply and demand, [149] and are particularly useful to institutional investors. [150] Two of these commentators suggested that the Commission define a block trade as 5,000 shares or more, [151] and one commentator suggested a transaction of at least 10,000 shares should be followed by a market identifier. [152] The NYSE indicated that it would support placing market identifiers on the consolidated tape for all or for at least block trades, (5,000 shares or more) if the other market centers agree. [153]

2. *Commission Response.* The Commission has consistently been of the belief that non-discriminatory market identifiers may be an important tool to investors and in encouraging competition among market centers. [154] For these reasons, the Commission included within Rule 17a–15 the requirement that transaction information be accompanied by market identifiers. [155] However, the CTA Plan required that all moving tickers be supplied only from the low speed data streams [156] which provide information to moving tickers at the rate of only 900 characters per minute. [157] Because of the limitations of low speed data transmission, it became obvious that transaction information appearing on moving tickers could not include market identifiers on a non-discriminatory basis without unreasonably delaying the display of transaction information. As a result, the CTA instituted a manner of identifying markets of execution on moving ticker displays which differentiated between transactions executed in the primary markets and in other market centers. Primary market tranactions which comprise the majority of reported transactions were not followed by any symbol, while transactions in other market centers were followed by an ampersand and a single alphabetic character identifying the market of execution. [158] By utilizing this method of market identification excessive delays were avoided on moving tickers.

The regional exchanges and third market makers contended that this method of identification discriminated against their markets by differentiating the method of identifying transaction information emanating from their markets as compared to transaction information from primary markets. [159] In the course of discussions among various market centers negotiating with respect to the creation of the ITS, those market centers jointly requested that the Commission permit the deletion of market identifiers from the tape with respect to ITS participants by amending Rule 17a–15 or by granting an exemption from that rule. [160] In 1978, the Commission issued an exemptive order from Rule 17a–15 granting this request, conditioned on the prompt removal, as soon as technically possible, of all market identifiers. [161] The Commission stated in its order that such differentiated transaction reporting was inconsistent with the underlying purpose of a consolidated system. [162]

In adopting Rule 11Aa3–1 today, the Commission has created an opportunity to alter the environment in which transaction information is displayed. Specifically, Rule 11A3–1 permits the retransmission of transaction information supplied by the high speed

[143] *See* Bunker Ramo Letter, *supra* note 48, at 6.

[144] *See* Instinet Letter, *supra* note 48, at 4.

[145] *See* GTE Letter, *supra* note 48, at 5–6, Quotron Letter, *supra* note 48, at 4–5, and NASD Letter, *supra* note 48, at 1. Although GTE's initial suggestion was to have all market identifiers not serving a regulatory purpose deleted, GTE indicated that if vendors were permitted to display separately transaction information on an individual market basis, inclusion of market identifiers on consolidated displays should be a matter of each vendor's discretion. *See* GTE Letter, *supra* note 48, at 6.

[146] *See* Reuters Letter, *supra* note 48, at 9.

[147] *See* MSE Letter, *supra* note 48, at 1–2.

[148] *See* ITAC Letter, *supra* note 48, Jeffries Letter, *supra* note 48, and Republic Letter, *supra* note 48.

[149] *See* ITAC Letter, *supra* note 48, at 1–2.

[150] *See* Jeffries Letter, *supra* note 48; and Republic Letter, *supra* note 78.

[151] *See* ITAC Letter, *supra* note 48, at 1; and Republic Letter, *supra* note 48.

[152] *See* Jeffries Letter, *supra* note 48.

[153] *See* NYSE Letter, *supra* note 48, at 10–11.

[154] In the Rule 11Ac1–2 Proposing Release, *supra* note 19, at 28–29, 43 FR at 50619, the Commission indicated that the advent of Rule 11Ac1–1 may have diminished the importance of transaction information to investors and that market identifiers may no longer be a relevant tool to investors. Based on the nearly unanimous comment that transaction information and market identifiers continue to be essential sources for making investment decisions, the Commission has concluded that, absent other factors, transaction information, whether on moving tickers or interrogation devices, should include market identifiers.

[155] *See* Rule 17a–15(b)(4).

[156] *See* Rule 11Aa3–1 Release, *supra* note 5, at text accompanying note 22.

[157] *Id.* at note 21.

[158] *See* Rule 11Aa3–1 Release, *supra* note 5, at note 21.

[159] *See* e.g., letter from Kenneth I. Rosenblum, Senior Vice-President and Counsel, MSE, to Douglas Scarff, Assistant Director, Division of Market Regulation, SEC, dated December 8, 1977; and Donald E. Weeden, President, Weeden & Co. to Harold M. Williams, Chairman, SEC, dated January 13, 1978. These letters are contained in File No. S7–759.

[160] *See* Rule 11Ac1–2, Proposal Release, *supra* note 19, at 21–22, 43 FR at 50618.

[161] *See* Securities Exchange Act Release No. 14662 (April 14, 1978) ("Exemptive Order"), 43 FR 17422. On April 17, 1978, the ITS began operations, and, simultaneously, CTA deleted market identifiers from all moving ticker displays with respect to transactions effected on all market centers having agreed to participate in ITS. On April 24, 1978, the CTA removed all remaining market identifiers from moving tickers.

[162] *See* Exemptive Order, *supra* note 161, at 7, 43 FR at 17423. The Exemptive Order was extended on August 11, 1978, Securities Exchange Act Release No. 15059 (August 11, 1978), 43 FR 36736 and on September 21, 1979, Securities Exchange Act Release No. 16216 (September 21, 1979), 44 FR 56081. The most recent extension was until "January 31, 1983 or the date the Commission concludes its proceedings regarding proposed Rule 11Ac1–2 * * *." In concluding those proceedings today, the Commission has determined that after October 5, 1980, the effective date of paragraph (c)(2)(iv) of Rule 11Ac1–2, an exemption will no longer be necessary because the Rule does not require identifiers, but rather proscribes the manner in which identifiers may be employed.

data stream via moving tickers.[163] Moving tickers so created might not be subject to excessive reporting delays engendered by non-discriminatory identification of markets.[164] Accordingly, the Commission has adopted the market identifier provision in modified form to reflect this changed environment. Thus, Rule 11Ac1–2 precludes only the use of market identifiers for some, but not all, market centers and would permit the non-discriminatory use of market identifiers.[165] Because the Commission believes that market identifiers provide useful information it urges vendors who are contemplating retransmitting transaction information to consider the feasibility of including market identifiers for all markets.

The Commission recognizes that market identifiers provide especially valuable information with respect to certain types of transactions, most particularly block trades and the opening transaction on each exchange. Accordingly, Rule 11Ac1–2, as adopted, would also permit the non-discriminatory use of market identifiers on a moving ticker for any definable sub-set of transactions. The Commission believes that tickers fed by either the low or high speed data streams could incorporate market identifiers for at least opening and block transactions without substantial delays and urges both the CTA and any other vendor who constructs a ticker network to provide market identifiers for such transactions.

Consolidated transaction information displayed on interrogation devices currently includes market identifiers on a nondiscriminatory basis (*i.e.*, all markets are identified by a symbol) without incurring delays in reporting because interrogation devices are supplied with transaction information via the high speed data stream. Because market identification may be included on consolidated displays without delay and in a nondiscriminatory fashion and on the basis of the unanimous comment that market identifiers remain relevant to investors, the Rule will continue to require inclusion of market identifiers on the consolidated display.

F. Access Procedures for Individual Market Displays

1. *Comments.* Three commentators supported the provision in the proposed Rule which would have required all individual market displays to be made available by access procedures involving an equal number of keystrokes. Those commentators contended that a non-discriminatory access procedure would diminish an unfair advantage provided to the primary markets.[166] Other commentators vigorously opposed this provision. Quotron objected to this provision on the same basis as it objected to the consolidated information access provision (*i.e.*, that ease of access would not dictate the frequency of recall of any display.[167] The NYSE expressed concern that this provision would entail substantial expense which would be passed on to customers.[168] Furthermore, the NYSE believed that the degree of perfection contemplated by the equal access provision could not be of major importance in "the overall scheme of things." [169]

Bunker Ramo questioned the necessity of an equal keystroke requirement to recall individual market centers, since, in its view, individual market information would not be widely used because of the greater utility of consolidated data.[170] In addition, Bunker Ramo argued that because there is no mandatory provision requiring the display of individual market information, vendors would elect to delete displays which could not be modified to economically achieve full compliance in accordance with the equal keystroke provision. The effect of that determination by certain vendors would reduce the availability of market information and would place those vendors at a competitive disadvantage.[171] Bunker Ramo recommended that the Commission consider a "substantial compliance" standard whereby the equal keystroke provision would require equal access for only a majority of securities.[172]

2. *Commission Response.* The Commission understands that certain vendors would be forced to incur substantial costs in order to provide for equal access to each individual market display currently made available by those vendors. If the Commission were to adopt this requirement, the Commission is concerned that vendors may elect to delete certain individual market displays rather than to incur the expense of providing equal access to all individual market displays. The Commission is also aware that, under present market conditions, primary market information may be more valuable to investors than information with respect to secondary markets. Accordingly, while the Commission believes that an easily accessible and useful display of consolidated information is integral to a national market system, it does not believe it is appropriate, at this time, to mandate requirements for individual market displays. The Commission anticipates that as a national market system continues to evolve present burdens on fair competition will be reduced. Increased competition between market centers will increase the value of market information disseminated from markets other than the primary market and in turn should increase investor demand for that information. Accordingly, in light of the costs which may be associated with an equal access requirement for all individual markets, the Commission believes that changes in these access procedures should result from the competitive demands of the marketplace rather than Commission rulemaking.

III. Technical Comments

In addition to the foregoing, the Commission has received a number of comments addressing certain technical aspects of the Rule.

A. Quotron noted that the term "market information" as used in paragraph (b)(2)(v) of proposed Rule 11Ac1–2, which would require the inclusion of all categories of market information appearing on displays of individual transaction information on displays of consolidated transaction information, is not defined, and thus could be interpreted to include only transaction and quotation information and any information derived from such transaction and quotation information, but not such information as dividends, earnings, news alerts and net change.[173] The Commission has added a definition of the term market information to paragraph (a) of the Rule that includes all collateral information relating to a security including dividends, earnings, news alerts and time of most recent change.[174]

B. The NYSE noted that although the term "vendor" as defined in paragraph (a)(12) of proposed Rule 11Ac1–2 excepts securities information

[163] *See* Rule 11Aa3–1(e).

[164] It would appear particularly likely that, if vendors choose to retransmit transaction information to create a selective moving ticker, such a display would not be delayed by non-discriminatory identification of markets.

[165] *See* Rule Ac1–2(b)(2)(iv).

[166] *See* CBOE Letter, *supra* note 48, at 5; GTE Letter, *supra* note 48, at 5; and PSE Letter, *supra* note 48, at 2.

[167] *See* Quotron Letter, *supra* note 48, at 21, and text accompanying notes 87–89, *supra*.

[168] *See* NYSE Letter, *supra* note 48, at 5.

[169] *Id.* at 6.

[170] *See* Bunker Ramo Letter, *supra* note 48, at 7.

[171] *Id.* at 8.

[172] *Id.* at 8–9. By the phrase "substantial compliance," Bunker Ramo intended that vendors should only be required to provide equal access to individual market displays for most reported securities. *Id.*

[173] *See* Quotron Letter, *supra* note 48, at 10.

[174] *See* Rule 11Ac1–2(a)(18).

processors and exchanges with respect to the dissemination of transaction and quotation information on the trading floor of any exchange, paragraph (e) of the proposed rule, which applies to brokers and dealers, could be understood to regulate the maintenance of trading floor displays by specialists.[175] Rule 11Ac1–2, as adopted, has been clarified to except from its requirements all displays on the trading floor of an exchange and displays operated by self-regulator organizations solely for surveillance and monitoring purposes.[176]

C. The NYSE also pointed out that paragraph (a)(16) of the proposed Rule, which defines the term "moving ticker," is superfluous since proposed Rule 11Ac1–2(a)(1) defines "moving ticker" as having the meaning provided in Rule 11Aa3–1.[177] Rule 11Ac1–2 has been revised to cross-reference all definitions of terms already defined in Rule 11Aa3–1.[178]

D. Both Quotron and the NYSE indicated that the definition of the term "vendor" in paragraph (a)(12) of the proposed Rule, which includes any securities information processor or self-regulatory organization engaged in the business of disseminating transaction and quotation information to brokers or dealers on a real-time or other current and continuing basis, would exclude the operation of press association and displays of information directly to investors.[179] With respect to the comment regarding the applicability of the Rule to press associations, the Commission notes that press associations which act as securities information processors are considered vendors for purposes of Rule 11Ac1–2. With respect to the applicability of Rule 11Ac1–2 to displays of market information shown to investors, the Commission has added to the definition of vendor distribution of information to investors.[180]

E. The NYSE indicated that the term "make available" in Rule 11Ac1–2 is assigned the definition in Rule 11Ac1–1 (a)(7) but is not used in a manner consistent with that definition throughout Rule 11Ac1–2.[181] Rule 11Ac1–2 has been revised to use the term "make available" consistent with the definition in Rule 11Ac1–1.

F. The NYSE pointed out that the term "market center" is defined in proposed Rule 11Ac1–2(a)(14) to mean, with reference to the third market, an individual third market maker. As that term is used in proposed Rule 11Ac1–2(b)(2)(ii) vendors would have to identify transactions by individual third market makers, rather than merely as "third market transactions."[182] Rule 11Ac1–2 has been modified from its proposed form to permit identification of third market transactions as third market transactions without identifying the individual market maker responsible for the transaction.[183]

G. Quotron suggested that, as a policy matter, certain categories of information should not be required on the consolidated display. Quotron argued that the inclusion of net change on the consolidated display may be misleading because it is significantly affected by the disparate hours of trading of reporting market centers. For example, an unusual trade in the third market after 4:00 p.m. may become the basis for establishing net change the following day. In addition, in Quotron's view, the opening price should not be reported on the consolidated display because the opening price for the consolidated display would be arbitrarily determined by the first market to open. Finally, Quotron suggested that the existence of an unusual market condition, such as a regulatory halt in an individual market, would appear to be relevant only to the display of information from that market, not to the consolidated display.[184]

The Commission believes that none of the three categories of information discussed by Quotron should be excepted from the equal categories of information requirement. First, both net change and opening price are useful to investors in determining daily trends in market. Quotron's argument that these two categories are relevant only to individual market displays is based on the assumption that investors will only find valuable information regarding price trends on an individual market basis. However, the Commission believes that as current national market facilities are enhanced and new facilities are developed, subscribers to interrogation devices will choose to use consolidated transaction and quotation information to make their trading decisions. As a result, trends in the securities market after the close of the primary and most secondary exchanges and the opening price in any security in any one day on a system wide basis is important to investors and may become more important as a national market system evolves. Finally, although unusual market condition generally only relates to a single market, the Commission believes that this information is important to investors and is necessary to inform subscribers who recall the consolidated information display in their trading that there are markets not disseminating quotations or that quotations from certain markets may not be firm.[185]

IV. Effects on Competition

Section 23(a)(2) of the Act requires the Commission, in adopting rules under the Act, to consider the anti-competitive effects of such regulation and to balance any anti-competitive impact against the regulatory benefits gained in terms of furthering the purposes of the Act.

In the Rule 11Ac1–2 Proposal Release, the Commission requested that commentators should specifically address the competitive impact of Rule 11Ac1–2.[186]

A. Comments

Quotron contended that in order to determine whether the benefits sought to be achieved by the adoption of Rule 11Ac1–2 outweigh the anticompetitive effects of the Rule, it is necessary to identify the group to be benefited. Quotron argued that current trading patterns make primary market information the most germane to investors and that the Rule would therefore be contrary to the interest of investors by making primary market information more difficult to retrieve.[187]

Reuters contended that the adoption of Rule 11Ac1–2 would hinder competition "by an aggressive firm trying to introduce a technologically more advanced and more efficient system to such industry."[188] In addition, Reuters argued that the expense that would be incurred in complying with the Rule could cause vendors to withdraw from the securities information industry, thus resulting in further concentration of that industry,[189] and deterring potential vendors from entering the industry.

GTE indicated that the current unregulated environment has fostered competition by vendors on the basis of price, quality of service and product innovation. The imposition of the restrictions of Rule 11Ac1–2 would, according to GTE, "place a competitive straight jacket on vendors" and "leave price as the only viable method of

[175] *See* NYSE Letter, *supra* note 48, at 25–27.

[176] *See* Rule 11Ac1–2(f).

[177] *See* NYSE Letter, *supra* note 48, at 217.

[178] *See* Rule 11Ac1–2(a)(1).

[179] *See* Quotron Letter, *supra* note 48, at 11, and NYSE Letter, *supra* note 48, at 27–28.

[180] Rule 11Ac1–2(a)(2).

[181] *Id.* at 28.

[182] *Id.*

[183] *See* Rule 11Ac1–2(b)(2)(vi).

[184] *See* Quotron Letter, *supra* note 48, at 11–14.

[185] *Cf.* Rule 11Ac1–1 Release, *supra* note 15, at 38 n. 48, 43 FR at 4347 n. 48.

[186] *See* Rule 11Ac1–2 Proposal Release, *supra* note *19*, at 81, 43 FR at 50627.

[187] *See* Quotron Letter, *supra* note *48*, at 19–22.

[188] *See* Reuters Letter, *supra* note 48, at 7.

[189] *Id.* at 12.

competition, which would lead to technological stagnation, and make the industry an unattractive candidate for new investment." [190]

B. Commission Response

Rule 11Ac1–2 does not require vendors to apply novel techniques to the display of market information. Instead, the Rule merely requires that each vendor's existing methods of retrieval and mode of display of individual market information be applied to the method of retrieval and mode of display of consolidated market information.[191] In addition, the Rule does not impede competition in the types of services or products which may be offered by vendors, such as statistical data, monitoring and self-programming capabilities. Rule 11Ac1–2 does further the Congressional mandate under Section 11A(a) to establish a national market system and the Commission's authority under Section 11A(c) under the Act to assure prompt, accurate, reliable and fair publication of transaction and quotation information in a fair and useful format. For the reasons expressed in this release, the Commission finds that Rule 11Ac1–2 does not impose a burden on competition which is neither necessary nor appropriate in furtherance of the purposes of the Act.

V. Effective Date of Rule 11Ac1–2

Rule 11Ac1–2, as proposed, was scheduled to become effective on March 1, 1979. A number of commentators argued that a March 1 effective date, assuming that there would be a two and one-half month period following adoption, was unrealistic.[192] In addition, Quotron argued for a phased implementation of the Rule so that the effective date of provisions of the Rule which could be easily complied with by vendors need not be held up by other provisions which might require more extensive changes in vendor systems.[193]

In light of these comments, the Commission has determined to implement the Rule on a phased basis. Certain parts of the rule which incorporate certain display requirements contained in rule 17a–15 and address the use of market identifiers do not require any changes in existing display systems and therefore those portions of the Rule shall be effective on April 5, 1980. The Rule's requirement that NASDAQ Level 1 display the best bid and offer rather than the RBA shall be effective on July 5, 1980.[194] Finally, the Commission has determined that the consolidated quotation, key stroke and equal categories requirements of the Rule shall not become effective until October 5, 1980.[195]

III. Text of Rules

The Commission hereby amends Title 17, Chapter II, of the Code of Federal Regulations by adding § 240.11Ac1–2 to read as follows:

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

§ 240.11Ac1–2 Display of transaction reports, last sale data and quotation information.

(a) *Definitions.* For purposes of this section, (1) The terms "transaction report," "effective transaction reporting plan," "non-member broker or dealer," "moving ticker," "last sale data," "market minder" and "interrogation device" shall have the meaning provided in § 240.11Aa3–1 (Rule 11Aa3–1 under the Act).

(2) The term "vendor" shall mean any securities information processor engaged in the business of disseminating transaction reports, last sale data or quotation information with respect to subject securities to brokers, dealers or investors on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device.

(3) The term "NASDAQ" shall mean the electronic inter-dealer quotation system owned and operated by NASDAQ, Inc., a subsidiary of the National Association of Securities Dealers, Inc.

(4) The term "subject security" shall mean,

(i) Any reported security; and

(ii) Any other equity security as to which transaction reports, last sale data or quotation information is disseminated through NASDAQ.

(5) The terms "quotations" and "quotation information" shall mean bids, offers and, where applicable, quotation sizes and aggregate quotation sizes.

(6) The terms "bid" and "offer" shall,

(i) In the case of a reported security, have the meaning provided in § 240.11Ac1–1 (Rule 11Ac1–1 under the Act); and

(ii) In the case of any subject security other than a reported security, mean the most recent bid price or offer price of an over-the-counter market maker disseminated through Level 2 or 3 of NASDAQ.

(7) The terms "quotation size," "aggregate quotation size," "third market maker" and "make available" shall have the meaning provided in § 240.11Ac1–1 (Rule 11Ac1–1 under the Act).

(8) The term "consolidated display" *shall mean, with respect to a particular reported security,*

(i) Any display (other than a moving ticker or market minder) of transaction reports for such security from all reporting market centers;

(ii) Any display (other than a moving ticker or market minder) of last sale data for such security, or information derived therefrom, based on transaction reports from all reporting market centers; or

(iii) Any display of quotation information for that security based on quotations from all reporting market centers.

(9) The term "consolidated price," when used with respect to a particular reported security, shall mean the price of the most recent transaction report for that security reported pursuant to any effective transaction reporting plan.

(10) The term "consolidated volume," when used with respect to a particular reported security, shall mean the volume of the most recent transaction report for that security reported pursuant to any effective transaction reporting plan.

(11) The term "cumulative consolidated volume," when used with respect to a particular reported security, shall mean the cumulative volume of all transaction reports for that security reported pursuant to any effective transaction reporting plan during a particular trading day.

(12) The term "individual market center display" shall mean, with respect to a particular reported security,

(i) Any display (other than a moving ticker or market minder) of transaction reports for such security from a particular market center;

(ii) Any display (other than a moving ticker or market minder) of last sale data for such security, or information derived therefrom, based on transaction reports from a particular reporting market center; or

(iii) Any display of quotation information for that security based on quotations from a particular reporting market center.

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[190] *See* GTE Letter, *supra* note 48, at 3.

[191] *See* text accompanying notes 101–111, *supra*. With respect to Reuter's argument that the Rule will deter its entry into the industry, as previously indicated, the Commission will consider providing exemptive relief to permit Reuters to combine primary and consolidated information in one display, *see* note 96, *infra*.

[192] *See e.g.*, Quotron Letter, *supra* note 48, at 2; and GTE Letter, *supra* note 48, at 3.

[193] Quotron Letter, *supra* note — , at 2.

[194] The Commission has been informed by the NASD that it has completed any technical changes needed to disseminate the best bid and offer on NASDAQ Level 1.

[195] *See* Rule 11Ac1–2(h).

(13) The term "over-the-counter market maker" shall mean, with respect to any subject security other than a reported security, any broker or dealer which holds itself out as being willing to buy and sell such security on a regular and continuous basis otherwise than on an exchange in amounts of less than block size.

(14) The term "reporting market center" shall mean,

(i) with respect to a reported security,

(A) Any national securities exchange ("exchange") on which, or through whose facilities, transactions in such security are executed and which collects, processes and makes available transaction reports with respect to transactions in such security on a current basis pursuant to § 240.11Aa3–1 (Rule 11Aa3–1 under the Act); and

(B) Any person acting in the capacity of a third market maker with respect to such security which reports transactions in such security to a national securities association on a current basis pursuant to § 240.11Aa3–1 (Rule 11Aa3–1 under the Act) and disseminates quotations in such security pursuant to § 240.11Ac1–1 (Rule 11Ac1–1 under the Act); and

(ii) With respect to a subject security other than a reported security, any person acting in the capacity of an over-the-counter market maker who is authorized to disseminate quotations in such security, through NASDAQ, and who makes such quotations available through that system on a regular and continuous basis.

(15) The terms "best bid" and "best offer" shall mean,

(i) With respect to quotations for a reported security, the highest bid or lowest offer for that security made available by any reporting market center pursuant to § 240.11Ac1–1 (Rule 11Ac1–1 under the Act) (excluding any bid or offer made available by an exchange during any period such exchange is relieved of its obligations under paragraphs (b) (1) and (2) of § 240.11Ac1–1 by virtue of paragraph (b)(3)(i) thereof); *Provided, however,* That in the event two or more reporting market centers make available identical bids or offers for a reported security, the best bid or best offer (as the case may be) shall be computed by ranking all such identical bids or offers (as the case may be) first by size (giving the highest ranking to the bid or offer associated with the largest size), then by time (giving the highest ranking to the bid or offer received first in time); and

(ii) With respect to quotations for a subject security other than a reported security, the highest bid or lowest offer (as the case may be) for such security disseminated by an over-the-counter market maker in Level 2 or 3 of NASDAQ.

(16) The term "quotation montage" shall mean, with respect to a particular subject security, a display on an interrogation device which disseminates simultaneously quotations in that security from all reporting market centers.

(17) The term "representative bid or offer" shall mean any number representing a bid price or an offer price (as the case may be) for a particular subject security which is (i) the mean, median, mode or weighted average of two or more bids or offers of reporting market centers in such security, (ii) calculated with reference to or derived from any such mean, median, mode or weighted average, or (iii) calculated by adding to or subtracting from the bid or offer of any reporting market center in such security any number representing a commission, commission equivalent, mark-up or differential.

(18) The term "market information," when used with respect to an individual market center display or a consolidated display for a particular reported security, shall mean (i) any transaction reports or last sale data, or information derived therefrom, contained in any such display, (ii) any quotation information contained in any such display, and (iii) any other category of information contained in any such display which relates to the particular reported security involved, including, but not limited to, annual or periodic dividend, ex-dividend date, time of most recent trade and news dissemination.

(19) The term "market linkage system" shall mean any communications and data processing facility which permits orders for the purchase and sale of a subject security to be transmitted from one reporting market center to another such reporting market center.

(20) The term "reported security" shall mean any security or class of securities for which transaction reports are collected, processed and made available pursuant to an effective transaction reporting plan.

(b) *Display requirements for transaction reports and last sale data.* *(1)* No vendor shall distribute, publish, display or otherwise provide to brokers and dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device, transaction reports, last sale data or market information in contravention of the provisions of this section.

(2) On and after the effective date of this section, the following requirements shall be applicable to the display of transaction reports, last sale data or market information with respect to reported securities:

(i) If transaction reports or last sale data with respect to a particular reported security are provided by a vendor on an interrogation device, such vendor shall provide on that device a consolidated display of transaction reports or last sale data for such security which shall include, at a minimum, (A) the consolidated price for such security, (B) the consolidated volume or cumulative consolidated volume for such security, and (C) an identifier indicating the reporting market center associated with such consolidated price and consolidated volume (the "consolidated last sale display").

(ii) The consolidated last sale display shall be accessed by means of retrieval instructions involving a number of key strokes which is fewer than the number of strokes required to access any individual market center display of transaction reports or last sale data provided on that device for such security; *Provided, however,* That, notwithstanding the above requirement, a vendor may provide on that device both the consolidated last sale display and any such individual market center displays made available for such security by means of retrieval instructions involving an equal number of key strokes if the information request or transmit key for the consolidated last sale display is the most prominent.

(iii) Subject to the provisions of paragraph (b)(2)(ii) of this section, a vendor may provide on an interrogation device an individual market center display of transaction reports or last sale data for a particular reported security for any reporting market center in such security.

(iv) No moving ticker may include an identifier indicating the reporting market center associated with a particular transaction report with respect to a reported security unless such moving ticker includes identifiers for all transaction reports for such security (or an identifiable subset of all such transaction reports) from all reporting market centers in that security in a non-discriminatory manner.

(v) No moving ticker or consolidated last sale display may exclude any transaction report or last sale data based upon the market center in which a transaction has been executed.

(vi) No vendor may provide any category of market information in an individual market center display for a particular subject security unless that category of market information is also provided, on a consolidated basis, as

part of the consolidated last sale display for that security; *Provided, however,* That a vendor may delete from such consolidated last sale display up to three categories of information if such deletion is necessary to accommodate the display of any market identifiers required by this section.

(vii) Transaction reports and last sale data from all reporting market centers which are third market makers may be identified in a consolidated last sale display or a moving ticker by a single identifier without identification of the individual third market maker associated with such transaction report or last sale data.

(c) *Display requirements for quotation information.* (1) No vendor shall distribute, publish, display or otherwise provide to brokers and dealers on a real-time or other current and continuing basis, whether through an electronic communications network, moving ticker or interrogation device, quotation information with respect to subject securities in contravention of the provisions of this section.

(2) On and after the effective date of this section, the following requirements shall be applicable to the display of quotation information with respect to subject securities:

(i) If quotation information with respect to a particular subject security is provided by a vendor on an interrogation device, such vendor shall provide on that device a consolidated display of quotation information for such security (the "consolidated quotation display") which shall include, at a minimum,

(A) The best bid and best offer for such security and, in the case of a reported security, (*1*) identifiers indicating the reporting market center making available such best bid and the reporting market center making available such best offer and (*2*) the quotation size or aggregate quotation size associated with such best bid and the quotation size or aggregate quotation size associated with such best offer, or

(B) A quotation montage for that security.

(ii) The consolidated quotation display shall be accessed by means of retrieval instructions involving a number of key strokes which is fewer than the number of strokes required to access any individual market center quotation display provided on that device by such vendors for such security: *Provided, however,* That, notwithstanding the above requirement, a vendor may provide on that device both the consolidated quotation display and any individual market center display of quotation information provided for such security by means of retrieval instructions involving an equal number of key strokes if the information request or transmit key for the consolidated quotation display is the most prominent.

(iii) Subject to the provisions of paragraph (c)(2)(ii) of this section, a vendor may provide on an interrogation device

(A) An individual market center display of quotation information for a particular subject security for any reporting market center in such security; or

(B) Either separately or as the consolidated quotation display, a quotation montage for that security.

(iv) No consolidated quotation display or separate quotation montage provided on an interrogation device may exclude any quotation information based upon the market center making available such information: *Provided, however,* That for purposes of providing the consolidated quotation display or a separate quotation montage for any reported security, quotation information from all reporting market centers which are third market makers may be consolidated to derive a best bid and offer for all such market centers if such interrogation device is capable of displaying, either separately or as part of the consolidated quotation display or separate quotation montage, (A) identifiers indicating the reporting market center making available such best bid and the reporting market center making available such best offer, and (B) the quotation size associated with both such best bid and best offer.

(v) Each individual market center display of quotation information or separate quotation montage for a particular reported security shall include the quotation size or aggregate quotation size associated with each bid or offer disseminated as part of such display or montage.

(vi) No vendor may provide on any interrogation device a representative bid or offer with respect to any subject security.

(d) *Joint display of transaction reports and quotation information.* Subject to the provisions of paragraphs (b)(2)(ii) and (c)(2)(ii) of this section regarding the means of access to consolidated last sale displays and consolidated quotation displays, a vendor may combine the consolidated last sale display and the consolidated quotation display for a particular subject security.

(e) *Applicability to brokers and dealers.* Subject to the provisions of paragraph (f) of this section, no broker or dealer may operate or maintain any display of transaction reports, last sale data, quotation information or market information which would not be permitted to be provided by a vendor under paragraph (b) or (c) of this section.

(f) *Exchange or market linkage system displays.* The provisions of this section shall not apply to: (1) The dissemination or display of transactions reports, last sale data, quotation information or market information on the trading floor or through the facilities of an exchange, (2) any display of transaction reports, last sale data, quotation information or market information operated or maintained by a self-regulatory organization for monitoring or surveillance purposes, or (3) any display of transaction reports, last sale data or quotation information in connection with the operation of a market linkage system implemented in accordance with a plan approved by the Commission pursuant to Section 11A(a)(3)(B) of the Act.

(g) *Exemptions.* The Commission may exempt from the provisions of this section, either unconditionally or on specified terms and conditions, any securities information processor, self-regulatory organization, broker, dealer or specified subject security if the Commission determines that such exemption is consistent with the public interest, the protection of investors and the removal of impediments to, and perfection of the mechanisms of, a national market system.

(h) *Effective date.* The effective date of this section shall be April 5, 1980, except for paragraph (c)(2)(vi), which shall become effective on July 5, 1980, and paragraphs (b)(2)(ii), (b)(2)(vi) and (c)(2)(i), (ii), (iv), (v) which shall become effective on October 5, 1980.

(Secs., 2, 3, 6, 9, 10, 15, 17 and 23, Pub. L. No. 78–291, 48 Stat. 881, 882, 885, 889, 891, 895, 897 and 901, as amended by Secs. 2, 3, 4, 11, 14 and 18, Pub. L. No. 94–29, 89 Stat. 97, 104, 121, 137 and 155 (15 U.S.C. 78b, 78c, 78f, 78i, 78j, 78*o*, 78g and 78w); Sec. 15A, as added by sec. 1, Pub. L. No. 75–719, 52 Stat. 1070, as amended by sec. 12, Pub. L. No. 94–29, 89 Stat. 127 (15 U.S.C. 78–3); Sec. 11A, as added be sec. 7, Pub. L. No. 94–29, 89 Stat. 111 (15 U.S.C. 78k–l)

By the Commission.

George A. Fitzsimmons,

Secretary.

February 19, 1980.

[FR Doc. 80–5850 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

17 CFR Part 270

[Release No. IC-11053]

Mergers and Consolidations Involving Registered Investment Companies

AGENCY: Securities and Exchange Commission.

ACTION: Final rules.

SUMMARY: The Commission today is adopting a series of rules and rule amendments which exempt specified mergers or consolidations of registered investment companies from certain prohibitions under the Investment Company Act of 1940. One rule among this series exempts certain mergers or consolidations of affiliated registered investment companies from that act's prohibition against sales and purchases of property between affiliated persons. Two rules permit the sale of redeemable securtities at a price other than a current public offering price described in the prospectus, if the sale is in connection with specified mergers, consolidations or offers of exchange involving a registered investment company. A rule amendment in this series permits the sale of redeemable securtities at a price based upon an adjusted current net asset value in certain transactions regarding which an investment company's directors have made certain findings protective of existing shareholders' interests. Finally, another rule permits an investment adviser to bear expenses of a merger or consolidation involving a registered investment company. These rules are intended to eliminate the need for parties' seeking exemptions for and the Commission's reviewing such transactions on a case-by-case basis through the application process.

EFFECTIVE DATE: February 19, 1980.

FOR FURTHER INFORMATION CONTACT: Joseph F. Mazzella, Esq. (202) 272-2033 or Paul Goldman, Financial Analyst, (202) 272-2114, Investment Company Act Study Group, Division of Investment Management, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION: The Commission today is adopting a series of rules and amendments to rules under the Investment Company Act of 1940 (15 U.S.C. 80a-1 et seq.) ("the Act") to permit specified mergers and consolidations involving registered investment companies without their having to obtain from the Commission exemption orders under various provisions of the Act and rules promulgated thereunder. Among the rules, rule 17a-8 (17 CFR 270.17a-8) permits certain affiliated investment companies to merge or consolidate. Rule 22d-4 (17 CFR 270.22d-4) allows the sale of redeemable securities of a registered investment company at a price other than the current public offering price described in the prospectus in connection with a merger of the registered investment company with a "private investment company"—that is, a company which is excluded from the statutory definition of "investment company" by section 3(c)(1) of the Act (15 U.S.C. 80a-3(c)(1)). Rule 22d-5 (17 CFR 270.22d-5) extends to offers of exchange between a registered open-end investment company and a registered close-end investment company the exemption from section 22(d) of the Act (15 U.S.C. 80a-22(d)) presently available only to such transactions between two registered open-end investment companies. An amendment to rule 22c-1 (17 CFR 270.22c-1)) deems certain sales of redeemable shares made in connection with specified mergers or consolidations to comply with that rule. Finally, amended rule 17d-1(d)(8) (17 CFR 270.17d-1(d)(8) allows an investment adviser to bear expenses associated with a merger or consolidation of investment companies. The reasons for the Commission's proposing these rules were discussed thoroughly in Investment Company Act Release No. 10886 (Oct. 3, 1979), 44 FR 58521 (Oct. 10, 1979). Persons interested in a more detailed discussion of these rules should refer to that release.

In response to its request for comments regarding the proposed rules and rules amendments the Commission received seven letters of comment. All commentators appeared to generally endorse the proposed rule, although each commentator recommended modifications or otherwise expressed criticisms of certain aspects of the proposals.[1] After carefully considering these comments, the Commission has determined to adopt the rules and rule amendments as proposed.

Final Rules

Accordingly, rule 17a-8 exempts from the prohibitions of section 17(a) a purchase or sale of property pursuant to a merger or consolidation of registered investment companies which may be affiliated persons of each other solely by reason of having common officers, directors and/or investment adviser;[2] provided that the board of directors of each participating investment company, including a majority of the directors who are not interested persons of any participating investment company, find that the transaction (1) is in the best interests of the investment company and (2) will not result in dilution of existing shareholders' interests;[3] and further provided that such findings and the basis upon which they are made are recorded fully in the minute books of each registered investment company.[4]

Rule 22d-4 permits an investment company to sell redeemable securities pursuant to a merger with a private investment company at a price other than a price described in its prospectus;

[1] Certain commentators questioned the proprietary of the Commission's announcing its position regarding certain issues that may arise under section 36(a) of the Act (15 U.S.C. 80a-35(a)). These commentators appeared to contend that section 36(a) is merely a jurisdictional provision which does not establish substantive standards. To the contrary, section 36(a) imposes "minimum standards of behavior of investment company directors and advisers [which apply to] decisions they may be called upon to make." *Burks* v. *Lasker*, Supreme Court Docket No. 79-5218, Slip Opinion dated Nov. 13, 1979 at n.10. In this regard, it has been long recognized "that section 36(a) is a reservoir of fiduciary obligations imposed upon affiliated persons to prevent gross misconduct or gross abuse of trust not otherwise specifically dealt with in the Act." *Steadman* v. *SEC, 603 F.2d 1126 at 1142 (5th Cir. 1979), quoting, Brown* v. *Bullock*, 194 F. Supp. 207, 238-39 n.1 (S.D.N.Y.), aff'd, 294 F.2d 415 (2d Cir. 1961). Because the Commission specifically is authorized to bring an action under section 36(a), it believes that it is both desirable and appropriate to provide guidance as to activities or omissions which it may consider to breach those fiduciary obligations.

[2] The rule does not represent a Commission finding that investment companies having common officers, directors, or investment advisers are always affiliated persons or affiliated persons of an affiliated person. They may or may not be, depending on the facts. The rule enables the parties to go forward without resolving that question if the requirements of the rule are met. Moreover, so long as the registered investment companies complied in good faith with rule 17a-8, a subsequent determination that such companies were not affiliated would not eliminate the basis for reliance on amended rule 22c-1(a)(2).

[3] The release proposing adoption of the rules recognized the board of directors' obligation to consider the direct and indirect costs of the transaction in determining whether it is in the investment company's best interests and in making its finding that the interests of existing shareholders would not be diluted. The release also suggested that this consideration include the extent to which these costs should be borne by the investment adviser where the adviser has significant self-interest in the merger transaction. This consideration, however, would not in all cases necessarily preclude the investment company from bearing certain expenses associated with the transaction, if, and so long as, those costs were justified by the anticipated benefits to shareholders and would also have been experienced in a transaction negotiated completely at arm's-length. If these benefits are questionable or unduly speculative, however, the board of directors would likely be unable to determine that no dilution existed unless these transaction costs were absorbed by a party other than the investment company itself.

[4] As a technical modification of the rule, the requisite finding by the board of directors concerning dilution of shareholders' interests is modified to be consistent with the language of rule 22d-4(a)(1).

provided that the directors of the registered investment company, including a majority of its disinterested directors, determine that the merger transaction will not result in dilution of the interests of the company's existing shareholders, and, in the case of a company whose securities are sold at a price which includes a sales load, these directors find that any reduction or elimination in the price charged for such securities represents actual economies experienced in selling the securities; and further provided that these findings, and the basis upon which they were made, are recorded fully in the minute books of the registered investment company.

Rule 22d–5 permits redeemable securities to be sold by an investment company at a price which varies from the current public offering price described in the prospectus when such sale is in connection with an exchange offer which, except for the participation of a closed-end investment company, satisfies the provisions of section 11 of the Act (15 U.S.C. 80a–11).

Rule 22c–1, as amended, permits the sale of redeemable securities at a price other than a price based on current net asset value when such sale is effected pursuant to a merger which meets the requirements of rule 17a–8 or rule 22d–4.[5]

Rule 17d–1(d)(8), as amended, permits an investment adviser to bear expenses of a merger or consolidation involving a registered investment company.

Authority, Effective Date

The Commission, pursuant to section 6 (c) (15 U.S.C. 80a–6(c)) and section 38(a) (15 U.S.C. 80a–37(a)) of the Act hereby amends 17 CFR Part 270 by adding new parts § 270.17a–8, § 270.22d–4 and § 270.22d–5. Further, the Commission hereby amends rule 17d–1 pursuant to section 6(c), section 17(d) (15 U.S.C. 80a–17(d)) and section 38(a) of the Act and amends rule 22c–1 pursuant to section 6(c), section 22(c) (15 U.S.C. 80a–22(c)) and section 38(a) of the Act. Because those rules and rule amendments are exemptive, they are effective immediately.

Text of Rules and Amended Rules

Part 270 of Chapter II of Title 17 of the Code of Federal Regulations is amended as follows:

1. By adding § 270.17a–8 to read as follows:

§ 270.17a–8 Mergers of certain affiliated investment companies.

A merger, consolidation, or purchase or sale of substantially all of the assets involving registered investment companies which may be affiliated persons, or affiliated persons of an affiliated person, solely by reason of having a common investment adviser, common directors, and/or common officers shall be exempt from the provisions of section 17(a) of the act; *Provided,* That:

(a) The board of directors of each such affiliated registered investment company participating in the transaction, including a majority of the directors of each registered investment company who are not interested persons of any registered investment company participating in the transaction, determine:

(1) That participation in the transaction is in the best interests of that registered investment company; and

(2) That the interests of existing shareholders of that registered investment company will not be diluted as a result of its effecting the transaction, and

(b) Such findings, and the basis upon which the findings were made, are recorded fully in the minute books of each registered investment company.

2. By amending § 270.17d–1 by adding paragraph (d)(8) to read as follows:

§ 270.17d–1 Applications regarding joint enterprises or arrangements and certain profit-sharing plans.

* * * * *

(d) * * *

(8) An investment adviser's bearing expenses in connection with a merger, consolidation or purchase or sale of substantially all of the assets of a company which involves a registered investment company of which it is an affiliated person.

3. By amending § 270.22c–1 by adding paragraph (a)(2) to read as follows:

§ 270.22c–1 Pricing of redeemable securities for distribution, redemption and repurchase.

(a) * * *

(2) This paragraph shall not prevent any registered investment company from adjusting the price of its redeemable securities sold pursuant to a merger, consolidation or purchase of substantially all of the assets of a company which meets the conditions specified in § 270.17a–8 or in § 270.22d–4.

4. By adding § 270.22d–4 as follows:

§ 270.22d–4 Sale of redeemable securities pursuant to certain mergers with private investment companies.

A sale of redeemable securities by a registered investment company shall be exempt from the provisions of section 22(d) of the act to the extent necessary to effect a merger with, or purchase of substantially all of the assets of, a company which is described in section 3(c)(1) of the act; *Provided,* That:

(a) The board of directors of the registered investment company, including a majority of the directors of such investment company who are not interested persons thereof, determine:

(1) That the interests of existing shareholders of that registered investment company will not be diluted as a result of its effecting the transaction, and

(2) In respect of a sale of redeemable securities that are described in the prospectus as having a current offering price which includes a sales load, that any reduction or elimination of such sales load represents economies experienced in such sale that would not be present in a comparable sale effected through the normal channels of distributing such securities; and

(b) Such findings, and the basis upon which the findings were made, are recorded fully in the minute books of the registered investment company.

5. By adding § 270.22d–5 as follows:

§ 270.22d–5 Exemption from section 22(d) for certain offers of exchange by certain registered investment companies.

A sale of redeemable securities pursuant to an offer of exchange which would be permitted under section 11 including any offer made pursuant to section 11(b), except that an offeree of the offer of exchange is a closed-end company, shall be exempt from the provisions of section 22(d).

By the Commission.

George A. Fitzsimmons,

Secretary.

February 19, 1980.

[FR Doc. 80–5849 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

[5] As a technical modification of the rule, the term "securities" is used rather than the term "shares."

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 274

[Docket No. RM79–3]

U.S. Geological Survey Application for Alternative Filing Requirements; Order Issuing Alternative Filing Requirements

February 19, 1980.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Final rule.

SUMMARY: This rule amends 274.208(a) of the Federal Energy Regulatory Commission's regulations implementing the Natural Gas Policy Act of 1978 to provide alternative filing requirements for certain well determination applications to the United States Geological Survey in New Mexico. This amendment allows alternative filing requirements which apply to applications filed with the New Mexico jurisdictional agency to also apply to applications filed with the United States Geological Survey. This action is taken as a result of a petition from the Geological Survey.

EFFECTIVE DATE: February 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mark Magnuson, Federal Energy Regulatory Commission, 825 North Capitol Street, N.E., Washington, D.C. 20426 (202) 357–8511.

SUPPLEMENTARY INFORMATION:

On November 6, 1979, the United States Geological Survey (USGS) filed an application with the Federal Energy Regulatory Commission (Commission) for approval of alternative filing requirements pursuant to § 274.207 of the Commission's regulations. The proposed alternative filing requirements would apply to a producer seeking a determination that a well drilled in an existing proration unit in the Blanco-Mesaverde or Basin-Dakota pools in New Mexico is a new, onshore production well. Notice of the USGS application was issued on November 20, 1979,[1] and the comment period expired on November 28, 1979. No comments were filed.

Section 103 of the Natural Gas Policy Act of 1978 (NGPA) establishes the maximum lawful prices applicable to natural gas from new, onshore production wells. An applicant seeking a determination of eligibility to collect the section 103 price is required to file with the appropriate jurisdictional agency the information specified in § 274.204 of the Commission's regulations,unless the Commission has approved alternative filing requirements pursuant to § 274.207. In its application, USGS requests that the filing requirements of § 274.204(f)[2] be waived, and that alternative filing requirements be established with respect to applications for section 103 determinations for infill wells[3] drilled in accordance with the USGS Area Oil and Gas Supervisor's ratification of New Mexico Oil Conservation Division Order Nos. R–1607–T (regarding the Blanco-Mesaverde pool) and R–1670–V (regarding the Basin-Dakota pool).[4]

In Order No. 66, the Commission established alternative filing requirements applicable to applications filed with the New Mexico jurisdictional agency for section 103 eligibility determinations for wells located within the Blanco-Mesaverde and Basin-Dakota pools underlying New Mexico lands.[5] However, portions of the subject gas pools underlie Federal or Indian lands, so that in some cases, applications for determinations for wells within those pools must be filed with the USGS, rather than with the New Mexico jurisdictional agency.[6] This order is therefore necessary to allow all applicants for section 103 determinations for infill wells drilled in the subject gas pools to utilize the same alternative filing requirements.

Accordingly, the Commission is amending Part 274, Subpart B in § 274.208(a) so that the alternative filing requirements which apply to applications filed with the New Mexico jurisdictional agency shall also apply to applications filed with USGS.

The alternative filing requirements approved in Order No. 66 are based upon the Commission's review of New Mexico Order Nos. R–1670–T and R–1670–V, in which New Mexico found that an infill drilling program on a poolwide basis in the two subject pools was necessary to effectively and efficiently drain the proration units in those pools.[7] The finding by New Mexico was made on the record, which was comprised of geological and engineering data submitted under oath at the hearing.

The Commission, in Order No. 66, determined that the New Mexico findings were supported by substantial evidence, and thereupon approved alternative filing requirements which permit applicants requesting section 103 determinations for wells drilled in the subject pools to reference the appropriate New Mexico order, rather than submit the data required under § 274.204(f). Also, because Order Nos. R–1670–T and R–1670–V constitute the explicit effective and efficient drainage finding required by § 271.305(b), the Commission waived the requirements of § 271.305(b) that such data be included in the notice of determination and of § 271.305(c) that the jurisdictional agency notify the Commission of its finding. Finally, the oath statement required of an applicant under § 274.204(a)(4) was modified to conform to the modifications in filing requirements.[8]

USGS has ratified New Mexico Order Nos. R—1670–T and R–1670–V [9] and has complied with the provisions of § 274.207, which set forth the requirements for an application for approval of alternative filing requirements. In approving the USGS application, the Commission finds that an infill drilling program is necessary to effectively and efficiently drain the proration units in the Blanco-Mesaverde and Basin-Dakota pools underlying Federal or Indian lands in New Mexico and that the determinations in this respect implicit in the USGS

[1] 44 FR 68521 (Nov. 29, 1979).

[2] Section 274.204(f) requires, in part, that the applicant who is seeking a section 103 determination for a new well which is drilled in an existing proration unit, submit "appropriate geological evidence and engineering data [to demonstrate] that the new well is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit."

[3] An infill well is a well which, for geological reasons, is necessary to drain a portion of a reservoir which is not being effectively and efficiently drained by any existing wells in the reservoir.

[4] In Order No. R–1670–T, New Mexico found, inter alia:

(12) That the producing formation of the Blanco-Mesaverde Pool is comprised of various overlapping, interconnecting, and lenticular sands of relatively low permeability, many of which are not being efficiently drained by existing wells in the pool but which could be more efficiently and economically drained and developed by the drilling of additional wells pursuant to the rule changes proposed by the applicant.

In Order No. R–1670–V, New Mexico found, inter alia:

(13) That the producing formation of the Basin-Dakota Gas Pool is comprised of various sands of low permeability and porosity which are not being efficiently and effectively drained by existing wells in the various proration units in the pool, and which can be more efficiently and effectively drained by the drilling of additional wells pursuant to the rule changes proposed by the applicant.

(14) That the infill drilling of a second well on an established proration unit in the Basin-Dakota Gas Pool is necessary to effectively and efficiently drain a portion of the reservoir covered by the proration unit which cannot be effectively and efficiently drained by any existing wells within the proration unit.

[5] Order Issuing Alternative Filing Requirements, Docket No. RM79–3, issued January 4, 1980.

[6] The USGS Area Oil and Gas supervision is the jurisdictional agency for wells drilled on Federal or Indian lands in New Mexico.

[7] Certified copies of records relied on by New Mexico in adopting its poolwide infill well orders were included with the New Mexico application for alternative filing requirements and are incorporated by reference in the USGS proposal.

[8] Because applications which reference the appropriate New Mexico order would contain no further documentation in support of the required effective and efficient drainage finding, the requirement of § 274.204(d)(4) that the applicant state under oath that "*on the basis of the documents submitted in the application*, the applicant has concluded that to the best of his information, knowledge and belief, the natural gas for which he seeks a determination is produced from a new, onshore production well" (emphasis added), was modified to omit the requirement that the applicant's conclusion be based on "documents submitted in the application."

[9] See attached Appendix A.

ratifications of New Mexico Order Nos. R–1670–T and R–1670–V are supported by substantial evidence. On this basis, the Commission hereby provides that the alternative filing requirements currently applicable to applications for section 103 eligibility determinations for infill wells drilled in the Blanco-Mesaverde or Basin-Dakota pools underlying New Mexico lands shall also be applicable to any section 103 determinations for infill wells drilled in the same pool underlying Federal or Indian lands.

Public Procedures and Effective Date

A notice regarding the USGS application was issued on November 20, 1979. The Commission stated that comments on the proposed plan would be accepted if received on or before November 28, 1979. No comments were received. In view of the above discussion, the Commission approves the USGS alternative plan set forth in its application with modifications noted above.

The Commission believes that good cause exists to make the alternative plan effective immediately for all determinations which have not yet become final under § 275.202 as of the day before the date of issuance of this order.

(Natural Gas Act, as amended, 15 U.S.C. § 717 *et seq.;* Department of Energy Organization Act, 42 U.S.C. § 7107, et seq.; Exec. Order No. 12009, 42 Fed. Reg. 46267; Natural Gas Policy Act of 1978, 15 U.S.C. § 3301, et seq.;)

In consideration of the foregoing, Part 274 of Subchapter H, Chapter I, Title 18, Code of Federal Regulations is amended as set forth below, effective immediately.

By the Commission.

Kenneth F. Plumb,

Secretary.

Part 274 is amended in § 274.208(a)(1) to read as follows:

§ 274.208 Alternative filing and notice requirements accepted by the Commission.

(a) Certain Infill Wells in the Blanco-Mesaverde and Basin-Dakota Pools in New Mexico

(1) A person seeking a determination for purposes of Subpart C of Part 271 that an infill well in New Mexico, drilled in accordance with New Mexico Oil Conservation Division Order No. R–1670–T in the Blanco-Mesaverde pool or Order No. R–1670–V in the Basin-Dakota pool, is a new, onshore production well, shall file with the New Mexico jurisdictional agency or the Area Oil and Gas Supervisor of the United States Geological Survey, as appropriate, an application which contains, in lieu of the information specified in § 274.204, the following items:

* * * * *

Appendix A

U.S. Department of the Interior,
Geological Survey,
Albuquerque, N. Mex.

Notice

To all Lessees and Operators on Federal and Indian Oil and Gas Leases in the Southern Rocky Mountain Area

On December 1, 1978, the Federal Energy Regulatory Commission (FERC) promulgated its "Interim Regulations Implementing the Natural Gas Policy Act of 1978." Subpart "C" of the regulations implements Section 103 of the Natural Gas Policy Act and applies to natural gas produced from a "new, onshore production well."

Section 271.305(a)(b) of the regulations provides as follows:

"In order for natural gas from a well to which this paragraph applies to qualify for the maximum lawful price under this subpart, the jurisdictional agency must find, *prior to the commencement of drilling,* that the well is necessary to effectively and efficiently drain a portion of the reservoir or covered by the proration unit which cannot be effectively and efficiently drained by any existing well within the proration unit. Such finding must be explicit and must involve either a redefinition of the boundaries of the previously existing proration unit or an alteration of or exception to otherwise applicable well-spacing rules."

The New Mexico Oil Conservation Commission (now the New Mexico Oil Conservation Division, (NMOCD)) on November 14, 1974, issued Order No. R–1670–T, permitting the optional drilling of an additional well on 320-acre proration units in the Blanco Mesaverde Pool, San Juan and Rio Arriba Counties, New Mexico. The Area Oil and Gas Supervisor, Southern Rocky Mountain Area, to conserve natural resources and protect the rights of Federal and Indian lands, ratified Order No. R–1670–T effective November 14, 1974, insofar as Federal and Indian lands are concerned. Accordingly, applications to this Agency for category determinations for new Blanco Mesaverde Pool wells in existing proration units under Section 103 of the Act should include copies of this ratification and NMOCD Order R–1670–T.

James W. Sutherland

Oil and Gas Supervisor, Southern Rocky Mountain Area, February 22, 1979

United States Department of the Interior,
Geological Survey.
Albuquerque, N. Mex.

Notice

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The New Mexico Oil Conservation Commission (now the New Mexico Oil Conservation Division, (NMOCD)) on May 22, 1979, issued Order No. R–1670–V, effective July 1, 1979, permitting the optional drilling of an additional well on 320–acre proration units in the Basin Dakota Gas Pool, San Juan and Rio Arriba Counties, New Mexico. The Area Oil and Gas Supervisor, Southern Rocky Mountain Area, to conserve natural resources and protect the rights of Federal and Indian lands, ratifies Order No. R–1670–V effective July 1, 1979, insofar as Federal and Indian lands are concerned. Accordingly, applications to this Agency for category determinations for new Basin Dakota Gas Pool wells in existing proration units under Section 103 of the Act should include copies of *this ratification* and NMOCD Order R–1670–V.

James W. Sutherland

Oil and Gas Supervisor, Southern Rocky Mountain Area, June 8, 1979.

[FR Doc. 80–5948 Filed 2–25–80; 8:45 am]

BILLING CODE 6450–01–M

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18 CFR Part 281

[Docket No. RM79–40]

Interim Regulations Governing the Determination of Alternative Fuels for Essential Agricultural Users

AGENCY: Federal Energy Regulatory Commission.

ACTION: Order Denying Rehearing.

SUMMARY: The Federal Energy Regulatory Commission, by Order No. 55–A, denies a rehearing to the petitioners for rehearing before the Commission in this docket. The petitions reflected the same range of viewpoints expressed in the comments to the rulemaking and present no new facts or issues of law sufficient to warrant modification of Order No. 55 which requires that interstate pipelines revise their indexes of entitlement to exclude from Priority 2 classification any volumes of natural gas for which essential agricultural users have the

ability to use alternative fuels. Order No. 55 was designed to protect the availability of natural gas for the 1979–1980 heating season and will reassess the alternative fuel determination in the future.

EFFECTIVE DATE: February 19, 1980.

FOR FURTHER INFORMATION CONTACT: Mary Jane Reynolds, Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Room 8000, Washington, D.C. 20426, (202) 357–8455.

Interim Rule—Determination of Alternative Fuels for Essential Agricultural Users; Order Denying Rehearing

[Docket No. RM79–40; Order No. 55–A]

Issued February 19, 1980.

On October 26, 1979, the Federal Energy Regulatory Commission (Commission) issued Order No. 55, "Interim Rule Determination of Alternative Fuels for Essential Agricultural Users" (44 FR 62484, October 31, 1979) which implemented Section 401(b) of the Natural Gas Policy Act of 1978 (NGPA) for the 1979–80 winter heating season. Following adoption of the interim rule, interstate pipelines having an index of entitlements on file as part of their tariff in conformance with Order No. 29 [1] revised that index to exclude from Priority 2 those volumes of natural gas for which essential agricultural users had the ability to use alternative fuels, as determined in accordance with Order No. 55. After due notice and an opportunity for comment, those tariff filings were accepted and made effective as of January 1, 1980 [2] as provided in Order No. 55.

Timely petitions for rehearing were filed by the American Bakers Association, American Meat Institute, Armour and Company, The Fertilizer Institute, Glass Container Corporation, Glass Packaging Institute, Great Western Sugar Company, Holly Sugar Corporation, National Council of Farmer Cooperatives, National Food Processors Association, Process Gas Consumers Group and Georgia Industrial Group, Southern California Gas Company, Texas Gas Transmission Corporation, United Distribution Companies, United Gas Pipe Line Company, and United States Brewers Association, Inc. In addition, comments were received from Northern Natural Gas Company (Northern) and from the Department of Agriculture. On December 21, 1979, the Commission issued an order granting rehearing of Order No. 55 solely for purposes of further consideration.

As a general matter, the petitions for rehearing reflected the same wide range of differing (and conflicting) viewpoints and advanced the same arguments as did the two sets of comments filed in this rulemaking. The Commission finds that the petitions for rehearing present no new facts or issues of law that warrant modification of Order No. 55. However, the Commission believes it would be appropriate to amplify certain aspects of that order.

Generic rule versus facility-by-facility consideration

A number of persons challenged the adoption of a generic rule and the decision to deal with individualized circumstance through the adjustment mechanism of Section 502(c) of the NGPA. The efficacy of the Commission's approach has been borne out by events since adoption of Order No. 55. Interstate pipelines have completed the revisions to their curtailment plans necessary to implement the alternative fuel rule as of January 1, 1980, and as of this date, the Commission has received only two requests for adjustment from Order No. 55. The Commission's experience thus far with the adjustment procedure is that it is an effective procedure for seeking necessary deviations from the generic rule.

Incremental pricing

Some persons argued that the Commission may not adopt this rule because it fails to take account of the impact of incremental pricing (Title II of the NGPA). Order No. 55 is limited in its application to Title IV of the NGPA. There is no alternative fuel test applicable to the interim agricultural users exemption from incremental pricing. Moreover, the Commission will issue a rule to define alternative fuels for purposes of a permanent agricultural exemption from incremental pricing. Thus, the finding of alternative fuel availability in Order No. 55 is not determinative of alternative fuel for agricultural users for purposes of the permanent agricultural exemption from incremental pricing.

National Environmental Policy Act

A question has been raised as to the need for an environmental impact statement in conjunction with the interim alternative fuel rule. The Commission believes the statutory mandate of § 401 [3] as well as the practical ramifications of not issuing an alternative fuel rule until completion of environmental analyses gives rise to such conditions as justify the issuing of the interim rule without first completing an environmental evaluation. As stated in Order No. 55, the Commission fears that granting priority 2 preference to those essential agricultural users that have reasonably available and economically practicable alternative fuel opportunities could jeopardize the availability of natural gas to process and feedstock users during winter heating seasons. Therefore, the Commission issued Order No. 55 effective immediately in order to provide protection during the winter of 1979–80. The Commission emphasized it was issuing an interim rule and that it would reassess the alternative fuel determination after the winter heating season. As pointed out in Order No. 55, as a result of a preliminary environmental assessment, Commission believed an Environmental Impact Statement (EIS) was not necessary. It stated further in Order No. 55 that it would undertake any necessary environmental consideration in conjunction with the subsequent rule on alternative fuel. If we conclude on the basis of an environmental analysis that the permanent alternative fuel rule will significantly affect the quality of the human environment then we will prepare an EIS before issuing the permanent rule.

Finally, the Commission notes that the issuance of this interim rule is analogous to the implementation of interim curtailment plans. The Courts in those circumstances held that completion of an environmental analysis was not required before Commission action. See *State of Lousiana v FPC*, 502 F2d 844 (5th Cir 1974).

Volumetric measure

Northern has suggested a revision to § 381.204(b)(3) of the Regulations to make clear that the volumes to be excluded from priority 2 in the index of entitlements are only those volumes for which the agricultural user has the ability to use an alternative fuel. That is the intent of the regulation. As we stated in Order No. 55, the volumes to be

[1] "Final Regulation for the Implementation of Section 401 of the Natural Gas Policy Act," Docket No. RM79–15, issued May 2, 1979 as amended. 18 C.F.R. §§ 281.201 *et. seq.*

[2] Alabama-Tennessee Natural Gas Company, Docket No. TC80–53, *et. al.*, "Order of the Director, Office of Pipeline and Producer Regulation, Accepting Tariff Sheets," issued January 24, 1980.

[3] Section 401 gave the Commission 120 days to modify curtailment plans to provide for a high level of protection from curtailment for essential agricultural users. Such protection was required to be extended to all agricultural users unless the Commission found that there was alternative fuels which were economically practicable and reasonably available. Only after making such a finding could the Commission exclude essential agricultural users with alternative fuel availability from the high level of protection from curtailment.

downgraded from priority 2 are only those volumes for which residual fuel oil or coal can be substituted (Order, p. 4). Our review of filings made by pipelines in compliance with Order No. 55 indicates that the pipelines have so interpreted the rule. Accordingly, we see no need to amend the regulation.

The Commission Orders

For the reasons set forth above, the petitions for rehearing are denied.

By the Commission. Chairman Curtis not participating.

Kenneth F. Plumb,

Secretary.

[FR Doc. 80-5718 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-85-M

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 355

Certain Textiles and Textile Products From Brazil; Revocation of Countervailing Duty Determination

AGENCY: International Trade Administration, Commerce Department.

ACTION: Revocation of countervailing duty determination.

SUMMARY: This notice is to advise the public that the countervailing duty determination on certain textiles and textile products from Brazil is revoked because the subsidies paid to exporters and/or manufacturers of this merchandise have been eliminated and there is no likelihood of resumption.

EFFECTIVE DATE: January 24, 1980.

FOR FURTHER INFORMATION CONTACT: Charles F. Goldsmith, Economist, Office of Import Administration, Department of Commerce, 15th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 566-2951.

SUPPLEMENTARY INFORMATION: A notice of "Final Countervailing Duty Determination" with respect to certain textiles and textile products from Brazil, T.D. 78-446, was published in the **Federal Register** of November 16, 1978 (43 FR 53422). That notice stated that it had been determined that manufacturers and/or exporters of certain textiles and textile products from Brazil received benefits which constituted the payment or bestowal of a bounty or grant, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). Those benefits were in the form of export payments (IPI credits), preferential financing (under Resolution 398), remission of Customs duties on imported capital equipment (under Law 1189), and assistance given to eligible firms under the so-called "BEFIEX" program. Accordingly, imports of certain textiles and textile products from Brazil were determined to be subject to countervailing duties.

Concurrent with the above determination, a notice entitled "Waiver of Countervailing Duties", T.D. 78-447, concerning the subject merchandise was published in the **Federal Register** (43 FR 53425). The waiver was amended in a notice, T.D. 79-163, published in the **Federal Register** on June 8, 1979 (44 FR 33063). The waiver was conditioned on the staged elimination of the net bounty determined by Treasury through actions taken by the Government of Brazil.

On December 7, 1979, the Brazilian Government abolished completely the tax overrebate benefit, known as the IPI credit, for all exports. The remaining benefits found to be bounties or grants in the investigation are being offset completely by an export tax imposed by the Brazilian Government on textile exports for that purpose in the amount of 6.5 percent *ad valorem* as of January 24, 1980.

Accordingly, it is determined that a subsidy within the meaning of Title VII, Tariff Act of 1930, as amended (19 U.S.C. 1671 *et seq.*), is no longer being paid or bestowed upon the manufacture, production, or exportation of certain textiles and textile products from Brazil, and there is no likelihood of resumption of the payment or bestowal of a subsidy on such merchandise.

T.D. 78-446 is hereby revoked with respect to all entries of dutiable textiles and textile products from Brazil exported from Brazil on or after January 24, 1980; entries of this merchandise exported prior to that date are still eligible for the waiver of countervailing duties. Customs officers will be instructed to proceed with liquidation of all entries of the subject merchandise without regard to countervailing duties.

Annex III [Amended]

The table in Part 355, Annex III of the Commerce Regulations (19 CFR Part 355, Annex III) is amended by deleting under the country heading "Brazil," the words "Textile mill products and men's and boys' apparel" in the column headed "commodity"; the numbers "78-446," "78-447" and "79-163" in the column headed "Treasury Decision"; and the words "Bounty declared-rate," "imposition of countervailing duties waived" and "amendment of waiver" in the column headed "Action". (Pub. L. 96-39, sec. 3(b), 93 Stat. 148, 19 U.S.C. 2504(b); Pub. L. 89-554, 80 Stat. 379, 5 U.S.C. 301).

Stanley Marcuss,

Acting Assistant Secretary for Trade Administration.

February 19, 1980.

[FR Doc. 80-5932 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

19 CFR Part 355

Nonrubber Footwear, Certain Castor Oil Products, Scissors and Shears, and Cotton Yarn From Brazil; Declaration of Net Amount of Bounty or Grant

AGENCY: U.S. Department of Commerce, International Trade Administration.

ACTION: Net amount of bounty or grant declared.

SUMMARY: This notice corrects the rates of countervailing duties applicable to imports of non-rubber footwear, certain castor oil products, scissors and shears, and cotton yarn from Brazil, which were previously published.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. Edward Haley, Office of Compliance, Office of Import Administration, U.S. Department of Commerce, 15th Street and Constitution Avenue, NW, Washington, D.C. 20230; telephone: (202) 566-3147.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 17, 1979, notices were published regarding new rates of countervailing duties on four product categories from Brazil, viz., non-rubber footwear (44 FR 28791), castor oil products (44 FR 28790), scissors and shears (44 FR 28792), and cotton yarn (44 FR 28790). Reduced countervailing duties rates for these products were made effective on the date of publication of the notice in the **Federal Register.** It has now been determined that the reduced rates should have been made effective for this merchandise exported from Brazil on or after the date the Government of Brazil took actions to reduce the value of the bounty or grant applicable in each case.

Accordingly, the applicable rates of countervailing duties, based on the f.o.b. or ex-works price to the U.S. are changed as follows:

(1) *Non-rubber footwear.* (A) For shoes manufactured by firms whose export sales account for 40 percent or less of the value of their sales, the applicable duty is 11.2 percent for merchandise exported from Brazil on or after January 24, 1979, but before March 31, 1979; and 10.6 percent for merchandise exported on or after March 31, 1979, but before June 30, 1979.

(B) For shoes manufactured by firms whose export sales account for more than 40 percent of the value of their total export sales, the applicable duty is 4.3 percent for merchandise exported from Brazil on or after January 24, 1979, but before March 31, 1979; and 4.1 percent for merchandise exported on or after March 31, 1979, but before June 30, 1979.

(2) *Castor oil products.* The applicable duty is 10.2 percent for merchandise exported from Brazil on or after January 24, 1979, but before March 31, 1979; and 9.6 percent for merchandise exported on or after March 31, 1979, but before June 30, 1979.

(3) *Scissors and shears.* The applicable duty is 14.5 percent for merchandise exported from Brazil on or after January 24, 1979, but before March 31, 1979; and 13.8 percent for merchandise exported on or after March 31, 1979, but before June 30, 1979.

(4) *Cotton yarn.* The applicable duty is 17.9 percent for merchandise exported from Brazil on or after January 24, 1979, but before March 31, 1979; and 17.0 percent for merchandise exported on or after March 31, 1979, but before June 30, 1979.

Any merchandise subject to the terms of this declaration shall be deemed to have benefited from a bounty or grant if such bounty or grant has been or will be paid or credited, directly or indirectly, upon the manufacture, production, or exportation of such non-rubber footwear, certain castor oil products, scissors and shears, and cotton yarn, respectively, from Brazil.

Annex III [Amended]

The table in Part 355, Annex III of the Commerce Regulations (19 CFR Part 355, Annex III) is amended under the country heading "Brazil" by adding, under the entry in the column headed "commodity" for "non-rubber footwear", "scissors and shears", "cotton yarn", and "certain castor oil products", respectively, the words "New rate" in the column headed "action", and the **Federal Register** citation of this action in the column headed "Treasury Decision". (Pub. L. 96–39, sec. 3(b), 93 Stat. 148, 19 U.S.C. 2504(b); Pub. L. 89–554, 80 Stat. 379, 5 U.S.C. 301).

Stanley Marcuss,

Acting Assistant Secretary for Trade Administration.

February 20, 1980.

[FR Doc. 80–5931 Filed 2–25–80; 8:45 am]

BILLING CODE 3510–22–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 146

[Docket No. 78P–0122]

Reduced Acid Frozen Concentrated Orange Juice; Establishment of Identity Standard

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: This document establishes a standard of identity for reduced acid frozen concentrated orange juice. The purpose of this action is to provide the consumer with a sweeter tasting orange juice without the addition of a sweetener. This action is based on a petition submitted by the Coca-Cola Co.

DATES: This standard shall be effective July 1, 1981 for all affected products initially introduced into interstate commerce on or after this date. Voluntary compliance may begin April 28, 1980. Objections by March 27, 1980.

ADDRESS: Written objections to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: F. Leo Kauffman, Bureau of Foods (HFF–214), Food and Drug Administration, Department of Health, Education, and Welfare, 200 C St. SW., Washington, DC 20204, 202–245–1164.

SUPPLEMENTARY INFORMATION: The Food and Drug Administration (FDA) issued a proposal in the **Federal Register** of May 18, 1979 (44 FR 29105) to establish a standard of identity for reduced acid frozen concentrated orange juice. The proposal was based on a petition submitted by the Coca-Cola Co., Foods Division, P.O. Box 2079, Houston, TX 77001. Interested persons were given until July 17, 1979, to submit their comments.

Two comments were received from industry. One comment endorsed the proposal. The second comment submitted a correction stating that the acidity of reduced acid frozen concentrated orange juice should be expressed as grams of anhydrous citric acid per 100 grams of juice as is customary for concentrated orange juice products, rather than per 100 milliliters of juice.

FDA agrees with this comment and the regulation has been revised accordingly.

In consideration of comments received and other relevant information, the agency concludes that it will promote honesty and fair dealing in the interest of consumers to establish a standard of identity for reduced acid frozen concentrated orange juice as set forth below.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Part 146 is amended by adding § 146.148 to read as follows:

§ 146.148 Reduced acid frozen concentrated orange juice.

(a) Reduced acid frozen concentrated orange juice is the food that complies with the requirements for composition and label declaration of optional ingredients prescribed for frozen concentrated orange juice by § 146.146, except that it may not contain any added sweetening ingredient. A process involving the use of anionic ion-exchange resins permitted by § 173.25 of this chapter is used to reduce the acidity of the food so that the ratio of the Brix reading to the grams of acid, expressed as anhydrous citric acid, per 100 grams of juice is not less than 21 to 1 or more than 26 to 1.

(b) The name of the food is "Reduced acid frozen concentrated orange juice".

Any person who will be adversely affected by the foregoing regulation may at any time on or before March 27, 1980, submit to the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, written objections thereto and may make a written request for a public hearing on the stated objections. Each objection shall be separately numbered and each numbered objection shall specify with particularity the provision of the regulation to which objection is made. Each numbered objection on which a hearing is requested shall specifically so state; failure to request a hearing for any particular objection shall constitute a waiver of the right to a hearing on that objection. Each numbered objection for which a hearing is requested shall include a detailed description and analysis of the specific factual information intended to be presented in support of the objection in the event that a hearing is held; failure to include such a description and analysis for any particular objection shall constitute a waiver of the right to a hearing on the objection. Four copies of all documents shall be submitted and shall be identified with the Hearing Clerk docket number found in brackets in the heading of this regulation. Received objections may be seen in the

above office between the hours of 9 a.m. and 4 p.m., Monday through Friday.

Effective date. Except as to any provisions that may be stayed by the filing of proper objections, compliance with this final regulation, including any required labeling changes, may begin April 28, 1980, and all affected products initially introduced into interstate commerce on or after July 1, 1981, shall fully comply. Notice of the filing of objections or lack thereof will be published in the **Federal Register.**

(Secs. 401, 701(e), 52 Stat. 1046 as amended, 70 Stat. 919 as amended (21 U.S.C. 341, 371(e)))

Dated: February 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5654 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Parts 1 and 53

[T.D. 7678]

Income Tax; Taxable Years Beginning After December 31, 1953; Foundation Excise Taxes; Transitional Rules for Acts of Self-Dealing Involving Private Foundations

AGENCY: Internal Revenue Service, Treasury.

ACTION: Final regulations.

SUMMARY: This document provides final regulations relating to transitional rules for acts of self-dealing between private foundations and disqualified persons. Changes to the applicable tax law were made by the Tax Reform Act of 1976. The regulations would affect all private foundations.

DATES: The amendments are effective with respect to certain dispositions of property by private foundations after October 4, 1976.

FOR FURTHER INFORMATION CONTACT: Margie Glass of the Employee Plans and Exempt Organizations Division, Office of the Chief Counsel, Internal Revenue Service, 1111 Constitution Avenue, N.W., Washington, D.C., 20224 (Attention: CC:LR:T) (202-566-3544, not a toll-free call).

SUPPLEMENTARY INFORMATION:

Background

On August 31, 1979, proposed amendments to the Income Tax Regulations (26 CFR Part 1) under sections 507, 508 and 537 of the Internal Revenue Code of 1954, and to the Foundation Excise Tax Regulations (26 CFR Part 53) under section 4941 of the Code were published in the **Federal Register** (44 FR 51242). The amendments were proposed to conform the regulations to sections 1301 and 1309 of the Tax Reform Act of 1976 (90 Stat. 1713, 1729). No comments were received and no public hearing was requested or held. This Treasury decision adopts the proposed amendments without change.

Explanation of Regulations

Section 101 (l)(2) of the Tax Reform Act of 1969 (83 Stat. 533) created special transitional rules that exempted certain transactions between private foundations and disqualified persons from the definition of self-dealing. Under prior law, these rules permitted private foundations to sell, exchange, or otherwise dispose of certain "nonexcess" business holdings to disqualified persons before January 1, 1975. There was no transitional rule that permitted the disposition of property leased by a private foundation to a disqualified person. Section 1309 of the Tax Reform Act of 1976 extends the rule permitting disposition of "nonexcess" business holdings to dispositions made after October 4, 1976, and before January 1, 1977. Section 1301 of the Act generally permits a foundation to sell, exchange, or otherwise dispose of certain property to a disqualified person where the property is being leased to the disqualified person pursuant to a binding contract in effect on October 9, 1969, if the foundation receives no less than fair market value for the property. This provision applies to dispositions made after October 4, 1976, and before January 1, 1978.

Drafting Information

The principal author of these regulations is Margie Glass of the Employee Plans and Exempt Organizations 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 regulations, both on matters of substance and style.

Adoption of Amendments to the Regulations

Accordingly, the proposed amendments to 26 CFR Parts 1 and 53 are adopted without change.

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:

Donald C. Lubeck,

Assistant Secretary of the Treasury.

February 15, 1980.

Adoption of amendments to the regulations

Accordingly, the proposed amendment to 26 CFR Parts 1 and 53 are adopted without change.

PART 1—INCOME TAX; TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 1953

Income Tax Regulations (26 CFR Part 1)

Paragraph 1. The Income Tax Regulations, 26 CFR Part 1, are amended by revising paragraph (a)(8)(ii)(*c*) of § 1.507-3 to read as follows:

§ 1.507-3 Special rules; transferee foundations.

(a) *General rule.* * * *

(8) * * *

(ii) * * *

(*c*) Section 101(l)(2) of the Tax Reform Act of 1969 (83 Stat. 533), as amended by sections 1301 and 1309 of the Tax. Reform Act of 1976 (90 Stat. 1713, 1729), with respect to the provisions of section 4941.

* * * * *

Par. 2. The Income Tax Regulations are further amended by revising paragraph (b)(3) of § 1.508-3 to read as follows:

§ 1.508-3 Governing instruments.

* * * * *

(b) *Effect and nature of governing instrument.* * * *

(3) *Savings provisions.* For purposes of section 508(d)(2)(A) and (e), a governing instrument need not include any provision which is inconsistent with section 101(l)(2), (3), (4) or (5) of the Tax Reform Act of 1969 (83 Stat. 533), as amended by sections 1301 and 1309 of the Tax Reform Act of 1976 (90 Stat. 1713, 1729), with respect to the organization. Accordingly, a governing instrument complying with the requirements of subparagraph (1) of this paragraph may incorporate any savings provision contained in section 101(l)(2), (3), (4) or (5) of the Tax Reform Act of 1969, as amended by sections 1301 and 1309 of the Tax Reform Act of 1976, as a specific exception to the general provisions of paragraph (a) of this section. In addition, in the absence of any express provisions to the contrary, the exceptions contained in such

savings provisions will generally be regarded as contained in a governing instrument meeting the requirements of subparagraph (1) of this paragraph.

* * * * *

Par. 3. The Income Tax Regulations are further amended by revising paragraph (d)(1)(iii) of § 1.537–1 to read as follows:

§ 1.537–1 Reasonable needs of the business.

* * * * *

(d) *Excess business holdings redemption needs.* (1) * * *

(iii) Constituted stock redemption of which before January 1, 1975, or after October 4, 1976, and before January 1, 1977, is, by reason of section 101(l)(2)(B) of the Tax Reform Act of 1969, as amended by section 1309 of the Tax Reform Act of 1976, and § 53.4941 (d)–4(b), permitted without imposition of tax under section 4941, but only to the extent such stock is to be redeemed before January 1, 1975 or after October 4, 1976, and before January 1, 1977, or is to be redeemed thereafter pursuant to the terms of a binding contract entered into on or before such date to redeem all of the stock of the corporation held by the private foundation on such date.

* * * * *

PART 53—FOUNDATION EXCISE TAXES

Foundation Excise Tax Regulations (26 CFR Part 53)

Par. 4. The Foundation Excise Tax Regulations, 26 CFR Part 53, are amended by revising the last sentence of paragraph (b)(1) of § 53.4941(d)–4 and by adding a new paragraph (f) to that section. These revised and added provisions read as follows:

§ 53.4941(d)–4 Transitional rules.

* * * * *

(b) *Disposition of certain business holdings*—(1) *In general.* * * * For purposes of applying this paragraph in the case of a disposition completed before January 1, 1975, or after October 4, 1976, and before January 1, 1977, the amount of excess business holdings is determined under section 4943(c) without taking subsection (c)(4) into account.

* * * * *

(f) *Disposition of leased property*—(1) *In general.* Under section 101(l)(2)(F) of the Tax Reform Act of 1969, as amended by the Tax Reform Act of 1976 (90 Stat. 1713), the sale, exchange or other disposition (other than by lease) to a disqualified person of property being leased to the disqualified person by a private foundation is not an act of self-dealing if—

(i) The private foundation is leasing substantially all of the property to the disqualified person under a lease to which paragraph (c) of this section applies;

(ii) The disposition occurs after October 4, 1976, and before January 1, 1978; and

(iii) The disposition satisfies the requirements of paragraph (f)(2) of this section.

(2) *Terms of disposition.* Paragraph (f)(1) of this section applies only if—

(i) The private foundation receives an amount that equals or exceeds the fair market value of the property either at the time of the disposition or at the time (after June 30, 1976) the contract for such disposition was executed;

(ii) In computing the fair market value of the property, no diminution of that value results from the fact that the property is subject to any lease to disqualified persons; and

(iii) At the time with respect to which paragraph (f)(2)(i) of this section is applied, the transaction would not have constituted a prohibited transaction within the meaning of section 503(b) or the corresponding provisions of prior law if those provisions had been applied at the time of the transaction.

[FR Doc. 80–5935 Filed 2–25–80; 8:45 am]
BILLING CODE 4830–01–M

DEPARTMENT OF JUSTICE

Office of the Attorney General

28 CFR Part 0

[Order No. 874–80]

Abolishing the Position of Special Counsel

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: This order formally abolishes the Position of Special Counsel inasmuch as the Assistant Attorney General in charge of the Criminal Division has been notified by the Special Counsel that the investigation of all matters within the Special Counsel's jurisdiction has been completed and that any possible future legal proceedings are more suitably handled by the Department of Justice or a United States Attorney.

EFFECTIVE DATE: February 6, 1980.

FOR FURTHER INFORMATION CONTACT: Philip B. Heymann, Assistant Attorney General, Criminal Division, U.S. Department of Justice, Washington, D.C. 20530 (202–633–2601).

By virtue of the authority vested in me by 28 U.S.C. 509, 510, and 5 U.S.C. 301, Attorney General Order No. 825–79 is revoked. Accordingly Chapter I of Title 28, Code of Federal Regulations, is amended as follows:

1. Section 0.1 of subpart A of Part 0 is amended by deleting "Position of Special Counsel."

2. Subpart J–1 of Part 0 is deleted in its entirety.

Dated: February 6, 1980.

Benjamin R. Civiletti,

Attorney General.

[FR Doc. 80–5862 Filed 2–25–80; 8:45 am]
BILLING CODE 4410–01–M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Exposure to Cotton Dust; New Effective Dates

AGENCY: Occupational Safety and Health Administration, Department of Labor.

ACTION: Final standard; new effective dates.

SUMMARY: This notice establishes a new effective date of the occupational safety and health standard for exposure to cotton dust in general industry, 29 CFR 1910.1043, and establishes new start-up dates for various provisions of the standard. It is published in accordance with a recent court decision. This amendment does not affect the cotton waste processing industry or employers who are purchasers and users of cotton batting. The standard for occupational exposure to cotton dust in the cotton ginning industry, 29 CFR 1910.1046, is also unaffected by this amendment.

DATE: The effective date of the cotton dust standard is March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Chief, Division of Media Services, Occupational Safety and Health Administration, Third Street and Constitution Avenue, N.W., Room N–3637, Washington, D.C. 20210 (202) 523–8151.

SUPPLEMENTARY INFORMATION: On June 19, 1978, the Occupational Safety and Health Administration (OSHA) promulgated a standard for occupational exposure to cotton dust. (29 CFR 1910.1043; 43 FR 27350 (June 23, 1978)). The standard, which was to become effective on September 4, 1978, contains, among other things, provisions for engineering controls, work practices, respirators, medical surveillance, and

employee education and training, which were to be instituted according to a sequence of start-up dates set forth in the standard. Commencing on September 4, 1978, the cotton industry was to have had up to a maximum of four years to achieve total compliance with the standard.

Before any of the standard's provisions became effective, the entire standard was stayed by the United States Court of Appeals for the District of Columbia Circuit pending its consideration of the standard's validity. On October 24, 1979, in *AFL–CIO* v. *Marshall*, ——— F.2d ——— (D.C. Cir. 1979), that court upheld the cotton dust standard except as it applied to the cottonseed oil mill sector, but allowed parties to the litigation a short period in which to pursue appeals and to show cause why the stay of the standard should not be lifted. Subsequently, the court denied motions for rehearing, rehearing *en banc* and for continuance of the stay, ordering on January 11, 1980, that "the aforementioned occupational safety and health standards for exposure to cotton dust shall not become effective until the expiration of seventy-five (75) days from the date of the instant order."

Accordingly, OSHA has set March 27, 1980 as the new effective date for the cotton dust standard, and new start-up dates are also set in the same relationship to the new effective date as was the case when the standard was first promulgated. To reflect this new schedule, paragraph (m) of 29 CFR 1910.1043, which contains the effective date and start-up dates for the standard, is amended. Appropriate amendments are also made in paragraphs (e)(3)(iii) and (f)(2)(vi). Since these amendments are not substantive changes in the standard's requirements, they do not require notice and comment. 29 CFR 1911.5.

This action does not affect cotton waste processing industries and employers who are purchasers and users of cotton batting. These parties' law suit has been severed from the challenge to the general industry standard decided in *AFL–CIO* v. *Marshall*. Their challenge to the standard has not yet been heard and the judicial stay of the standard continues to apply to them. When that litigation is concluded, separate effective dates may have to be established for those industries. This action also does not affect the cotton dust standard applicable to cotton gins, 29 CFR 1910.1046, which is subject to separate litigation in the United States Court of Appeals for the Fifth Circuit.

Another purpose of this notice is to inform interested parties of the agency's decision not to enforce the requirement in paragraph (f)(2)(vi) that employers provide disposable respirators until initial monitoring is completed. This decision was articulated in OSHA's brief in opposition to the cotton industry's motions for continuance of the stay. In its brief, OSHA stated that it had reexamined requests to stay the provision and announced that the standard would be best effectuated if the provision were not enforced. The purpose of this provision was to provide interim protection until it could be determined, by means of the initial monitoring, what the levels of exposure are so that the appropriate respirator could be selected. At the same time, the agency recognized that employees resist the use of respirators because respirators are uncomfortable and can interfere with vision, hearing and mobility. OSHA has also recognized that since the standard was published a year ago much monitoring has already been done, either in conformance with the new standard's procedures or by other equivalent means, so that the requirement to provide interim respirators would not be relevant for many employers in any event. In these circumstances, the agency anticipates that respiratory protection in accordance with the respirator selection table will come into widespread effect sooner than the six month period for completion of initial monitoring. Moreover, respiratory protection is available, at no cost to employees, whenever an employee requests it, 29 CFR 1910.1043(f)(1)(v), and for those participating in blow down operations. 29 CFR 1910.1043(g)(1), (m)(2)(v). Thus, there is little need to impose respirator usage on employees and employers when the results of monitoring might shortly relieve them of this burden. While the date in paragraph (f)(2)(vi) is changed to conform it to the new effective dates of the other provisions, OSHA reiterates its decision not to enforce this provision.

Accordingly, pursuant to 29 U.S.C. 655, 5 U.S.C. 553, and 29 CFR 1911.5, 29 CFR 1910.1043 is amended as set forth below.

Signed at Washington D.C. this 21st day of February, 1980.

Eula Bingham,

Assistant Secretary of Labor.

Section 1910.1043 is amended by revising paragraphs (e)(3)(iii), (f)(2)(vi) and (m) in its entirety to read as follows:

§ 1910.1043 Cotton dust.

* * * * *

(e) *Methods of compliance.* * * *

(3) *Compliance program.* * * *

(iii) The employer's schedule as set forth in the compliance program, shall project completion no later than March 27, 1984.

* * * * *

(f) *Use of respirators.* * * *

(2) *Respirator selection.* * * *

(vi) Until September 27, 1980, the employer shall provide any dust respirator, including single use, to all employees exposed to cotton dust, unless the employer has conducted the monitoring required by paragraph (d)(2) of this section or otherwise has monitored employee exposure. As soon as monitoring has been conducted, the employer shall select the appropriate respirator from Table I.

* * * * *

(m) *Effective date.* (1) *General.* This section is effective March 27, 1980, except as otherwise provided below.

(2) *Startup dates.* (i) *Initial monitoring.* The initial monitoring required by paragraph (d)(2) of this section shall be completed as soon as possible but no later than September 27, 1980.

(ii) *Methods of compliance: engineering and work practice controls.* Engineering and work practice controls required by paragraph (e) of this section shall be implemented no later than March 27, 1984.

(iii) *Compliance program.* The compliance program required by paragraph (e)(3) of this section shall be established no later than March 27, 1981.

(iv) *Respirators.* The respirators required by paragraph (f) of this section shall be provided no later than April 27, 1980. Until September 27, 1980, the provisions of paragraph (f)(2)(vi) apply.

(v) *Work practices.* The work practices required by paragraph (g) of this section shall be implemented no later than June 27, 1980.

(vi) *Medical surveillance.* The initial medical surveillance required by paragraph (h) of this section shall be completed no later than March 27, 1981.

(vii) *Employee education and training.* The initial education and training required by paragraph (i) of this section shall be completed as soon as possible but no later than June 27, 1980.

* * * * *

(Sec. 6, 84 Stat. 1593 (29 U.S.C. 655), 5 U.S.C. 553, Secretary of Labor's Order 8–76, 29 CFR Part 1911)

[FR Doc. 80–5937 Filed 2–25–80; 8:45 am]

BILLING CODE 4510–26–M

POSTAL SERVICE

39 CFR Part 927

Regulations Dealing with Penalties or Fines, Deductions, and Damages Related to Transportation of Mail

AGENCY: Postal Service.

ACTION: Final Rule.

SUMMARY: This rule revises postal regulations dealing with civil penalties, fines, deductions and damages assessed in the administration of the mail transportation statutes. The rule provides detailed procedures for the imposition of penalties and other assessments and conforms the regulations to the current organization of the Postal Service.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Robert A. Scherr, Assistant General Counsel, Transportation Division, U.S. Postal Service at (202) 245–4625.

SUPPLEMENTARY INFORMATION: On December 4, 1979, the Postal Service published for comment in the **Federal Register** proposed changes to 39 CFR Part 927 (44 FR 69682). Interested persons were invited to submit written comments concerning the proposed changes by January 4, 1980.

The only written comments received were those of the Air Transport Association of America (ATA).[1] These comments generally support the proposed regulations but contend that they do not go far enough. In particular, it is contended that 39 U.S.C. 5401(b) requires that the rules, regulations, and orders of the Postal Service be consistent with sections 1301–1542 of title 49, and that the procedural requirements of sections 1471 and 1473 of title 49 forbid the collection of any penalty unless a compromise is reached or a final judgment is had in a federal district court. In support of this contention, it it further argued that in the Airline Deregulation Act (Pub. L. 95–504, October 24, 1978, 92 Stat. 1705 *et seq.*), Congress gave the Civil Aeronautics Board the power to assess penalties administratively but did not extend that power to the Postmaster General.[2] The argument seems to be either that the Postal Service has never had the authority which it has been exercising since the beginning of commercial aviation to assess civil penalties, or that such authority has been repealed by some later enactment.

We find no warrant in the statutes to conclude that the Postal Service should terminate the exercise of this long established authority. On September 17, 1938, immediately following enactment of the Civil Aeronautics Act of 1938 (Ch. 601, 52 Stat. 1015), postal regulations were amended to provide for deductions for nonperformance of service or other delinquencies. Postal Laws and Regulations § 11 (1932); 3 FR 2356(1938); see also 11 FR 177A–131, 39 CFR, 1946 Supp., 50.1401. The Federal Aviation Act of 1958, as amended (49 U.S.C. 1301, *et seq.*), simply provides that "[a]ny person who violates * * * (B) any rule or regulation issued by the Postmaster General under this Act, shall be subject to a civil penalty * * *" and "[a]ny civil penalty may be compromised * * * by the Postmaster General in the case of regulations issued by him." 49 U.S.C. 1471(a)(1) and (2).

Congressional oversight bodies have been made well aware that postal regulations provide for imposition of penalties and that the Postal Service has been imposing such penalties. See, for example, Hearings on Postal Oversight Before the Senate Committee on Post Office and Civil Service, 93d Cong., 1st Sess., pt. 5, at 37, 139, 147, 151 (1973); and footnote 2, *supra.* When Congress passed the Airline Deregulation Act of 1978 making specific provision for imposition of civil penalties by the Civil Aeronautics Board, conferees on the legislation apparently recognized the long-established administrative practice of the Postal Service, stating that:

> This provision is not intended to affect any existing authority of the U.S. Postal Service to impose civil penalties. Airline Deregulation Act of 1978, Conference Report, H.R. Rep. No. 95–1779, 95th Cong., 2d Sess., 117 (1978).

In view of the considerations discussed above, the Postal Service declines to revise its proposal as requested by the ATA and hereby adopts without change the following revision of 39 CFR Part 927:

PART 927—RULES OF PROCEDURE RELATING TO FINES, DEDUCTIONS, AND DAMAGES

Sec.

927.1 Noncontractual carriage of mail by vessel.
927.2 Noncontractual air service.
927.3 Other remedies.

Authority: 39 U.S.C. 401, 2601, Chap. 54, Section 5604; 49 U.S.C. 1357, 1471.

§ 927.1 Noncontractual carriage of mail by vessel.

(a) *Report of infraction.* Where evidence is found or reported that a carrier of mail by vessel which has transported mail pursuant to the provisions of section 19–504, Postal Contracting Manual, has unreasonably or unnecessarily delayed the mails, has committed other delinquencies in the transportation of mail, has failed to carry the mail in a safe and secure manner, or has caused loss or damage to the mail, the facts will be reported to the General Manager, Logistics Division, of the postal region in which the mail was dispatched or was received.

(b) *Review, investigation, recommendation.* The General Manager, Logistics Division, will investigate the matter. The Manager will record findings of fact and make a recommendation concerning the need for imposition of fine or penalty with the reasons for the recommendation. The Manager will then forward the file to the Director, Office of Transportation Services, and will advise the carrier of the recommendation.

(c) *Penalty action.* The Director, Office of Transportation Service, upon review of the record, may impose a fine or penalty against a carrier for any irregularity properly documented, whether or not penalty action has been recommended. A tentative decision of the Director, Office of Transportation Services, to take penalty action will set forth in detail the facts and reasons upon which the determination is based. The Director will send the tentative decision, including notice of the irregularities found and the amount of fine or penalty proposed, to the carrier. The carrier may present a written defense to the proposed action within 30 days after receipt of the tentative decision. The Director, after review of the record, will advise the carrier of the final decision.

(d) *Appeal.* If the final decision includes a penalty, the Director will advise the carrier that it may, within 30 days, appeal the action in writing to the Assistant Postmaster General, Mail Processing Department, U.S. Postal Service, and that its written appeal should include all facts and arguments upon which the carrier relies in support of the appeal. If an appeal is not received, the Director will close the record. When an appeal is taken, the Assistant Postmaster General, Mail Processing Department, will review the

[1] These comments were submitted on behalf of American Airlines, Inc., Delta Airlines, Inc., The Flying Tiger Line, Inc., Hughes Airwest, Ozark Airlines, Inc., Pan American World Airways, Inc., Piedmont Aviation, Inc., Trans World Airlines, Inc., U.S. Air, Inc., and Western Air Lines Inc.

[2] This argument of the ATA seems inconsistent with the position it advanced before the Subcommittee on Postal Personnel and Modernization, House Committee on Post Office and Civil Service, on H.R. 2424, a bill that would let the Postal Service and the airlines contract for mail transportation. In testimony given on July 18, 1979, the ATA opposed enactment of H.R. 2424 partly because of the authority it said the Postal Service has to impose fines on air carriers.

complete record and decide the appeal. He will advise the carrier of the decision in writing and will take action consistent with that decision. The Assistant Postmaster General, Mail Processing Department, may sustain, rescind, or compromise a fine or penalty. The decision of the Assistant Postmaster General, Mail Processing Department, on appeal shall be the final decision of the Postal Service. The Postal Service may, in its discretion, deduct from pay otherwise due the carrier an amount necessary to satisfy the penalty action taken under this section.

(e) *Details of administration.* For further administrative details, see section 19–504, Postal Contracting Manual (Publication 41).

§ 927.2 Noncontractual air service.

(a) *Report of infraction.* Each mail handling irregularity will be reported on a prescribed form by the cognizant postal official or designated representative. As soon as possible the reporting authority will ask the local representative of the air carrier to provide an explanation of the irregularity. A summary of the explanation, if any, will be entered on the form. A copy of the form will be provided to the local station manager of the carrier concerned at the close of each tour and not less frequently than each 24 hours.

(b) *Carrier conferences.* At least once per month, postal officials will schedule a meeting with the local representatives of the affected air carriers to discuss the reported irregularities. The carrier's representative will be advised of any irregularity for which the reporting authority will recommend penalty action. The carrier's representative will be offered the opportunity to comment on any irregularity, and any comments will be attached to the form. The form on which penalty action is recommended will then be forwarded to the General Manager, Logistics Division, of the appropriate postal region.

(c) *Review, investigation, recommendation.* The General Manager, Logistics Division, will review the matter. In those instances in which a monetary fine or penalty appears warranted but the carrier has disputed the facts alleged by the reporting authority, the General Manager, Logistics Division, will investigate the matter to resolve the differences. The Manager will record findings of fact and make a recommendation concerning the need for imposition of a fine or penalty, with the reasons for the recommendation. The Manager will then forward the file to the Director, Office of Transportation Services, U.S. Postal Service, and will advise the carrier of the recommendation.

(d) *Penalty action.* The Director, Office of Transportation Services, upon review of the record, may impose a fine or penalty against an air carrier for any irregularity properly documented, whether or not penalty action has been recommended. A tentative decision of the Director, Office of Transportation Services, to take penalty action will set forth in detail the facts and reasons upon which the determination is based. The Director will send the tentative decision, including notice of the irregularities alleged and the amount of fine or penalty proposed, to the carrier. The carrier may present a written defense to the proposed action within 30 days after the receipt of the tentative decision. The Director, after review of the record, will advise the carrier of the final decision.

(e) *Appeal.* If the final decision includes a penalty, the Director will advise the carrier that it may, within 30 days, appeal the action in writing to the Assistant Postmaster General, Mail Processing Department, U.S. Postal Service, and that its written appeal should include all facts and arguments upon which the carrier relies in support of the appeal. If an appeal is not received, the Director will close the file. When an appeal is taken, the Assistant Postmaster General, Mail Processing Department, will review the complete record and decide the appeal. He will advise the carrier of the decision in writing and will take action consistent with that decision. The Assistant Postmaster General, Mail Processing Department, may sustain, rescind, or compromise a fine or penalty. The decision of the Assistant Postmaster General, Mail Processing Department, on appeal shall be the final decision of the Postal Service. The Postal Service may, in its discretion, deduct from pay otherwise due the air carrier an amount necessary to satisfy the penalty action taken under the section.

(f) *Details of administration.* For further administrative details, forms, and other implementing materials adapted to the respective modes of transportation, see Transportation Handbook M–31, Air Service Instructions, Part 320, for interstate air transportation; Transportation Handbook T–1, International Airmail, Exchange Office Procedures, Part 4, for foreign air transportation; and Transportation Handbook T–7, Handling, Dispatch, and Transportation of Military Mail, Part 10, for overseas air transportation.

§ 927.3 Other Remedies.

The procedures and other requirements of this part apply only where the Postal Service proposes to assess penalties, fines, deductions, or damages. This part does not limit other remedies available to the Postal Service, including such remedies as summary action to withhold tender of the mail to protect the public interest in the event of major irregularities such as theft, deliberate loss, damage, or abandonment of the mail.

W. Allen Sanders,

Associate General Counsel for General Law and Administration.

[FR Doc. 80–5852 Filed 2–25–80; 8:45 am]

BILLING CODE 7710–12–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 65

[Docket No. FEMA 5774]

Identification and Mapping of Special Flood Hazard Areas; Changes in Special Flood Hazard Areas Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Interim rule.

SUMMARY: This rule lists those communities where modification of the base (100-year) flood elevations is appropriate because of new scientific or technical data. New flood insurance premium rates will be calculated from the modified base (100-year) elevations for new buildings and their contents and for second layer insurance on existing buildings and their contents.

DATES: These modified elevations are currently in effect and amend the Flood Insurance Rate Map (FIRM) in effect prior to this determination.

From the date of the second publication of notice of these changes in a prominent local newspaper, any person has ninety (90) days in which he can request through the community that the Federal Insurance Administrator reconsider the changes. These modified elevations may be changed during the 90-day period.

ADDRESSES: The modified base (100-year) flood elevation determinations are available for inspection at the office of the Chief Executive Officer of the community, listed in the fifth column of the table. Send comments to that address also.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, Acting Assistant Administrator, Program

Implementation and Engineering Office, 451 Seventh Street SW., Washington, D.C. 20410, (202) 755–5581 or Toll Free Line (800) 424–8872.

SUPPLEMENTARY INFORMATION: The numerous changes made in the base (100-year) flood elevations of the Flood Insurance Rate Map(s) make it administratively infeasible to publish in this notice all of the modified base (100-year) flood elevations contained on the map. However, this rule includes the address of the Chief Executive Officer of the community where the modified base (100-year) flood elevation determinations are available for inspection. Any request for reconsideration must be based on knowledge of changed conditions, or new scientific or technical data.

These modifications are made pursuant to Section 206 of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234) and are in accordance with the National Flood Insurance Act of 1968, as amended, (Title XIII of the Housing and Urban Development Act of 1968 (Pub. L. 90–448)), 42 U.S.C. 4001–4128, and 44 CFR Part 65.4 (Presently appearing at its former Section 24 CFR 1915).

For rating purposes, the revised community number is listed and must be used for all new policies and renewals.

The base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These elevations, together with the flood plain management measures required by 60.3 (presently appearing at its former Section 1910.3) of the program regulations are the minimum that are required. They should not be construed to mean the community must change any existing ordinances that are more stringent in their flood plain management requirements. The community may at any time, enact stricter requirements on its own, or pursuant to policies established by other Federal, State or regional entities.

The changes in the base (100-year) flood elevations listed below are in accordance with 44 CFR 65.4. (Presently appearing at its former Section 24 CFR Part 1915.4):

State	County	Location	Date and name of newspaper where notice was published	Chief executive officer of community	Effective date of modified flood insurance rate map	New community No.
Colorado	Arapahoe	City of Englewood	*Englewood Herald Sentinel*, Nov. 28 and Dec. 5, 1979.	Hon. James L. Taylor, Mayor, City of Englewood, City Hall, 3400 South Elati St., Englewood, Colo.	Dec. 5, 1979	085074E
Florida	Volusia	City of New Smyrna Beach	*New Smyrna News and Observer*, Dec. 5 and 12, 1979.	Hon. George E. Musson, Mayor, City of New Smyrna Beach, 210 Sams Ave., New Smyrna Beach, Fla.	Dec. 12, 1979	125132B
Iowa	Scott	City of Bettendorf	*Quad-City Times*, Dec. 10 and 11, 1979.	Hon. William C. Glynn, Mayor, City of Bettendorf, 1609 State St., Bettendorf, Iowa 52722.	Dec. 11, 1979	19024D, 0004–0006D
Minnesota	Lyon	City of Marshall	*The Independant*, May 24 and 25, 1979.	Hon. Robert Schagol, Mayor, City of Marshall, Municipal Bldg., 344 West Main St., Marshall, Minn. 56258.	Dec. 21, 1979	270258C
Minnesota	Nicollet	City of North Mankato	*The Free Press*, Dec. 21 and 28, 1979.	Mr. Bob Ringhofer, City Administrator, 1001 Belgrade Ave., North Mankato, Minn. 56001.	Dec. 28, 1979	275245E
Nebraska	Platte	City of Columbus	*Columbus Telegram*, May 24 and 25, 1979.	Hon. George Johansen, Mayor, City of Columbus, 2424 14th St., Columbus, Nebr. 68601.	Dec. 21, 1979	315272B

(National Flood Insurance Act of 1968 (Title XIII of Housing Urban Development Act 1968), effective January 28, 1969 (33 FR 17804, November 28, 1968), as amended; 42 U.S.C. 40014128; Executive Order 12127, 44 FR 19367; and delegation of authority to Federal Insurance Administrator 44 FR 20963)

Issued: January 18, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80–5829 Filed 2–25–80; 8:45 am]

BILLING CODE 6718–03–M

14 CFR Part 65

[Docket No. FEMA 5779]

List of Withdrawal of Flood Insurance Maps Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration.

ACTION: Final rule.

SUMMARY: This rule lists communities where Flood Insurance Rate Maps or Flood Hazard Boundary Maps published by the Federal Insurance Administration, have been temporarily withdrawn for administrative or technical reasons. During that period that the map is withdrawn, the insurance purchase requirement of the National Flood Insurance Program is suspended.

EFFECTIVE DATE: The date listed in the fifth column of the table.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line 800–424–8872, Room 5150, 451 Seventh Street SW., Washington, DC 20410.

SUPPLEMENTARY INFORMATION: The list includes the date that each map was withdrawn, and the effective date of its republication, if it has been republished. If a flood prone location is now being identified on another map, the community name for the effective map is shown.

The Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, requires, at Section 102, the purchase of flood insurance as a condition of Federal financial assistance if such assistance is:

(1) For acquisition and construction of buildings, and

(2) For buildings located in a special flood hazard area identified by the

Director of Federal Emergency Management Agency.

One year after the identification of the community as flood prone, the requirement applies to all identified special flood hazard areas within the United States, so that, after that date, no such financial assistance can legally be provided for acquisition and construction of buildings in these areas unless the community has entered the program. The denial of such financial assistance has no application outside of the identified special flood hazard areas of such flood-prone communities.

Prior to July 1, 1975, the statutory requirement for the purchase of flood insurance did not apply until and unless the community entered the program and the special flood hazard areas were identified by the issuance of a flood insurance map. However, after July 1, 1975, or one year after identification, whichever is later, the requirement applies to all communities in the United States that are identified as having special flood hazard areas within their community boundaries, so that, no such financial assistance can legally be provided for buildings in these areas unless the community has entered the program.

The insurance purchase requirement with respect to a particular community may be altered by the issuance or withdrawal of the Federal Insurance Administration's (FEMA) official Flood Insurance Rate Map (FIRM) or the Flood Hazard Boundary Map (FHBM). A FHBM is usually designated by the letter "E" following the community number and a FIRM by the letter "R" following the community number. If the FIA withdraws a FHBM for any reason the insurance purchase requirement is suspended during the period of withdrawal. However, if the community is in the Regular Program and only the FIRM is withdrawn but a FHBM remains in effect, then flood insurance is still required for properties located in the identified special flood hazard areas shown on the FHBM, but the maximum amount of insurance available for new applications or renewal is first layer coverage under the Emergency Program, since the community's Regular Program status is suspended while the map is withdrawn. (For definitions see 44 CFR Part 59 et seq.).

As the purpose of this revision is the convenience of the public, notice and public procedure are unnecessary, and cause exists to make this amendment effective upon publication. Accordingly, Subchapter B of Chapter I of Title 44 of the Code of Federal Regulations is amended as follows:

1. Present § 65.6 is revised to read as follows:

§ 65.6 Administrative withdrawal of maps.

(a) *Flood Hazard Boundary Maps (FHBM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 5149
40 FR 17015
40 FR 20798
40 FR 46102
40 FR 53579
40 FR 56672
41 FR 1478
41 FR 50990
41 FR 13352
41 FR 17726
42 FR 8895
42 FR 29433
42 FR 46226
42 FR 64076
43 FR 24019
44 FR 815
44 FR 6383
44 FR 18485
44 FR 25636
44 FR 34120
44 FR 52835
44 FR 57094

(*Enter page number of this notice in Federal Register*)

(b) *Flood Insurance Rate Maps (FIRM's).* The following is a cumulative list of withdrawals pursuant to this Part:

40 FR 17015
41 FR 1478
42 FR 49811
42 FR 64076
43 FR 24019
44 FR 25636
44 FR 52835

(*Enter page number of this notice in Federal Register*)

2. The following additional entries (which will not appear in the Code of Federal Regulations) are made pursuant to § 65.6:

State	Community name and No.	County	Hazard ID date	Rescission date	Reason
Arizona	Town of Buckeye, 040039R	Maricopa	Sept. 5, 1979	Jan. 31, 1980	6
Arkansas	City of Osceola, 050151CR	Mississippi	June 30, 1976	May 3, 1979	6
California	City of Hawthorne, 060123	Los Angeles	May 9, 1978	Aug. 13, 1979	1A
Connecticut	City of East Hartford, 090026R	Hartford	July 2, 1979	Sept. 4, 1979	6

KEY TO SYMBOLS

E—The community is participating in the Emergency Program. It will remain in the Emergency Program without a FHBM.
C—The community is participating in the Emergency Program. It will be converted to the Regular Program without an FIA map.
R—The community is participating in the Regular Program.
1. The Community appealed its flood-prone designation and FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year
1A. FIA determined the Community would not be inundated by a flood having a one-percent chance of occurrence in any given year.
2. The Flood Hazard Boundary Map (FHBM) contained printing errors or was improperly distributed. A new FHBM will be prepared and distributed.
3. The Community lacked land-use authority over the special flood hazard area.
4. A more accurate FIA map is the effective map for this community.
5. The FHBM does not accurately reflect the Community's special flood hazard areas (i.e., sheet flow flooding, extremely inaccurate map, etc.) A new FHBM will be prepared and distributed.
6. The Flood Insurance Rate Map was rescinded because of inaccurate flood elevations contained on the map.
7. The Flood Insurance Rate Map was rescinded in order to re-evaluate the mudslide hazard in this Community.
8. The T&E or H&E Map was rescinded.
9. A revision of the FHBM within a reasonable period of time was not possible. A new FHBM will be prepared and distributed.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 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: February 11, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-5830 Filed 2-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 64

[Docket No. FEMA 5781]

Suspension of Community Eligibility Under the National Flood Insurance Program

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities where the sale of flood insurance, as authorized under the National Flood Insurance Program (NFIP), will be suspended because of noncompliance with the flood plain management requirements of the program.

EFFECTIVE DATES: The third date ("Susp.") listed in the fifth column.

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, DC 20410.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local flood plain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022) prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001–4128) unless an appropriate public body shall have adopted adequate flood plain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et seq.). Accordingly, the communities are suspended on the effective date in the fifth column, so that as of that date subsidized flood insurance is no longer available in the community.

In addition, the Federal Insurance Administrator has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the sixth column of the table. Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93–234), as amended, provides that no direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP, with respect to which a year has elapsed since identification of the community as having flood prone areas, as shown on the Office of Federal Insurance and Hazard Mitigation's initial flood insurance map of the community. This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Federal Insurance Administrator finds that delayed effective dates would be contrary to the public interest. The Administrator also finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary.

In each entry, a complete chronology of effective dates appears for each listed community.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

§ 64.6 List of suspended communities.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Alabama	Tuscaloosa	Northport, city of	010202C	June 13, 1973, emergency, Sept. 5, 1979, regular, Mar. 4, 1980, suspended.	Dec. 28, 1973 July 9, 1976	Mar. 4, 1980.
Arkansas	Chicot	Eudora, city of	050027B	July 2, 1974,, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Mar. 1, 1974 Oct. 10, 1975	Do.
Do	Pulaski	Little Rock, city of	050181B	Mar. 16, 1973, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Feb. 21, 1974 Mar. 1, 1974	Do.
California	Sonoma	Healdsburg, city of	060378B	May 20, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Mar. 1, 1974 Apr. 16, 1976	Do.
Connecticut	Litchfield	Kent, town of	090186B	Feb. 13, 1976, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Jan. 3, 1975 May 21, 1976	Do.
Georgia	Gwinnett	Lilburn, city of	130100B	June 18, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	June 7, 1974 Feb 6, 1976	Do.
Do	Richmond	Unincorporated areas	130158A	Nov. 23, 1973, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Oct. 24, 1975	Do.
Idaho	Ada	Eagle, city of	160003B	Nov. 20, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Dec. 7, 1973 July 23, 1976	Do.
Do	Latah	Juliaetta, city of	160088B	Nov. 1, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Oct. 18, 1974 Dec. 19, 1975	Do.
Illinois	St. Clair	Centreville, city of	170622B	May 16, 1973, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Jan. 13, 1978	Do.
Do	Henry	Fox River Valley Gardens, village of.	170478B	Jan. 19, 1973, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Apr. 5, 1974 Feb. 6, 1976	Do.
Iowa	Clayton	Guttenberg, city of	190077B	May 1, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Feb 8, 1974	Do.
Kentucky	Campbell	Mentor, city of	210275B	Feb. 21, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	July 18, 1975 July 15, 1977	Do.
Michigan	St. Clair	Ira, township of	260199B	Dec. 8, 1972, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	May 3, 1974 May 14, 1976	Do.

State	County	Location	Community No.	Effective dates of authorization/ cancellation of sale of flood insurance in community	Special flood hazard area identified	Date [1]
Do	Van Buren	South Haven, city of	260211B	May 16, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	June 7, 1974 June 11, 1976	Do.
Mississippi	Coahoma	Clarksdale, city of	280039B	Apr. 2, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	June 7, 1974	Do.
Do	Pearl River	Picayune, city of	280130B	May 13, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	June 28, 1974 Oct. 31, 1975	Do.
Nebraska	Cass	Louisville, village of	310031B	June 4, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	May 10, 1974 Dec. 5, 1975	Do.
New Hampshire	Merrimack	Concord, city of	330110A	July 17, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Aug. 2, 1974	Do.
New Jersey	Burlington	Pemberton, township of	340112A	Feb. 22, 1974, emergency, Sept. 14, 1979, regular, Mar. 4, 1980, suspended.	Dec. 13, 1974	Do.
Do	....do	Southampton, township of	340115B	Jan. 14, 1972, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Jan. 9, 1974 Sept. 17, 1976	Do.
New York	Allegany	Almond, town of	360968B	Apr. 19, 1973, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Apr. 12, 1974 July 29, 1977	Do.
Do	Steuben	Arkport, village of	360763B	June 20, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	May 17, 1974 Mar. 5, 1976	Do.
North Carolina	Cabarrus	Concord, city of	370037B	Jan. 16, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Dec. 28, 1973 Nov. 4, 1977	Do.
Do	Guilford	Jamestown, town of	370114B	May 8, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Dec. 7, 1973 Apr. 30, 1976	Do.
Oklahoma	Okmulgee	Henryetta, city of	400144B	Aug. 19, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Jan. 23, 1974 Mar. 12, 1976	Do.
South Carolina	Aiken	Unincorporated areas	450002A	July 31, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Jan. 3, 1975 Aug. 26, 1977	Do.
Do	Anderson	Honea Path, town of	450016A	Mar. 4, 1976, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	July 25, 1975	Do.
Do	....do	Williamston, town of	450020C	July 18, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	May 31, 1974 Sept. 8, 1978	Do.
Tennessee	Bradley	Cleveland, city of	470015A	July 15, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Apr. 16, 1976	Do.
Do	Franklin	Cowan, city of	470053B	June 11, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	June 14, 1974 May 21, 1976	Do.
Do	....do	Decherd, city of	470054B	Aug. 14, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	June 14, 1974 June 25, 1976	Do.
Texas	Hidalgo	Weslaco, city of	480349B	Apr. 26, 1974, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	Mar. 29, 1974 Feb. 6, 1976	Do.
Washington	King	Carnation, town of	530076B	July 25, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	May 31, 1974	Do.
Do	Lewis	Pe Ell, town of	530296B	July 7, 1975, emergency, Mar. 4, 1980, regular, Mar. 4, 1980, suspended.	July 18, 1975	Do.
New Hampshire	Hillsborough	Pelham, town of	330100A	July 19, 1974, emergency, Mar. 14, 1980, regular, Mar. 14, 1980, suspended.	Feb. 22, 1974 Dec. 31, 1976	Do.

[1] Date certain Federal assistance no longer available in special flood hazard area.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968); effective Jan. 28, 1969 (33 FR 17804, Nov. 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: February 13, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-5828 Filed 2-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

National Flood Insurance Program; Final Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Final rule.

SUMMARY: Final base (100-year) flood elevations are listed below for selected locations in the nation.

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required either to 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 community.

ADDRESSES: See table below.

FOR FURTHER INFORMATION CONTACT: Mr. R. Gregg Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872. (In Alaska and Hawaii, call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410,

SUPPLMENTARY INFORMATION: The Federal Insurance Administrator gives notice of the final determination of flood elevation for each community listed.

This final rule is issued in accordance with section 110 of the Flood Disaster Protection 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 44 CFR Part 67.8). 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 44 CFR Part 60.

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

Final Base (100-Year) Flood Elevations

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Arizona	Chandler, City, Maricopa County (Docket No. FI–5255).	Ponding	Area east of Southern Pacific Railroad from approximately 350 feet north of Ray Road extending north to the Corporate Limits.	*1,217
			Area east of Southern Pacific Railroad from the southern edge of Ray Road extending south to approximately 400 feet south of Commonwealth Avenue.	*1,220
			Area east of Southern Pacific Railroad from approximately 500 feet south of Commonwealth Avenue extending south to the Corporate Limits at Pecos Road.	*1,221
			Southern Pacific Railroad Spur of West side of embankment from Ray Road to Frye Road.	#2
	Maps are available at the Department of Public Works, Chandler, Arizona.			
Arkansas	City of Bentonville, Benton County (FEMA–5713).	McKisick Creek Tributary (Tributary 1).	Just upstream of Trails End Drive (extended)	*1,226
		Osage Creek Tributary (Tributary 2).	Just upstream of State Highway 102	*1,277
			Just upstream of U.S. Highway 71	*1,281
	Maps available at City Clerk's Office, City Hall, 115 West Central Street, Bentonville, Arkansas 71712.			
Arkansas	City of Clarendon, Monroe County (FEMA–5713).	White River	Just upstream of U.S. Highway 79	*181
		Shallow Flooding Areas (Ponding)	Intersection of Washington Street and Fifth Street	*173
			Intersection of Carter Street and U.S Highway 79 (Ewan Street)	*173
			Intersection of Walker Street and College Street	*173
			Intersection of Oak Street and Main Street	*175
	Maps available at City Hall, 270 Madison Street, Clarendon, Arkansas 72029.			
Arkansas	City of Eureka Springs, Carroll County (FEMA–5713).	Leatherwood Creek	Just upstream of Magnetic Road	*1,146
			Just downstream of Mill Road	*1,160
	Maps available at City Clerk's Office, City Hall, 44 South Main Street, Eureka Springs, Arkansas 72632.			
			[26]0017	
Arkansas	Harrison (City), Boone County (Docket No. FEMA–5701).	Dry Jordan Creek	Central Avenue 50 feet upstream from centerline	*1,052
			East Prospect Avenue 50 feet upstream from centerline	*1,056
			Vine Road 50 feet upstream from centerline	*1,076
			North Spruce Street (low water crossing) 50 feet upstream from centerline.	*1,091
			U.S. Highway 65 (Business) 50 feet upstream from centerline	*1,110
			Lovers Lane (low water crossing) 50 feet upstream from centerline	*1,129
		Crooked Creek	U.S. Highway 65 100 feet upstream from centerline	*1,045
			U.S. Highway 65 (Business) (Vine Street) 100 feet upstream from centerline.	*1,052
			Wilson Avenue 100 feet upstream from centerline	*1,062
	Maps available at City Hall, 114 South Spring Street, Harrison, Arkansas.			
Arkansas	City of Jacksonport, Jackson County (FEMA–5713).	White River	Intersection of State Highway 69 Extended and the Western Corporate Limits.	*230
	Maps available at the home of Mayor William Smart, 1 block from Highway 69, Jacksonport, Arkansas 72075.			
Arkansas	City of Johnson, Washington County (FEMA–5713).	Clear Creek	Just upstream of St. Louis-San Francisco Railway	*1,178
			Just upstream of Wilkerson Street	*1,180
			Just downstream of Eastern Corporate Limits	*1,195
		Mud Creek	Just downstream of Johnson Road	*1,181
	Maps available at City Clerk's Office, City Hall, Main Street, Johnson, Arkansas 72741.			
Arkansas	City of Marked Tree, Poinsett County (FEMA–5713).	St. Francis River	Just upstream of U.S. Highway 63 (Business)	*211
			Just upstream of Second Street extended	*212
		Left Hand Chute of Little River	Just upstream of Burch Avenue extended	*213
			Just upstream of Sneed Avenue extended	*214
	Maps available at City Hall, 106 Frisco Street, Marked Tree, Arkansas 72365.			
Arkansas	City of North Little Rock, Pulaski County (FEMA–5713).	Arkansas River	Just downstream of U.S. Highway 65 and 167 and Interstate Highway 30.	*253

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of Broadway	*255
		Shillcutt Bayou	Just upstream of West 37th Street	*275
			Just upstream of West 47th Street	*301
			Approximately 160 feet upstream West 52nd Street	*320
			Just upstream of Camp Robinson Road	*328
		Shillcutt Bayou Tributary	Just upstream of State Highway 365	*268
		Lake No. 1 Tributary	Just upstream of Avondale Road	*271
		Fairman Ditch	Just downstream of Bethany Road	*250
		Glenview Ditch	Just downstream of State Highway 161	*248
		Five Mile Creek	Just upstream of Highway 67 and 167	*256
			Just upstream of State Highway 107 (J. F. Kennedy Boulevard)	*375
		Five Mile Creek West Tributary	Just upstream of Osage Drive [26]0017	*446
		Five Mile Creek McCain Fork	Just downstream U.S. Highways 67 and 167	*300
		Five Mile Creek East Tributary	Just upstream of U.S. Highway 67 and 167 Service Road (North Bound).	*257
		Ponding Areas	Intersection of East 9th Street and Oliver Street	*254
			Intersection of East 9th Street and Locust	*254
			Intersection of East 17th Street and Hazel	*252
			Intersection of East 12th Street and Gregory	*252
			Intersection of East 11th Street and I Street	*252
			Intersection of Healy Avenue and Rojeclair Drive	*246
			Intersection of Healy Avenue and Graham Avenue	*246
			Intersection of Faulkner Lake Road and Saunders	*245
	Maps available at the Public Works Office, City Hall, Third and Main Streets, North Little Rock, Arkansas 72114.			
Arkansas	City of Waldron, Scott County (FEMA-5713).	Poteau River	Just upstream of Main Street (U.S. Highway 71 Business)	*656
			Just upstream of State Highway 80	*677
	Maps available at City Clerk's Office, City Hall, Waldron, Arkansas 72958.			
Arkansas	City of West Memphis, Crittenden County (FEMA-5713).	Mississippi River	Eight Street (Extended)	*227
		Fifteen Mile Bayou	Approximately 300 feet downstream of U.S. Highway 70	*209
		Ten Mile Bayou Diversion Ditch	Just upstream of Interstate Highway 40 Eastbound	*211
			Just upstream of Ingram Boulevard	*214
		Ten Mile Bayou	Just upstream of U.S. Highway 70 (Broadway Avenue)	*210
			Just upstream of North Fourteenth Street	*212
			Just upstream of Ingram Boulevard	*215
	Maps available at City Clerk's Office, City Hall, 205 S. Redding, West Memphis, Arkansas 72301.			
California	Los Altos (City), Santa Clara County (Docket No. FEMA-5701).	Stevens Creek	Most downstream Corporate Limits 50 feet upstream of crossing	*257
		Adobe Creek	Yerba Buena Avenue 75 feet upstream from centerline	*140
			Foothill Expressway (Fremont Avenue) 60 feet downstream from centerline.	*146
			Foothill Expressway (Fremont Avenue) 50 feet upstream from centerline.	*154
			Edith Avenue 40 feet upstream from centerline	*175
			Burke Road 10 feet upstream from centerline	*192
			Milverton Road at centerline	*218
		Hale Creek	Sheet Flow Area along South Springer Road centerline between Arboleda Drive and Rosita Avenue.	#1
			Ponding Area 50 feet south of the Hale Creek Crossing of Sunshine Drive.	*132
			Rosita Avenue 200 feet upstream from centerline	*157
			Covington Road 80 feet downstream from centerline	*171
			Covington Road 120 feet upstream from centerline	*176
			Foothill Expressway (Fremont Avenue) at centerline	*187
		Permanente Creek	Confluence with Hale Creek	*112
			Ponding Area 450 feet north along Eastwood Place from its intersection with Covington Road.	*166
		Permanente Diversion	Sheet Flow Area 300 feet west of the intersection of West Rose Circle and Covington Road.	#1
			Sheet Flow Area Suffolk Way	#2
			Ponding Area 200 feet north of the intersection of West Rose Circle and Covington Road.	*164
			Grant Road 100 feet upstream from centerline	*175
			Permanente Diversion Structure 25 feet upstream from centerline	*191
			Portland Avenue 10 feet downstream from centerline	*196
			Portland Avenue 100 feet upstream from centerline	*201
	Maps available at City Engineer's Office, City Hall, 1 North San Antonio Road, Los Altos, California.			
California	Milpitas (City), Santa Clara County (Docket No. FEMA-5701).	San Francisco Bay	200 feet West on Dixon Landing Road from intersection with State Highway 17.	*7
		Lower Penitencia Creek	Intersection of Heath Street and Redwood Avenue	*10
			500 feet North along Main Street from intersection of Main Street and Railroad Avenue.	*13
			Intersection of Windsor Street and Calaveras Boulevard	#1
			200 feet South of intersection of Serra Way and Abbott Avenue	*16
			Intersection of Sylvia Avenue and Palmer Street	*17
			Intersection of Capital Avenue and Moonlight Way	*26
			600 feet North of intersection of Hammond Way and East Curtis Avenue.	*24

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			600 feet North of confluence of Lower Penitencia Creek and East Penitencia Creek.	*33
			175 feet West of intersection of Sylvia Avenue and Palmer Street	#2
			800 feet Southwest along Wrigley Road from intersection of Wrigley Road and East Calaveras Boulevard.	*20
			600 feet Northeast along East Carlos Street from intersection of East Carlos Street and South Main Street.	*17
		East Penitencia Creek	400 feet Southeast of confluence of Lower Penitencia Creek and East Penitencia Creek.	*33
		Berryessa Creek	400 feet Southeast of intersection of Montague Expressway and Piper Drive.	*49
			Intersection of Montague Expressway and Gladding Court	#1
			600 feet South of intersection of Montague Expressway and Watson Court.	#2
		Ponding	Intersection of Hillview Drive and Jacklim Road	*24
			1,500 feet East along Montague Expressway along (Northbound Lane) intersection of Montague Expressway and South Main Street.	*35
			Intersection of Interstate 680 and Yosemite Drive	*46
Maps available at Office of the City Engineer, City Hall, 455 East Calaveras Boulevard, Milpitas, California.				
California	Santa Clara (City), Santa Clara County (Docket No. FEMA-5701).	Ponding	1,500 feet North of Mountain View Alviso Road and 200 feet East of Calabazas Creek.	*2
			Intersection of Oakwood Drive and De La Cruz Boulevard	*20
			Intersection of Aldo Avenue and Victor Street	*21
			Intersection of Augustine Drive and Octavius Drive	*31
			Crossing of Bay-Shore Freeway Road and Southern Pacific Railroad	*33
			Intersection of Chromite Drive and Bowers Avenue	*50
			Intersection of Pasetta Drive and Los Padres Boulevard	*52
			Intersection of Palmas Drive and Arroyo Drive	*76
			Intersection of Barcelis Avenue and Layton Court	*98
			Intersection of Withrow Place and Howell Avenue	*109
		Sheet Flow	Intersection of Agate Drive and Agate Court	#1
			Intersection of Laurelwood Road and De La Cruz Boulevard	#1
			Intersection of Kifer Road and Bowers Avenue	#1
			Intersection of Monroe Street and San Tomas Expressway	#1
			Intersection of Wallace Street and Foley Avenue	#1
			Intersection of Homestead Road and Woodhamis Avenue	#1
			Intersection of El Camino Real and Halford Avenue	#1
			Intersection of Coolidge Drive and Hoover Drive	#2
Maps available at the Office of the City Engineer, City Hall, 1500 Warburton Avenue, Santa Clara, California.				
Connecticut	Town of Berlin, Hartford County (Docket No. FEMA-5725).	Mattabesset	Division Street	*25
			Berlin Street	*28
			Wethersfield Road	*36
			Downstream U. S. Route 5	*39
			Confluence of Willow Brook	*43
			Downstream State Route 72	*43
			Farmington Avenue	*46
			Burnham Street	*47
			Downstream Kensington Road	*52
			Upstream Dam (600' upstream of Kensington Avenue)	*75
			Downstream of State Route 71 Dam	*98
			Upstream State Route 71	*120
			Downstream Glen Street	*122
			Upstream Glen Street	*130
			Downstream High Road	*136
			Upstream High Road	*149
			Downstream State Route 71A	*160
			Upstream State Route 71A	*167
			2,500' upstream of State Route 71A	*168
		Willow Brook	Confluence with Mattabesset River	*43
			Upstream Christian Lane	*46
			Upstream State Route 72 (downstream crossing)	*50
			Upstream Conrail bridge (downstream crossing)	*52
			Upstream Conrail bridge (upstream crossing)	*57
			Upstream State Route 72 (upstream crossing)	*58
			Upstream New Britain Road	*61
			[26]0017	
			Downstream Park Road	*61
			Upstream Park Road	*66
			Corporate Limits (1,400' above Park Road)	*74
		Belcher Brook	Confluence with Mattabesset River	*48
			Upstream Norton Road	*51
			Downstream Meadow Lane	*71
			Upstream Meadow Lane	*81
			Downstream Toll Gate Road	*102
			Upstream Toll Gate Road	*110
Maps available at the Town Engineering Department, Berlin, Connecticut.				
Connecticut	Town of Chester, Middlesex County (Docket No. FEMA-5725).	Chester Creek	Connecticut Valley Railroad	*11
		Pattaconk Brook	Confluence of Great Brook	*11
			Main Street	*11

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Downstream side of Dam approximately .08 mile upstream of Main Street.	*13
			Upstream side of Dam approximately .08 mile upstream of Main Street.	*21
			Factory Road	*26
			Upstream side of Dam approximately .05 mile upstream of Factory Road.	*43
			Straits Road	*53
			Upstream side of Dam approximately .01 mile upstream of Straits Road.	*61
			State Route 148—West Main Street	*69
			Upstream side of Dam approximately .07 mile upstream of State Route 148.	*79
			Upstream side of second crossing of State Route 148—West Main Street.	*84
			Upstream side of Private Drive approximately .15 mile upstream of second crossing of West Main Street.	*89
			Upstream side of Dirt Road approximately .24 mile upstream of second crossing of West Main Street.	*99
			Upstream side of Dam approximately .04 mile downstream of Covered Footbridge.	*105
			Parking Lot Road	*120
			Upstream side of State Route 9 Northbound Ramp	*129
			Upstream side of Hoopole Hill Road	*137
			Footbridge approximately .21 mile upstream of third crossing of West Main Street.	*141
			Upstream side of fourth crossing of State Route 148	*152
			Downstream side of Dam approximately .11 mile upstream of fourth crossing of West Main Street.	*160
			Upstream side of Dam approximately .11 mile upstream of fourth crossing of West Main Street.	*165
			Upstream side of Dam approximately .07 mile downstream of fifth crossing of West Main Street.	*175
			Upstream side of fifth crossing of West Main Street	*179
			Downstream side of Dam approximately .12 mile downstream of Wig Hill Road.	*190
			Upstream side of Dam approximately .12 mile downstream of Wig Hill Road.	*206
			Downstream side of Wig Hill Road	*220
			Upstream side of Wig Hill Road	*238
			Upstream side of sixth crossing of West Main Street	*241
			Seventh crossing of West Main Street	*242
		Great Brook	Confluence of Chester Creek	*11
			Downstream side of North Main Street	*19
			Upstream side of North Main Street	*22
			Downstream side of second crossing of North Main Street	*38
			Upstream side of second crossing of North Main Street	*41
			Upstream side of third crossing of North Main Street	*49
			Upstream side of Dam approximately .02 mile upstream of third crossing of North Main Street.	*53
			Upstream side of Rock Dam	*62
			Downstream side of Dam approximately .1 mile downstream of Liberty Street.	*70
			Upstream side of Dam approximately .1 mile downstream of Liberty Street.	*83
			Upstream side of Liberty Street	*88
			Upstream side of Private Drive approximately .08 mile upstream of confluence of South Branch Great Brook.	*101
			Upstream side of Dam and Footbridge	*111
			Approximately .43 mile upstream of Dam and Footbridge	*136
		South Branch Great Brook	Confluence with Great Brook	*95
			Upstream side of Deep Hollow Road	*102
			Downstream side of Dam	*104
			Upstream side of Dam	*106
			Upstream confluence with Great Brook	*107
	Maps available at the Chester Town Clerk's Office.			
Connecticut	Town of Essex, Middlesex County (Docket No. FEMA-5725).	Connecticut River	Entire Shoreline	*11
		Falls River	Upstream Falls River Pond Dam	*14
			Upstream River Road	*16
			Upstream State Route 9	*22
			Upstream State Route 9A	*30
			Upstream Falls River Drive	*44
			Upstream Main Street	*58
			Upstream Ivory Street	*59
	Maps available at the Essex Town Hall.			
Connecticut	Town of Old Lyme, New London County (Docket No. FEMA-5725).	Mill Brook	Sill Lane (0.3 mile downstream lower Mill Pond Dam)	*11
			Lower Mill Pond Dam (upstream side)	*22
			Sill Lane (320 feet downstream upper Mill Pond Dam)	*25
			Town Woods Road (upstream side)	*40
		Fourmile River	Route 156 (West Main Street)	*11

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Breached Dam (upstream side)	*25
			Interstate 95 (300 feet upstream from Colton Road, upstream side)	*51
		Long Island Sound	Entire Shoreline	*11
	Maps are available at the Office of the Town Clerk.			
Florida	Callaway (City), Bay County (Docket No. FEMA-5701).	Callaway Bayou Tributary	Most upstream old dam 70 feet downstream from centerline	*10
			Most upstream old dam 120 feet upstream from centerline	*17
			Cherry Street 50 feet downstream from centerline	*17
			Cherry Street 100 feet upstream from centerline	*22
		Callaway Bayou	200 feet South along Viola Avenue from its intersection with Minneola Street.	*9
		East Bay	Intersection of Ivy Road and Kimbrel Avenue	*9
		Lake Martin	*200 feet North of the intersection of Arlington Drive and State Route 22.	*10
	Maos available at City Hall, 5708 Cherry Street, Callaway, Florida.			
Florida	Naples (City), Collier County (Docket No. FI-5606).	Gulf of Mexico	Neopolitan Way (entire street)	*12
			Crayton Road between Harbour Drive and Mooring Line Drive	*12
			Coral Drive (entire street)	*11
			Admiralty Parade East (entire street)	*11
			18th Avenue South between 4th Street and 8th Street	*10
			8th Street between 12th Avenue South and 8th Avenue South	*9
	Maps available at City Hall, 735 Eighth Street South, Naples, Florida.			
Georgia	City of Snellville, Gwinnett County (FEMA-5713).	Big Haynes Creek	50 feet upstream of Summit Chase Drive	*888
		No Business Creek	At Green Valley Road	*965
			Just downstream of Georgia Route 124	*996
		No Business Creek Tributary No. 1.	50 feet downstream of Hickory Lane (extended)	*901
		Watson Creek	Just upstream of Mornington Lane (extended)	*979
	Maps available at City Clerk's Office, City Hall, 2460 Main Street East, Snellville, Georgia 30278.			
Illinois	(c) Country Club Hills, Cook County (Docket No. FEMA-5702).	Tributary S	Just upstream mouth at Southwest Branch Calumet Union Drainage Ditch.	*663
			Approximately 250 feet upstream of (sluice gate)	*668
			About 75 feet downstream Clarence Avenue	*673
			Just downstream 183rd Street	*696
			Just upstream 183rd Street	*698
			Approximately 1,760 feet upstream 183rd Street	*701
		Tributary N	Just upstream Crawford Avenue	*657
			Approximately 350 feet upstream 175th Street	*660
			Approximately 920 feet upstream 175th Street	*661
			Just upstream 175th Street	*670
			Approximately 450 feet upstream Anthony Avenue	*673
			Just downstream Cicero Avenue	*680
		Southwest Branch Calumet Union Drainage Ditch.	Downstream corporate limits	*652
			Just downstream Country Club Drive	*654
			Just upstream Country Club Drive	*656
			Approximately 100 feet downstream Cypress Avenue	*661
			Just downstream Kostner Avenue	*671
			Just upstream Kostner Avenue	*676
			About 1,000 feet upstream Kostner Avenue	*678
	Maps available at Administrative Assistant's Office, Village Hall, 3700 West 175th Place, Country Club Hills, Illinois 60477.			
Illinois	(V) Creve Coeur, Tazewell County (Docket No. FEMA-5702).	Illinois River	At southern corporate limit	*459
			At northern corporate limit	*459
	Maps available at Village Hall, 101 North Thorncrest, Creve Coeur, Illinois 61611.			
Illinois	(V) Dolton, Cook County (Docket No. FEMA-5702).	Little Calumet River	Western Corporate limit (at Illinois Central Gulf Railroad)	*595
			Just downstream of Cottage Grove Avenue	*598
			About 0.21 miles upstream of Interstate 94	*598
	Maps available at Village Hall, 14014 Park Avenue, Dolton, Illinois 60419.			
Illinois	(C) Green Rock, Henry County (Docket No. FEMA-5702).	Green River	Approximately 2,470 feet downstream from Burlington Northern Railroad.	*575
			Just upstream from Burlington Northern Railroad	*576
		Rock River	Approximately 2,535 feet downstream from State Highway 84	*575
			Just upstream State Highway 84	*576
	Maps available at City Hall, Colona, Illinois 61241.			
Illinois	(C) Hickory Hills, Cook County (Docket No. FEMA-5702).	Lucas Ditch Cut-Off	Approximately 1,300 feet downstream 76th Court	*595
			Approximately 270 feet downstream 76th Court	*595
		Local Run-Off (Justice Drainage)	Area around 83rd Avenue and 87th Street	*627
	Maps available at the City Clerk's Office, City Hall, 8652 West 95th Street, Hickory Hills, Illinois 60457.			
Illinois	(V) Lincolnshire, Lake County (Docket No. FEMA-5702).	Des Plaines River	Southern corporate limit	*646
			Northern corporate limit	*648

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Indian Creek	Mouth at Des Plaines River	*648
			About 2150 feet upstream from mouth (at corporate limits)	*649
			Upstream corporate limits at State Route 22	*653
			About 350 feet upstream of State Route 22 (upstream limit of flooding affecting community).	*655
Maps, available at the Village Manager's Office, Village Hall, 45 Londonderry Lane, Lincolnshire, Illinois.				
Illinois	(C) Madison, Madison County (Docket No. FEMA-5702).	Ponding from Rainfall	East of the intersection of 5th Street and Farrish Street	*411
			At the intersection of Harris Avenue and Farrish Street	*411
			On Craine Drive 1,500 feet east of Farrish Street	*411
			At the intersection of Reynolds Street and Plum Street	*411
			At the intesection of Greenwood Street and Elizabeth Street	*411
			About 1,400 feet west of the intersection of Franklin Street and West Third Street.	*411
			About 1,000 feet west of the intersection of Jackson Street and West Third Street.	*411
			About 2,800 feet west of the intersection of Webster Street and West Third Street.	*411
			At the intersection of Kohl Street and Race Street	*413
			At the intersection of Jackson Street and West Third Street	*413
Illinois	(C) Madison, Madison County (Docket No. FEMA-3702.	Mississippi River	Southern corporate limit	*430
			Northern corporate limit	*431
Maps available at City Hall, City Clerk's Office, 1529 Third Street, Madison, Illinois 62060.				
Illinois	(C) Mt. Carmel, Wabash County (Docket No. FEMA-5702).	Wabash River	Downstream corporate limits	*404
			Upstream corporate limits	*405
		Greathouse Creek	Downstream corporate limit	*404
			About .2 mile upstream State Route 1	*404
			Just upstream State Route 15	*406
			Upstream corporate limit	*407
Maps available at City Hall, 235 Market Street, Mt. CarMel, Illinois 62863.				
Illinois	(C) Palos Heights, Cook County (Docket No. FEMA-5702).	Navajo Creek	About 450 feet downstream of State Route 83	*590
			About 130 feet downstream of State Route 83	*591
			Just upstream State Route 83	*596
			Just downstream 122nd Street	*599
			Just upstream 122nd Street	*604
			Just downstream Menomonee Parkway	*609
			Just upstream Menomonee Parkway	*612
			About 175 feet upstream 125th Street	*613
			Just upstream 70th Avenue	*617
			About 640 feet downstream Harlem Avenue	*621
			About 120 feet upstream 76th Avenue	*634
			About 250 feet downstream 131st Street	*641
			About 190 feet downstream 131st Street	*648
		Shallow Flooding (Overflow from storm drains).	At intersection of South 79th and West 130th Street	#1
		Shallow Flooding (Overflow from Forest Preserve Over Levee).	At intersection of South 71st and 130th Street	#1
			At intersection of South 70th Court and 130th Street	#1
Maps available at City Hall, Palos Heights, Illinois 60463.				
Illinois	(V) Palos Park, Cook County (Docket No. FEMA-5702).	Mill Creek	Just upstream 119th Street (Near corporate limit)	*630
			Just downstream 121st Street	*637
			Just upstream 121st Street	*640
			Just downstream 123rd Street	*648
			Just upstream 123rd Street	*652
			Just upstream Southwest Highway	*666
			About 165 feet downstream 131st Street (at corporate limit)	*668
		West Branch Mill Creek	Confluence with Mill Creek	*644
			Just downstream 93rd Avenue	*655
			Just upstream 93rd Avenue	*662
			Just upstream Hobart Avenue	*667
			Upstream corporate limits	*668
Maps available at Village Hall, 8901 West 123rd Street, Palos Park, Illinois 60464.				
Illinois	Park Forest, Village, Cook County (Docket No. FI-5683).	Thorn Creek	Corporate limits at Western Avenue	*689
			About 210 feet upstream from Thorn Creek Drive	*697
			Just upstream of Monee Road	*715
			0.5 Mile upstream of Monee Road	*725
Maps available at Village Hall, Village Clerk's Office, 200 Forest Boulevard, Park Forest, Illinois 60466.				
Illinois	(V) Park Forest South, Will County (Docket No. FEMA-5702).	Thorn Creek	Cook County—Will County Line	*691
			Approximately 3600 feet downstream of Monee Road	*705
			Just upstream of Monee Road	*715
			Approximately 2650 feet upstream of Monee Road	*725
			Just downstream of Exchange Street	*733
			Just upstream of Exchange Street	*736
			Approximately 1530 feet upstream of Exchange Street	*743
		Deer Creek	About 1200 feet downstream of Exchange Street	*735

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Just upstream of the Western Avenue Crossing approximately 633 feet upstream of Exchange Street.	*739
			Approximately 300 feet upstream of Blackhawk Drive	*742
			Approximately 1740 feet upstream of Blackhawk Drive	*744
			Upstream corporate limits	*744
		Butterfield Creek East Branch	Downstream corporate limits	*735
			Approximately 400 feet upstream of corporate limits	*738
			At the Will County-Cook County line	*743
			Approximately 500 feet upstream of the Will County-Cook County line.	*746
			Approximately 2600 feet upstream of the Will County-Cook County line.	*749
			Approximately 3350 feet upstream of the Will County-Cook County line.	*756
	Maps available at the Village Hall, 698 Burnham Drive, Park Forest South, Illinois 60466.			
Illinois	(V) Pontoon Beach, Madison County (Docket No. FEMA-5702).	Ponding Due to Local Precipitation Runoff.	Intersection of Tulip Avenue and Marigold Drive	*417
			Tulip Court Cul-De-Sac	*417
			Intersection of Lake Street and South Street	*417
			Intersection of Bruene Drive and Sunny Side Street	*417
			Intersection of Park Road and Revere Road	*417
			Intersection of Pontoon Avenue and Lake Drive	*417
			Intersection of North Drive and East Lake Drive	*417
			Lake Drive at Southwest Corner of corporate limits	*415
		Long Lake	Eastern corporate limits	*417
			Northern corporate limits	*417
		Horseshoe Lake	Southern corporate limits	*415
			Southeast corporate limits 700 feet south of State Highway 162	*415
	Maps available at Village Hall, 3939 Lake Drive, Pontoon Beach, Illinois 62040.			
Indiana	Merrillville, Town, Lake Coutny (Docket No. FI-5047).	Deep River	Downstream Corporate Limits	*644
			Upstream side of Randolph Street	*655
			Upstream side of Grand Boulevard	*662
			Upstream side of Chessie System	*664
			Upstream side of Clay Street	*668
			Upstream side of Colorado Street	*672
			101st Avenue	*675
		Turkey Creek	Interstate Route 65	*613
			Upstream side 61st Avenue	*614
			Upstream side of State Route 53	*616
			Upstream side of Harrison Street	*619
			Upstream side of Grand Trunk Western Railroad	*620
			Upstream side of State Route 55	*621
			Upstream side of Chessie System	*622
			Upstream side of Hendricks Street	*623
			Upstream Corporate Limits	*625
		Meadowdale Lateral	West 64th Place	*620
			Upstream side 63rd Avenue	*624
			Upstream side of Grand Trunk Western Railroad	*625
			61st Avenue	*625
		Chapel Manor Lateral	Grand Trunk Western Railroad	*618
			Upstream side of Private Drive	*622
			Upstream side of 68th Place	*625
			Upstream side of Chessie System	*633
			Upstream side of Private Garage	*637
			Upstream side of State Route 53	*640
			Upstream side of Highland Road	*649
			Downstream side of Delaware Place	*654
	Maps available at the Town Hall, Building and Planning Department, Merrillville, Indiana.			
Kentucky	City of Prestonsburg, Floyd Co. (FEMA-5713).	Levisa Fork	Just upstream of U.S. Highways 23 and 460	*632
			At confluence of Middle Creek	*633
			Just upstream of South First Street	*634
			Approximately 500 feet upstream from State Highway 304	*638
	Maps available at City Hall, North Lake Drive, Prestonsburg, Kentucky 41653.			
Louisiana	Town of Marksville, Avoyelles Parish (FEMA-5713).	Bayou Blanc	Just upstream of Spring Bayou Road	*76
			Just downstream of Oak Street	*81
		Bayou Perit	Just upstream of State Highway 1	*61
			Just upstream of Tarifton Street	*67
			Just upstream of North Main Street	*70
		Bayou Jauvage	Just upstream of Texas & Pacific Railroad	*64
			Just upstream of South Washington Street	*75
		Stream A	Downstream of South Preston Street	*67
		Stream B	Approximately 75 feet downstream of Legion Drive	*77
		Stream C	Just downstream of Legion Drive	*68
		Stream D	Just downstream of Bomrel Street	*67
			Just upstream of North Lee Street	*70
	Maps available at Town Hall, 503 North Main Street, Marksville, Louisiana 71351.			
Louisiana	Town of Oil City, Caddo Parish (FEMA-5713).	Caddo Lake	At the intersection of State Highway 1 and the Southern Corporate Limits.	*184
			Entire Shoreline	*184
	Maps available at Town Hall, Furman Street, Oil City, Louisiana 71061.			
Louisiana	Village of Parks, St. Martin Parish (FEMA-5713).	Bayou Teche	Just upstream of Bridge Street	*17

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Maps available at the Village Hall, Martin and Bridge Streets, Parks, Louisiana 70582.				
Louisiana	City of Richmond, Madison Parish (FEMA-5713).	Ditch L7-CC2	Just upstream of Louisiana State Highway 601	*75
			Just downstream of Burnside Road	*79
Maps available at the home of Mayor Billy B. Eaker, Route 2, Box 19, Richmond, Louisiana 71282.				
Louisiana	Unincorporated areas of St. John the Baptist Parish (FEMA-5713).	Mississippi River	Just upstream of Blackberry Road extended	*27
			Just upstream of State Route 53 extended	*26
			Just upstream of State Route 636 extended	*25
		Lake Pontchartrain	Entire Shoreline	*12
Maps available at the Office of St. John the Baptist Police Jury Secretary/Treasurer, Room 112, Percy D. Herbert Building, Airline Highway, LaPlace, Louisiana 70068.				
Louisiana	Town of Simmesport, Avoyelles Parish (FEMA-5713).	Atchafalaya River	At southern corporate limits	*56
			At Old Louisiana Highway 1	*57
		Bayou Des Glaises (backwater from Atchafalaya River).	Laurel Street (extended)	*57
Maps available at Town Hall, Mission Drive, Simmesport, Louisiana 71369.				
Louisiana	Town of Wisner, Franklin Parish (FEMA-5713).	Batey Bayou	Approximately 100 feet downstream of Pine Street	*65
			Just upstream of State Highway 15	*71
		Cypress Slough	Approximately 200 feet downstream of Missouri Pacific Railroad	*71
			Just upstream of State Highway 15	*72
Maps available at Town Hall, Fort Scott and Hope Streets, Wisner, Louisiana 71378.				
Maine	Town of Fryeburg, Oxford County (Docket No. FEMA-5725).	Saco River	U.S. Route 302	*378
			State Route 5	*388
			Upstream Swans Falls Dam	*403
			State Route 113	*411
		Old Course	State Route 5	*385
		Saco River	McNeil Road	*385
			Fish Street	*385
Maps available at the Fryeburg Town Office, Fryeburg, Maine				
Maine	Rumford (Town), Oxford County (Docket No. FI-4613).	Androscoggin River	Ridlonville Bridge 100 feet upstream from centerline	*436
			Rumford Avenue footbridge 50 feet upstream from centerline	*441
			Chisholm Bridge 40 feet upstream from centerline	*460
			Morse Bridge 20 feet upstream from centerline	*495
			High Bridge 50 feet upstream from centerline	*495
			Martin Bridge 20 feet upstream from centerline	*626
		Swift River	Red Bridge 20 feet upstream from centerline	*441
			Confluence with Scotty Brook	*452
Maps available form Municipal Building, Rumford, Maine.				
Maryland	Town of Boonsboro, Washington County (Docket No. FEMA-5725).	Tributary No. 102	Downstream western corporate limits	*451
			State Route 34 (upstream)	*468
			King Road (upstream)	*488
			Upstream eastern corporate limits	*541
		Tributary No. 103	300 feet from downstream western corporate limits	*474
			1,500 feet from downstream western corporate limits	*490
			3,175 feet from downstream western corporate limits	*510
			Upstream Limit of Detailed Study	*538
Maps available at the Municipal Building, Boonsboro, Maryland.				
Michigan	Farmington (City), Oakland County (Docket No. FI-5665).	Upper River Rouge	Grand River Avenue 50 feet upstream from centerline	*687
			Powers Avenue 200 feet downstream from centerline	*692
			Powers Avenue 30 feet upstream from centerline	*697
			Farmington Road (abandoned) 25 feet upstream from centerline	*713
		Tambusi Creek	Smithfield Road at centerline	*755
			Brittany Hill Road at centerline	*787
Maps available at the Office of the City Clerk, City Hall, 23600 Liberty Street, Farmington, Michigan.				
Michigan	(c) Mount Clemens, Macomb County (Docket No. FEMA-5702).	Clinton River	Downstream corporate limit	*581
			Just downsteam Gratiot Avenue	*585
			Just downstream Grand Trunk & Western Railroad	*589
			Upstream corporate limit	*591
Maps available at City Manager's Office, City Hall, 1 Crocker Boulevard, Mount Clemens, Michigan 48043.				
Michigan	(C) Ypsilanti, Washtenaw County (Docket No. FEMA-5702).	Huron River	Just downstream of Interstate 94	*686
			Approximately 2000 feet downstream of Michigan Avenue	*691
			Approximately 300 feet upstream of Conrail	*703
			Just downstream of the Peninsular Dam	*707
			Just upstream of the Peninsular Dam	*718
			Just upstream of Superior Road	*720

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Paint Creek	Just upstream of Interstate 94	*755
			Just downstream of Michigan Avenue	*756
	Maps available at the Community Development Department, City Hall, 304 North Huron Street, Ypsilanti, Michigan 48197.			
Minnesota	(C) Ham Lake, Anoka County (Docket No. FEMA-5702).	Coon Creek	Western corporate limits	*879
			Approximately 0.8 miles upstream from western corporate limits	*880
			Just upstream from State Highway 65	*882
			Approximately .13 mile upstream from Raddison Street	*885
			Just downstream from County Ditch No. 11	*888
			Approximately 0.3 mile downstream from Naples Street	*889
			Just upstream from Naples Street	*892
			Just downstream from Lexington Avenue	*893
		Deer Creek	Confluence with Coon Creek	*887
			Just downstream from Bunker Lake Boulevard	*891
			Just upstream from Bunker Lake Boulevard	*894
			Upstream corporate limits	*895
	Maps available at City Hall, 15544 Central Avenue, N.E., Anoka, Minnesota 55303.			
Minnesota	(C) Hastings, Dakota County and Washington County (Docket No. FI-5465).	Vermillion River	At Peavey Mill Dam	*783
			Just upstream of U.S. Highway 61	*784
			Just upstream from County Highway 47	*794
			Just downstream from Pleasant Drive	*801
			Western corporate limits	*802
		Vermillion Slough	Confluence with Vermillion River	*693
			Headwaters at Mississippi River at point of divergence	*694
		Mississippi River	Eastern corporate limits	*692
			Northwestern corporate limits	*694
		By Pass Channel	Approximately 800 feet upstream from U.S. Highway 61	*787
			About 1100 feet downstream from U.S. Highway 47	*791
	Maps available at City Hall, 100 Sibley Street, Hastings, Minnesota 55033.			
Minnesota	(C) Jackson, Jackson County (Docket No. FEMA-5702).	West Fork Des Moines River	Southern downstream corporate limits	*1,306
			Just downstream of dam near Ashley Street	*1,308
			Just upstream Ashley Street	*1,310
			Just upstream of U.S. Highway 71	*1,313
			Upstream corporate limits	*1,314
	Maps available at City Hall, 504 2nd Street, Jackson, Minnesota 56043.			
Minnesota	(C) Long Prairie, Todd County (Docket No. FEMA-5702).	Long Prairie River	At the downstream corporate limit	*1,283
			Just downstream of Lake Street	*1,289
			Just upstream of First Avenue Northeast	*1,291
			At the upstream corporate limit	*1,292
		Venewitz Creek	At the confluence with Long Prairie River	*1,291
			Just downstream of Second Avenue Southwest	*1,291
			Just upstream of Third Avenue Southwest	*1,293
			Just downstream of First Street Southwest	*1,294
	Maps available at City Hall, Long Prairie, Minnesota 56347.			
Minnesota	(C) Randolph, Dakota County (Docket No. FEMA-5702).	Chub Creek	Downstream corporate limit	*864
			Just upstream Dixie Avenue	*868
			Just downstream Cooper Avenue	*874
			Upstream corporate limit	*875
		Cannon River	Just downstream State Route 56	*861
			Just downstream County Road 83	*865
			Approximately .25 mile upstream County Road 83	*870
			Upstream limit of flooding affecting community	*871
	Maps available at City Hall, P.O. Box 67, Randolph, Minnesota 55065.			
Minnesota	Rosemount, Dakota County (Docket No. FI-5688).	Mississippi River	Downstream corporate limit	*697
			Upstream corporate limit	*698
	Maps available at the City Hall, P.O. Box 455, Rosemount, Minnesota 55608.			
Minnesota	(C) Sobieski, Morrison County (Docket No. FEMA-5702).	Swan River	At the downstream corporate limit	*1,112
			Just upstream of County Road 222	*1,119
			At the upstream corporate limit (about 1,000 feet downstream County Highway 18).	*1,123
	Maps available at the City Hall, Little Falls, Minnesota 56345.			
Missouri	Ash Grove, Greene County (Docket No. FI-5688).	Dry Branch	Downstream corporate limits	*999
			Just upstream of Brookside Street	*1,004
			Approximately 50 feet upstream of State Highway F	*1,020
			Just downstream of St. Louis-San Francisco Railway	*1,023
			Approximately 100 feet upstream of St. Louis-San Francisco Railway	*1,030
			Approximately 0.2 mile upstream of St. Louis-San Francisco Railway	*1,033
		Hamilton Creek	Downstream corporate limits	*1,009
			Upstream West Boone Street	*1,022
			Upstream Exchange Avenue	*1,026

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
			Upstream North Calhoun Avenue	*1,029
			Downstream North Webster Avenue	*1,031
			About 50 feet upstream North Maple Lane	*1,046
	Maps available at City Hall, P.O. Box 235, Ash Grove, Missouri 65604.			
Missouri	(C) Birch Tree, Shannon County (Docket No. FEMA-5702).	Birch Creek	Downstream Corporate Limits	*980
			About 320 feet downstream First Street	*982
			Just upstream Park Street	*985
			Just downstream Main Street	*986
			About 100 feet upstream Ozark Street	*990
			About 150 feet downstream U.S. Highway 60	*997
			Just downstream U.S. Highway 60	*1,000
	Maps available at City Hall, Birch Tree, Missouri 65438.			
Missouri	City of Crane, Stone County (Docket No. FEMA-5702).	Crane Creek	Just downstream Missouri Pacific Railroad	*1,109
			Downstream Corporate Limits	*1,111
			Approximately 140 feet upstream State Highway 13	*1,118
			Just upstream Roundhouse Road	*1,122
			Approximately 0.51 mile upstream of Missouri Pacific Railroad	*1,129
		Dodge Hollow	At confluence with Crane Creek	*1,116
			Approximately 100 feet upstream State Highway 13	*1,118
			Upstream Corporate Limits	*1,124
	Maps available at City Hall, Crane, Missouri 65633.			
New York	Hornellsville (Town), Steuben County (Docket No. FI-5688).	Canisteo River	Magee Road 150 feet upstream from centerline	*1,132
			City Route 64-150 feet upstream from centerline	*1,139
			State Route 326 North 25 feet upstream from centerline	*1,156
			Farm Road 100 feet upstream from centerline	*1,168
			State Route 17 West 160 feet upstream from centerline	*1,172
			Arkport Dam 550 feet downstream from centerline	*1,211
			Arkport Dam 500 feet upstream from centerline	*1,294
			County Route 67 (2nd crossing) 50 feet downstream from centerline	*1,300
			County Route 67 (2nd crossing) 110 feet upstream from centerline	*1,309
		Crosby Creek	Corporate Limits Confluence with Tributary No. 3-70 feet upstream	*1,219
			Honey Run Road 100 feet downstream from centerline	*1,256
			Honey Run Road 40 feet upstream from centerline	*1,265
		Chauncey Run	Corporate Limits	*1,199
		Canacadea Creek	First Dam 30 feet downstream from centerline	*1,171
			First Dam 55 feet upstream from centerline	*1,178
			Almond Road (State Route 21) 115 feet upstream from centerline	*1,195
			Almond Dam 375 feet downstream from centerline	*1,245
		Canacadea Creek	Almond Dam 290 feet upstream from centerline	*1,298
			Upstream Corporate Limits	*1,311
		Big Creek	State Route 326 225 feet upstream from centerline	*1,170
			Seneca Street (State Routes 21-36) 150 feet downstream from centerline.	*1,181
			Seneca Street (State Routes 21-36) 180 feet upstream from centerline.	*1,188
			County Route 70A (first crossing) 150 feet upstream from centerline	*1,210
			County Route 70A (second crossing) 150 feet downstream from centerline.	*1,245
			County Route 70A (second crossing) 150 feet upstream from centerline.	*1,250
		Seeley Creek	State Route 326—80 feet upstream from centerline	*1,168
			State Route 36—40 feet upstream from centerline	*1,183
			State Route 21—40 feet upstream from centerline	*1,189
		Marsh Ditch	Sanitarium Road 120 feet upstream from centerline	*1,180
			Upstream Corporate Limits	*1,187
		Lime Kiln Creek	Downstream Corporate Limits	*1,259
			Dam 40 feet upstream	*1,327
		Tributary No. 2 to Lime Kiln Creek.	Confluence with Lime Kiln Creek County Route 48—60 feet upstream from centerline.	*1,312
	Maps available at the Town Hall, 4 Park Street, Arkport, New York.			
North Carolina	City of Asheville, Buncombe County (FEMA-5713).	French Broad River	Approximately 250 feet upstream of Bingham Road	*1,971
			Intersection of Haywood Road and Riverside Drive	*1,984
			Intersection of Almy Street and Michigan Avenue	*1,994
		Swannanoa River	Approximately 300 feet upstream of Biltmore Avenue	*1,997
			Approximately 200 feet upstream of Cheeseboro Bridge	*2,008
			Approximately 250 feet downstream of Blue Ridge Parkway	*2,051
		Hominy Creek	Approximately 150 feet upstream of State Highway 191	*2,000
			Approximately 200 feet downstream of Interstate 40 Eastbound (Extraterritorial Limits).	*2,019
		Ragsdale Creek	Just upstream of Sand Hill Road	*2,064
		Smith Mill Creek	Just upstream of Louisiana Avenue	*2,034
			Just upstream of Druid Drive	*2,046
			Just upstream of Bear Creek Road	*2,113
		McKinnish Branch	Just upstream of Bear Creek Road	*2,114
			Just downstream of Secondary Road at Extraterritorial Limits	*2,156
		Beaverdam Creek	Just upstream of Elkwood Road	*2,059
			Just upstream of U.S. Highways 25, 70, 19 and 23	*2,108
			Just downstream of Pine Croft Road	*2,190
		Reed Creek	Just upstream of Barnard Avenue	*2,032
			Just downstream of Murdock Avenue	*2,087

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
		Ross Creek	Just upstream of Lake Kenilworth Dam	*2,060
			Just upstream of U.S. Highways 70 and 74	*2,090
			Just upstream of Churns Cove Road	*2,190
		Haw Creek	Approximately 100 feet upstream of U.S. Highway 74	*2,007
			Approximately 100 feet upstream of Mountain View Road	*2,082
			Approximately 100 feet upstream of Bell Road	*2,160
		Sweeten Creek	Approximately 100 feet upstream of Sweeten Creek Road (Downstream Crossing).	*2,002
			Just upstream of Sweeten Creek Road (Upstream Crossing)	*2,013
			Just upstream of Interstate 40	*2,044
		Tributary to Sweeten Creek	Just upstream of Buena Vista Road	*2,118
		Gashes Creek	Just downstream of Interstate 40 Culvert	*2,033
			Just upstream of Entrance Ramp to Blue Ridge Parkway	*2,059
	Maps available at City Clerk's Office, City Hall, City-County Plaza, College Street, Asheville, North Carolina 28807.			
North Dakota	Neche (City), Pembina County (Docket No. FEMA-5701).	Pembina River	Dam at centerline	*833
	Maps available at City Hall, Neche, North Dakota.			
North Dakota	Noble (Township), Cass County (Docket No. FEMA-5701).	Red River of the North	Most downstream Corporate Limits	*874
			Most upstream Corporate Limits	*878
	Maps available at the Office of Mr. Alden Rensvold, Township Clerk, Township of Noble, Township Hall, Gardner, North Dakota.			
North Dakota	Wiser (Township), Cass County (Docket No. FEMA-5701).	Red River of the North	Most downstream Corporate Limits	*878
			Most upstream Corporate Limits	*883
	Maps available at the Office of Mr. Earl Madson, Township Clerk, Township of Wiser, Township Hall, Argusville, North Dakota.			
Oklahoma	City of Ada, Pontotoc County (FEMA-5713).	Little Sandy Creek	Just upstream of Country Club Road	*925
			Approximately 150 feet upstream of Mississippi Avenue	*966
			Just downstream of St. Louis and San Francisco Railroad	*980
		Clear Boggy Creek	Approximately 200 feet upstream of State Highways 3 and 99	*819
			Approximately 150 feet upstream of Pine Street	*858
			Just upstream of Kerr Research Road	*896
		Lake Creek	Approximately 100 feet upstream of Wintersmith Road	*865
			Just upstream of Twenty-Fourth Street Extended	*865
	Maps available at the City Clerk's Office, City Hall, 13th and Toronsend Streets, Ada, Oklahoma 74820.			
Oklahoma	Town of Avant, Osage County (FEMA-5713).	Bird Creek	Just downstream of Oklahoma State Highway 97	*686
	Maps available at the home of Mayor Charles B. Thomas, Avant and Gravel Streets, Avant, Oklahoma 74001.			
Oklahoma	City of Barnsdall, Osage County (FEMA-5713).	Bird Creek	Approximately 220 feet downstream of Cedar Street	*731
			Just downstream of Pine Street	*733
	Maps available at City Hall, 412 South Fifth Street, Barnsdall, Oklahoma 74002.			
Oklahoma	City of Bartlesville, Washington County (FEMA-5713).	Caney River	Upstream of Fifth Street	*673
			At State Highway 123	*675
			Just downstream of Atchison, Topeka & Santa Fe Railroad	*675
		Rice Creek	Upstream of Highway 75	*694
			Just downstream of Madison Boulevard	*733
		Rice Creek Tributary	Downsrteam of Dorchester Drive	*678
		Sand Creek	At Atchison, Topeka and Santa Fe Railroad	*670
			Downstream of State Highway 123	*672
		Eliza Creek	Just upstream of Missouri-Kansas-Texas Railroad	*676
			At U.S. Highway 60	*715
		Turkey Creek	Just downstream of Frank Phillips Boulevard	*686
			Approximately 150 feet downstream of Bison Road	*726
		Turkey Creek Tributary	Downstream of Brookline Drive	*695
		Coon Creek	At U.S. Highway 75	*678
		Butler Creek	Approximately 75 feet downstream of Limit of Detailed Study	*707
	Maps available at Engineering Department, City Hall, Bartlesville, Oklahoma 74003.			
Oklahoma	City of Cushing, Payne County (FEMA-5713).	Skull Creek	Just upstream of Little Avenue	*869
		Cottonwood Creek	Just downstream of Linwood Avenue	*860
			Just downstream of Ninth Street	*875
			Just upstream of Wilson Avenue	*885
		Bell Creek	Just upstream of Linwood Avenue	*860
			Just downstream of Little Avenue	*905
		Jones Creek	Just downstream of Ninth Street	*860
	Maps available at City Clerk's Office, City Hall, 100 Judy Adam Boulevard, Cushing, Oklahoma 74023.			

Final Base (100-Year) Flood Elevations—Continued

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Oklahoma	Town of Fort Gibson, Muskogee County (FEMA-5713).	Grand River (backwater from the Arkansas River).	Western corporate limits	*516
		Grand River	Approximately 100 feet downstream of Missouri Pacific Railroad	*516
	Maps available at Town Hall, 200 West Poplar Street, Fort Gibson, Oklahoma 74434.			
Oklahoma	Town of Harrah, Oklahoma County (FEMA-5713).	North Canadian River	Just downstream of U.S. Highway 62	*1,072
			Just upstream of Access Road to Power Plant	*1,081
		"A" Creek	Just upstream of U.S. Highways 62 and 270 (Northeast 23rd Street)	*1,084
			Just downstream of Lynch Road	*1,092
		"B" Creek	Just downstream of U.S. Highway 270	*1,071
			Just upstream of U.S. Highway 270	*1,077
			Just upstream of Timhalt Drive	*1,082
	Maps available at the City Clerk's Office, City Hall, 309 Harrah Road, Harrah, Oklahoma 73405.			
Oklahoma	City of Idabel, McCurtain County (FEMA-5713).	Mud Creek	Just downstream of U.S. Highway 70	*454
			Just upstream of Madison Street	*464
			Just upstream of 5th Street	*472
		North Branch of Mud Creek	Just upstream of Sixth Street	*473
	Maps available at the Mayor's Office, City Hall, 207 South Central, Idabel, Oklahoma 74745.			
Oklahoma	Town of Nicoma Park, Oklahoma County (FEMA-5713).	Choctaw Creek	Just upstream of Dixon Road (extended)	*1,131
		Choctaw Creek Tributary 5	Just upstream of Northeast 26th Street extension	*1,145
		Choctaw Creek Tributary 6	Just downstream of Northeast 23rd Street	*1,144
			Just upstream of Northeast 23rd Street	*1,151
			Just downstream of Anderson Road	*1,154
			Just upstream of Anderson Road	*1,161
		Choctaw Creek Tributary 6 West Branch.	Just upstream of Nichols Drive	*1,168
	Maps available at Town Clerk's Office, Town Hall, 2301 Nichols Street, Nicoma Park, Oklahoma 73066.			
Oklahoma	City of Pawhuska, Osage County (FEMA-5713).	Bird Creek	Just upstream of State Highways 99 and 11	*811
			Approximately 400 feet downstream of Main Street	*817
		Clear Creek (Backwater from Birol Creek).	Just upstream of Main Street	*819
	Maps available at City Hall, Main and Grandview, Pawhuska, Oklahoma 74056.			
Oklahoma	Town of Skiatook, Tulsa and Osage Counties (FEMA-5713).	Bird Creek	Just upstream of Highways 20 and 11 (East Main Street)	*635
	Maps available at Skiatook Municipal Building, 200 South Broadway, Skiatook, Oklahoma 74070.			
Oklahoma	City of Spencer, Oklahoma County (FEMA-5713).	North Canadian River Tributary 9	Just upstream of Shady Nook Way	*1,170
			Just downstream of Sunset Terrace	*1,181
		Silver Spring	Approximately 100 feet upstream of Spencer Road	*1,154
			Just upstream of NE 36th Street	*1,170
			Just upstream of NE 34th Street	*1,176
		Crutcho Creek	Approximately 500 feet upstream of St. Louis and San Francisco Railway (corporate limits).	*1,149
	Maps available at City Manager's Office, City Hall, Spencer, Oklahoma 73049.			
Oklahoma	City of Tecumseh, Pottawatomie County (FEMA-5713).	Tributary 1	Just upstream of Beason Park Road	*1,000
			Just downstream of Bob Couch Road	*1,015
			Just upstream of 5th Street	*1,032
		Tributary 2 (Backwater Flooding from Tributary 1).	Just upstream of Bob Couch Road	*1,015
		Tributary 3	Just downstream of Dam	*1,008
			Just upstream of Dam	*1,028
	Maps available at the City Clerk's Office, City Hall, 114 North Broadway, Tecumseh, Oklahoma 74873.			
Oklahoma	City of The Village, Oklahoma County (FEMA-5713).	Chisholm Creek	Just downstream of Cavanaugh Road	*1,171
			Approximately 125 feet downstream of Carlton Way	*1,182
		Chisholm Tributary 9	Just downstream of Hefner Road	*1,170
	Maps available at City Clerk's Office, City Hall, 2201 W. Brilton Street, The Village, Oklahoma 73120.			
Oklahoma	Wewoka (City), Seminole County (Docket No. FEMA-5701).	Wewoka Creek	Downstream Corporate Limits	*785
			Alternate State Highway 56 at centerline	*787
		Sandy Creek	Downstream Corporate Limits	*795
			U.S. Highway 270 100 feet upstream from centerline	*802
			State Highway 59 50 feet downstream from centerline	*812
	Maps available at City Hall, 123 South Mekusuke Avenue, Wewoka, Oklahoma.			
Pennsylvania	Borough of Blossburg, Tioga County (Docket No. FEMA-5724).	Tioga River	Downstream Corporate Limits	*1,297
			Hospital Road (upstream)	*1,313
			Main Street (downstream)	*1,327
			Main Street (upstream)	*1,331
			Williamson Road (upstream)	*1,353
			Gulick Street (downstream)	*1,384
			Gulick Street (upstream)	*1,390
			Upstream Corporate Limits	*1,399
		Johson Run	Confluence with Tioga River	*1,335
			Tabor Street (upstream)	*1,360

			Limit of Detailed Study	*1,379

Maps available at the Township Building, Blossburg, Pennsylvania.

Pennsylvania	Borough of Conyngham, Luzrene County (Docket No. FEMA-5724).	Tributary A	Corporate Limits	*921
			Brookhill Road Downstream	*937
			Brookhill Road Upstream	*945
			Corporate Limits	*954
		Little Nescopeck Creek	Corporate Limits	*895
			Hillside Road (Extended)	*903
			Butler Avenue Downstream	*911
			Corporate Limits Upstream	*914

Maps available at the Borough Building, Conyngham, Pennsylvania.

Pennsylvania	Township of Covington, Tioga County (Docket No. FEMA-5724).	Tioga River	Downstream Corporate Limits	*1,174
			State Route 660 (downstream)	*1,178
			State Route 660 (upstream)	*1,181
			(Downstream) Township of Putnam Corporate Limits	*1,187
			(Upstream) Township of Putnam Corporate Limits	*1,206
			Township Route 437 (extended)	*1,214
			Confluence of Marvin Creek	*1,224
			(Upstream) U.S. Route 15	*1,231
			Confluence of Tributary No. 1 to Tioga River	*1,250
			Intersection of Tan Creek and U.S. Route 15 (extended)	*1,264
			Confluence of Limekin Hollow Run (Upstream)	*1,288
			(Upstream) Corporate Limits (Downstream)	*1,298

Maps are available at the Township Building, Covington, Pennsylvania.

Pennsylvania	Township of Forks, Northampton County (Docket No. FEMA-5724).	Bushkill Creek	Downstream Corporate Limits	*233
			Northwood Avenue	*265
			Bushkill Drive	*311
			Upstream Corporate Limits	*335
		Delaware River	Downstream Corporate Limits	*198
			Upstream Corporate Limits	*207

Maps available at the Township Building, Forks, Pennsylvania.

Pennsylvania	Township of McKean, Erie County (Docket No. FEMA-5724).	Elk Creek	Downstream Corporate Limits	*880
			Township Route 450	*941
			Township Route 448B	*967
			Upstream Corporate Limits with the Borough of McKean	*987
		Lamson Run	Confluence with Elk Creek	*983
			State Route 369	*984
			Corporate Limits with the Borough of McKean	*987

Maps available at the Township Building, McKean, Pennsylvania.

Pennsylvania	Springdale, Borough, Allegheny County (Docket No. FEMA-5724).	Allegheny River	Downstream Corporate Limits	*748
			150 feet downstream of Colfax Avenue extended	*749
			Upstream Corporate Limits	*751

Maps available at the Borough Building, Springdale, Pennsylvania.

Pennsylvania	Springdale, Township, Allegheny County (Docket No. FEMA-5724).	Allegheny River	Downstream Corporate Limits	*751
			Upstream Corporate Limits	*753

Maps available at the Township Building, Springdale, Pennsylvania.

Pennsylvania	Township of Tilden, Berks County (Docket No. FEMA-5749).	Schuylkill River	Downstream Corporate Limits	*325
			Fisher Dam Road	*329
			Rerne Speedway Access Road (Extended)	*334
			Hill Drive (Extended East)	*341
			State Route 61	*355
			Conrail Bridge	*359
			U.S. Routes 22 & 78	*362
			1,000' downstream of Kernsville Dam	*372
			Kernsville Dam (Downstream)	*375
			Kernsville Dam (Upstream)	*390
			State Route 61	*399
			Conrail Bridge (Upstream)	*409
			5,000' downstream of Corporate Limits	*425
			Upstream Corporate Limits	*437

Maps available at the residence of the Township Secretary, Ms. Anna Schollenberger, R.D. 1, Hamburg, Pennsylvania.

South Carolina	Town of Bowman, Orangeburg County (FEMA-5713).	Even Branch	Just downstream of Main Street (U.S. Hwy 178)	*131
			Just downstream of Ann Street	*137

Maps available at Town Hall, Bowman, South Carolina 29018.

South Carolina	City of Orangeburg, Orangeburg County (FEMA-5713).	Northview Branch	Just upstream of Thomas Street	*190
			Just upstream of Hillcrest Road	*193

		Caw Caw Creek	Just upstream of Riverside Street	*168
			Caw Caw Street (extended)	*172
		Middele Pen Branch	Just downstream of Goff Street	*228
		Edisto River	Just upstream of Glover Street	*162
			Just upstream of Highways 301 and 601	*164
		Prusner Branch	Just upstream of Stonewall Jackson Drive	*164
			Just upstream of Robert E. Lee Street	*174

Maps available at City Hall, 222 Middleton Street, Orangeburg, South Carolina 29115.

South Dakota	Valley Spring (City), Minnehaha County (Docket No. FEMA-5701).	Beaver Creek	Valley Drive 200 feet upstream from centerline	*1,361
			U.S. Highway 16—50 feet upstream from centerline	*1,366

Maps available at City Hall, Broadway Street, Valley Spring, South Dakota.

Texas	City of Addison, Dallas County (FEMA-5713).	Farmer's Branch	Approximately 130 feet upstream of Farmbrook Court	*556

Maps available at City Manager's Office, City Hall, 4500 Beltline Road, Addison, Texas 75001.

Texas	City of Blue Mound, Tarrant County (FEMA-5713).	Little Fossil Creek	Globe Street (extended)	*654
			Approximately 50 feet downstream of Blue Mound Road	*666

Maps available at City Hall, 1600 Bell Avenue, Blue Mound, Texas 76131.

Texas	City of Carrollton, Dallas County (FEMA-5713).	Elm Fork of Trinity River	Confluence of Cooks Branch	*435
			Confluence of Hutton Branch	*438
		Cooks Branch	Just downstream of Wallace Road	*438
			Just upstream of Spring Valley Lane	*478
		Hutton Branch	Just downstream of Denton Road	*454
			Just downstream of Josey Lane	*481
		Stream 6D1	Just downstream of Jackson Road	*495
		Stream 6D3	Just downstream of Kelly Springfield Road	*536
			Just upstream of Wentwood Drive	*601
		Stream 6D4	Just upstream of first crossing of Scott Mill Road	*508
			Just upstream of second crossing of Scott Mill Road	*516
		Stream 6D5	Just upstream of Kelly Springfield Road	*498
			Just downstream of Keller Springs Road	*508
		Stream 6D8	Just upstream of Keller Springs Road	*583
			Just upstream of Fineley Lane	*599
		Furneaux Creek	Just downstream of Josey Lane	*500
			Just downstream of Rosemead Parkway	*525
		Stream 6E1	Just upstream of Josey Lane	*496
			Just upstream of Frankfort Road	*518
		Dudley Branch	Just upstream of Denton Road (FM 2281)	*481
		Stream 6F1	Confluence with Dudley Branch	*481
		Indian Creek	Downstream of corporate limits	*452
			Just upstream of Denton Road (FM 2281)	*476

Maps available at the City Manager's Office, City Hall, 1004 South Broadway, Carrollton, Texas 75006.

Texas	City of Glenn Heights, Dallas and Ellis Counties (FEMA-5713).	Little Creek	Just downstream of Westmoreland Road	*629
			Just downstream of Cockrell Hill Road	*662
		Glenn Branch	Approximately 160 feet upstream of the downstream corporate limits	*642
			Just downstream of upstream corporate limits	*650
		Bear Creek	Approximately 1,500 feet upstream of Uhl Road	*653

Maps available at City Hall, Bear Creek Drive, Glenn Heights, Texas 75115.

Texas	City of Grey Forest, Bexar County (FEMA-5713).	Helotes Creek	Just upstream of Hillside Drive	*1,135
			Just downstream of Grey Forest Drive	*1,136
		Lee Creek	Just upstream of Hilltop Drive	*1,105
			Just upstream of Lake Shore Drive	*1,113

Maps available at the Mayor's Office, City Hall, 18502 Scenic Loop Road, Grey Forest, Texas 78023.

Texas	Town of Pantego, Tarrant County (FEMA-5713).	Pantego Branch	Just downstream of Wagonwheel Drive	*548
			Approximately 70 feet downstream of Smith Barry Road	*557

Maps available at Town Hall, 1614 South Bowen Road, Pantego, Texas 76013.

Texas	City of Rockwall, Rockwall County (FEMA-5713).	Squabble Creek	Approximately 80 feet upstream of Shores Boulevard	*453
			Approximately 60 feet upstream of Farm to Market Road 205	*467
		Buffalo Creek	Approximately 20 feet upstream of Farm to Market Road 205 (Corporate Limits).	*524
			Just upstream of Farm to Market Road 276	*530
		Buffalo Creek Tributary 1	Just upstream of Farm to Market Road 276	*530

Maps available at, City Hall, 102 East Washington Street, Rockwall, Texas 75087.

Texas	City of Royse City, Rockwall County (FEMA-5713).	Sabine Creek	Just upstream of Southern Corporate Limits	*514
			Just upstream of Greenville Road (F.M. 35)	*523
			Just upstream of County Line Road	*530

		Bois D'Arc Creek	Just upstream of westbound access road Interstate 30	*530
			Just upstream of Main Street (Texas State Highway 66)	*534
		Pond Branch	Just upstream of FM 548 (Elm St.)	*528
			Just upstream of Main Street (Texas Highway 66)	*536
Maps available at City Hall, Royse City, Texas 75089.				
Vermont	Alburg, Town, Grand Isle County (Docket No. FEMA-5723).	Lake Champlain	Coastline	*102
			Mud Creek	*102
Maps available at the Alburg Town Office.				
Vermont	Village of Alburg, Grand Isle County (Docket No. FEMA-5723).	Lake Champlain	Coastline	*102
Maps available at the Alburg Town Office.				
Vermont	Village of North Troy, Orleans County (Docket No. FEMA-5726).	Missisquoi River	U.S.-Canadian Border (Corporate Limits)	*516
			Canadian Pacific Railroad	*522
			North Troy Dam (Upstream)	*548
			Pleasant Street (State Route 105)	*548
			Upstream Corporate Limits	*549
Maps available at the Office of the Town Clerk, North Troy, Vermont.				
Vermont	Town of Wardsboro, Windham County (Docket No. FEMA-5723).	Wardsboro Brook	Approximately 250 feet upstream of downstream corporate limits	*925
			Approximately 1,820 feet downstream of Wardsboro Village Bridge	*955
			Confluence of South Wardsboro Brook	*1,009
			Approximately 3,500 feet downstream of Wardsboro Center bridge	*1,050
			Approximately 500 feet downstream of Wardsboro Center Bridge	*1,100
			Upstream side of Wardsboro Center Bridge	*1,110
			Approximately 2,300 feet upstream of Wardsboro Center bridge	*1,150
			Approximately 2,100 feet downstream of New Bridge	*1,200
			Upstream side of New Bridge	*1,240
			Approximately 2,200 feet upstream of confluence of Waite Brook	*1,300
			Upstream side of Sheldon Hill Road extended	*1,360
			Approximately 240 feet downstream of West Wardsboro Bridge	*1,410
			Approximately 100 feet upstream of West Wardsboro Bridge	*1,420
		South Wardsboro Brook	Confluence of Wardsboro Brook	*1,009
			Johnson Road extended	*1,028
			Approximately 2,900 feet upstream of confluence of Wardsboro Brook	*1,065
Maps available at the Town Clerk's Office, Wardsboro, Vermont.				
Washington	Lacey (City), Thurston County (Docket No. FEMA-5701).	Woodland Creek	Draham Street northeast 50 feet upstream from centerline	*63
			Private Road 200 feet upstream from centerline	*65
		Chambers Lake	Areas adjacent to shoreline	*196
		Hicks Lake	Areas adjacent to shoreline	*157
		Long Lake	Areas adjacent to shoreline	*153
Maps available at City Hall, 420 College Way, Southeast, Lacey, Washington.				
Wisconsin	(V) Theresa, Dodge County (Docket No. FEMA-5702).	East Branch Rock River	At the downstream corporate limits	*932
			Just upstream of Milwaukee Street	*935
			At the upstream corporate limits	*936
Maps available at Village Clerk's Office, Village Hall, 201 South Milwaukee, Theresa, Wisconsin.				

(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: February 11, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-5832 Filed 2-25-80; 8:45 am]

BILLING CODE 6718-03-M

44 CFR Part 67

[Docket No. FI-2738]

National Flood Insurance Program; Final Flood Elevation Determination

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Deletion of final rule for the Town of Newfane, Niagara County, New York.

SUMMARY: The Federal Insurance Administration has erroneously published the final flood elevation determination for the Town of Newfane, Niagara County, New York. This notice will serve to delete that publication. Following an engineering analysis and review, a revised notice of proposed flood elevation determination will be issued.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert G. Chappell, National Flood Insurance Program, (202) 426–1460 or Toll Free Line (800) 424–8872, (In Alaska and Hawaii call Toll Free Line (800) 424–9080), Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: As a result of a recent engineering analysis, the Federal Insurance Administration has determined that the notice of final flood elevation determination for the Town of Newfane, Niagara County, New York, published at 42 FR 60873, on November 29, 1977, should be deleted. After a technical evaluation, a revised notice of proposed flood elevations will be issued, with a ninety-day period specified for comments and appeals.

(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: February 11, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-5831 Filed 2-25-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[BC Docket No. 78-176; RM-3088]

Radio Broadcast Services FM Broadcast Station In Caldwell, Ohio; Changes Made in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Report and order.

SUMMARY: This action assigns FM Channel 285A to Caldwell, Ohio, as its first FM assignment, in response to a petition filed by Tri-County Radio, Inc. An opponent had asserted that Tri-County Radio is involved in an attempt to obtain several FM stations in the area which, if carried out, could violate the Commission's multiple ownership rules. However, the Commission found that, while the potential for a violation does exist, the issue could be better treated and coordinated in connection with the processing of an application for a Caldwell station.

EFFECTIVE DATE: March 24, 1980.

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

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

SUPPLEMENTARY INFORMATION:

[BC Docket No. 78-176; RM-3088]

Report and Order; (Proceeding Terminated)

Adopted: February 6, 1980.

Released: February 13, 1980.

In the matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations, (Caldwell, Ohio).

By the Chief, Policy and Rules Division:

1. Before the Commission is the *Notice of Proposed Rule Making,* 43 Fed. Reg. 27569, adopted June 13, 1978, which proposed the amendment of Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, by the addition of Class A Channel 285 to Caldwell, Ohio (pop. 2,082).[1] Commenting parties include the petitioner, Tri-County Radio, Inc. (by its incorporator John Wharff) and Cloverleaf Broadcasting Co. ("Cloverleaf"). The proposed assignment would provide a first fulltime local aural broadcast service to Caldwell, the seat of Noble County (pop. 10,428).

2. A proper demonstration of Caldwell's need for a first channel assignment was included with the petition and summarized in the *Notice, supra,* and need not be repeated here. The broad issue urged against the assignment by Cloverleaf is, in its words, that the proposal form "part of a complicated scheme . . . to bring about a drastic restructuring of FM allocations [sic] in the State of Ohio and the adjoining State of West Virginia" which, if carried out, would constitute a violation of Commission policy against undue concentration of media control.[2] A description of the interests of the various parties involved and their history in other proceedings is necessary to a proper review of this contention and of petitioner's responsive allegation that Cloverleaf's objections constitute a *"de facto"* strike application.[3]

3. Caldwell is one of three communities (McConnelsville and Beverly, Ohio), in which John Wharff has urged assignments.[4] However, Wharff asserts that his ascertainment of these communities revealed more community interest in a station at Caldwell than in McConnelsville or Beverly. Wharff now states that he has abandoned any intention of constructing at McConnelsville, despite earlier representations to the Commission that he would do so, and now intends to serve the same communities from Caldwell if authorized to do so. Wharff reiterates his purpose to provide coverage of Morgan County and McConnelsville events, while conceding that McConnelsville is outside the predicted 60 dBu contour of a Caldwell facility and might need a low-power translator for adequate reception. Wharff states his intent here is to apply for a construction permit at Caldwell and, if authorized, construct "as soon as proves feasible."

4. In opposition comments, Cloverleaf states it is the licensee of WILE (AM/FM) in Cambridge, Ohio, some 19 miles from Caldwell, and asserts that its standing to oppose the requested assignment derives from economic injury it expects if a Caldwell station becomes operational.[5] Cloverleaf assails the involvement of Taggart and various associates in several rule making proceedings and specifically questions whether Wharff's statements of intent can be relied on. Cloverleaf asserts in that regard that a showing of financial capability has been made,[6] and that construction on all of the assignments sought or attained by Wharff and his associates would violate the Commission's Rules, (Section 73.240 of the Commission's Rules) by creating an undue concentration of media control.

5. Initially, Cloverleaf urges that we consider Wharff's asserted indicia of intent regarding Caldwell[7] in the same light as in the McConnelsville proceeding. It suggests that Wharff is no more serious in a Caldwell station than in a McConnelsville station. The purpose of the effort to have these assignments made is claimed to be a means to keep the options open for Wharff and his associates so as to avoid a violation of the multiple ownership rules.

6. Cloverleaf also notes that the assignment of Class A Channel 224 to Zanesville, Ohio, came at the request of a partnership, Muskingum Broadcasting, which relied on engineering and legal analysis, by Thomas Taggart, a one-third shareholder in the partnership. Subsequently, Muskingum and two other parties applied for a construction permit on the Zanesville assignment. During the pendency of the Zanesville rule making proceeding two assignments in other communities were requested by petitions prepared by Mr. Taggart: John Wharff's petition for Channel 265A at McConnelsville, *supra,* and a petition by D. Robert Eddy for assignment of 269A to St. Marys, West Virginia. Both have since been approved, and Cloverleaf points out that Taggart's anticipated ownership interests in McConnelsville

[1] Population figures are taken from the 1970 U.S. Census.

[2] The specific allegation in this regard is that broadcast facilities at the five communities where petitioner and/or his associates are alleged to have interests or petitions pending would all fit within a circle of 80 miles diameter. These communities include McConnelsville, Belpre, Zanesville and Caldwell, all in Ohio, and St. Marys, West Virginia.

[3] The attorney representing petitioner in this proceeding, Tom Taggart, is a principal and represents Muskingum Broadcasting in a pending comparative proceeding for the selection of a permittee in Zanesville, Ohio.

[4] Class A Channel 261 was actually assigned to McConnelsville and remains unapplied for. *McConnelsville, Ohio,* 42 Fed. Reg. 29011 (1977).

[5] We need not consider the likely economic impact of the assignments proposed as Cloverleaf has not adduced specific information implicating our underlying concern of service to the public. *Carroll Broadcasting Co.* v. *FCC,* 258 F. 2d 440 (D.C. Cir. 1958); *WLVA* v. *FCC,* 459 F. 2d 1286 (D.C. Cir. 1972).

[6] The Commission does not generally inquire into financial qualifications of petitioners at the rule making stage, leaving that evaluation to the application process.

[7] Wharff asserts he has made a deposit with a transmitter manufacturer, arranged bank financing, and located an antenna site in Caldwell to facilitate expeditious construction here, if authorized.

and Zanesville facilities could not be held in common because the expected signal overlap from stations in those two communities would violate Section 73.240. Cloverleaf's specific allegation is limited to the assertion that Taggart's 16 percent interest in Wharff's advertising firm constitutes them as common owners of broadcast facilities held by either individual. Finally, Taggart has recently filed comments on behalf of Wharff urging the assignment of Channel 296A to Belpre, Ohio (Dkt. 78-65), some 34 kilometers (21 miles) from St. Marys and 51 kilometers (32 miles) from Caldwell. The assignment was adopted on June 14, 1978.

7. Caldwell also suggests that petitioner's retreat from its earlier intent to construct at McConnelsville may not be due to lack of community interest. Cloverleaf suggest instead that if Wharff and Taggart were both to have ownership interests in a station licensed to McConnelsville—a point not directly addressed by the petition—that Taggart's expected interest at Zanesville would conflict with Section 73.240. Hence, the change of heart to construct on a newly assigned channel at Caldwell, sufficiently far from Zanesville to obviate that duopoly problem. Cloverleaf also asks us to consider the participation of Wharff and Taggart in the proceedings described above.[8]

8. Petitioner contends, in response to Cloverleaf's "conspiracy" theory that (1) Taggart has no ownership interest in Tri-County Radio;[9] (2) both Mr. Eddy and Mr. Taggert have capital adequate to construct a facility at St. Marys in addition to their commitment to Zanesville, but considered it unwise to attempt simultaneous construction of both station; and (3) by proposing Class A Channel 285 for Caldwell, Wharff has deliberately left open the prospect of subsequent competition from McConnelsville rather than precluding it by urging reassignment of that community's channel (the only one suitable for use there) to Caldwell.[10] Tri-County reiterates that no proposal was made by Wharff to build anywhere other than one community, that Muskingum seeks only to build at Zanesville,[11] and that Taggart and Eddy will decide their intentions on St. Marys after resolution of the Zanesville proceeding. Petitioner details the technical effects of all five assignments addressed by Cloverleaf and concludes that no major community is left without available channels, nor has any other community been deprived of its potential for FM service. Tri-County states the St. Marys assignment is tied to the only incorporated communities within that channel's preclusion area, and the two incorporated communities within five miles of the area's boundaries have FM channels available for assignment. Petitioner contends that the prospective availability of the St. Marys assignment for other investors makes Eddy's intention to construct a matter of indifference, and asserts a similar showing can be made for Caldwell and McConnelsville.

9. Cloverleaf requested leave to file supplemental comments premised on new information assertedly contained in reply comments by Taggart and Wharff. In the absence of any objection we have accepted these comments in the interest of a full record. Cloverleaf reiterates its assertion of a commonality of interest affecting several FM assignment proceedings and its supposition that a potential multiple ownership problem precipitated Tri-County's disinterest in constructing at McConnelsville, and urges us to insist on enforcing the policy to require clear construction commitments from FM assignment proponents. Finally, Cloverleaf contends that the evidences of sincerity proffered by Wharff's letter, *supra*, were also present with regard to McConnelsville but failed to result in prosecution of an application there.

10. In a later pleading, Taggart asserted he had elected against investing in McConnelsville when the Zanesville assignment was approved, and contended that Cloverleaf's objections are grounded on competitive concerns which factually accomplish nothing beyond the assertion that Taggart's 16 percent ownership of an advertising agency otherwise held by Wharff would constitute shared ownership of the McConnelsville/Caldwell and Zanesville stations (once built) for purposes of the Commission's Rules.[12]

Discussion

11. Though we recognize the concentrated nature of the present media ownership in Zanesville and the need for improved diversity both in that community and in the areas proposed to be served by Wharff's Caldwell assignment request, we cannot ignore the circumstances which have led to the present situation. There are currently two assignments of uncertain eventual occupancy, in each of which Mr. Taggart contemplated acquiring a principal's interest.[13] It does not answer the Commission's concern over the efficiency and integrity of its assignment process to dismiss Taggart and Eddy's intentions regarding St. Marys as a "matter of indifference" because no likely alternative use of the channel is precluded by its assignment to that community, or to assert that the McConnelsville facility is available for another party's application. Commission rule making resources are limited and should not be employed to assignments with uncertain prospects of activation while more sincere petitioners' proposals are delayed. Nevertheless, we have not been given a sufficient basis at this stage to find a multiple ownership violation by Wharff, as principal of Tri-

[8] Cloverleaf complains that an April, 1978, petition for the addition of a third FM channel to Zanesville filed on behalf of Muskingum Broadcasting, Inc., by Taggart, though denied by the Commission, demonstrates the "attitude" of certain persons toward the public interest. While Muskingum's pleadings did address the lengthy delays foreseeable in the Zanesville comparative proceeding by candidly recognizing the financial benefit to legal counsel of protracted proceedings, it hardly follows that Muskingum is indifferent to the public interest in improved—and/or expedited—service. The delays created by the existing comparative process are widely recognized, and uncharitable references to administrative delay do not impugn Muskingum's sincerity or qualifications. As to the complaint by Cloverleaf that Taggart prepared three forms of comments in that proceeding for submission by Cloverleaf, and submitted them to that firm, we do not consider it the province of this Commission to settle questions of representation by counsel. Taggart's submission of comments to Cloverleaf was apparently motivated by the prospect of avoiding comparative process at Zanesville.

[9] The possible employment of Mr. Wharff at the Zanesville facility in a purely managerial capacity is asserted to have been explored and cleared with the Broadcast Bureau by petitioner after he became aware of the potential signal overlap. Cloverleaf would strike this contention as unsupported by documentation or identification of the Bureau staff personnel involved. We feel it sufficient for purposes of this proceeding to note the plain wording of rule 73.240 does not prohibit such managerial employment in any and all situations of contour overlap. The impact of a possible employment relationship on station not constructed—indeed, not even authorized to specific applicants—is, in any event, not a matter for an assignment proceeding.

[10] In a letter submitted by Wharff, he asserts his change in plans was precipitated by ascertainment efforts and that he has no involvement with either Zanesville or St. Marys applications, apart from earlier service as a consultant to parties in those proceedings.

[11] The motivations of the competing noncommercial applicants in Zanesville are aired in the pleadings but are not appropriately before us in this proceeding.

[12] Taggart moved for issuance of a Commission Report and Order assigning Channel 285A to Caldwell by letter filed February 12, 1979, on the ground that Cloverleaf's filings in this proceeding have been interposed "merely to delay action" and as "strike applications."

[13] We are much less concerned about the commanality of interest in an advertising agency or shared ownership of two stations sufficiently separated that no issue under either the letter or spirit of our rules arises. In any case, such interests can be reconciled prior to the application stage, and raise no difficulty by themselves in an assignment proceeding.

County Radio, were it to become the Caldwell channel licensee. Wharff's interest in becoming the licensee of a Caldwell station has been appropriately stated for our purposes. Whether we should rely on the statement of interest is not entirely resolved. However, we do not wish to deprive Caldwell of this opportunity for what would otherwise be a clearly deserving channel assignment. Therefore, we are willing to grant this assignment request and leave for the adjudication processing the allegations with regard to a possible multiple ownership violation. Although petitioner has cleared this hurdle, we do believe that Cloverleaf's pleadings have raised legitimate concerns which can be more adequately considered through the hearing process.

12. Authority for the action taken herein is contained in Sections 4(i), 5(d)(1), 303(g) and (r) and 307(b) of the Communications Act of 1934, as amended, and Section 0.281 of the Commission's Rules.

13. In view of the foregoing, IT IS ORDERED, That effective March 24, 1980, Section 73.202(b) of the Commission's Rules, the FM Table of Assignments, as regard Caldwell, Ohio, IS AMENDED as follows: City, Caldwell, Ohio. Channel No. 285A.

14. It is Further Ordered, That this proceeding is terminated.

15. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

Federal Communications Commission.

(Secs. 4, 303, 307, 48 Stat., as amended, 1066, 1082, 1083; 47 U.S.C. 154, 303, 307.)

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80-5877 Filed 2-25-80; 8:45 am]

BILLING CODE 6712-01-M

Proposed Rules

Federal Register
Vol. 45, No. 39
Tuesday, February 26, 1980

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

Rural Electrification Administration

7 CFR Part 1701

Specification for Polyethylene Raw Material; Revision of Existing Bulletin

AGENCY: Rural Electrification Administration.

ACTION: Proposed rule.

SUMMARY: REA proposes to revise REA Bulletin 345–21 to announce a complete revision of the requirements listed in REA Specification PE–200, dated January 1969. The specification was revised because the requirements were outdated with respect to the recent advancements in raw material technology.

DATE: Public comments must be received by REA no later than April 28, 1980.

ADDRESS Submit written comments to the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, South Building, U.S. Department of Agriculture, Washington, D.C. 20250.

FOR FURTHER CONTACT Harry M. Hutson, telephone (202) 447–3827. A Draft Impact Analysis has been prepared and is available from the Director, Telephone Operations and Standards Division, Rural Electrification Administration, Room 1355, U.S. Department of Agriculture, Washington, D.C. 20250.

SUPPLEMENTARY INFORMATION: Pursuant to the Rural Electrification Act, as amended (7 U.S.C. 901 et seq.), REA proposes to revise REA Bulletin 345–21, Specification for Polyethylene Raw Material.

Interested persons may obtain copies of this proposed action from the address indicated above. All written submissions made pursuant to this action will be made available for public inspection during regular business hours, address above.

On issuance of revised Bulletin 345–21, Appendix A to Part 1701 will be modified accordingly.

Note.—This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant" under those criteria. A Draft Impact Analysis has been prepared and is available from the Director, Telephone Opertions and Standards Division, Rural Electrification Administration, Room 1355–S, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated: February 19, 1980.

John H. Arnesen,

Assistant Administrator—Telephone.

[FR Doc. 80–5965 Filed 2–25–80; 8:45 am]
BILLING CODE 3410–15–M

Food Safety and Quality Service

9 CFR Parts 317 and 381

Procedures for Prior Label Approval; Proposed Rule

AGENCY: Food Safety and Quality Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Food Safety and Quality Service (FSQS) proposes to amend the Federal meat inspection regulations and the Federal poultry products inspection regulations to provide procedures for the review, processing, and approval of labels and other labeling to be used on federally inspected meat and poultry products. This proposal would provide for the review and processing of all labels and other labeling in the daily order in which they are received, regardless of the manner of delivery. In addition, this proposal would provide for expedited review and processing of labels and other labeling upon a showing by the applicant of sufficient good cause.

DATE: Comments must be received on or before April 28, 1980.

ADDRESSES: Written comments to: Executive Secretariat, Attn: Annie Johnson, Room 3807, South Agriculture Building, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250. Oral comments on poultry products inspection regulations to: Mr. Robert G. Hibbert, (202) 447–6042. See also comments under Supplementary Information.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Hibbert, Acting Director, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION:

Comments

Interested persons are invited to submit comments concerning this proposal. Written comments must be sent in duplicate to the Executive Secretariat and should bear a reference to the date and page number of this issue of the **Federal Register.** Any person desiring opportunity for oral presentation of views concerning the proposed amendments to the poultry products inspection regulations must make such request to Mr. Hibbert so that arrangements may be made for such views to be presented. A transcript shall be made of all views orally presented. All comments submitted pursuant to this notice will be made available for public inspection in the office of the Executive Secretariat during regular hours of business.

Background

Pursuant to the authority contained in sections 1(n) and 7 of the Federal Meat Inspection Act (21 U.S.C. 601(n), 607) and in sections 4(h) and 8 of the Poultry Products Inspection Act (21 U.S.C. 453(h), 457) and related Federal meat and poultry inspection regulations (9 CFR 317 and 381, Subpart N), the Food Safety and Quality Service (FSQS) conducts a prior approval program for labels and other labeling to be used on federally inspected meat and poultry products.

Presently, applications for label and other labeling or sketch approval are filed with FSQS by mail or hand-carried to FSQS by plant owners and operators or their representatives. Processing of applications, however, does not necessarily occur in the order in which they are received. Labels and other labeling which are hand delivered to FSQS are generally reviewed on the day of delivery. As a result, a backlog develops of labels that are mailed in for approval. In addition, when absences of label reviewers occur, either planned or otherwise, work of label applications submitted by mail is frequently set aside in order to service waiting

representatives and expediters. An increasing number of labels and other labeling are being received by direct presentation rather than mail.

In recent years, the Department has given consideration to changing the system on a number of occasions. For example, on June 20, 1974, the Department published a proposal which would have established a number of changes in the labeling review process (39 FR 22152). It included provisions which would have dealt with this question by requiring that all labels be processed in the daily order in which they were received. However, in view of the period of time that has elapsed since its publication and the publishing of the modifications contained herein, the Administrator is withdrawing the 1974 proposal.

The Department is still concerned about the equitable and timely handling of all applications, and now believes it is appropriate to implement a system similar to that described in the relevant portions of the June 1974 proposal. The option of retaining the present system appears inappropriate since the Administrator believes that the system has led to inequitable treatment of labeling applicants. The imposition of an absolute first-come, first-serve requirement was also considered. However, a need was perceived for some flexibility in procedures in order to allow for special circumstances. Accordingly, the option of changing the system to a first-come, first-serve basis, but allowing for a request for expedited handling under the procedures discussed below, is being proposed.

Prior Correspondence

The Administrator and other agency officials have already received correspondence and other information regarding such proposed changes in the review policy. One correspondent has listed a number of objections to the change in the review policy; such as, a first-come, first-serve policy may result in delays, and those that mail in labels seeking approval "do not require or expect immediate service." Other correspondence has discussed the procedure to be followed in revising our policy. The correspondence suggested that, since the effect of such proposed rule would involve a statement of general applicability, describing practice requirements of the Department, the opportunity for notice and comment should be provided. The prior correspondence will be incorporated into the record of this proceeding made available to the public through the office of the Executive Secretariat. Additionally, FSQS has been contacted by plant operators and their associations, who have questioned the cost of having to personally present labels and other labeling for review in order to have them reviewed expeditiously.

Label Review Procedures

Under this proposal, applications for approval of labels and other labeling and sketches to be used on meat and poultry products will be reviewed and processed by FSQS in the order in which they are received, regardless of the manner of delivery.

All reviewed applications will be returned by mail, unless arrangements are made for special pickup at the Department. In addition, the proposal would permit certain labeling applications to be expedited upon a showing to the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Compliance Program, FSQS, of sufficient good cause that economic hardship or possible injury to the public health could reasonably occur. If there is a denial of the request for expedited handling, a request for reconsideration may be directed to the Deputy Administrator, Compliance Program, FSQS, or his designee.

Accordingly, it is proposed that section 317.4 of the Federal meat inspection regulations (9 CFR 317.4) would be amended by adding new paragraphs (e) through (i) to read as follows:

§ 317.4 Labels to be approved by Administrator.

* * * * *

(e) *Delivery Procedures.* Requests for approval of labels and other labeling or sketches, required under paragraphs (a) and (c) of this section, may be mailed to: Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, U.S. Department of Agriculture, Benjamin Franklin Station, P.O. Box 7416, Washington, DC 20044, or delivered to the office of said Division at 300 12th Street, SW., Washington, DC.

(f) *Order of Processing.* Requests for approval of labels and other labeling or sketches, required under paragraphs (a) and (c) of this section, will be processed in accordance with the following procedures:

(1) Requests received by mail will be stamped with the date of receipt and will be processed in the daily order in which they are received.

(2) Requests delivered to the office of said Division by the applicant (or his agent) shall be left with the receptionist, who will stamp thereon the date of receipt to determine priority of processing of such requests. These will be grouped with labels and other labeling in the mail of the same day.

(g) *Return Procedures.* Labels and other labeling or sketches submitted for approval under paragraphs (a) and (c) of this section, following the appropriate agency action, will be returned by mail, but, if requested by the applicant, pickup may be made at: Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, 300 12th Street, SW., Washington, DC.

(h) *Expedited Handling of Submitted Labels and Other Labeling or Sketches.* (1) A request for expedited handling of an application for approval of labels and other labeling or sketches submitted under paragraphs (a) and (c) of this section may be made to the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, when the applicant believes that sufficient good cause exists based on probable economic hardship or possible injury to the public health.

(2) Expedited approval may be granted by the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, upon a determination that sufficient good cause exists based on probable economic hardship or possible injury to the public health. If there is a denial of such a request, the applicant may request a reconsideration by the Deputy Administrator, Compliance Program, Food Safety and Quality Service, or designee.

(i) *Information.* General labeling questions may be directed to the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, 300 12th Street, SW., Washington, DC 20250. Questions regarding labeling disapproval should be directed to the appropriate reviewer by appointment.

(Secs. 7 and 21, 34 Stat. 1262, as amended, 21 U.S.C. 607 and 621)

Similarly, it is proposed that section 381.132 of the Federal poultry products inspection regulations (9 CFR 381.132) would also be amended by designating the present text as paragraph (a) and by adding a new paragraph (b) to read as follows:

§ 381.132 Approval required for labeling and other devices bearing official inspection marks.

* * * * *

(b) Label and sketch approval procedures.

(1) *Delivery Procedures.* Requests for approval of labels and other labeling or sketches, required under paragraph (a) of this section, may be mailed to: Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, Benjamin Franklin Station, P.O. Box 7416, Washington, DC 20044, or delivered to the office of said Division, at 300 12th Street, SW., Washington, DC.

(2) *Order of Processing.* Requests for approval of labels and other labeling or sketches, required under paragraph (a) of this section, will be processed in accordance with the following procedures:

(i) Requests received by mail will be stamped with the date of receipt and will be processed in the daily order in which they are received.

(ii) Requests delivered to the office of said Division by the applicant (or his agent) shall be left with the receptionist, who will stamp thereon the date of receipt to determine priority of processing of such requests. These will be grouped with labels and other labeling received in the mail of the same day.

(3) *Return Procedures.* Labels and other labeling or sketches submitted for approval under paragraph (a) of this section, following the appropriate agency action, will be returned by mail, but, if requested by the applicant, pickup may be made at: Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, 300 12th Street, SW., Washington, D.C.

(4) *Expedited Handling of Submitted Labels and Other Labeling or Sketches.* (i) A request for expedited handling of an application for approval of labels and other labeling or sketches submitted under paragraph (a) of this section may be made to the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, when the applicant believes that sufficient good cause exists based on probable economic hardship or possible injury to the public health.

(ii) Expedited approval may be granted by the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, upon a determination that sufficient good cause exists based on probable economic hardship or possible injury to the public health. If there is a denial of such request, the applicant may request a reconsideration by the Deputy Administrator, Compliance Program, Food Safety and Quality Service, or designee.

(5) *Information.* General labeling questions may be directed to the Chief, Operations Branch, Meat and Poultry Standards and Labeling Division, Compliance Program, Food Safety and Quality Service, U.S. Department of Agriculture, 300 12th Street, SW., Washington, DC 20250. Questions regarding labeling disapproval should be directed to the appropriate reviewer by appointment.

(Sec. 8, 71 Stat. 441, as amended, 21 U.S.C. 457)

This proposal has been reviewed under the USDA criteria established to implement Executive Order 12044, "Improving Government Regulations." A determination has been made that this action should not be classified "significant." A Draft Impact Analysis has been prepared and is available from Mr. Robert G. Hibbert, Acting Director, Meat and Poultry Standards and Labeling Division, Food Safety and Quality Service, Compliance Program, U.S. Department of Agriculture, Washington, DC 20250.

Done at Washington, DC, on: February 20, 1980.

Donald L. Houston,

Administrator, Food Safety and Quality Service.

[FR Doc. 80-5864 Filed 2-25-80; 8:45 am]

BILLING CODE 3410-DM-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

10 CFR Part 212

[Docket No. ERA-R-79-32E]

Resellers' and Reseller-Retailers' Price Rules for Gasoline

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Extension of comment period.

SUMMARY: On November 28, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued a Notice of Proposed Rulemaking and Public Hearing concerning the Resellers' and Reseller-Retailers' Price Rules for Gasoline (44 FR 69602, December 3, 1979). Public hearings on the proposed interim rule were held in Washington, D.C., December 29 and 30, 1979, and an interim rule was issued effective January 1, 1980. Public hearings on the proposed amendments were held in San Francisco, California, on January 8, 1980; in Atlanta, Georgia, January 15, 1980; and in Washington, D.C., January 29 and 30, 1980. ERA has prepared a draft regulatory analysis on the proposed amendments which examines the potential economic impact of those proposed regulations dated January 23, 1980. Copies of the draft regulatory analysis may be obtained from the address shown below. To provide the public with a full 60 day period to comment on this regulatory analysis, the ERA is extending the public comment period.

DATES: Comments are now due on or before March 23, 1980.

ADDRESSES: For copies of the draft regulatory analysis write to: ERA Office of Public Information, Room B-110, 2000 M Street, N.W., Washington, D.C. 20461.

All comments should be sent to: Public Hearing Management, Docket No. ERA-R-79-32E, Department of Energy, Room 2313, 2000 M Street, N.W., Washington, D.C. 20461.

FOR FURTHER INFORMATION CONTACT: Chuck Boehl or Ed Mampe (Office of Regulations and Emergency Planning), Economic Regulatory Administration, Room 7302, 2000 M Street, N.W., Washington, D.C. 20461, (202) 254-5246. William Mayo Lee (Office of General Counsel), Department of Energy, Room 6A-127, 1000 Independence Avenue, S.W., Washington, D.C. 20585, (202) 252-6754.

Issued in Washington, D.C., on February 19, 1980.

F. Scott Bush,

Assistant Administrator, Regulations and Emergency Planning, Economic Regulatory Administration.

[FR Doc. 80-6067 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-01-M

FEDERAL TRADE COMMISSION

16 CFR Part 450

Trade Regulation Rule: Advertising for Over-the-Counter Drugs

AGENCY: Federal Trade Commission.

ACTION: Publication of staff's summary of post-record comments.

SUMMARY: To facilitate review of the comments received concerning the Trade Regulation Rule on over-the-counter (OTC) drugs, the staff summary of these comments is being placed on the public record.

DATE: Effective February 26, 1980.

ADDRESS: Requests for copies of the staff summary should be sent to Public Reference Branch, Room 130, Federal Trade Commission, 6th St. and

Pennsylvania Avenue, NW., Washington, D.C. 20580.

FOR FURTHER INFORMATION CONTACT: Joel N. Brewer, 202–724–1530, Senior Attorney, Division of Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580, or John Clewett, 202–724–1561, Attorney, Division of Food and Drug Advertising, Federal Trade Commission, Washington, D.C. 20580.

SUPPLEMENTARY INFORMATION: On May 31, 1979, a notice was published in the **Federal Register**, 44 FR 31241, announcing the publication of the staff report on the proposed trade regulation rule on over-the-counter (OTC) drug advertising. The publication of this report commenced a 60-day comment period on both the staff report and the Presiding Officer's report provided for in § 1.13(h) of the Commission's Rules of Practice. Post-record comments received on or before July 30, 1979 were accepted for the public record. To facilitate review of the comments received, the staff summary of these comments is being placed on the public record. Requests for copies of this summary should be sent to the Public Reference Branch, Room 130, Federal Trade Commission, 6th St. and Pennsylvania Avenue, N.W., Washington, D.C. 20580.

The Commission cautions all concerned that the staff's summary of post-record comments has not been reviewed or adopted by the Commission, and that its publication should not be interpreted as necessarily reflecting the present views of the Commission or of any individual Commissioner.

Albert H. Kramer,

Director, Bureau of Consumer Protection.

[FR Doc. 80-5908 Filed 2-25-80; 8:45 am]

BILLING CODE 6750-01-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 403

[FRL 1419-6]

General Pretreatment Regulations for Existing and New Sources of Pollution

AGENCY: United States Environmental Protection Agency.

ACTION: Notice of extension of comment period.

SUMMARY: This notice extends for fifteen (15) days from today the deadline for commenting on § 403.6(e) of EPA's proposal to amend the General Pretreatment Regulations for Existing and New Sources of Pollution (44 FR 62260, Oct. 29, 1979).

DATE: Comments on EPA's proposed § 403.6(e) are now due no later than March 12, 1980.

ADDRESSES: Comments should be addressed to: William Diamond, Esq., Office of Water Enforcement (EN–336), U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: William Diamond, Esq., at the above address or telephone (202) 755–0750.

SUPPLEMENTARY INFORMATION: On October 29, 1979, the Environmental Protection Agency (EPA) proposed amendments (44 FR 62260) to the General Pretreatment regulations which were published on June 26, 1978 (43 FR 27736). Included in the October 29, 1979 proposal were revisions to § 403.6(e) which includes a formula for computing the applicable categorical pretreatment standard for sources that mix process effluent with wastewaters other than those generated by the regulated process (44 FR 62266). The comment period on that proposal expired on February 15, 1980. Certain commenters requested additional time to base their comments on actual samples from their plants. In response, EPA is extending the comment period on proposed § 403.6(e) until [fifteen (15) days from promulgation of this notice].

Date: February 20, 1980.

Jeffrey G. Miller,

Acting Assistant Administrator for Enforcement.

[FR Doc. 80-5924 Filed 2-25-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 67

[Docket No. FEMA-5723]

National Flood Insurance Program; Revision of Proposed Flood Elevation Determinations

AGENCY: Federal Insurance Administration, FEMA.

ACTION: Proposed rule.

SUMMARY: Technical information or comments are solicited on the proposed base (100-year) flood elevations listed below for selected locations in the Town of Shelburne, Chittenden County, Vermont.

Due to recent engineering analysis, this proposed rule revises the proposed determinations of base (100-year) flood elevations published in 44 FR 63555 on or about November 5, 1979, and in the *Burlington Free Press*, published on or about September 21, 1979, and September 28, 1979, and hence supersedes those previously published rules.

DATES: The period for comment will be ninety (90) days following the second publication of this notice in a newspaper of local circulation in each community.

ADDRESSES: Maps and other information showing the detailed outlines of the floodprone areas and the proposed flood elevations are available for review at the Shelburne Town Office.

Send comments to: Mr. Burt Moffatt, Town Manager of Shelburne, Town Office, Route 7, Shelburne, Vermont 05482.

FOR FURTHER INFORMATION CONTACT: Mr. Robert G. Chappell, National Flood Insurance Program, Office of Flood Insurance, (202) 426–1460 or Toll Free Line (800) 424–8872, Room 5150, 451 Seventh Street, SW., Washington, D.C. 20410.

SUPPLEMENTARY INFORMATION: Proposed base (100-year) flood elevations are listed below for selected locations in the Town of Shelburne, Chittenden County, Vermont, 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 44 CFR 67.4(a)) (presently appearing at its former Title 24, Chapter X, Part 67.4(a)).

These base (100-year) flood elevations are the basis for the flood plain management measures that the community is required to either adopt or show evidence of being already in effect in order to qualify or remain qualified for participation in the National Flood Insurance Program (NFIP).

These modified elevations will also be used to calculate the appropriate flood insurance premium rates for new buildings and their contents and for the second layer of insurance on existing buildings and their contents.

The proposed base (100-year) flood elevations are:

State	City/town/county	Source of flooding	Location	#Depth in feet above ground. *Elevation in feet (NGVD)
Vermont	Shelburne, Town, Chittenden County.	Munroe Brook	Confluence with Shelburne Bay	*102
			Green Mountain Railroad (Downstream)	*111
			Green Mountain Railroad (Upstream)	*125
			750' downstream of Bay Road	*135
			Bay Road (Downstream)	*143
			Bay Road (Upstream)	*148
			Route 7 (Downstream)	*148
			Route 7 (Upstream)	*153
			Private Road	*155
			Longmeadow Drive (Downstream)	*157
			Longmeadow Drive (Upstream)	*162
			3,120' upstream of Longmeadow Drive	*172
		McCabes Brook	Harbor Road (Downstream)	*110
			Harbor Road (Upstream)	*111
			2,100' upstream of Harbor Road	*120
			Private Road (Downstream)	*130
			Private Road (Upstream)	*133
			1,395' upstream of Private Road	*148
		Lake Champlain	Entire Shoreline	*102

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

Issued: February 11, 1980.

Gloria M. Jimenez,

Federal Insurance Administrator.

[FR Doc. 80-5822 Filed 2-25-80; 8:45 am]

BILLING CODE 6718-03-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 22

[CC Docket No. 80-55; FCC 80-59]

Elimination of Financial Qualifications in the Public Mobile Radio Services

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Commission proposes to eliminate the financial qualifications and to clarify the rules dealing with extensions of time to construct facilities in the Public Mobile Radio Services.

EFFECTIVE DATE: Comments must be filed on or before April 4, 1980, and reply comments on or before April 25, 1980.

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

FOR FURTHER INFORMATION CONTACT: Steven A. Weiss, Common Carrier Bureau (202) 632-6450.

SUPPLEMENTARY INFORMATION:

[CC Docket No. 80-55]

Adopted: February 12, 1980.

Released: February 19, 1980.

In the matter of elimination of financial qualifications in the Public Mobile Radio Services.

1. The Commission is considering eliminating the financial qualifications requirement in the Public Mobile Radio Services.

2. The Communications Act of 1934, as amended (the Act) authorizes the Commission to examine the financial qualifications of its applicants.[1] Section 22.500 of the Commission's rules and regulations (the rules) provides that applications in the Domestic Public Land Mobile Radio Service will be granted only to applicants who, *inter alia,* are financially qualified to render service. *See also* § 22.600 of the Rules (Rural Radio Service) and § 22.1000 of the rules (Offshore Radio Telecommunications Service). Section 22.17 of the rules specifies the information necessary for applicants to demonstrate their financial qualifications. This rule section requires applicants to demonstrate their ability to construct the proposed facility and operate it "for a reasonable period of time, depending upon the nature of service proposed and the degree of business uncertainty or risk." Section 22.17(a)(2) of the Rules. In the past, the policy has been to require applicants to demonstrate that they have sufficient funds to construct and operate for one year. *See, e.g., Arlington Telephone Co.,* 27 FCC 2d 1, 4 (1971). Recently, however, we reduced this standard to require applicants to demonstrate their ability to construct and operate for three months. *See Tel-Page Corporation of Wisconsin,* 74 FCC 2d 370 (1979).

3. We now propose to eliminate the financial qualifications requirement in the Public Mobile Radio Services. The common carrier mobile radio industry has had a 30-year period of development. This industry is now a relatively low-cost, low-risk business venture with a history of producing adequate profits for well-run systems. *Tel-Page Corporation of Wisconsin, supra.* Our experience with this industry leads us to conclude that the financial qualifications requirement ignores the predictable performance of firms entering this business.[2] Consequently, we believe that this requirement does not help to identify applicants that are not qualified to provide these services. In addition, by receiving the attention of both the staff and petitioners in examining the compliance of an applicant's showing with our Rules, this requirement has sometimes served to delay competition. Such a delay disserves the public in at least two ways. First, it prolongs the non-use of a valuable resource—the frequency applied for. Second, it impedes

[1] Section 319(a) of the Act provides in pertinent part: * * * The application for a construction permit shall set forth such facts as the Commission by regulation may prescribe as to the citizenship, character, and the financial, technical, and other ability of the applicant to construct and operate the station * * * See also Section 308(b) of the Act. Although the Commission is authorized to examine financial qualifications, it is not required to do so. NARUC v. FCC, 525 F. 2d 630, 645 (D.C. Cir.), cert. denied 425 U.S. 992 (1976).

[2] This does not imply that these are the only circumstances in which the Commission may consider the elimination of the financial qualifications requirement. Evidence of financial qualifications may also be redundant for other services that exhibit different economic characteristics.

realization of price and service benefits that we have found competition brings in these markets. On the whole, the financial qualifications requirement is an unnecessary regulatory burden that has served to increase the cost and decrease the efficiency of regulation.

4. Although we propose to eliminate the requirement that applicants submit evidence of their financial qualifications, we still expect applicants to adequately formulate their financial plans so that they will be able to construct the proposed facilities and initiate service promptly. Our concern is with the situation where a frequency in the Public Mobile Radio Services is effectively "tied up" by an applicant who, because of inadequate financial planning, is unable to timely complete construction of its facilities. We, therefore, also propose to clarify our rules dealing with extensions of time to construct facilities. We propose to require that all requests for extensions of time to construct facilities must contain a detailed explanation for the extension request and fully substantiate the explanation. In addition, absent unforeseen circumstances beyond the control of the permittee, an extension of time to construct will not be granted where the request for additional time is based on the unavailability of funds. *See Northeast TV Cablevision Corp.*, 21 FCC 2d 442 (1970); *Onondaga UHF–TV, Inc. (WONH–TV)*, 64 FCC 2d 855 (Rev. Bd. 1977). We note that Section 319(b) of the Act presently provides that a construction permit will be automatically forfeited if the station is not ready for operation within the term of the construction permit or within such further time as may be authorized by the Commission. *See also* § 22.44(a) of the rules. As a result of these provisions, we have the authority to consider a construction permit as forfeited and request its immediate return at its specified termination date. *MG–TV Broadcasting Company* v. *FCC*, 408 F.2d 1257 (D.C. Cir. 1968). Consequently, we believe that our proposed revision of § 22.43(a) of the rules, in conjunction with the existing Section 319(b) of the Act and § 22.44(a) of the rules, will adequately assure that stations are timely constructed so that service to the public is initiated promptly.

5. Accordingly, pursuant to authority found in Sections 4(i) and 303(r) of the Communications Act of 1934, as amended (47 U.S.C. 154(i), 303(r)), it is proposed to amend Part 22 of the Commission's rules and regulations as set forth in the attached Appendix below.

6. Interested persons are encouraged to submit written comments concerning the proposed rule comments concerning the proposed rule making on or before April 1, 1980, and reply comments on or before April 25, 1980. All relevant and timely comments and reply comments will be considered by the Commission. In reaching its decision, the Commission may take into consideration information and ideas not contained in comments, provided that such information is placed in the public file, and provided that the fact of the Commission's reliance on such information is noted in the *Report and Order*.

7. In accordance with the provisions of § 1.419 of the Commission's rules, an original and five (5) copies of all comments, replies, statements, briefs, or other documents shall be furnished to the Commission. However, members of the public who wish to express their views by participating informally in this proceeding may do so by submitting one or more copies of their comments, without regard to form (as long as the docket number is specified in the heading). Copies of all filings will be available for public inspection during regular business hours in the Commission's Public Reference Room (Room 239) at its headquarters in Washington, D.C. (1919 M St., NW.).

8. For further information concerning procedures to follow with respect to this rule-making proceeding, contact Steven A. Weiss, telephone number (202) 632–6450. Members of the public should note that, from the time a *Notice of Proposed Rule Making* is issued until the time the matter is no longer subject to Commission consideration or court review, *ex parte* contacts made to the Commission in proceedings, such as this one, will be disclosed in the public docket file. An *ex parte* contact is a message, spoken or written, concerning the merits of a pending rule making made to a Commissioner, a Commissioner's assistant, or other FCC professional staff members, other than comments officially filed at the Commission or oral presentations requested by the Commission with all parties present. The Commission's interim policy regarding *ex parte* contacts is set out at 68 FCC 2d 804 (1978). A summary of the Commission's procedures governing *ex parte* contacts in informal rule makings is available from the Commission's Consumer Affairs and Information Division, Federal Communications Commission, Washington, DC 20554, telephone number (202) 632–2700.

Federal Communications Commission.
William J. Tricarico,
Secretary.

Appendix

It is proposed that Part 22, Title 47 of the Code of Federal Regulations be amended as follows:

(1) In § 22.13, paragraphs (a)(2) would be amended to delete "financial" and (c)(1) would be amended to read as follows:

§ 22.13 General application requirements.

(a) * * *

(2) Demonstrate the applicant's legal, technical, and other qualifications to be a permittee or licensee;

* * * * *

(c) In addition to the general application requirements of §§ 22.13 and 22.15, applicants shall submit any additional documents, exhibits, or signed written statements of fact:

(1) As may be required by the other parts of the Commission's rules, and the other subparts of this Part 22 (particularly Subpart C and those subparts applicable to the specific radio service involved); and * * *

* * * * *

(2) The Table of Contents would be amended to delete "Section 22.17 (Demonstration of financial qualifications)", reading as follows:

Sec.
22.17 [Reserved]

§ 22.1 [Deleted Reserved]

(3) Section 22.17 would be deleted and reserved

(4) Section 22.32(b)(5) would be amended to delete "financially", reading as follows:

§ 22.32 Consideration of applications.

* * * * *

(b) * * *

(5) The applicant is legally, technically and otherwise qualified, and a grant of the application would serve the public interest.

(5) Section 22.39(b) would be amended to delete "22.17", reading as follows:

§ 22.39 Transfer of control or assignment of station authorizations.

* * * * *

(b) Requests for transfer of control or assignment authority shall be submitted on the application forms prescribed by § 22.11 of this chapter; and shall be accompanied by the applicable showings required by §§ 22.13, 22.15 and 22.40 of this chapter.

* * * * *

(6) Section 22.43(a) would be amended to read as follows:

§ 22.43 Period of construction.

(a) Except as may be limited by § 22.45(b), each construction permit for a radio station in the Public Mobile Radio Services will specify the date of grant as the earliest date of commencement of construction, and a maximum of 8 months from the date of grant as the time within which construction will be completed and the station ready for operation, unless otherwise determined by the Commission in any particular case. All requests for additional time to construct facilities must contain a detailed explanation for the extension request and fully substantiate the explanation. Absent unforeseen circumstances, beyond the control of the permittee, additional time to construct will not be granted where the request is based on the unavailability of funds.

* * * * *

(7) Section 22.400 would be amended to delete "financially", reading as follows:

§ 22.400 Eligibility.

Developmental authorizations for stations in the Public Mobile Radio Services will be issued only to existing and proposed communication common carriers who are legally and otherwise qualified to conduct experimentation utilizing hertzian waves for the development of engineering or operational data, or techniques, directly related to a proposed Public Mobile Radio Service or to a regularly established radio service regulated by the rules of this part.

(8) Section 22.500 would be amended to delete "financially", reading as follows:

§ 22.500 Eligibility.

Authorizations for base stations and auxiliary test stations to be operated in this service will be issued to existing and proposed communication common carriers. Authorizations for mobile stations on land or on board vessels will be issued to communication common carriers or to individual users of the service. Applications will be granted only in cases where it is shown that (a) the applicant is legally, technically and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service, and (c) the public interest, convenience or necessity would by served be a grant thereof.

(9) Section 22.600 would be amended to delete "financially", reading as follows:

§ 22.600 Eligibility.

Authorizations for central office stations and interoffice stations will be issued to existing and proposed communication common carriers. Authorizations for rural subscriber stations will be issued to communication common carriers or to individual users of the service. Applications will be granted only in cases where it is shown that (a) the applicant is legally, technically and otherwise qualified to render the proposed service, (b) there are frequencies available to enable the applicant to render a satisfactory service and (c) the public interest convenience or necessity would be served by a grant thereof.

(10) Section 22.1000 would be amended to delete "financially", reading as follows:

§ 22.1000 Eligibility.

Authorizations for stations to be operated in this service will be issued to existing and proposed communications common carriers. Authorizations for subscriber stations will be issued to communication common carriers or to individual users of the service. Applications will be granted only in cases where it is shown that (a) the applicant is legally, technically and otherwise qualified to render the proposed service and (b) there are frequencies available to enable applicant to render a satisfactory service and (c) the public interest, convenience or necessity would be served by a grant thereof.

(11) Section 22.405(a) would be amended to read as follows:

§ 22.405 Supplementary showing required.

(a) Authorizations for development of a proposed radio service in the Public Mobile Radio Services will be issued only upon a showing that the applicant has a definite program of research and development, the details of which shall be set forth, having reasonable promise of substantial contribution to these services within the term of such authorization. In addition to showing that adequate provision has been made to underwrite the costs of the proposed venture, a specific showing should be made as to the factors which the applicant believes qualify him technically to conduct the research and development program, including a description of the nature and extent of engineering facilities which applicant has available for such purpose.

* * * * *

[FR Doc. 80-5865 Filed 2-25-80; 8:45 am]
BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 80-46; RM-3483]

FM Broadcast Station in Bethel, Alaska; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel at Bethel, Alaska, as that community's first FM assignment, in response to a request filed by Tundra Broadcasting, Inc. The proposed channel could provide for a first local aural broadcast service at Bethel.

DATES: Comments must be filed on or before April 7, 1980, and reply comments must be filed on or before April 28, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION:

[BC Docket No. 80-46; RM-3483]

Adopted: February 6, 1980.

Released: February 15, 1980.

In the matter of amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Bethel, Alaska).

By the Chief, Policy and Rules Division:

1. The Commission here considers a petition for rule making [1] filed on behalf of Tundra Broadcasting, Inc. ("petitioner"), which seeks the assignment of FM Channel 261A to Bethel, Alaska, as its first assignment. No responses to the petition have been received.

2. Bethel (pop. 2,416),[2] is located in the Bethel Division (pop. 7, 579) in the southwestern portion of the State, approximately 450 kilometers (280 miles) south of Nome and 660 kilometers (410 miles) west of Anchorage. It is served by fulltime AM Station KYUK.

3. Petitioner states that Bethel is isolated by distance from some of the more populated areas of the State. It notes that the remote nature of the area is exemplified by the scarcity of aural

[1] Public Notice of the petition was given on September 19, 1979, Report No. 1192.

[2] Population figures are taken from the 1970 U.S. Census.

facilities. Petitioner claims that the proposed FM station would serve not only Bethel but four other villages whose population totals 1,020.

4. In light of the above information and the fact that the proposed FM channel assignment would provide Bethel with its first local FM broadcast service, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to Bethel, Alaska, as follows:

City	Channel No.	
	Present	Proposed
Bethel, Alaska	.....	261A

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

7. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-5875 Filed 2-25-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 73

[BC Docket No. 79-343; RM-3482; RM-3488; RM-3550; RM-3552]

FM Broadcast Stations in Greenwood, Booneville, and Waldron, Ark.; Order Extending Time for Filing Comments and Reply Comments

AGENCY: Federal Communications Commission.

ACTION: Order.

SUMMARY: Action taken herein extends the time for filing comments and reply comments in a proceeding involving proposed FM channel assignments to Greenwood, Waldron and Booneville, Arkansas. This action is taken on the Commission's own motion.

DATES: Comments must be filed on or before March 6, 1980. Reply comments must be filed on or before March 27, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632-7792.

SUPPLEMENTARY INFORMATION:

Adopted: February 13, 1980.

Released: February 19, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Greenwood, Booneville,[1] and Waldron, Arkansas,[1] BC Docket No. 79-343, RM-3482,[2] RM-3488, RM-3550,[2] RM-3552, 45 FR 1919, January 9, 1980.

1. The Commission, on its own motion, is extending the time for filing comments regarding the *Notice of Proposed Rule Making* in the above-captioned matter, adopted December 19, 1979, 45 F.R. 1919. The present comment and reply comment deadlines are February 19, 1980, and March 10, 1980, respectively.

2. In issuing the *Notice* proposing an FM assignment to Greenwood, Arkansas, the Commission failed to mention the pendancy of a conflicting petition which requests assignment of the same channel to Booneville,

[1] These communities have been added to the caption.

[2] These rule making proceedings have been added to the proceeding.

Arkansas, (RM–3552).[3] Public Notice of the acceptance of that petition was given on February 1, 1980, Report No. 1211. Also on file is another petition requesting a different FM channel assignment to Booneville (RM–3550) which conflicts with still another petition to assign an FM channel to Waldron, Arkansas (RM–3482). We are hereby joining these three petitions into this pending docketed proceeding because of the mutually exclusive status of one petiton and the need to consider the other options presented by the other two petitions. Since we desire to consider comments on these proposals we are granting additional time for filing comments and reply comments.

3. Accordingly, it is ordered, that the dates for filing comments and reply comments in BC Docket No. 79–343 are extended to and including March 6, and March 27, 1980, respectively.

4. This action is taken pursuant to authority found in Sections 4(i), 5(d)(1) and 303(r) of the Communications Act of 1934, as amended, and § 0.281 of the Commission's rules.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

[FR Doc. 80–5878 Filed 2–25–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–48; RM–3466]

Television Broadcast Station in Sebring, Fla.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to substitute and reserve Channel *48 for Channel *27 at Sebring, Florida, in response to a petition filed by Broadcasting Telecasting Services, Inc. The substitution would permit petitioner's station at Fort Myers, Florida, to change its transmitter site without violating the Commission's mileage separation rules.

DATES: Comments must be filed on or before April 7, 1980, and reply comments must be filed on or before April 28, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: February 6, 1980;
Released: February 15, 1980.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations. (Sebring, Florida).

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making [1] submitted by Broadcasting Telecasting Services, Inc. ("petitioner"), licensee of television Station WBBH–TV (Channel 20), Fort Myers, Florida. The petition seeks amendment of Section 73.606(b) of the Commission's Rules, the Television Table of Assignments, to delete UHF television Channel *27, a noncommercial educational assignment, in Sebring, Florida, and to assign in its place Channel *48. Channel *27 is presently unoccupied and unapplied for.

2. Sebring (pop. 7,223),[2] seat of Highlands County (pop. 29,507), is located in central Florida, approximately 115 kilometers (70 miles) south of Orlando. Sebring has no local service but receives service from three commercial and one educational television stations: WFLA–TV Channel 8 (Tampa), WTVT Channel 13 (tampa), WINK–TV Channel 11 (Fort Myers) and WEDU Channel *3 (Tampa). Fort Myers (pop. 27,351), seat of Lee County (pop. 105,216), is located on the west coast of Florida, approximately 155 kilometers (95 miles) south of Tampa. Fort Myers is presently served by two local commercial television stations: WBBH–TV Channel 20 and WINK–TV Channel 11, and one nearby station, WEVU–TV Channel 26 (Naples).

3. Petitioner states that it seeks the substitution of Channel *48 for *27 at Sebring so that it may avoid a short-spacing which would result if its station's proposed transmitter relocation were granted. It notes that the University of South Florida also proposes to share petitioner's new tower. Petitioner indicates that it desires to relocate and build a transmitting tower higher than its present structure in order to provide a better signal to Fort Myers and the surrounding areas. Petitioner also points out that Sebring's interests would be served since the substitute Channel *48 would provide a wider area in which to locate a transmitting tower than that which could be used for the existing Channel *27 assignment. Additionally, it is claimed that with the Channel *48 assignment, at least one additional UHF TV channel remains available for assignment to the Sebring area if warranted in the future.

4. Comments are invited on the following proposal to amend the Television Table of Assignments with regard to the city of Sebring, Florida:

City	Channel No.	
	Present	Proposed
Sebring, Florida	*27	*48

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission,

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the

[3] Since this petition was filed before the comment deadline specified in the *Notice*, it is entitled to consideration as a counterproposal.

[1] Public Notice of the petition was given on September 5, 1979, Rept. No. 1191.

[2] Population figures are taken from the 1970 U.S. Census.

station promptly. Failure to file may lead to denial of the requests.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-5872 Filed 2-25-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-50; RM-3183]

FM Broadcast Station in Coeur D'Alene, Idaho; Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making and order to show cause.

SUMMARY: This action proposes three assignment plans to provide additional FM service to Coeur D'Alene, Idaho, in response to a petition filed by Coeur Broadcasting, Inc. The first plan would assign two Class C channels to Coeur D'Alene and modify the existing Class A permit to one of the Class C channels. The second plan would assign one Class C channel. Under these two plans several existing FM assignments would be changed. The third plan would assign a second Class A channel to Coeur D'Alene.

DATES: Comments must be filed on or before April 7, 1980, and reply comments must be filed on or before April 28, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: February 6, 1980.

Released: February 19, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments,* FM Broadcast Stations. (Coeur D'Alene, Idaho), BC Docket No. 80-50, RM-3183.

1. Before the Commission is a petition for rulemaking [1] filed by Coeur Broadcasting, Inc. ("Coeur"), seeking the assignment of Class C FM Channel 270 to Coeur D'Alene, Idaho. The requested assignment would require shifts in existing assignments at Libby, Montana (substitute Channel 292A for Channel 269A); and Colfax, Washington (substitute Channel 237A for Channel 272A). The Colfax substitution would, in turn, require a change at Orofino, Idaho (substitute Channel 249A for Channel 237A). In addition, frequency changes for two noncommercial stations would be necessary at Spokane, Washington (substitute Channel 211D for 212D and substitute 215C for 216C).[2] Comments in opposition were received from 4-K Radio, Inc., permittee on the Orofino channel and from Adrian DeVries of AM Station KCLX, Colfax, Washington.

2. Coeur D'Alene (pop. 17,000), seat of Kootenai County (pop. 35,332),[3] is located in the narrow, northern tip of Idaho near its western border with Washington. It is 51 kilometers (32 miles) east of Spokane, Washington, and 420 kilometers (260 miles) east of Seattle, Washington. Present aural services licensed to the community are limited to fulltime AM Station KVNI. A construction permit for FM Channel 276A has been issued to the Idaho Broadcasting Company ("Idaho B/C") (BMPH-790627AK).[4]

3. Data submitted by petitioner indicates a dramatic increase in the area's population since the 1970 Census,[4] and a continuing trend for the dispersal of population increases to surrounding rural areas. Petitioner estimates the proposed assignment would provide a first FM service to 615 persons over 420 square kilometers (162 square miles) and would provide second FM service to 5,223 persons over 1,140 square kilometers (434 square miles). First nighttime aural service estimates are the same as the figures for first FM service, and second nighttime aural service would be provided to 2,854 persons over 1,024 square kilometers (394 square miles).

4. *Preclusion Considerations:* The proposed assignment would preclude 33 communities of over 1,000 population from using one or more of several FM channels: 268, 269A, 270, 271 and 272A. Seventeen of these communities have no FM assignments at present. Thus, petitioner should furnish information on possible alternative assignments available to the following communities, with population in parenthesis:

In Washington
- Cheney (6,718)
- Newport (1,525)
- Deer Park (1,296)
- Dayton (2,596)
- Pomeroy (1,823)

In Idaho
- Rathdrun (1,003)
- Kellogg (3,811)
- Mullan (1,279)
- St. Maries (2,571)
- Pierce (1,218)
- Priest River (1,493)
- Kamiah (1,307)

In Montana
- Troy (1,046)
- Plains (1,046)
- Polson (2,464)
- Thompson Falls (1,356)

In Oregon
- Union (1,531)

5. Petitioner has included letters from the two noncommercial educational Spokane stations, KPBX-FM and KWRS(FM). The letters indicate the licensees' willingness to shift frequencies if reimbursed under applicable Commission guidelines. In view of these statements of consent, we have not issued orders to show cause to these licensees. The channel substitutions proposed for Libby, Montana, and Colfax, Washington,

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[1] Public Notice of the petition was given on August 29, 1978, Rept. No. 1137.

[2] A letter from Wm. L. Weed, Jr., President of Radio Palouse, Inc., brought to our attention the need to substitute a channel for Channel 216C at Spokane.

[3] Population figures are taken from the 1970 U.S. Census.

[4] Clifford A. Nedved, President of Idaho Broadcasting Company, permittee for a station on Channel 276A, Coeur D'Alene, states his opposition to the petition because of the economic impact of a competing station in this city which, we are told, is adequately served.

affect unoccupied assignments. The licensee of Station KCLX(AM) in Colfax generally opposes the petition without specifying any detriment it or the general public will suffer as a result of the proposed substitution. The substitution at Orofino, Idaho, is opposed by the permittee (Station KLER(FM), 4–K Radio, Inc.), due to its financial commitments toward construction on Channel 237A and an alleged conflict of interest of a consultant who performed services for both 4–K Radio and the petitioner in this proceeding.

6. The grounds asserted in opposition to the channel shifts are without merit. Station KCLX(AM) has offered no specific basis whatever for its opposition to the Colfax shift, which involves a vacant assignment. As to 4–K Radio, Inc., its objection fails to suggest any public interest implication by its investment commitment to date, or indeed that any specific investments premised on the existing frequency assignment have been made. Any arrangement in this regard is a matter for private resolution. The danger to orderly administrative action on such rulemaking petitions, were we to delay them for resolution of private contractual disputes, is apparent. Of course, 4–K Radio would be reimbursed for any costs involved in the construction of the Orofino station by the eventual beneficiary of the channel change as finally adopted.

7. *Intermixture.* Class A FM Channel 276, presently assigned to Coeur D'Alene, is subject to an outstanding construction permit held by the Idaho Broadcasting company ("Idaho B/C"). As noted, population growth seems concentrated more in the outlying areas than in Coeur D'Alene proper, and a channel search by the Commission staff indicates that several additional Class C channels could be assigned to the community if conditioned on location of transmitting facilities at some distance.[5] Commission staff research also indicates the possibility of assigning several other Class A channels to Coeur D'Alene—Channels 221A, 269A, 272A and 296A.

8. We wish to explore the possibility of assigning one or more Class C channels to Coeur D'Alene in view of the first and second aural and FM services attainable by assignment of a higher-power facility. We are concerned with the intermixture result of assigning one Class C channel. Therefore, in accordance with our usual procedure in such cases, we shall propose two Class C assignments. This can only be possible by modifying the Class A permittee, Idaho B/C, to Channel 270 and assigning any of the other available Class C channels for the application process. The existing permittee would receive the first chance at Channel 270 so that it would not have to obtain another transmitter location. We would, under the circumstances, need a commitment from some interested person that any of the alternative Class C assignments set forth in footnote 5 would be applied for despite the considerable site restriction necessary. In this event, and in accordance with established procedure, Idaho B/C would be entitled to reimbursement for the frequency switch to Channel 270, but not for the necessary increases in power and height to comply with Class C requirements. See *Mitchell, S. Dak.*, 63 FCC 2d 70 (1976). We also desire comments from Idaho B/C on the possibility of modifying its license since we recognize that it may not have the resources or interest to upgrade its facilities to Class C status. In such case, we may wish, as a further alternative, to assign a second Class A channel to Coeur D'Alene instead.

9. We believe the optimum approach at this point is to propose the assignment of two Class C channels at Coeur D'Alene, rather than forego the obvious potential for improved spectrum utilization, and order Idaho B/C to show cause why its permit on Channel 276A should not be modified to specify operation on Channel 270. If this option were adopted, Idaho B/C would be required to share in the reimbursement for the changes in the two Spokane educational stations and the proposed Orofino station. We desire a response from Idaho B/C on its willingness to participate in the reimbursement. The other Class C licensee, when approved, would, of course, be equally responsible in Plan I (see Paragraph 10) and fully responsible in Plan II. If Idaho B/C elects continuation on its existing assignment, we can still assign Channel 270, but without the element of involuntary intermixture which the petition, as submitted, contemplates. We also wish to leave open the possibility of assigning a second Class A channel to Coeur D'Alene. Therefore, we shall make three alternative assignment plans. It should be noted that each of the proposed assignments would be located within 402 kilometers (250 miles) of the U.S.-Canada border and hence each proposal is contingent upon the Commission's obtaining Canadian approval.

10. Accordingly, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules, with regard to the communities listed below, as follows:

City	Channel No.	
	Present	Proposed
Plan I		
Coeur D'Alene, Idaho	276A	[6]270, 276A
Orofino, Idaho	237A	249A
Libby, Montana	269A	292A
Colfax, Washington	272A	237A
Plan II		
Coeur D'Alene, Idaho	276A	270, 291
Orofino, Idaho	237A	249A
Libby, Montana	269A	292A
Colfax, Washington	272A	237A
Plan III		
Coeur D'Alene, Idaho	276A	272A, 276A

[6] Although the assignment of Channel 268 would permit a transmitter location closer to Coeur D'Alene (see footnote 6, *supra*), that channel change could not be made if Channel 270 were assigned to Coeur D'Alene consistent with the mileage separation rules.

Because noncommercial FM assignments are not listed in a Table of Assignments, no rule amendment is needed for the substitution of Channel 215C for 216C and of 211D for 212D in Spokane, Washington.

11. It is further ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the construction permit of Idaho Broadcasting Company, authorizing construction of a facility to operate on Class A FM Channel 276 in Coeur D'Alene, Idaho, SHALL SHOW CAUSE why its permit should not be modified to specify operation on Class C FM Channel 270 if the Commission determines that the public interest would best be served by adopting the proposed assignments in Plan I.

12. Pursuant to § 1.87 of the Commission's rules and regulations, the permittee of Channel 276A in Coeur D'Alene, Idaho, may, not later than April 7, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, Idaho Broadcasting Company may, not later than April 7, 1980, file a written statement showing with particularity why its permit should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on Idaho Broadcasting Company to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the permit 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, the permittee will be deemed to consent to modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

[5] Other possible "drop-in" Class C channels include Channel 268 (53 kilometers (33 miles) southwest), Channel 291 (61 kilometers (39 miles) east), Channel 293 (66 kilometers (41 miles) southeast), and Channel 295 (67.5 kilometers (42 miles) southeast).

13. It is further ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, 4–K Radio, Inc., permittee of Station KLER(FM), Orofino, Idaho, shall show cause why its permit should not be modified to specify operation on Channel 249A, if the Commission determines that the public interest will best be served by adopting the proposed assignments.

14. Pursuant to § 1.87 of the Commission's rules and regulations, the permittee of Station KLER(FM), Orofino, Idaho, may, not later than April 7, 1980, request that a hearing be held on the proposed modification. Pursuant to § 1.87(f), if the right to request a hearing is waived, the permittee may, not later than April 7, 1980, file a written statement showing with particularity why its permit should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on KLER(FM) to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the permit 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, the permittee will be deemed to consent to modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the channel changes in Plans I or II mentioned above are found to be in the public interest.

15. It is ordered, that the Secretary of the Commission shall send a copy of this Order by Certified Mail, Return Receipt Requested, to Spokane Broadcasting Associates, Box 8315, Spokane, Washington 99203; Whitworth College, Spokane, Washington 99251; 4–K Radio, Inc., Box 32, Orofino, Idaho 83549; and Idaho Broadcasting Company, c/o East 2500 Spraque, Spokane, Washington 99202, the parties whose licenses are to be modified.

16. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

17. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

18. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

[BC Docket No. 80–50 RM–3183]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, Section 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular businesses hours in the Commission's Public Reference Room at its headquarters, 1919 M Street NW., Washington, D.C.

[FR Doc. 80–5869 Filed 2–25–80; 8:45 am]

BILLING CODE 6712–01–M

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47 CFR Part 73

[BC Docket No. 80–45; RM–3491]

Television Broadcast Station in Lexington, Ky.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes to assign UHF television Channel 62 to Lexington, Kentucky, in response to a request filed by Frederic Gregg, Jr. This assignment would provide for a fourth local commercial television station at Lexington.

DATES: Comments must be filed on or before April 7, 1980. Reply comments must be filed on or before April 28, 1980.

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

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

SUPPLEMENTARY INFORMATION:

[BC Docket No. 80–45 RM–3491]

Adopted: February 6, 1980.

Released: February 15, 1980.

In the matter of amendment of § 73.606(b), Table of Assignments, Television Broadcast Stations (Lexington, Kentucky).

By the Chief, Policy and Rules Division:

1. *Petitioner, Proposal, Comments:* (a) *Notice of Proposed Rule Making* is given concerning amendment of the Television Table of Assignments (Section 73.606(b) of the Commission's Rules) as it relates to Lexington, Kentucky.

(b) A petition for rule making [1] was filed by Frederic Gregg, Jr., in

[1] Public Notice of the petition was given on September 19, 1979, Rept. No. 1192.

connection with Docket 21392 which deleted UHF Channel 62 from Lexington, Kentucky, *Report and Order*, released April 26, 1979. This petition proposes the reinstatement of Channel 62 to Lexington as its fourth commercial assignment. Kentucky Family Broadcasting and Famtel, Inc., filed supporting comments.

(c) Channel 62 can be assigned to Lexington with no site restriction, in compliance with the Commission's minimum distance separation requirements.

(d) Petitioner states he will apply for the channel, if assigned.

2. *Community Data:* (a) *Location:* Lexington, in Fayette County, is located approximately 115 kilometers (70 miles) east of Louisville.

(b) *Population:* Lexington—108,137 [2]; Fayette County—174,323.

(c) *Local Television Broadcast Service:* Stations WLEX–TV (Channel 18), WKYT–TV (Channel 27); WTVQ–TV (Channel 36) and WKLE (Channel *46).

3. *Economic Data:* Lexington is a major industrial area with universities and hospitals. It has experienced steady population and economic growth. In support, the comments point out that reactivation of Channel 62 would provide diversity in the UHF spectrum and an opportunity to meet the growing need by providing for a first local independent television service.

4. In view of the apparent need for a fourth commercial television station in Lexington, the Commission proposes to amend the Table of Television Assignments (Section 73.606(b) of the Commission's Rules), as it pertains to Lexington, Kentucky:

City	Channel No.	
	Present	Proposed
Lexington, Ky..	18+, 27–, 36, *46	18+, 27–, 36, *46, 62

5. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *Note:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

6. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

7. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the TV Table of Assignments, Section 73.606(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission's Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80–5876 Filed 2–25–80; 8:45 am]

BILLING CODE 6712–01–M

[2] Population figures are taken from the 1970 U.S. Census.

47 CFR PART 73

[BC Docket No. 80–51; RM–3218]

FM Broadcast Station in Chatham, Mass.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: This action proposes the assignment of FM Channel 298 to Chatham, Massachusetts, as its first FM channel assignment, in reponse to a petition filed by Rosemary D. Nelson. The Class B proposal is consistent with other assignments made in the Cape Code Peninsula.

DATES: Comments must be filed on or before April 7, 1980, and reply comments must be filed on or before April 28, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mark N. Lipp or Ira H. Smart, Broadcast Bureau, (202) 632–7792, or (202) 632–6302.

SUPPLEMENTARY INFORMATION:

[BC Docket No. 80–51, RM–3218]

Adopted: February 6, 1980

Released: February 19, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Chatham, Massachusetts).

1. The Commission has before it for consideration a petition for rule making,[1] filed by Rosemary D. Nelson ("petitioner"), seeking the assignment of FM Channel 298 to Chatham, Massachusetts, as its first FM

[1] Public Notice of the petition was given on October 13, 1978, Rept. No. 1145.

assignment. Channel 298 can be assigned to Chatham in compliance with the minimum distance separation requirements. Oppositions were filed by Park City Communications of Massachusetts, Inc. ("Park"), licensee of FM Station WAAF, Worcester, Massachusetts; Harbinger Broadcasting Co., Inc. ("Harbinger"), licensee of FM Station WCOD–FM, Hyannis, Massachusetts; Stereo Corporation ("Stereo"), licensee of FM Station WBLM, Lewiston, Maine; Central Vermont Radio Corporation ("Central"), licensee of Stations WOCB and WOCB–FM, West Yarmouth, Massachusetts, and Seashore Broadcasting Co., Inc., licensee of Stations WVLC and WLOM, Orleans, Mass. Petitioner filed reply comments.

2. Chatham (pop. 4,554) is located in Barnstable County (pop. 96,656),[2] on the Cape Cod Peninsula, approximately 110 kilometers (70 miles) from Boston. Petitioner provides data from the Massachusetts Department of Commerce which indicates that the summer population for Chatham and Barnstable County swells to 25,000 and 501,800, respectively. Chatham has no local aural service.

3. Petitioner states that while Chatham's primary source of revenue is derived from tourism and seasonally related activities, other major sources of revenue stem from Chatham's well known cranberry bogs and fishing trade. Petitioner adds that a number of Chatham residents are employed by nearby RCA Global Communications. It contends that neither Cape Cod's seven FM stations and two AM stations nor Boston's stations satisfy Chatham's need for its own local transmission outlet. Although petitioner recognizes Chatham's population warrants a Class A assignment, it requests a Class B channel to better serve the special local needs and interests of the Chatham and lower Cape area. It argues that a Class B assignment would be more appropriate given the town's summer population explosion coupled with the fact that all other commercial FM assignments to Cape Cod are Class B channels. Finally, petitioner iterates its intention to apply for the channel, if assigned.

4. Preclusion will occur on two channels (296A and 298), affecting six communities of over 1,000 population, according to petitioner. Of the six towns, three have no local aural service.[3] Petitioner has shown that alternate channels are available for assignment to these communities.

5. In opposition, Central, Stereo, Harbinger, Seashore and Park argue that Cape Cod is already adequately served by surrounding broadcast outlets. They also contend that no suitable site is available for the erection of an antenna. Nevertheless, they assert Chatham's community size warrants a Class A assignment rather than the Class B. Stereo, in particular, opposed the proposal because it has a reconsideration request pending on an application to change the classification of its station from a Class B to a Class C channel. However, a staff study shows that the assignment of Channel 298 to Chatham would not preclude the change requested by Stereo. Also, a pending petition for Channel 296A in Conway, New Hampshire (RM–3301) would disallow such a change. Therefore, the change requested by Stereo for Lewiston, Maine, is not a consideration here.

6. In reply comments, petitioner indicated that it personally investigated the sites available near Chatham, and has identified a number of suitable locations. It asserts that the opposition comments are really concerned with the competitive impact of another signal on their own profit making opportunities. Petitioner cited *Beaverton, Michigan,*[4] to show that even though Chatham is served by surrounding stations, the service is considered secondary and does not meet the needs of the Chatham community in the same manner as a station licensed to Chatham itself. Petitioner also contends that a Class A assignment to Chatham would be inequitable given that Class B channels were assigned to five other Cape Cod communities with population patterns akin to Chatham's. Petitioner states that a Class A assignment would put the station at such a competitive disadvantage that it would most certainly fail. It argues that given the recent growth in Chatham's population explosion experienced during the summer, a Class B channel assignment to Chatham offers the best opportunity for initiation of a first local transmission service.

7. We have given careful consideration to the proposal and believe it would be in the public interest to propose the requested channel for Chatham. Certainly it has been shown that Chatham warrants its own FM assignment. However, the general policy of the Commission is to assign a Class B channel to larger communities. Although a showing of a need for wide area service is generally required, the situation here is more akin to that in the case of *Cape Charles, Virginia,* 43 FR 6606 (Dkt. 21355) (1978). In that case the Commission was concerned with the DelMarVa Peninsula. That area has few population centers and to insure effective service to each of the major communities in the region, Class B channels were assigned. Here, the channels that have been assigned to the major communities in the area are all Class B—West Yarmouth, Orleans, Hyannis, Barnstable and Falmouth. The opponents' concern for upholding our policy of assigning Class B channels to larger communities is recognized. However, we believe that the issuance of this proposal is warranted by established precedent.

8. Accordingly, the Commission proposes to amend § 73.202(b) of the Commission's rules, the FM Table of Assignments, as follows:

City	Channel No.	
	Present	Proposed
Chatham, Massachusetts		298

9. Authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix below and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 before a channel will be assigned.

10. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

11. For further information concerning this proceeding, contact Mark N. Lipp or Ira H. Smart, Broadcast Bureau, (202) 632–7792 or (202) 632–6302. However, members of the public should note that from the time a notice of proposed rule making is issued until it is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

[2] Population data are taken from the 1970 U.S. Census.

[3] The communities are Eastham (pop. 2,043), Wellfleet (1,743) and Truro (1,234).

[4] 43 Fed. Reg. 39388 (Dkt. 78–139), 44 RR 2d 55, 57 (1978).

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-5867 Filed 2-25-80; 8:45 am]

BILLING CODE 6712-01-M

47 CFR PART 73

[BC Docket No. 80-49; RM-3251]

FM Broadcast Station in Ackerman, Miss.; Proposed Change in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: Action taken herein proposes to assign a Class C channel to Ackerman, Mississippi, in response to a petition filed by H. Richard Cannon. The assignment would provide for a first local FM service and for first and second services to outlying areas.

DATES: Comments must be filed on or before April 7, 1980, and reply comments must be filed on or before April 28, 1980.

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

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

SUPPLEMENTARY INFORMATION:

[BC Docket No. 80-49, RM-3251]

Adopted: February 6, 1980.

Released: February 15, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Ackerman, Mississippi).

1. *Petitioner, Proposal, Comments*—(a) *Notice of Proposed Rule Making* is given concerning amendment of the FM Table of Assignments (§ 73.202(b) of the Commission's rules) as it relates to Ackerman, Mississippi.

(b) A petition for rule making [1] was filed by H. Richard Cannon ("petitioner"), proposing the assignment of Class C FM Channel 300 to Ackerman, Mississippi, as that community's first FM assignment. The Louisville Broadcasting Company ("Louisville"), licensee of Stations WLSM(AM) and WLSM-FM in Louisville, Mississippi, filed an opposition to the petition, to which petitioner filed a reply.

(c) Channel 300 can be assigned to Ackerman in compliance with the minimum distance separation requirements.

(d) Petitioner states he will apply for the channel, if assigned.

2. *Community Data*—(a) *Location.* Ackerman, seat of Choctaw County, is located approximately 147 kilometers (92 miles) northeast of Jackson, Mississippi.

(b) *Population.* Ackerman—1,502 [2]; Choctaw County—8,440.

(c) *Local Aural Broadcast Service.* None.

3. *Economic Data.* Petitioner states that Ackerman is the largest city in Choctaw County, and its center for commerce, government, and tourism. Sufficient demographic data has been presented to show that an FM channel should be assigned to the area to provide Ackerman and Choctaw County with a needed first aural service. Petitioner argues that a Class C assignment is justified at Ackerman because there are no communities with an FM station within 15 miles and service is needed to outlying rural areas. Petitioner demonstrated in this regard that 355 persons in an area of approximately 65 square kilometers (25 square miles) would receive a first FM and nighttime aural service and 19,606 persons in an area of approximately 2,000 square kilometers (785 square miles) would receive a second FM service. In addition, 12,391 persons in approximately the same area (as the second FM service) would receive a second nighttime aural service.

4. Louisville claims in its opposition that in accordance with Commission policy a Class C assignment is not warranted to this small community and that petitioner failed to indicate whether a Class A assignment is available. Further, in view of the restricted transmitter siting, 26 kilometers (16 miles) west of Ackerman, Louisville alleges that a local service for Ackerman is not truly sought.

5. In response, petitioner states that Ackerman is an exception to the normal practice of assigning Class A channels to small communities. He cites cases such as *Baxley, Georgia*, 43 FR 4611 (1978) and *Burlington, Colorado*, 43 FR 4613 (1978), which state that where a Class C channel could bring a significant amount of first or second FM service or where a Class C channel represents the best means of serving a sparsely populated area, it should be assigned.

6. In this case, studies show that a Class C station would provide some first FM and nighttime aural service and a substantial second FM and nighttime aural service. In our opinion, this factor

[1] Public Notice of the petition was given on December 6, 1978, Rept. No. 1154.

[2] Population figures are taken from the 1970 U.S. Census.

warrants our consideration of a Class C assignment despite Ackerman's small population. The fact that a remote transmitter site is proposed does not lead us to the conclusion that the needs of Ackerman and Choctaw County would not be served by assigning Channel 300 to Ackerman.

7. In view of the apparent need for a first local aural broadcast service in Ackerman and the first and second services to be provided, the Commission proposes to amend the FM Table of Assignments, § 73.202(b) of the rules, as it pertains to Ackerman, Mississippi:

City	Channel No.	
	Present	Proposed
Ackerman, Mississippi	.....	300

8. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note.—A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

9. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

10. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632–7792. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of the Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-5870 Filed 2-25-80; 8:45 am]

BILLING CODE 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-52; RM-3219]

FM Broadcast Station in Bridgeport, Nebr.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class C FM channel to Bridgeport, Nebraska, as that community's first FM assignment, in response to a petition filed by Media, Inc. The proposed channel could bring first and second FM, as well as first and second aural service to a substantial area surrounding Bridgeport.

DATES: Comments must be filed on or before April 7, 1980, and reply comments on or before April 28, 1980.

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

FOR FURTHER INFORMATION CONTACT: Mildred B. Nesterak, Broadcast Bureau, (202) 632–9660.

SUPPLEMENTARY INFORMATION:

Adopted: February 6, 1980.

Released: February 15, 1980.

In the matter of amendment of § 73.202(b), *Table of Assignments*, FM Broadcast Stations. (Bridgeport, Nebraska), BC Docket No. 80–52, RM–3219.

1. The Commission has before it for consideration a petition for rule making [1] filed by Media, Inc. ("petitioner"), which requests the assignment of Class C Channel 267 to Bridgeport, Nebraska. An opposition was submitted by Tracy Corporation ("Tracy"), licensee of FM Station KMOR in Scottsbluff, Nebraska, to which petitioner responded. The proposed channel can be assigned to Bridgeport in conformity with the minimum distance separation requirements.

2. Bridgeport (pop. 1,490),[2] seat of Morrill County (pop. 5,813), is located approximately 48 kilometers (30 miles) southeast of Scottsbluff, Nebraska. Bridgeport has no local aural broadcast service.

3. Petitioner states that Bridgeport is the largest community in Morrill County. It notes that the surrounding counties stretch over a vast agricultural expanse for which Bridgeport serves as the center of commerce. Petitioner adds that Bridgeport is a growing community in a growing county and serves as the transportation hub for highways and railroads in addition to being a stopping place for a large tourist industry which frequents the lakes to the west. It claims that the area will continue to grow during the next 10 years with a stable agricultural economy as its base. Petitioner asserts that Morrill County and contiguous counties are large,

[1] Public Notice of the petition was given on October 13, 1978, Rept. No. 1145.

[2] Population figures were taken from the 1970 U.S. Census.

sparsely populated rural areas and notes that Bridgeport and Morrill County have no AM stations or FM channels. It adds that while Bridgeport and western Morrill County receive service from two AM and one FM stations, none is capable of serving eastern Morrill County. In its *Roanoke Rapids/ Anamosa* study, petitioner shows that a Class C station operating with 100 kW power at an antenna height of 30.5 meters (100 feet) AAT, would provide a first FM service to 4,842 persons in a 5,789 square kilometer (2,235 square miles) area, a second FM service to 21,110 persons in a 3,346 square kilometer (1,292 square miles) area. The proposed station would also provide a first nighttime aural service to 3,626 persons in a 5,157 square kilometer (1,991 square miles) area and a second nighttime aural service to 2,409 persons in a 1,945 square kilometer (751 square miles) area. It points out that were a Class A channel assigned to Bridgeport, the first service area would decrease substantially.

4. In opposition, Tracy argues that the assignment of a Class C channel to Bridgeport would be contrary to the Commission's policy governing FM channel allocations, and that petitioner has offered no real evidence to support an exception to this policy. Tracy contends that Bridgeport and the surrounding area are not growing, but have declined substantially in population, citing 1960 and 1970 population figures from the U.S. Census.[3] It also asserts that petitioner has not shown that there are actually any people in the proposed first or second service areas since the region is rural. Tracy claims that its station (KMOR(FM)) in Scottsbluff adequately serves Bridgeport and Morrill County. We are also told by Tracy that if a Class A channel were proposed for Bridgeport instead, it would not oppose the assignment.

5. In response, petitioner argues that it has shown the proposed channel would be a first local FM assignment at Bridgeport thereby satisfying the Commission's policy to provide each community with at least one FM broadcast station. Petitioner asserts that although Tracy contends that Bridgeport and surrounding areas are not growing, petitioner's regional population growth figures are based on U.S. Census data for 1970 and 1975, whereas Tracy relied on figures between 1960 and 1970. As for Tracy's statement that no identifiable population was shown which would receive first and second service from the proposed assignment, petitioner asserts that it specifically listed the population centers as well as rural populations which would receive first or second service. Petitioner notes that there have been numerous cases in which the Commission has assigned Class C channels to small communities when a demonstration of a substantial population receiving first and second service has been made.[4]

6. *Preclusion Studies:* Preclusion would occur on Channels 265, 266, 267, 268, 269, and 270. Channel 264 is already precluded by existing assignments. Twenty-three communities of over 1,000 population area located in one or more of the newly precluded areas. Of these, thirteen have no local aural service, as follows:

Community	Population	Channels precluded
Chappell, NE	1,204	256 and 269A.
Oshkosh, NE	1,067	265A, 268, 269A, and 270.
Crawford, NE	1,291	266 and 267.
Rushville, NE	1,137	266 and 267.
Gering, NE	5,639	267 and 269A.
Bayard, NE	1,338	267 and 269A.
Grant NE	1,099	268.
Edgemont, SD	1,174	266 and 267.
Martin, SD	1,248	266.
Custer, SD	1,597	266, 267, and 268.
Pine Ridge, SD	2,768	266 and 267.
Julesburg, CO	1,578	269A.
Glenrock, WY	1,515	267.

Petitioner states that at the very least, the following alternate channels—295, 296A, 297, 298, 299 and 300, are available for the precluded areas.

7. Based on an examination of petitioner's proposal, there appears to be a basis for considering an exception to our general policy of assigning Class C channels only to a larger community. The proposed assignement of an FM channel to this small isolated community could provide for substantial first and second broadcast services to people residing in the sparsely populated areas. The extent of these services would decrease significantly if a Class A channel were assigned.

8. Accordingly, the Commission proposed to amend the FM Table of Assignments (§ 73.202(b) of the Commission's rules) with regard to Bridgeport, Nebraska, as follows:

City	Channel No.	
	Present	Proposed
Bridgeport, Nebraska		267

9. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures, and filing requirements are contained in the attached Appendix and are incorporated by reference herein.

Note: A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

10. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

11. For further information concerning this proceeding, contact Mildred B. Nesterak, Broadcast Bureau, (202) 632-9660. However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division Broadcast Bureau.

Appendix

[BC Docket No. 80-52 RM-3219]

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303 (g) and (r), and 307(b) of the Communications Act of 1934, as amended, and § 0.281(b)(6) of the Commission's rules, it is proposed to amend the FM Table of Assignments, § 73.202(b) of the Commission's rules and regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

2. *Showings required.* Comments are invited on the proposal(s) discussed in the Notice of Proposed Rule Making to which this Appendix is attached. Proponent(s) will be expected to answer whatever questions are presented in initial comments. The proponent of a proposed assignment is also expected to file comments even if it only resubmits or incorporates by reference its former pleadings. It should also restate its present intention to apply for the channel if it is assigned, and, if authorized, to build the station promptly. Failure to file may lead to denial of the request.

3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

[3] Tracy filed a supplement to its opposition submitting additional and updated population figures on Bridgeport and surroundings. Since this data raises no new issues and is helpful in our consideration, we have accepted the pleading.

[4] Petitioner cites: *Forsythe, Montana* (Dkt. 21277), 42 Fed. Reg. 57689, 41 RR 2d 1208 (1977); *Florence, Oregon* (Dkt. 21200), 42 Fed. Reg. 40210, 41 RR 2d 295 (1977); and *Paso Robles, California* (Dkt. 20474), 40 Fed. Reg. 52028, 35 RR 2d 639 (1975).

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in §§ 1.415 and 1.420 of the Commission's rules and regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420 (a), (b) and (c) of the Commission rules.)

5. *Number of copies.* In accordance with the provisions of § 1.420 of the Commission's rules and regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-5866 Filed 2-25-80; 8:45 am]

BILLING CODE: 6712-01-M

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47 CFR Part 73

[BC Docket No. 80-47; RM-3260]

FM Broadcast Stations in Westover and Grafton, W. Va.; Proposed Changes in Table of Assignments

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rule making.

SUMMARY: Action taken herein proposes the assignment of a Class A FM channel at Westover, West Virginia, as a first FM assignment to that community, in response to a petition filed by Craig L. Falkenstine. In order to make this proposal, it also was necessary to propose a substitution of Class A channels at Grafton, West Virgina. This proposed action could provide for a first local aural broadcast service in Westover, West Virginia.

DATES: Comments must be filed on or before April 7, 1980, and reply comments must be filed on or before April 28, 1980.

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

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

SUPPLEMENTARY INFORMATION:

Adopted: February 6, 1980.
Released: February 15, 1980.

In the Matter of Amendment of § 73.202(b), Table of Assignments, FM Broadcast Stations. (Westover and Grafton, West Virginia).

By the Chief, Policy and Rules Division:

1. The Commission has before it a petition for rule making [1] filed by Craig L. Falkenstine ("petitioner"), proposing the assignment of FM Channel 265A to Westover, West Virginia, as a first FM assignment, and the substitution of Channel 240A for 265A at Grafton, West Virginia. Several letters supporting the proposal were attached to the petition. A timely opposition was filed by Freed Broadcasting Co. ("Freed"), licensee of Stations WCLG(AM) and WCLG-FM, Morgantown, West Virgina. Petitioner filed a reply.

2. Westover (pop. 5,086),[2] in Monongahela County (pop. 63,714), is located approximately 56 kilometers (35 miles) west of Baltimore, Maryland, and 80 kilometers (50 miles) west of Harrisburg, Pennsylvania. Westover has no local aural broadcast service.

3. Petitioner states that new developments in the use of coal deposits in the area will probably result in a substantial increase in population at Westover and nearby areas in the next few years. Petitioner has submitted a community profile of Westover and letters from the community leaders emphasizing the need for a local outlet.

4. Freed asserts that since Westover is within the Morgantown metropolitan area, which is presently being served by four aural broadcast services, it is receiving ample service. Freed also alleges that due to the small size of Westover, it is highly likely that any applicant for the proposed radio station would have to actively solicit advertising from the Morgantown community and would be forced to emphasize Morgantown in its news and public affairs programming.

5. In the reply, petitioner argues that an economic justification is not needed to support the requested assignment since it has been shown that Westover is a community with a separate identity and with no local outlet. Petitioner urges that the Commission defer consideration of the suburban community issue for the application stage.

6. Channel 265A may be assigned to Westover without causing any new preclusion. The substitution of Channel 240A at Grafton will cause preclusion on Channels 239, 240A and 243. The following eight communities (all in West Virginia) have no local commercial aural service and would be affected by the assignment. Also listed are their populations: Salem (pop. 2,598); Mannington (2,747); Parsons (1,784); Shinnston (2,576); Petersburg (2,177); Romney (2,364); Moorefield (2,124); and Philippi (3,002).

7. As for the suburban community issue, it has been our policy to give consideration to requests for Class A assignments to the smaller community with no local service as long as it can be shown that there are separate needs and interests. In such cases, we recognize the fact that the larger community would also receive a city-grade signal. See *Brewer, Maine,* 43 Fed. Reg. 14965 (1978) (Dkt. 20901).

8. A construction permit has been issued for the Grafton channel to Conti Broadcasting, Inc., for Station WQIT-FM. It will be necessary to issue a show cause order to Conti Broadcasting, Inc. (see para. 10, *infra*) to permit modification of its construction permit to Channel 240A as proposed. In the event of a modification, Conti Broadcasting, Inc. will be entitled to reimbursement for the reasonable costs of conversion to the new channel in accordance with established commission policy. See *Circleville, Ohio,* 8 FCC 2d 159 (1967). Thus, petitioner should indicate its willingness to reimburse Conti Broadcasting, Inc., in the event petitioner is the ultimate permittee of the proposed Westover assignment.

9. In view of the apparent need for a first FM assignment at Westover, West Virginia, the Commission believes that consideration of the proposal described above would be in the public interest. Accordingly, the Commission proposes to amend the FM Table of Assignments, Section 73.202(b) of the Commission's Rules, with regard to the communities below, as follows:

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[1] Public Notice of the petition was given on December 6, 1978, Report No. 1154.

[2] Population figures are taken from the 1970 U.S. Census.

City	Channel No.	
	Present	Proposed
Westover, West Virginia		265A
Grafton, West Virginia	265A	240A

10. It is ordered, that pursuant to Section 316(a) of the Communications Act of 1934, as amended, the permittee of Station WQIT(FM), for Channel 265A, Conti Broadcasting, Inc., Grafton, West Virginia, SHALL SHOW CAUSE why its permit should not be modified to specify operation on Channel 240A if the Commission determines that the public interest would best be served by adopting the proposed assignments.

11. Pursuant to Section 1.87 of the Commission's Rules and Regulations, the permittee of Station WQIT(FM), Grafton, West Virginia, may not later than April 7, 1980, request that a hearing be held on the proposed modification. Pursuant to Section 1.87(f), if the right to request a hearing is waived, WQIT(FM) may, not later than 1980, file a written statement showing with particularity why its permit should not be modified as proposed in the *Order to Show Cause*. In this case, the Commission may call on WQIT(FM) to furnish additional information, designate the matter for hearing, or issue, without further proceedings, an Order modifying the permit 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, WQIT(FM) will be deemed to consent to modification as proposed in the *Order to Show Cause* and a final Order will be issued by the Commission, if the channel changes mentioned above are found to be in the public interest.

12. The Commission's authority to institute rule making proceedings, showings required, cut-off procedures and filing requirements are contained in the attached Appendix and are incorporated by reference herein. *NOTE:* A showing of continuing interest is required by paragraph 2 of the Appendix before a channel will be assigned.

13. Interested parties may file comments on or before April 7, 1980, and reply comments on or before April 28, 1980.

14. It is further ordered, that the Secretary of the Commission shall send a copy of this Order by certified mail return receipt requested to Conti Broadcasting, Inc., 1212 Kingsmill Road, Aliquippa, Pennsylvania 15001, the party to whom the *Order to Show Cause* is directed.

15. For further information concerning this proceeding, contact Mark N. Lipp, Broadcast Bureau, (202) 632-7792.

However, members of the public should note that from the time a notice of proposed rule making is issued until the matter is no longer subject to Commission consideration or court review, all *ex parte* contacts are prohibited in Commission proceedings, such as this one, which involve channel assignments. An *ex parte* contact is a message (spoken or written) concerning the merits of a pending rule making other than comments officially filed at the Commission or oral presentation required by the Commission.

Federal Communications Commission.

Henry L. Baumann,

Chief, Policy and Rules Division, Broadcast Bureau.

Appendix

1. Pursuant to authority found in Sections 4(i), 5(d)(1), 303(g) and (r), and 307(b) of the Communications Act of 1934, as amended, and Section 0.281(b)(6) of the Commission's Rules, IT IS PROPOSED TO AMEND the FM Table of Assignments, Section 73.202(b) of the Commission's Rules and Regulations, as set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached.

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3. *Cut-off procedures.* The following procedures will govern the consideration of filings in this proceeding.

(a) Counterproposals advanced in this proceeding itself will be considered, if advanced in initial comments, so that parties may comment on them in reply comments. They will not be considered if advanced in reply comments. (See § 1.420(d) of Commission Rules.)

(b) With respect to petitions for rule making which conflict with the proposal(s) in this Notice, they will be considered as comments in the proceeding, and Public Notice to this effect will be given as long as they are filed before the date for filing initial comments herein. If they are filed later than that, they will not be considered in connection with the decision in this docket.

4. *Comments and reply comments; service.* Pursuant to applicable procedures set out in Sections 1.415 and 1.420 of the Commission's Rules and Regulations, interested parties may file comments and reply comments on or before the dates set forth in the *Notice of Proposed Rule Making* to which this Appendix is attached. All submissions by parties to this proceeding or persons acting on behalf of such parties must be made in written comments, reply comments, or other appropriate pleadings. Comments shall be served on the petitioner by the person filing the comments. Reply comments shall be served on the person(s) who filed comments to which the reply is directed. Such comments and reply comments shall be accompanied by a certificate of service. (See § 1.420(a), (b) and (c) of the Commission Rules.)

5. *Number of copies.* In accordance with the provisions of Section 1.420 of the Commission's Rules and Regulations, an original and four copies of all comments, reply comments, pleadings, briefs, or other documents shall be furnished the Commission.

6. *Public inspection of filings.* All filings made in this proceeding will be available for examination by interested parties during regular business hours in the Commission's Public Reference Room at its headquarters, 1919 M Street, N.W., Washington, D.C.

[FR Doc. 80-5873 Filed 2-25-80; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 680

Gulf of Mexico Fishery Management Council; Correction of Notice of Public Hearing

AGENCY: National Oceanic and Atmospheric Administration/ Commerce.

ACTION: Change in location and date of public hearing.

SUMMARY: On February 12, 1980, a notice in the **Federal Register** (45 FR 9303-9304) announced public hearings on the Draft Environmental Impact Statement/Fishery Management Plan (DEIS/FMP) for Coastal Migratory Pelagic Resources (mackerel). The notice has been changed as follows:

HEARING LOCATION: The hearing scheduled for March 19, 1980, at the Maplewood Junior High School in Sulphur, Louisiana, will now be held at the Downtowner Motor Inn, 507 N. Lakeshore Drive, Lake Charles, Louisiana.

FOR FURTHER INFORMATION CONTACT: Wayne E. Swingle, Executive Director, Gulf of Mexico Fishery Management Council, Lincoln Center, Suite 881, 5401 West Kennedy Boulevard, Tampa, Florida 22609, (813) (228-2815).

Dated: February 19, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-5958 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

50 CFR Part 655

Squid Fishery of the Northwest Atlantic; Notice of Intent To Reallocate Atlantic Squid

AGENCY: National Oceanic and Atmospheric Administration (NOAA)/ Commerce.

ACTION: Notice of intent to reallocate squid.

SUMMARY: The Assistant Administrator for Fisheries, NOAA, intends to reallocate unharvested *Illex* and *Loligo* squid from the annual domestic quotas to the annual quotas established for fishing vessels of foreign nations. It is proposed that these genera of squid would be reallocated in the following manner: (1) the annual domestic quota for *Illex* would be reduced from 10,000 metric tons (mt) to 5,270 mt and the annual foreign quota would be increased from 20,000 mt to 24,730 mt; and (2) the annual domestic quota for *Loligo* would be reduced from 14,000 mt tons to 8,500 mt and the foreign quota would be increased from 30,000 mt to 35,500 mt. These allocations would be only for the fishing year 1979–1980 and would expire on March 31, 1980.

DATES: Public comment on this intent to reallocate is invited for 15 days. All comments must be in writing and received on or before March 12, 1980.

ADDRESS: All comments concerning this intended reallocation should be sent to the person listed below. Mark "Comments on Squid Reallocation" on the outside of the envelope.

FOR FURTHER INFORMATION CONTACT: Mr. Allen E. Peterson, Jr., Regional Director, Northeast Region, National Marine Fisheries Service, 14 Elm Street, Gloucester, Massachusetts 01930; telephone (617) 281–3600.

SUPPLEMENTARY INFORMATION: Domestic and foreign fishing for *Illex* (short-finned) and *Loligo* (long-finned) squid in the Atlantic portion of the fishery conservation zone of the United States is managed in accordance with the Fishery Management Plan for the Squid Fishery of the Northwest Atlantic Ocean (FMP). This FMP was prepared by the Mid-Atlantic Fishery Management Council (Council) and approved by the Assistant Administrator for Fisheries under authority of the Fishery Conservation and Management Act of 1976 as amended, 16 U.S.C. 1801 *et seq.*

Final regulations implementing the FMP were published on December 31, 1979 (44 FR 77174) and became effective on January 1, 1980. These regulations established foreign and domestic quotas for *Illex* and *Loligo* for the fishing year 1979–1980 (April 1, 1979–March 31, 1980). Section 655.22 sets forth the procedure to be followed in making reallocations to the foreign fishery of those portions of the domestic quotas for both genera that will not be harvested during the fishing year.

The Assistant Administrator has reviewed preliminary data on domestic landings of *Illex* and *Loligo* squid collected by the National Marine Fisheries Services' Statistics Branch. Based on these statistics he has determined that the domestic harvest of *Illex* from April 1, 1979 to August 31, 1979 was 539 mt and that the domestic harvest of *Loligo* from April 1, 1979 to September 30, 1979 was 3,000 mt. These domestic landings are less than 40 percent of the annual domestic quota for *Illex* (10,000 mt) and less than 50 percent of the annual domestic quota for *Loligo* (14,000 mt). Therefore, the Assistant Administrator intends to reallocate portions of the unharvested annual domestic quotas to the annual foreign quotas.

The amounts of squid which he intends to reallocate are 4,730 mt of *Illex* and 5,500 mt of *Loligo*. These quantities were determined by taking the reported domestic landings and subtracting them from the projected domestic annual harvest, and then taking 50 percent of that amount as prescribed in § 655.22. During the 15-day public comment period, the Assistant Administrator will consult with the Squid Committee of the Council to determine whether the proposed reallocations are consistent with the objectives of the FMP.

The National Oceanic and Atmospheric Administration has determined that this action is not a major Federal action significantly affecting the quality of the human environment, and therefore is not subject to the provisions of the National Environmental Policy Act. This action is not subject to the provisions of Executive Order 12044.

Signed at Washington, D.C. this 15th day of February, 1980.

Authority: 16 U.S.C. 1801 *et seq.*

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-5957 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

Notices

Federal Register
Vol. 45, No. 39
Tuesday, February 26, 1980

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.

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

Equine Piroplasmosis Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this document is to give notice of a panel to hold a public meeting and solicit comments from experts that have had personal experience with Equine Piroplasmosis (EP), a communicable disease of equidae. This action is being taken to obtain more scientific information concerning this disease.

PLACE, DATE AND TIME OF MEETING: Terrapin Room, Quality Inn, 7200 Baltimore Avenue, College Park, MD. 20704., Tuesday, March 18th, 1980, from 1:00 to 5:00 p.m., Wednesday, March 19, from 8:00 a.m. to 4:30 p.m.

SUPPLEMENTAL INFORMATION: On Friday, February 15, 1980, there was published in the **Federal Register** a notice of the Department's intent to form a panel to investigate Equine Piroplasmosis (EP), a communicable disease of equidae. The Department has determined that the panel members will be Dr. M. J. Tillery, Chairman; Dr. John F. Hyde; Dr. R. P. Jones; Dr. Earl Mackery and Dr. Phillip O'Berry.

The panel will hold a public meeting and solicit specific comments from experts who have had personal experience with the disease, regarding the nature of the disease and the potential impacts of removing the negative test reguirement for EP from the regulations. Opportunity for additional comments on these issues will be provided for the public. Opportunity to comment will be afforded first to those persons who, prior to or at the time of their appearance at the meeting, submit such comments in writing, for the panel's consideration and the record. Subsequent to the conclusion of the meeting the panel will develop a report on these issues to be used in the decision making process concerning the proposed rule. This report will be made available for public comment prior to any final decision regarding the negative EP test requirement.

FOR FURTHER INFORMATION CONTACT: Dr. D. E. Herrick, USDA, APHIS, VS, Import-Export Staff, Room 817, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–8170.

After consideration of all information which has been submitted pursuant to the proposed rulemaking and the comments received pursuant to the procedures outlined in this notice, a determination will be made regarding whether the regulations will be amended as proposed.

Done at Washington, D.C., this 21st day of February 1980.

J. K. Atwell,

Acting Deputy Administrator, Veterinary Services.

[FR Doc. 80-5838 Filed 2-25-80; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

Burley (Type 31) Tobacco; Notice of Referendum

Notice is hereby given that on February 25 to February 29, 1980, each inclusive, a referendum will be held of farmers engaged in the production of the 1979 crop of Burley (type 31) tobacco. Notice was given (44 FR 69655) that consideration would be given to data, views and recommendations in establishing the 1980 national quota, the national reserve, the date or period for holding the referendum and whether the referendum should be conducted at polling places rather than by mail ballot. None of the comments received made reference to the period or the method of holding the referendum.

It is hereby determined that this referendum will be held by mail ballot during the period February 25–29, 1980, inclusive. The purpose of this referendum is to determine whether Burley (type 31) tobacco farmers are in favor of or opposed to marketing quotas for the 1980–81, 1981–82, and 1982–83 marketing years. The referendum will be conducted in accordance with the provisions of the Act (7 U.S.C. 1312(c)) and the regulations contained in 7 CFR Part 717.

Signed at Washington, D.C., on February 21, 1980.

John E. Gibbs,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-5835 Filed 2-21-80; 12:24 pm]

BILLING CODE 3410-05-M

Maryland (Type 32) and Cigar-Filler (Type 41) Tobaccos; Notice of Referendum

Notice is hereby given that on February 25 to February 29, 1980, each inclusive, separate referendums will be held of farmers engaged in the production of the 1979 crop of Maryland (type 32) tobacco and Cigar-Filler (type 41) tobacco. Notice was given (44 FR 71424) that consideration would be given to data, views and recommendations in establishing the 1980 national acreage allotment, the national reserves, the date or period for holding the referendums and whether the referendums should be conducted at polling places rather than by mail ballot. No comments were received.

It is hereby determined that these referendums will be held by mail ballot during the period February 25–29, 1980, inclusive. The purpose of these referendums is to determine whether Maryland (type 32) tobacco and cigar-filler (type 41) tobacco farmers are in favor of or opposed to marketing quotas for the 1980–81, 1981–82, and 1982–83 marketing years. The referendums will be conducted in accordance with the provisions of the Act (7 U.S.C. 1312(c)) and the regulations contained in 7 CFR Part 717.

Signed at Washington, D.C. on: February 21, 1980.

John E. Gibbs,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-5836 Filed 2-21-80; 12:24 pm]

BILLING CODE 3410-05-M

Virginia Sun-Cured (Type 37) Tobacco; Notice of Referendum

Notice is hereby given that on February 25 to February 29, 1980, each inclusive, a referendum will be held of farmers engaged in the production of the

1979 crop of Virginia Sun-Cured (type 37) tobacco. Notice was given (44 FR 74843) that consideration would be given to data, views and recommendations in establishing the 1980 national acreage allotment, the national reserve, the date or period for holding the referendum and whether the referendum should be conducted at polling places rather than by mail ballot. None of the comments received made reference to the period or the method of holding the referendum.

It is hereby determined that this referendum will be held by mail ballot during the period February 25–29, 1980, inclusive. The purpose of this referendum is to determine whether Virginia Sun-Cured (type 37) tobacco farmers are in favor of or opposed to marketing quotas for the 1980–81, 1981–82, and 1982–83 marketing years. The referendum will be conducted in accordance with the provisions of the Act (7 U.S.C. 1312(c)) and the regulations contained in 7 CFR Part 717.

Signed at Washington, D.C. on: February 21, 1980.

John E. Gibbs,

Acting Administrator, Agricultural Stabilization and Conservation Service.

[FR Doc. 80-5837 Filed 2-21-80; 12:24 pm]

BILLING CODE 3410-05-M

Forest Service

Lumber Price Index Trends; Sugar Pine

AGENCY: Forest Service, Department of Agriculture.

ACTION: Notice of intent.

SUMMARY: Each month Western Wood Products Association (WWPA) publishes a Lumber Price Trends Index for seven Western species or species combinations. These data are used by Government agencies in the appraisal of public timber offered for sale and to adjust prices paid for timber under certain timber sale contracts. Procedures used to compile the WWPA Index are subject to periodic audits by the Forest Service and have been found to properly reflect changes in the selling prices of lumber. This proposal sets forth the intent to replace the current WWPA Sugar Pine Index based on a 1971 recovery study with an index based on a 1977–1978 recovery study.

DATES: Comments must be received not later than March 27, 1980.

ADDRESS: Submit comments to: Chief R. Max Peterson, Forest Service, Department of Agriculture, P.O. Box 2417, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: James Thorne or George M. Leonard, Timber Management Staff, P.O. Box 2417, Washington, DC 20013, 202–447–4051.

SUPPLEMENTAL INFORMATION: The Western Wood Products Association proposes to replace the current Sugar Pine Index (1971 Basis), with an Index with a 1977–1978 Basis. Because of the trade practice of shipping the lower grades of Sugar Pine in combination with Ponderosa Pine, Ponderosa Pines volumes along with Sugar Pine volumes were used for the following lumber items in calculating the Sugar Pine Index, 1977–78 basis:

1. 4/4 & Thkr No. 3 & Btr Common
2. 4/4 & Thkr No. 4 & Btr Common
3. 4/4 & Thkr No. 5 & Btr Common & Dunnage
4. Short Common (Inc. Box Lumber Shop, Short & Rejects, Short Dim., Shop Common)
5. Dimension, Studs, Tbrs.
   A. Std & Btr & No. 2 & Btr
   B. Uty & Btr & No. 3 & Btr
   C. Economy

Accordingly, the proposed Sugar Pine Index is based on a much larger volume of lumber than the current index. As illustrated below, the proposal to replace the current index is based on a 1977–1978 Grade Recovery Study by WWPA which show that the mix of products produced and marketed from Sugar Pine logs is significantly different now than those products produced in 1971.

	Percent of log	
	1971	1977–78
C Select: 4/4 & Thkr C & C&Btr Select	6.48	3.73
D Select:		
4/4 & Thkr Mldg&Btr, D, D&Btr Select	9.06	9.78
Moulding Stock	6.41	6.02
Stained Select: Short & Aust. Clears	.37	.56
4/4 & Thkr Factory & Stained Factory	2.92	1.44
4/4 Nos. 1 & 2 Shop	3.85	2.76
5/4 & Thkr No. 1 Shop	6.64	5.99
5/4 & Thkr No. 2 Shop	15.67	16.77
5/4 & Thkr No. 3 Shop	8.98	11.90
Stained Shop:		
4/4 No. 2 & Btr Common	4.01	4.94
4/4 No. 3 & Btr Common	8.91	11.62
4/4 No. 4 & Btr Common	6.64	7.32
4/4 & Thkr No. 5 Common & Dunnage	2.00	1.51
Thick Common: 5/4 & Thkr Nos. 1,2,3,4 & Dimension 2"	11.76	[1]
Short Common: Box Lumber, Shop, Short & Rejects; Add: Short Dim, Shop Common	6.30	7.14
New.—Dimension, Tbrs, Studs:		
Std&Btr & 2&Btr		5.60
Uty&Btr & 3&Btr		2.00
Economy		.92
Total	100.00	100.00

[1] Spread to grade.

The study indicates that the current index overstates actual lumber grade recovery for Sugar Pine. It also indicates that the proposed Sugar Pine Index would more accurately reflect average grade recovery for Sugar Pine. As an example, difference in the indices during 1977, 1978, and 1979 are:

	Present sugar pine index (1971 basis)	Proposed sugar pine index (1977–78 basis)
1977:		
January	345.33	316.06
February	351.44	322.81
March	363.42	335.44
Quarter	(353.40)	(324.77)
April	367.96	342.71
May	368.74	339.58
June	362.54	335.10
Quarter	(366.41)	(339.13)
July	362.87	335.46
August	351.95	330.33
September	353.67	332.58
Quarter	(356.16)	(332.79)
October	357.36	336.70
November	355.75	338.02
December	377.00	350.06
Quarter	(363.37)	(341.59)
Year	359.41	334.83
1978:		
January	385.02	362.50
February	412.81	384.64
March	427.60	403.58
Quarter	(408.48)	(383.57)
April	446.04	421.85
May	470.91	445.03
June	502.15	471.73
Quarter	(473.03)	(446.20)
July	504.63	472.45
August	492.03	460.72
September	481.84	451.45
Quarter	(492.83)	(461.54)
October	483.80	451.52
November	491.75	457.02
December	494.49	460.65
Quarter	(490.01)	(456.40)
Year	472.01	439.45
1979:		
January	502.74	463.14
February	503.07	470.95
March	522.37	489.61
Quarter	(509.39)	(474.57)
April	555.19	511.99
May	548.34	505.30
June	526.03	481.31
Quarter	(543.85)	(499.53)
July	506.88	464.57
August	495.49	455.25
September	490.64	450.30
Quarter	(497.67)	(456.71)

When an index change takes place, existing timber sale contracts must be modified to convert to the new index. New sales are tied to the new index.

Conversion to the new index is based upon differences in the indices for a representative base period.

The following is the proposal for implementing the new Sugar Pine Index on National Forest timber sales:

1. Discontinue the present Sugar Pine Index after publication of the March 1980 data. The base index for Sugar Pine in existing timber sale contracts would be converted to the new index using a transition base period of 24 months reflecting the same time period (1977–1978) as the 1977 and 1978 recovery study. This transition differential would decrease the base index for Sugar Pine in existing timber sale contracts by

$27.78. This differential was calculated as follows:

24-Mo Average Index (Weighted) Ending Dec. 31, 1978

	Board feet (thousands)	Value (dollars)	Dollars per thousand board feet
Sugar Pine (1971 Basis)	363,956.967	$151,807,861.57	$417.10
Supar Pine (1977–78 Basis)	2,209,334.994	860,133,967.66	389.32
Per thousand board feet difference			−27.78

2. Use the new index for sales offered after March 31, 1980.

Copies of the 1977–78 Grade Recovery Study are available for review in the Regional Offices of the Forest Service in Portland, Oregon, and San Francisco, California.

Dated: February 20, 1980.

Thomas C. Nelson,

Acting Chief, Forest Service.

[FR Doc. 80-5839 Filed 2-25-80; 8:45 am]

BILLING CODE 3410-11-M

Rural Electrification Administration

Dairyland Power Cooperative, La Crosse, Wis.

Under the authority of Pub. L. 93–32 (87 Stat. 65) and in conformance with applicable agency policies and procedures as set forth in REA Bulletin 20–22 (Guarantee of Loans for Bulk Power Supply Facilities), notice is hereby given that the Administrator of REA will consider providing a guarantee supported by the full faith and credit of the United States of America for a loan in the approximate amount of $40,085,000 to Dairyland Power Cooperative of La Crosse, Wisconsin, for financing performance and environmental improvements at existing generating stations and supplemental funds for John P. Madgett Station Unit No. 1 (formerly known as Alma No. 6). No additional generating capacity is being provided.

Legally organized lending agencies capable of making, holding and servicing the loan proposed to be guaranteed may obtain information on the proposed program, including the engineering and economic feasibility studies and the proposed schedule for the advances to the borrower of the guaranteed loan funds from Mr. Frank W. Linder, Manager, Dairyland Power Cooperative, P.O. Box 817, La Crosse, Wisconsin 54601.

In order to be considered, proposals must be submitted on or before March 27, 1980, to Mr. Linder. The right is reserved to give such consideration and make such evaluation or other disposition of all proposals received, as Dairyland Power Cooperative and REA deem appropriate. Prospective lenders are advised that the guaranteed financing for this project is available from the Federal Financing Bank under a standing agreement with the Rural Electrification Administration.

Copies of REA Bulletin 20–22 are available from the Director, Office of Information and Public Affairs, Rural Electrification Administration, U.S. Department of Agriculture, Washington, D.C. 20250.

Dated at Washington, D.C., this 19th day of February 1980.

Robert W. Feragen,

Administrator, Rural Electrification Administration.

[FR Doc. 80-5834 Filed 2-25-80; 8:45 am]

BILLING CODE 3410-15-M

CIVIL AERONAUTICS BOARD

[Docket: 30053; Order 80-2-94]

Order To Show Cause; Transporte Aereo Rioplantense, S.A.C. e I.

AGENCY: Civil Aeronautics Board.

ACTION: Notice of order to show cause: Order 80–2–94.

SUMMARY: The Board proposes to approve the following application:

Applicant: Transporte Aereo Rioplantense, S.A.C. e I.

Application Date: November 11, 1976. Docket: 30053.

Authority Sought: Renewal and amendment of foreign air carrier permit authorizing nonsecheduled foreign air transportation of property and mail between Argentina and Miami, Florida; Houston, Texas; Chicago, Illinois; New York, New York; and Los Angeles, California via specified intermediate countries in Latin America.

OBJECTIONS: All interested persons having objections to the Board's tentative findings and conclusions that this authority should be granted, as described in the order cited above, shall NO LATER THAN March 14, 1980, file a statement of such objections with the Civil Aeronautics Board (20 copies) and mail copies to the applicant, the Department of Transportation, the Department of State, the Ambassador of Argentina, and other parties to this Docket. A statement of objections must cite the docket number and must include a summary of testimony, statistical data, or other such supporting evidence.

If no objections are filed, the Secretary of the Board will enter an order which will, subject to disapproval by the President, make final the Board's tentative findings and conclusions and issue the proposed permit.

ADDRESSES FOR OBJECTIONS:

Docket 30053, Docket Section, Civil Aeronautics Board, Washington, D.C. 20428.

Thomas J. Whalen, Condon & Forsyth, 1001 Connecticut Avenue, NW., Washington, D.C. 20036.

TO GET A COPY OF THE COMPLETE ORDER: Request it from the CAB Distribution Section, Room 516, 1825 Connecticut Avenue, NW., Washington, D.C. 20428.

FOR FURTHER INFORMATION: Contact C. Robert Mallalieu of the Bureau of International Aviation, Civil Aeronautics Board; (202) 673–5044.

By the Civil Aeronautics Board: February 15, 1980.

Phyllis T. Kaylor,

Secretary.

[FR Doc. 80-5918 Filed 2-25-80; 8:45 am]

BILLING CODE 6320-01-M

COMMISSION ON CIVIL RIGHTS

California 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 factfinding meeting of the California Advisory Committee (SAC) of the Commission will convene at 8:30 a.m. and will end at 5:30 p.m., on March 21, 1980, at the Federal Building, 300 North Los Angeles Street, Room 8041, Los Angeles California 90012.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is a open meeting on affirmative action guidelines and requirements of the Federal government.

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

Dated at Washington, D.C., February 21, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5939 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

California 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 California Advisory (SAC) of the Commission will convene at 6:00 p.m. and will end at 10:00 p.m., on March 20, 1980, at The Hilton Hotel, 900 Wilshire Boulevard, Detroit Room, Los Angeles, California 90017.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Western Regional Office of the Commission, 312 North Spring Street, Room 1015, Los Angeles, California 90012.

The purpose of this meeting is the Subcommittees on Affirmative Action, education and nursing to plan projects and be briefed for open meeting March 21, 1980.

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

Dated at Washington, D.C., February 21, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5940 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Colorado 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 factfinding meeting of the Colorado Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on March 14, 1980, at the Federal Building, Second Floor Conference Room, 1961 Stout Street, Denver, Colorado 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Denver, Colorado 80202.

This purpose of this open meeting is a factfinding meeting on affirmative action.

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

Dated at Washington, D.C. February 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5941 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Colorado 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 Colorado Advisory Committee (SAC) of the Commission will convene at 7:30 p.m. and will end at 9:30 p.m., on March 13, 1980, at Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Room 1706, Denver, Colorado 80202.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Rocky Mountain Regional Office of the Commission, 1405 Curtis Street, Room 1706, Denver, Colorado 80202.

The purpose of this meeting is planning for factfinding meeting to be held March 14, 1980.

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

Dated at Washington, D.C., February 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5946 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Massachusetts 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 California Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 5:00 p.m., on March 21, 1980, at the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is final planning for affirmative action fact-finding meeting.

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

Dated at Washington, D.C., February 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5945 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Missouri 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 factfinding meeting of the Missouri Advisory Committee (SAC) of the Commission will convene at 9:00 a.m. and will end at 6:00 p.m., on March 20, 1980, at the Federal Building, 911 Walnut Street, Room 302, Kansas City, Missouri 64106.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the Central States Regional Office of the Commission, 911 Walnut Street, Kansas, Missouri 64106.

The purpose of this meeting is to collect information on the roles of the U.S. Equal Opportunity Commission, Office of Federal Contract Compliance Programs and Office of Personnel Management in monitoring the affirmative action efforts of public and private employers.

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

Dated at Washington, D.C., February 20, 1980.

Thomas L. Neumann,

Advisory Committed Management Officer.

[FR Doc. 80-5942 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Oklahoma 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 Oklahoma Advisory Committee (SAC) of the Commission will convene at 2:00 p.m. and will end at 6:00 p.m., on March 20, 1980, at the Lincoln Plaza Hotel, 4345 North Lincoln Blvd., Oklahoma City, Oklahoma 73105.

Persons wishing to attend this open meeting should contact the Committee Chairperson, of the Southwestern Regional Office of the Commission, 418 South Main, San Antonio, Texas 78204.

The purpose of this meeting is a briefing session for Affirmative Action Hearing to be held March 27–28.

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

Dated at Washington, D.C., February 19, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5944 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

Rhode Island 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 Rhode Island Advisory Committee (SAC) of the Commission will convene at 5:00 p.m. and will end at 7:00 p.m., on March 19, 1980, at the Brown University, Third World Center, 155 Angell Street, Providence, Rhode Island.

Persons wishing to attend this open meeting should contact the Committee Chairperson, or the New England Regional Office of the Commission, 55 Summer Street, 8th Floor, Boston, Massachusetts 02110.

The purpose of this meeting is a ongoing conference planning and continuation of program planning.

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

Dated at Washington, D.C., February 20, 1980.

Thomas L. Neumann,

Advisory Committee Management Officer.

[FR Doc. 80-5943 Filed 2-25-80; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Viscose Rayon Staple Fiber From Austria Termination of Countervailing Duty Investigation

AGENCY: U.S. Department of Commerce.

ACTION: Termination of countervailing duty investigation.

SUMMARY: This notice is to advise the public that the countervailing duty petition on viscose rayon staple fiber from Austria has been withdrawn and the investigation is being terminated.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, telephone: (202) 566-5492.

SUPPLEMENTARY INFORMATION: On June 18, 1979, a notice of "Receipt of Countervailing Duty Petition and Initiation of Investigation" was published in the **Federal Register** (44 FR 53073). The notice stated that a petition had been filed by Avtex Fibers, Inc., Valley Forge, Pennsylvania, alleging that benefits conferred by the Government of Austria upon the manufacture, production, or exportation of viscose rayon staple fiber constitute the payment of bestowal of bounties or grants, directly or indirectly, within the meaning of section 303 of the Tariff Act of 1930, as amended (19 U.S.C. 1303). A "Preliminary Countervailing Duty Determination" was published in the **Federal Register** on January 7, 1980 (45 FR 1468).

In accordance with section 102(a)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note), this matter is being treated as if a preliminary determination under section 703 of the Tariff Act of 1930, as amended (19 U.S.C. 1671b) ("the Act") had been made on January 1, 1980. Accordingly, liquidation has been suspended on all entries, or withdrawals from warehouse, for consumption of viscose rayon staple fiber from Austria, on or after the date of publication of the notice of "Preliminary Countervailing Duty Determination" in the **Federal Register.**

Counsel for the petitioners submitted a letter dated January 18, 1980, indicating that in accordance with section 704(a) of the Act (19 U.S.C. 1671c(a)), they were withdrawing the petition. Pursuant to that section, the Commerce Department may terminate the investigation. Notice has been given to all parties to the investigation. It has been determined that the termination of the investigation is in the public interest. Therefore, the investigation is being terminated.

Accordingly, I hereby conclude that based upon the withdrawal of the countervailing duty petition, it is appropriate to terminate this investigation and suspension of liquidation. This termination is without prejudice to the filing of a subsequent countervailing duty petition concerning the same product. This notice is published pursuant to § 355.30 of the Commerce Regulations (19 CFR 355.30).

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 80-5727 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Antidumping—Melamine in Crystal Form From the Netherlands; Amendment to Tentative Determination and Suspension of Liquidation

On November 13, 1979, the U.S. Treasury Department published a notice of "Tentative Determination of Sales at Not Less than Fair Value" (44 FR 65517) concerning melamine in crystal form from the Netherlands. That determination was based upon *de minimis* margins whch resulted from comparison of purchase price to a third country price representing fair value. Third country price was calculated from the weighted-average price of bulk quantities to unrelated purchasers in West Germany. A review of those calculations has detected a computational error stemming from a failure to make a proper adjustment for differences in bulk packing costs between the two markets. The weighted-average margin resulting from the amended comparisons is 1.93% which is not judged to be *de minimis*.

Accordingly, the form of the tentative determination is amended to an affirmative preliminary determination, and Customs officers are being directed to suspend liquidation of entries of merchandise entered or withdrawn from warehouse for consumption on or after the date of this notice in accordance with section 733(d) of the Tariff Act of 1930, as amended (19 U.S.C. 1673b(d)).

A final determination in this case will be made no later than March 17, 1980.

This notice shall become effective on February 26, 1980. It shall cease to be effective upon either a negative final determination under section 735(a) (19 U.S.C. 1673d(a)) or a negative injury determination by the Commission under section 735(b) (19 U.S.C. 1673(b)), unless previously revoked.

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

February 20, 1980.

[FR Doc. 80-5898 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

Antidumping Hearing on Melamine in Crystal Form From the Netherlands

A notice of "Tentative Determination of Sales at Not Less Than Fair Value" in connection with the antidumping investigation of melamine in crystal form from the Netherlands was signed on November 1, 1979, and published in the **Federal Register** on November 13, 1979 (44 FR 65517). Pursuant to section 102(b)(2) of the Trade Agreements Act of 1979 (19 U.S.C. 1671 note, 93 Stat 189), in investigations where a preliminary determination, but not a final determination, was made prior to January 1, 1980, a preliminary determination under section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b, 93 Stat 163), is deemed to have been made on January 1, 1980.

The "Notice" provided an opportunity to interested parties, pursuant to § 153.40 of the Customs Regulations (19

CFR 153.40), to present written views or arguments, or to request in writing an opportunity to present oral views. Pursuant to this notice, interested parties have requested opportunities to present their views orally.

Therefore, a public hearing in the matter of melamine in crystal form from the Netherlands will be held at the U.S. Department of Commerce, Room 6802, 14th & Constitution Avenue, NW., Washington, D.C. 20230, beginning at 10:00 a.m. on Wednesday, March 5, 1980. Interested persons other than those who already have requested an opportunity to present their views may appear at the hearing provided that a written request is filed with the Office of the Assistant Secretary for Trade Administration, Room 3826, U.S. Department of Commerce, Washington, D.C. 20230.

These requests shall contain: (1) The name, address and telephone number of the requester; and (2) the number of participants and reason for attending. All requests are subject to the approval of the Assistant Secretary, and must be received by 5:00 p.m. Wednesday, March 5, 1980.

Stanley J. Marcuss,

Acting Assistant Secretary for Trade Administration.

February 20, 1980.

[FR Doc. 80-5899 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

Computer Systems Technical Advisory Committee; Partially Closed 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 Computer Systems Technical Advisory Committee will be held on Wednesday, March 12, 1980, at 1:30 p.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was intially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to Section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1), and the Federal Advisory Committee Act.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which affect the level of export controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls.

The Committee meeting agenda has four parts:

General Session

(1) Opening remarks by the Chairman.
(2) Presentation of papers or comments by the public.
(3) Report on the current work program of the Subcommittees:
  (a) Technology Transfer;
  (b) Foreign Availability;
  (c) Hardware; and
  (d) Licensing Procedures.

Executive Session

(4) Discussion of matters properly classified under Executive Order 11652 and 12065, dealing with the U.S. and COCOM control program and strategic criteria related thereto.

The General Session of the meeting will be open to the public; a limited number of seats will be available. To the extent time permits, members of the public may present oral statements to the Committee. Written statements may be submitted at any time before or after the meeting.

With respect to agenda item (4), the Assistant Secretary for Administration, with the concurrence of the delegate of the General Counsel, formally determined on September 6, 1978, pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended by Section 5(c) of the Government In The Sunshine Act, P.L. 94-409, that the matters to be discussed in the Executive Session should be exempt from the provisions of the Federal Advisory Committee Act relating to open meetings and public participation therein, because the Executive Session will be concerned with matters listed in 5 U.S.C. 552b(c)(1). Such matters are specifically authorized under criteria established by an Executive Order to be kept secret in the interests of the national defense or foreign policy. All materials to be reviewed and discussed by the Committee during the Executive Session of the meeting have been properly classified under Executive Order 11652 or 12065. All Committee members have appropriated security clearances.

The complete Notice of Determination to close meetings or portions thereof of the series of meetings of the Computer Systems Technical Advisory Committee and of any Subcommittees thereof, was published in the Federal Register on September 14, 1978 (43 FR 41073).

Copies of the minutes of the open portions of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: 202-377-2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: February 21, 1980.

Kent N. Knowles,

Director, Office of Export Administration, International Trade Administration, Department of Commerce.

[FR Doc. 80-5921 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee; Open 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 Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee will be held on Wednesday, March 12, 1980, at 9:30 a.m. in Room B841, Main Commerce Building, 14th Street and Constitution Avenue, N.W., Washington, D.C.

The Computer Systems Technical Advisory Committee was inititially established on January 3, 1973. On December 20, 1974, January 13, 1977, and August 28, 1978, the Assistant Secretary for Administration approved the recharter and extension of the Committee, pursuant to section 5(c)(1) of the Export Administration Act of 1969, as amended, 50 U.S.C. App. Sec. 2404(c)(1) and the Federal Advisory Committee Act. The Licensing Procedures Subcommittee of the Computer Systems Technical Advisory Committee was established on February 4, 1974. On July 8, 1975, the Director, Office of Export Administration, approved the reestablishment of this Subcommittee, pursuant to the charter of the Committee. And, on October 16, 1978, the Assistant Secretary for Industry and Trade approved the continuation of the Subcommittee pursuant to the charter of the Committee.

The Committee advises the Office of Export Administration with respect to questions involving (A) technical matters, (B) worldwide availability and actual utilization of production technology, (C) licensing procedures which may affect the level of export

controls applicable to computer systems, including technical data or other information related thereto, and (D) exports of the aforementioned commodities and technical data subject to multilateral controls in which the United States participates, including proposed revisions of any such multilateral controls. The Licensing Procedures Subcommittee was formed to review the procedural aspects of export licensing and recommend areas where improvements can be made.

The Subcommittee meeting agenda has four parts:

(1) Opening remarks by the Subcommittee Chairman.
(2) Presentation of papers or comments by the public.
(3) Pending items of business:
  a. Swiss Blue Import Certificate
  b. Technical preevaluation of products
  c. Qualified general license
  d. Technical data regulations
(4) Standard formatting of license applications.

The meeting will be open for public observation and a limited number of seats will be available. To the extent time permits members of the public may present oral statements to the Subcommittee. Written statements may be submitted at any time before or after the meeting.

Copies of the minutes of the meeting will be available by calling Mrs. Margaret Cornejo, Policy Planning Division, Office of Export Administration, U.S. Department of Commerce, Washington, D.C. 20230, telephone: A/C 202–377–2583.

For further information contact Mrs. Cornejo either in writing or by phone at the address or number shown above.

Dated: February 21, 1980.

Kent Knowles,

Director, Office of Export Administration, International Trade Administration, U.S. Department of Commerce.

[FR Doc. 80–5920 Filed 2–25–80; 8:45 am]

BILLING CODE 3510–25–M

National Oceanic and Atmospheric Administration

Northern Striped Dolphin; Prohibition on Take Incidental to Commercial Fishing Operations

AGENCY: National Marine Fisheries Service, National Oceanic and Atmospheric Administration, Department of Commerce.

ACTION: Notice of take of northern striped dolphin incidental to commercial fishing operations.

SUMMARY: A prohibition on taking northern striped dolphin is being implemented due to the fact that the quota established in 1980 for northern striped dolphin has been exceeded. Northern striped dolphin may not be taken incidental to fishing operations pursuant to the general permit issued to the American Tunaboat Association, Category 2: Encircling Gear, Purse Seining Involving the Intentional Taking of Marine Mammals.

EFFECTIVE DATE: February 22, 1980.

ADDRESSES: Observer records may be reviewed at the Southwest Regional Office, Office of the Director, 300 South Ferry Street, Terminal Island, California 90731.

FOR FURTHER INFORMATION CONTACT: William Aron, Director, Office of Marine Mammals/Endangered Species, National Marine Fisheries Service, Washington, D.C. 20235, Tel. 202–634–7461.

SUPPLEMENTARY INFORMATION: In the permit issued to the American Tunaboat Association for 1980, a limit of thirty (30) northern striped dolphin mortalities are stipulated. That limit has been exceeded based on reports of National Marine Fisheries Service observers. In accordance with 50 CFR 216.24(d)(2)(i)(B) notice is hereby published of the date when a prohibition on further taking of northern striped dolphin, except as allowed in 50 CFR 216(d)(2)(i)(C), becomes effective.

Dated: February 20, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80–5936 Filed 2–25–80; 8:45 am]

BILLING CODE 3510–22–M

National Oceanic and Atmospheric Administration (NOAA)

Notification of Intent To Prepare a Draft Environmental Impact Statement

AGENCY: Office of Coastal Zone Management (OCZM), NOAA, Department of Commerce.

ACTION: Notice.

SUMMARY: The Office of Coastal Zone Management (OCZM), National Oceanic and Atmospheric Administration (NOAA), intends to prepare a draft environmental impact statement (DEIS) on a proposed estuarine sanctuary at Prudence and Patience Islands in the Town of Portsmouth, Rhode Island, in accordance with the guidelines for the acquisition and management of estuarine sanctuaries (39 FR 19922 (1974), 43 FR 45522 (1977) to be codified in 15 CFR Part 921)).

The estuarine sanctuary proposal currently is being developed in consultation with local government, State and Federal agencies and affected interest groups. The action proposed is to acquire and manage an estuarine area within Narragansett Bay. The sanctuary will be acquired and managed by the State of Rhode Island with 50% matching funds provided by NOAA/OCZM. Scoping meetings will be held as follows: March 11, 1980 at 8:00 p.m., Health Department Auditorium, Cannon Building, 75 Davis Street, Providence, Rhode Island 02908 and March 12, 1980 at 8:00 p.m., Portsmouth Town Hall, 2200 E. Main Road, Portsmouth, Rhode Island 02871.

The DEIS will be prepared in compliance with the Council on Environmental Quality regulations (40 CFR Parts 1500, *et seq.*). In accordance with Executive Orders 11988, *Floodplain Management* and 11990, *Protection of Wetlands,* issued May 24, 1977, this notice also is being used to provide early public notice that the estuarine sanctuary would be located in wetlands and floodplains. Because of the educational and research nature of estuarine sanctuaries, they are consistent with the purposes of these Executive Orders.

Interested parties who wish to submit suggestions, comments, or information concerning the scope or content of this DEIS should do so prior to March 21, 1980. These may be submitted in writing or by telephone to: Mr. James W. MacFarland, Estuarine Sanctuary Program Manager, Office of Coastal Zone Management, 3300 Whitehaven Street, NW., Washington, D.C. 20235, Telephone: 202/634–4236.

Dated: February 20, 1980.

Donald W. Fowler,

Deputy Assistant Administrator, Office of Coastal Zone Management.

[FR Doc. 80–5833 Filed 2–25–80; 8:45 am]

BILLING CODE 3510–08–M

Mid-Atlantic Fishery Management Council; Public Meeting

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The Mid-Atlantic Fishery Management Council, established by Section 302 of the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265), will meet to discuss a work plan for amendments to the Squid, Mackerel, and Butterfish Plans; Foreign Fishing Applications; Status of Fishery Management Plans (FMP's); and other Fishery Management and Administrative Matters.

DATES: The meeting will convene on Wednesday, March 12, 1980, at approximately 1 p.m. and will adjourn on Friday, March 14, 1980, at approximately 1 p.m. The meeting is open to the public.

ADDRESS: The meeting will take place at the Ramada Inn, 76 Industrial Highway, Essington, Pennsylvania 19029. Phone: (215) 521–9600.

FOR FURTHER INFORMATION CONTACT: Mid-Atlantic Fishery Management Council, North and New Streets, Room 2115, Federal Building, Dover, Delaware 19901, telephone: (302) 674–2351.

Dated: February 20, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-5889 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

National Oceanic and Atmospheric Administration South Atlantic Fishery Management Council; Public Meeting With Partially Closed Session

AGENCY: National Marine Fisheries Service, NOAA.

SUMMARY: The South Atlantic Fishery Management Council will conduct a meeting.

DATES: February 26–28, 1980.

ADDRESS: The meeting will take place at the Holiday Inn, 7151 Okeechobee Road, Fort Pierce, Florida.

FOR FURTHER INFORMATION CONTACT: South Atlantic Fishery Management Council, 1 Southpark Circle, Suite 306, Charleston, South Carolina 29407, Telephone: (803) 572–4366.

SUPPLEMENTARY INFORMATION: The South Atlantic Fishery Management Council was established by the Fishery Conservation and Management Act of 1976 (Pub. L. 94–265). Meeting agenda follows:

Open Meeting—February 26, 1980 (1 p.m. to 5 p.m.)—Review status of ongoing fishery management plan (FMP) activities.

Closed Session—February 27, 1980 (9 a.m. to 12 noon)—Discuss proposals by potential contractors in a negotiated procurement for the provision of social science assistance to the Council. Only Council members and related staff will be allowed to attend this closed session.

Open Session—February 27, 1980 (1 p.m. to 5 p.m.)—Discuss FMP's, review of communications from other agencies and organizations, and public comment.

Open Meeting—February 28, 1980 (9 a.m. to 12 noon)—Discuss operational and procedural matters of the Council, consideration of Committee reports, and other management business as may be required.

The Assistant Secretary for Administration of the Department of Commerce, with the concurrence of its General Counsel, formally determined on February 15, 1980, pursuant to Section 10(d) of the Federal Advisory Committee Act, that the agenda item covered in the closed session may be exempt from the provisions of the Act relating to open meetings and public participation therein, because the matters to be discussed in this session are likely to disclose: commercial and financial information obtained from a person and privileged or confidential; information of a personal nature where disclosure would constitute a clearly unwarranted invasion of privacy; and information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. This determination is made in accordance with the provisions of 5 U.S.C. 552b (c)(4), (6) and (9)(B) respectively. (A copy of the determination is available for public inspection and copying in the Public Reading Room, Central Reference and Record Inspection Facility, Room 5317, Department of Commerce).

Dated: February 19, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-5888 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

National Marine Fisheries Service; Modification of Permit

Notice is hereby given that pursuant to the provisions of Sections 216.33(d) and (e) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR Part 216), and Section 222.25 of the National Marine Fisheries Service regulations governing endangered species permits (50 CFR Part 222), Permit No. 266 issued to the Northwest and Alaska Fisheries Center, on June 13, 1979 (44 FR 37025), is hereby modified as follows:

Section B is modified by deleting Special Condition B–1 and substituting therefor the following: "The animals shall be taken at Kure, Lisianski or Laysan Islands, by the means and for the purposes set forth in the application."

This modification is effective February 26, 1980.

The Permit as modified, and documentation pertaining to the modification are available for review in the following offices:

Assistant Administrator for Fisheries, National Marine Fisheries Service, 3300 Whitehaven Street, N.W., Washington, D.C.;

Regional Director, National Marine Fisheries Service, Southwest Region, 300 South Ferry Street, Terminal Island, California 90731; and

Regional Director, National Marine Fisheries Service, Northwest Region, 1700 Westlake Avenue North, Seattle, Washington 98109.

Dated: February 19, 1980.

Winfred H. Meibohm,

Executive Director, National Marine Fisheries Service.

[FR Doc. 80-5887 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-22-M

Foreign-Trade Zones Board

[Order No. 153]

Resolution and Order Approving the Application of the County of Clinton, State of New York, for a Foreign-Trade Zone at Two Sites in Clinton County

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of Clinton County, New York, filed with the Foreign-Trade Zones Board (the Board) on September 6, 1979, requesting a grant of authority for establishing, operating, and maintaining two general-purpose foreign-trade zone sites within the County, adjacent to the Champlain-Rouses Point Customs port of entry, one site in the Town of Plattsburgh, the other in the Town of Champlain, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes industrial park and open space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within either zone site. The Secretary of Commerce, as Chairman and Executive Officer of the Board,

is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant—To Establish, Operate, and Maintain a Foreign-Trade Zone at Two Sites in the County of Clinton, State of New York

WHEREAS, by an Act of Congress approved June 18, 1934, and Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

WHEREAS, the County of Clinton (the Grantee) has made application (filed September 6, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone consisting of two separate sites in the County, one in the Town of Plattsburgh and the other in the Town of Champlain, adjacent to the Champlain-Rouses Point Customs port of entry;

WHEREAS, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

WHEREAS, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

NOW, THEREFORE, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 54, at the locations mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

IN WITNESS WHEREOF, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 14th day of February 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Philip M. Klutznick,

Chairman and Executive Officer.

[FR Doc. 80–5963 Filed 2–25–80; 8:45 am]

BILLING CODE 3510–25–M

[Order No. 154]

Resolution and Order Approving the Application of the Greater Burlington Industrial Corp. for a Foreign-Trade Zone in the City of South Burlington, Vt.

Proceedings of the Foreign-Trade Zones Board, Washington, D.C.

Resolution and Order

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign Trade Zones Board has adopted the following Resolution and Order:

The Board, having considered the matter, hereby orders:

After consideration of the application of the Greater Burlington Industrial Corporation (GBIC), filed with the Foreign-Trade Zones Board (the Board) on November 8, 1979, requesting a grant of authority for establishing, operating, and maintaining a general-purpose foreign-trade zone at the Burlington International Airport, South Burlington, Vermont, within the Burlington Customs port of entry, the Board, finding that the requirements of the Foreign-Trade Zones Act, as amended, and the Board's regulations are satisfied, and that the proposal is in the public interest, approves the application.

As the proposal includes industrial park space on which buildings may be constructed by parties other than the grantee, this approval includes authority to the grantee to permit the erection of such buildings, pursuant to Section 400.815 of the Board's regulations, as are necessary to carry out the zone proposal, providing that prior to its granting such permission it shall have the concurrences of the local District Director of Customs, the U.S. Army District Engineer, when appropriate, and the Board's Executive Secretary. Further, the grantee shall notify the Board's Executive Secretary for approval prior to the commencement of any manufacturing operation within the zone. The Secretary of Commerce, as Chairman and Executive Officer of the Board, is hereby authorized to issue a grant of authority and appropriate Board Order.

Grant—To Establish, Operate, and Maintain a Foreign-Trade Zone in the City of South Burlington, Vt.

WHEREAS, by an Act of Congress approved June 18, 1934, an Act "To provide for the establishment, operation, and maintenance of foreign-trade zones in ports of entry of the United States, to expedite and encourage foreign commerce, and for other purposes," as amended (19 U.S.C. 81a–81u) (the Act), the Foreign-Trade Zones Board (the Board) is authorized and empowered to grant to corporations the privilege of establishing, operating, and maintaining foreign-trade zones in or adjacent to ports of entry under the jurisdiction of the United States;

WHEREAS, The Greater Burlington Industrial Corporation (GBIC) (the Grantee) has made application (filed November 8, 1979) in due and proper form to the Board, requesting the establishment, operation and maintenance of a foreign-trade zone at the Burlington International Airport in South Burlington, Vermont, within the Burlington Customs port of entry;

WHEREAS, notice of said application has been given and published, and full opportunity has been afforded all interested parties to be heard; and

WHEREAS, the Board has found that the requirements of the Act and the Board's Regulations (15 CFR Part 400) are satisfied;

NOW, THEREFORE, the Board hereby grants to the Grantee the privilege of establishing, operating, and maintaining a foreign-trade zone, designated on the records of the Board as Zone No. 55 at the location mentioned above and more particularly described on the maps and drawings accompanying the application in Exhibits IX and X, said grant being subject to the provisions, conditions, and restrictions of the Act and the regulations issued thereunder, to the same extent as though the same were fully set forth herein, and also to the following express conditions and limitations:

Operation of the foreign-trade zone shall be commenced by the Grantee within a reasonable time from the date of issuance of the grant, and prior thereto the Grantee shall obtain all necessary permits from Federal, State, and municipal authorities.

The Grantee shall allow officers and employees of the United States free and unrestricted access to and throughout the foreign-trade zone in the performance of their official duties.

The Grantee shall notify the Executive Secretary of the Board for approval prior to the commencement of any manufacturing operations within the zone.

The grant shall not be construed to relieve the Grantee from liability for injury or damage to the person or property of others occasioned by the construction, operation, or maintenance of said zone, and in no event shall the United States be liable therefor.

The grant is further subject to settlement locally by the District Director of Customs and the Army District Engineer with the Grantee regarding compliance with their respective requirements for the protection of the revenue of the United States and the installation of suitable facilities.

IN WITNESS WHEREOF, the Foreign-Trade Zones Board has caused its name to be signed and its seal to be affixed hereto by its Chairman and Executive Officer at Washington, D.C., this 14th day of February 1980, pursuant to Order of the Board.

Foreign-Trade Zones Board.

Philip M. Klutznick,

Chairman and Executive Officer.

[FR Doc. 80-5964 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

[Order No. 152]

Voluntary Relinquishment of Grant for Foreign-Trade Zone No. 10 and Subzones 10-A and 10-B, Bay City, Mich.

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR, Part 400), the Foreign-Trade Zones Board has adopted the following Order:

WHEREAS, on September 12, 1966, the Foreign-Trade Zones Board by Order No. 69 (31 FR 12070) issued a grant to the Bay County Board of Supervisors, a public corporation, authorizing the establishment, operation and maintenance of a general-purpose foreign-trade zone and two subzone sites in and near Bay City, Michigan, designated Foreign-Trade Zone No. 10 and Subzone Nos. 10–A and 10–B; and

WHEREAS, the Bay County Board of Commissioners (formerly the Bay County Board of Supervisors) advised the Board on September 6, 1979, that due to circumstances beyond its control, unforeseen at the time of the application, it has not been able to activate the proposed zone and subzones, and as a result requests voluntary relinquishment of the grant;

NOW, THEREFORE, the Foreign-Trade Zones Board, after full consideration, and finding that approval of the grantee's voluntary relinquishment of the grant is in the public interest, hereby revokes the grant for Zone No. 10 and Subzones 10–A and 10–B, and rescinds Order No. 69 under which the grant was issued.

Signed at Washington, D.C., this 31st day of January 1980.

Philip M. Klutznick,

Secretary of Commerce, Chairman and Executive Officer, Foreign-Trade Zones Board.

[FR Doc. 80-5962 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Office of the Secretary

[Dept. Organization Order 10-10, Amdt. 2]

Assistant Secretary for Communications and Information; Statement of Organization, Functions, and Delegation of Authority

This order effective January 29, 1980 further amends the materials appearing at 43 FR 24348 of June 5, 1978 and 44 FR 18722 of March 29, 1979.

Department Organization Order 10–10, dated May 9, 1978, is hereby amended as shown below. The purpose of this amendment is to establish a new and separate position of Deputy Administrator for Operations; transfer the administrative and management responsibilities to the Deputy Administrator from the Deputy Assistant Secretary for Communications and Information; and correct an earlier reference in Section 1.

1. In Section 1. *Purpose*, in pen and ink, change the words "Assistant Secretary, NTIA" appearing in paragraph .01 to "Assistant Secretary for Communications and Information."

2. In Section 3. Scope of Authority, a. Paragraph .03 is revised to read as follows:

".03 The Deputy Assistant Secretary for Communications and Information shall be the Assistant Secretary's principal policy advisor; shall perform such other functions as the Assistant Secretary shall from time to time assign or delegate; and shall act as Assistant Secretary during the absence or disability of the Assistant Secretary or in the event of a vacancy in the Office of the Assistant Secretary."

b. A new paragraph .04 is added to read as follows:

".04 The Deputy Administrator for Operations shall be the Assistant Secretary's chief assistant in the management and direction of NTIA, and shall perform such other functions as the Assistant Secretary shall from time to time assign or delegate."

Effective date: January 29, 1980.

Guy W. Chamberlin, Jr.,

Acting Assistant Secretary for Administration.

[FR Doc. 80-5731 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 35-2B, Amdt. 1]

Bureau of the Census; Statement of Organization, Functions and Delegation of Authority

This Order effective January 28, 1980 amends the material appearing at 44 FR 40659 of July 12, 1979.

Department Organization Order 35–2B dated June 21, 1979, is hereby amended as shown below. The purpose of this amendment is to: establish the Office of the Assistant Director for International Programs and the International Demographic Data Center; change the name of the International Statistical Program Center to the International Statistical Assistance and Training Center, reassign it organizationally, and change its functional statement; reassign the Foreign Demographic Analysis Division to the Office of the Assistant Director for International Programs; and change the functional statement of the Population Division to reflect the transfer of certain functions to the International Demographic Data Center.

1. In Section 5, *Office of the Associate Director for Demographic Fields.* a. In pen and ink, delete subparagraphs .01b. and d., and reletter the current subparagraphs .01c., e., f., and g. as .01b., c., d., and e., respectively.

b. The relettered subparagraph .Old. above, is revised to read as follows:

"d. The *Population Division* shall formulate and develop overall plans and programs for the collection, processing, and dissemination of statistical data from special and current surveys and censuses; prepare estimates and projections of the population; plan and develop systems and prepare computer programs for the processing of population data on electronic data

processing equipment; and conduct special studies and publish analytical reports and monographs.

2. A new Section 10. is added to read as follows:

"Section 10. Office of the Assistant Director for International Programs.

"The *Assistant Director for International Programs* shall plan and direct the international statistical program activities of the Bureau; advise the Deputy Director in these activities; and shall have and direct the following units:

"a. The *International Demographic Data Center* shall develop and maintain a comprehensive demographic (and socioeconomic) data base for all countries of the world; provide users with demographic data which have been evaluated and adjusted for inaccuracies and inconsistencies; prepare estimates and projections of population and selected socioeconomic characteristics for countries, regions, and the world; and prepare Country Demographic Profiles detailing fertility, mortality, and population changes.

"b. The *International Statistical Assistance and Training Center* shall train foreign technicians in censuses, surveys, and other statistical methods, especially relating to large-scale data collection; provide onsite statistical assistance of a varied nature to developing countries; provide, at the request of the Agency for International Development and of countries participating in the AID program, short- and long-term consultation services; and maintain a capability for developing variety of computing programs and software to assist in processing census and survey data, editing packages, and specialized packages for applying standard, demographic, and statistical techniques.

"c. The *Foreign Demographic Analysis Division* shall conduct specialized studies of population, labor force, and statistical reporting systems of foreign countries, involving the collection, compilation, and evaluation of relevant data; prepare estimates and projections and special analytical and interpretative reports and monographs."

3. In pen and ink, renumber the current Sections 10. and 11., as Sections 11. and 12., respectively.

4. The organization chart attached to this amendment supersedes the chart dated June 21, 1979. A copy of the Organization chart is on file with the original of this document in the Office of the Federal Register.

Effective date: January 28, 1980.

Guy W. Chamberlin, Jr.

Assistant Secretary for Administration.

[FR Doc. 80-5733 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-17-M

[Dept. Organization Order 25-7; Amdt. 2]

National Telecommunications and Information Administration; Statement of Organization, Functions, and Delegation of Authority

This order effective January 29, 1980 further amends the materials appearing at 43 FR 24349 of June 5, 1979 and 44 FR 72213 of December 13, 1979.

Department Organization Order 25-7, dated May 11, 1978, is hereby further amended as shown below. The purpose of this amendment is to delete certain policy development functions and change the title of the Office of Planning and Policy Coordination to the Planning and Policy Coordination Staff (Section 4.); and correct the wording of paragraph 7.b.

1. In Section 4. Special Staff Offices, Paragraph .01 and subparagraphs a., b., d., e., and f. are revised to read as follows:

".01 The *Planning and Policy Coordination Staff* shall be headed by the Chief of Planning and Policy Coordination and shall assist the Deputy Administrator for Operations in performing assigned manageent and policy coordination responsibilities. In performing these functions it shall:

"a. As directed, represent the Deputy Administrator for Operations in the implementation of telecommunications and information policies and in all other program activities of NTIA.

"b. Assist the Deputy Administrator for Operations in developing program priorities, goals and objectives, in the allocation of resources, and in the evaluation of NTIA telecommunications and information policies and those of other agencies.

"d. Provide overall guidance, planning, and policy coordination in the performance of NTIA programs.

"e. Provide policy coordination and program guidance on the formulation, preparation, and presentation of NTIA budgets, and on the integration of policy goals and program plans into budget documents.

"f. Develop, propose, and coordinate, as appropriate, long and short-term program and policy directions; and program plans for NTIA, and incorporate such considerations into the programmatic functions of NTIA."

2. In Section 7. Institute for Telecommunication Sciences, Paragraph b. is revised to read as follows:

"b. Acquire, analyze, synthesize and disseminate data and perform research in general on the description and prediction of electromagnetic wave propagation and the conditions which affect propagation, on the nature of electromagnetic noise and interference, and on methods for improving the use of the spectrum for telecommunications purposes; prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in those conditions; develop methods of measurement of system performance and standards of practice for telecommunications."

3. In pen and ink on the organization chart dated November 28, 1979 change the "Office of Planning and Policy Coordination" to the *Planning and Policy Coordination Staff.*

Effective date: January 29, 1980.

Guy W. Chamberlin,

Assistant Secretary for Administration.

[FR Doc. 80-5732 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-17-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Amending the Restraint Level for Certain Cotton Textile Products From Pakistan

AGENCY: Committee for the Implementation of Textile Agreements.

ACTION: Amending the bilateral cotton textile agreement with Pakistan to establish a designated consultation level of 1,000,000 square yards equivalent (19,231 dozen) for cotton nightwear in Category 351 during the twelve-month period which began on January 1, 1980.

(A detailed description of the textile categories in terms of T.S.U.S.A. numbers was published in the Federal Register on January 4, 1978 (43 FR 884), as amended on January 25, 1978 (43 FR 3421), March 3, 1978 (43 FR 8828), June 22, 1978 (43 FR 26773), September 5, 1978 (43 FR 39408), January 2, 1979 (44 FR 94), March 22, 1979 (44 FR 17545), and April 12, 1979 (44 FR 21843), and December 20, 1979 (44 FR 75441))

SUMMARY: The Governments of the United States and Pakistan have exchanged letters further amending the Bilateral Cotton Textile Agreement of January 4, 1978, as amended, to establish a designated consultation level of 1,000,000 square yards equivalent for cotton textile products in Category 351 for the twelve-month period which began on January 1, 1980 and for the succeeding agreement period beginning on January 1, 1981.

EFFECTIVE DATE: February 20, 1980.

SUPPLEMENTARY INFORMATION: On December 27, 1979, there was published in the **Federal Register** (44 FR 76572) a letter dated December 20, 1979 from the Chairman of the Committee for the Implementation of Textile Agreements to the Commissioner of Customs which established levels of restraint for certain specified categories of cotton textile products, produced or manufactured in Pakistan, which may be entered into the United States for consumption, or withdrawn from warehouse for consumption, during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. In the letter published below the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to adjust the previously established level of restraint for cotton textile products in Category 351, pursuant to the terms of the most recent amendment to the bilateral agreement.

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

February 19, 1980.

Committee for the Implementation of Textile Agreements

Commissioner of Customs,
Department of the Treasury
Washington, D.C. 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1979 by the Chairman, Committee for the Implementation of Texile Agreements, concerning imports into the United States of certain cotton textile products, produced or manufactured in Pakistan.

Under the terms of the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as extended on December 15, 1977; pursuant to the Bilateral Cotton Textile Agreement of January 4, 1978, as amended, between the Governments of the United States and Pakistan; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended by Executive Order 11951 of January 6, 1977, you are directed to prohibit, effective on February 20, 1980, and for the twelve-month period beginning on January 1, 1980 and extending through December 31, 1980, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton textile products in Category 351, produced or manufactured in Pakistan, in excess of 19,231 dozen.[1]

The actions taken with respect to the Government of Pakistan and with respect to imports of cotton textile products from Pakistan have been determined by the Committee for the Implementation of Textile Agreements to involve foreign affairs functions of the United States. Therefore, the directions to the Commissioner of Customs, which are necessary for the implementation of such actions, fall within the foreign affairs exception to the rule-making provisions of 5 U.S.C. 553. This letter will be published in the **Federal Register.**

Sincerely,

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-5913 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

[1] The level of restraint has not been adjusted to reflect any imports after December 31, 1979.

Further Adjusting the Levels of Restraint for Certain Cotton and Man-Made Fiber Textile Products From Mexico; Effective January 1, 1980; Correction

February 13, 1980.

In FR Doc. 79-39261, appearing at page 76384 of the issue for Wednesday, December 26, 1979, the twelve-month period of coverage of the levels of restraint for the subject textile products from Mexico, listed in the letter to the Commissioner of Customs, should have been stated as "January 1, 1980 and extending through December 31, 1980," instead of "January 1, 1979 and extending through December 31, 1979".

Arthur Garel,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-5915 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

Announcing Import Restraint Levels for Certain Cotton and Man-Made Fiber Textile Products From Thailand

Correction

In FR Doc. 79-39513, appearing at page 76575 in the issue for Thursday, December 27, 1979, the units were omitted for the levels of restraint established in the letter to the Commissioner of Customs for textile products in Categories 331 and 336, produced or manufactured in Thailand and exported to the United States during the twelve-month period which began on January 1, 1980 and extends through December 31, 1980. The units for Category 331 (cotton gloves) should have been "dozen pairs", and the units for Category 336 (cotton dresses) should have been "dozen".

Paul T. O'Day,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 80-5914 Filed 2-25-80; 8:45 am]

BILLING CODE 3510-25-M

DEPARTMENT OF DEFENSE

Department of the Air Force

USAF Scientific Advisory Board; Meeting

February 14, 1980.

The USAF Scientific Advisory Board Aeronautical Systems Division Advisory Group will hold meetings on March 13, 1980 from 8:30 a.m. to 5:00 p.m. and March 14, 1980 from 8:30 a.m. to 5:00 p.m. in Room 222, Building 14, Area B, Wright-Patterson Air Force Base, Ohio.

The purpose of the meeting is to review selected programs and projects relating to the missions of the Aeronautical Systems Division and the Air Force Wright Aeronautical Laboratories.

The meetings concern matters listed in Section 552b(c) of Title 5, United States Code, specifically subparagraph (1) thereof, and that accordingly the meetings will be closed to the public.

For further information please contact the Scientific Advisory Board Secretariat at (202) 697-8845.

Carol M. Rose,

Air Force Federal Register Liaison Officer.

[FR Doc. 80-5726 Filed 2-25-80; 8:45 am]

BILLING CODE 3910-01-M

Corps of Engineers, Department of the Army

Intent To Prepare a Draft Supplement to the Final Environmental Impact Statement for the Proposed Upstream Works on the Minnesota River, Big Stone Lake-Whetstone River Project, Minnesota and South Dakota

AGENCY: St. Paul District, U.S. Army Corps of Engineers.

ACTION: Notice of intent to prepare a draft supplement to the Final Environmental Impact Statement (FEIS).

SUMMARY: The Big Stone Lake-Whetstone River Modification Project was authorized by the Flood Control Act approved 27 October 1965.

The principal feature of the proposed plan is a bypass channel for diverting flood flows from the Minnesota River into the upstream end of the Big Stone National Wildlife Refuge. The project would provide: (1) a new channel to bypass flood flows; (2) riprapped restriction in the existing river channel and a weir placed across the new channel to assure continued passage of low flows in the existing river channel on the upstream end; and (3) riprap and a culvert at the intersection of the new channel and the existing Minnesota River channel on the downstream end to

assure that only flood flows would be carried by the new channel. Flood flows carried by the new channel would be dissipated by existing ditches and wetlands of the Big Stone National Wildlife Refuge.

In addition to the proposed action, the following reasonable alternatives have been identified:

1. *No action*—The no action alternative represents no additional actions on the part of the Corps of Engineers.

2. *Four additional channel alignment alternatives*—All provide for controlled flowage from the Minnesota River into the upstream end of the Big Stone National Wildlife Refuge and incorporate most or all of the features (such as riprap, channel modification, weir gates, and culverts) of the proposed project. Alternatives that were considered generally parallel the proposed project and lie within 1 mile of it.

The Final Environmental Impact Statement (dated 24 November 1970) was filed with the President's Council on Environmental Quality on 18 December 1971 and distributed at that time to all concerned Federal, State, and local agencies, plus private organizations and individuals. Copies of the Draft Supplement to the FEIS will also be provided to these public and private interests. Anyone else who is interested in reviewing this supplement is invited to do so and should contact the St. Paul District, Corps of Engineers, to assure that they are included on the mailing list.

Significant issues to be analyzed in the Draft Supplement to the FEIS include:

1. An evaluation of the environmental impacts of the proposed plan for flood control which is significantly modified from the plan discussed in the Final EIS.

2. A Section 404(b) Evaluation of the discharge into U.S. waters of dredged or fill material.

3. An assessment of the impacts on threatened or endangered species. This portion of the EIS supplement has been included to comply with Section 7 of the Endangered Species Act (Amendment 7C).

Our review of the project will be conducted in accordance with the requirements set forth in the National Environmental Policy Act of 1969, Council on Environmental Quality Regulations and Applicable Corps of Engineers regulations and guidance.

A scoping meeting will not be held for the preparation of this Draft Supplement due to prior coordination efforts which identified the significant issues, involving Federal, State, and local agencies; interested citizen's groups, and individual citizens.

We estimate that the Draft Supplement to the FEIS will be available to the public during the second quarter of Fiscal Year 80 (January 1980–March 1980).

Questions concerning the proposed action and the Draft Supplement to the FEIS can be directed to:

Colonel William W. Badger,

District Engineer, 1135 U.S. Post Office & Custom House, St. Paul, Minnesota 55101.

By Authority of the Secretary of the Army:

George A. Bailey,

Colonel, U.S. Army, Director, Administrative Management, TAGCEN.

February 20, 1980.

[FR Doc. 80-5859 Filed 2-25-80; 8:45 am]

BILLING CODE 3710-CY-M

Department of the Army

Army Science Board; Partially Closed Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following Committee meeting:

Name of the Committee: Army Science Board.

Dates of Meeting: March 24–25, 1980.

Place: St. Louis, Missouri (exact location can be determined by contacting Helen Pipon at 202 697–9703).

Time: 0800–1100 hours, March 24, 1980 (Open). 1100–1700 hours, March 24, 1980 (Closed). 0730–0930 hours, March 25, 1980 (Closed). 0930–1500 hours, March 25, 1980 (Open).

Proposed Agenda: The Army Science Board will hold its Winter General Membership Meeting to present and receive briefings as shown in the Agenda.

Monday, 24 March

0800–0830 Welcome; opening remarks.
0830–1500 ASB Briefings and Discussions:
- 0830–0850 Human Issues Group I
- 0850–0910 Human Issues Group II
- 0910–0930 Human Issues Group III
- 0930–0950 Family of Military Computers

0950–1000 Break
- 1000–1030 Blast Overpressure
- 1030–1100 Electronic Time Fuze
- 1100–1130 C-C³ Workshop
- 1130–1200 ATBM

1200–1300 Lunch
- 1300–1330 On-Going/Future Activities: (1) Statistical Techniques in Testing. (2) Summer Study.
- 1330–1400 Other ASB Involvement: (1) NRAC "US/USSR Tech Balance Assessment". (2) Vertical Lift Technology.

1400–1410 Break
1410–1510 Division 86
1510–1620 DARCOM R&D Overview
1625–1700 AVRADCOM Command Overview

Tuesday, 25 March

0730–0845 AVRADCOM Technical Overview
0845–0930 Army Aviation RDTE Plan
0930–1025 Nap of the Earth Simulator Development
1025–1145 Break
1045–1130 Review of RPV Engineering Development Program
1130–1230 DARCOM Baseline Study Update
1230–1400 Lunch
1400–1500 Round Table Discussion/ Conclusion of Meeting

Portions of the meeting as indicated will be closed to the public in accordance with Section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof. The classified and non classified matters to be discussed during those portions are so inextricably intertwined so as to preclude opening those portions.

Helen A. Pipon,

Staff Assistant.

[FR Doc. 80-5861 Filed 2-25-80; 8:45 am]

BILLING CODE 3710-08-M

Intent To Grant Exclusive Patent License; FMC Corp.

Pursuant to the provisions of Army Regulation 27–60, the Department of the Army announces its intention to grant to FMC Corporation, a corporation of the State of Delaware, an exclusive license, for a term of five years, under United States Patent Number 4,040,686, issued August 9, 1977, entitled "Anti-Friction Bearing," invented by Erwin F'Geppert.

This license will be granted unless an application for a nonexclusive license, submitted by a responsible applicant, is received by the Chief, Intellectual Property Division, Office of The Judge Advocate General, Department of the Army, Washington, D.C. 20310, within 60 days of this notice, and it is determined, in accordance with the procedures set forth in Army Regulation 27–60, that the applicant for such license has established that he has already brought or is likely to bring the invention to the point of practical application within a reasonable period if granted a nonexclusive license or it is determined that a third party has presented written evidence and argument which has established that it would not be in the public interest to grant the exclusive license.

For further information concerning this notice, contact: Lieutenant Colonel H. M. Hougen, HQDA (DAJA–IP), Washington, D.C. 20310, telephone number (202) 695–9356.

Dated: February 15, 1980.

William G. Gapcynski,

Chief, Intellectual Property Division, Office of The Judge Advocate General, Department of the Army.

[FR Doc. 80-5860 Filed 2-25-80; 8:45 am]

BILLING CODE 3710-08-M

Office of the Secretary

Membership of the Office of the Secretary of Defense (OSD) Performance Review Board

AGENCY: Office of the Secretary of Defense (OSD).

ACTION: Notice of the membership of the Office of the Secretary of Defense Performance Review Board.

SUMMARY: The Department of Defense announces the initial membership of the Office of the Secretary of Defense Performance Review Board for the Office of the Secretary of Defense and its field activities, the Organization of the Joint Chiefs of Staff, and civilian Directors and Deputy Directors of Defense Agencies. The purpose of the Board is to provide fair and impartial review of the Senior Executive Service performance appraisals prepared by the senior executive's immediate and second level supervisor, and make recommendations to the Secretary of Defense regarding acceptance or modification of the performance rating; transfer, reassignment or removal from the SES of any senior executive whose performance is considered to be unsatisfactory; nominations for financial performance awards; and nominations for the rank of Meritorious Executive and Distinguished Executive.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Mrs. Sharon B. Brown, Chief, Senior Executive Service Division, Directorate for Personnel & Security, WHS, Office of the Secretary of Defense, Department of Defense, Pentagon, (202) 695-4573 or 695-9313.

SUPPLEMENTARY INFORMATION: In acordance with 5 U.S.C. 4314 (c) (4) and DoD Directive 1434.2 (to be published as 32 CFR Part 57), the following are names and titles of the persons who have been appointed to the Office of the Secretary of Defense Performance Review Board. They will serve a 1-year renewable term, effective the date of this Notice.

Name and Title

Arden L. Bement, Jr., Deputy Under Secretary of Defense for Research and Engineering (Research and Advanced Technology).

Richard J. Danzig, Principal Deputy Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

Gerald P. Dinneen, Assistant Secretary of Defense (Communications, Command, Control, and Intelligence).

Virginia M. Dondy, Associate General Counsel.

Robert R. Fossum, Director, Defense Advanced Research Projects Agency.

Ellen L. Frost, Deputy Assistant Secretary of Defense (International Economic Affairs).

Henry H. Gaffney, Jr., Director, Near East and South Asia Region.

Robert L. Gilliat, Assistant General Counsel (Manpower, Health and Public Affairs).

John A. Goldsmith, Special Assistant to the Assistant Secretary of Defense (Public Affairs).

Charles W. Groover, Deputy Assistant Secretary of Defense (Requirements, Resources, and Analysis).

Charles W. Hinkle, Director for Freedom of Information and Security Review.

Robert W. Komer, Under Secretary of Defense for Policy.

Walter B. LaBerge, Principal Deputy Under Secretary of Defense for Research and Engineering.

David E. McGiffert, Assistant Secretary of Defense (International Security Affairs).

Vernon McKenzie, Principal Deputy Assistant Secretary of Defense (Health Affairs).

John H. Moxley III, MD, Assistant Secretary of Defense (Health Affairs).

Daniel J. Murphy, Deputy Under Secretary of Defense for Policy Review.

Russell Murray II, Assistant Secretary of Defense (Program Analysis and Evaluation).

Leonard Niederlehner, Deputy General Counsel.

William J. Perry, Under Secretary of Defense for Research and Engineering.

Robert B. Pirie, Jr., Assistant Secretary of Defense (Manpower, Reserve Affairs, and Logistics).

Gene H. Porter, Principal Deputy Assistant Secretary of Defense (Program Analysis and Evaluation).

John R. Quetsch, Principal Deputy Assistant Secretary of Defense (Comptroller).

Thomas B. Ross, Assistant Secretary of Defense (Public Affairs).

Joseph H. Sherick, Deputy Assistant Secretary of Defense (Program/Budget).

Walter B. Slocombe, Deputy Under Secretary of Defense for Policy Planning.

David L. Solomon, Deputy Assistant Secretary of Defense (Technical Policy and Operations).

Jack L. Stempler, Assistant to the Secretary of Defense (Legislative Affairs).

Harry L. Van Trees, Principal Deputy Assistant Secretary of Defense (Communications, Command, Control and Intelligence).

Erich von Marbod, Deputy Director, Defense Security Assistance Agency.

Fred P. Wacker, Assistant Secretary of Defense (Comptroller).

James P. Wade, Jr., Assistant to the Secretary of Defense (Atomic Energy).

Togo D. West, Jr., The General Counsel.

Paul D. Wolfowitz, Deputy Assistant Secretary of Defense (Regional Programs).

Henry E. Lofdahl,

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

February 20, 1980.

[FR Doc. 80-5848 Filed 2-25-80; 8:45 am]

BILLING CODE 3810-70-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Action Taken on Consent Orders

AGENCY: Economic Regulatory Administration.

ACTION: Notice of settlement.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) hereby gives Notice that a Consent Order was entered into between the Office of Enforcement, ERA, and the firm listed below during the month of January 1980. The Consent Order represents resolution of an outstanding enforcement proceeding by the DOE and the firm involving a sum of less than $500,000 in the aggregate, excluding any penalties and interest. For a Consent Order involving a sum of $500,000 or more, Notice will be separately published in the **Federal Register.** This Consent Order is concerned exclusively with payment of the refunded amount for alleged overcharges made by this firm during the time period indicated, through direct cash refunds to the class of customers indicated below.

For further information regarding this Consent Order, please contact James C. Easterday, District Manager of Enforcement, Southeast District, Economic Regulatory Administration, 1655 Peachtree Street, N.E., Atlanta, Georgia 30309, telephone number (404) 881-2661.

Recipients of settlement		Firm name and address	Settlement amount	Product	Period covered
Large ships—spot sales:	Amount				
A. R. Savage	$3,282.34	Marine Fuel Supply & Towing Co., Tampa, Fla.	$128,804	No. 2 diesel fuel	November 1973–December 1975.
Sea & Land	5,856.00				
Fillette & Green	5,653.18				
Luckenbach	3,637.39				
Florida Power & Light	3,555.90				
Interore Shipping Co	232.77				
Transoceanic	1,387.14				
Total	23,604.72				
High volume with discount:					
Red Circle Towing	85,089.95				
Low volume—no discount:					
Tampa Bay Pilots Association	5,160.10				
Low volume—steady customer:					
St. Phillips Towing	9,230.67				
G & H Towing	512.77				
S. C. Loveland	341.59				
Gulf Coast Transit	9,230.67				
Bob Vinik	3,015.32				
Ceramic Marine Construction	23.89				
King's Squire, Inc	325.53				
Need-a-Driver	1.99				
Interstate Towing	293.91				
Pepper Towing	56.72				
Gulf Atlantic Towing	340.30				
H. Ballew	4.69				
C. Little	4.71				
Gulf-Miss. Marine Corp	650.60				
Tampa Skindivers	5.65				
Cross State Towing	83.95				
Total	14,949.23				
Total refund amount	128,804.00				

Issued in Atlanta, Georgia, on the 12th day of February 1980.

James C. Easterday,
District Manager.

Concurrence:

Leonard F. Bittner,
Chief Enforcement Counsel.

[FR Doc. 80-5711 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-01-M

Kennecott Copper Corp.; Energy Supply and Environmental Coordination Act; Rescission of Prohibition Orders

Pursuant to 10 CFR 303.137(d), the Department of Energy (DOE) hereby gives notice that on February 15, 1980, DOE issued orders rescinding the Prohibition Orders issued on June 30, 1977, to Kennecott Copper Corporation, Utah Copper Division, Utah Power Plant, Salt Lake City, Utah, Units 1, 2, 3 and 4 (Utah Copper 1, 2, 3, and 4) (Docket No. OCU–2979) pursuant to Section 2 of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 791 *et seq.*).[1] This action was initiated by DOE under the authority granted to it by Section 2(f) of ESECA and in accordance with the implementing regulations, 10 CFR Part 303, Subpart J. The Prohibition Orders, if made effective by issuance of Notices of Effectiveness (NOE), would have prohibited the above-named major fuel burning installations from burning natural gas or petroleum products as their primary energy source.

By letter of February 7, 1979, J. C. Larson, Special Project Manager of the Utah Copper Division, reported to DOE that Utah Copper 1, 2, 3, and 4 are burning coal as their primary energy source, pursuant to the terms of the outstanding Prohibition Orders.

Based upon this information, DOE has determined the outstanding Prohibition Orders issued to Utah Copper 1, 2, 3, and 4 have attained their originally stated purpose of assisting in meeting the essential needs of the United States for fuels by causing the conversion of these units from the burning of oil as their primary energy source to the burning of coal in a manner consistent to the fullest extent practicable, with existing commitments to protect and enhance the environment. In view of this accomplishment, DOE believes that further action towards making the outstanding Prohibition Orders effective would not be in the public interest, accordingly rescission of the orders is now appropriate.

By letter of June 21, 1979, and publication in the **Federal Register** on June 18, 1979 (44 FR 35007), DOE gave notice of its intention to rescind the Prohibition Orders issued to the above-named major fuel burning installations and invited written comments on the proposed action. DOE has considered all comments submitted and has found no issues raised which warrant the termination of the rescission action.

The Rescission Orders was served on Mr. Thomas D. Barrow, Chairman of the Board, Kennecott Copper Corporation, 161 East 42nd Street, New York, New York 10017 by registered mail, February 15, 1980. (Copies have been served on Mr. J. C. Larson, Special Project Manager, Utah Copper Corporation, Post Office Box 11299, Salt Lake City, Utah, also by registered mail.) Copies of the Rescission Orders will be on display for any interested member of the public to inspect at the DOE Public Docket Room

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*)

located in Room B–120, 2000 M Street, NW, Washington, DC 20461 from 1:00 to 4:30 p.m., Monday through Friday of each week. Copies will also be available at the appropriate DOE regional office and in the Freedom of Information Reading Room, Room GA–152, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585 between the hours of 8:15 a.m. and 4:15 p.m., Monday through Friday.

Any person aggrieved by the Recission Orders may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Rescission Orders. Service by registered mail is complete upon mailing. There has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Questions regarding this rescission action should be directed to DOE as follows: Steven A. Frank, ESECA Programs Branch, Department of Energy, Economic Regulatory Administration, Room 3318, 2000 M Street, NW, Washington, DC 20461 (telephone: (202) 634–6536). Written questions should be identified on the envelope and in the correspondence with the designation set out above, "Kennecott, Utah Copper Units 1, 2, 3, and 4—Rescission Orders".

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95–70 and Pub. L. 95–620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95–70 and Pub. L. 95–91; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 F.R. 23185); E.O. 12009 (42 F.R. 46167))

Issued in Washington, D.C., February 15, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

Rescission Orders

Registered Mail

To: Kennecott Copper Corporation, 161 East 42nd Street, New York, New York 10017
Attention: Mr. Thomas D. Barrow, Chairman of the Board
Docket Number: OCU–2979
Owner: Kennecott Copper Corporation, Utah Copper Division
Plant: Utah Power Plant
Units: 1, 2, 3 and 4
Location: Salt Lake City, Utah

Pursuant to Section 2(f) of the Energy Supply and Environmental Coordination Act of 1974 (ESECA), as amended (15 U.S.C. 792(f)) and in accordance with the implementing regulations, 10 C.F.R. Part 303, Subpart J ("Modification or Rescission of Prohibition Orders and Construction Orders"), the Economic Regulatory Administration of the Department of Energy (DOE) [1] hereby rescinds the Prohibition Ordes issued on June 30, 1977, to the above-named major fuel burning installations (MFBI). Such orders, if made effective by the issuance of Notices of Effectiveness (NOE), would have prohibited these MFBIs from burning natural gas or petroleum products as their primary energy source.

By letter of February 7, 1979, J. C. Larson, Special Project Manager of the Utah Copper Division, reported to DOE that the Units 1, 2, 3, and 4 of the Utah Power Plant are burning coal as their primary energy source pursuant to the terms of the outstanding Prohibition Orders.

Based upon this information, DOE has determined that the outstanding Prohibition Orders issued to Units 1, 2, 3, and 4 of the Utah Plant have attanined their originally stated purpose of assisting in meeting the essential needs of the United States for fuels by causing the conversion of the units from the burning of oil as a primary energy source to the burning of coal in a manner consistent to the fullest extent practicable with existing commitments to protect and enhance the environment. In view of this accomplishment, DOE believes that further action towards making the outstanding Prohibition Orders effective would not be in the public interest and accordingly, rescission of the orders is now appropriate.

In its "Intention on rescind a Prohibition Order" published in the **Federal Register** on June 18, 1979 (44 FR 35007), DOE gave notice of its intention to rescind the Prohibition Orders issued to the above-named MFBIs and invited written comments on the proposed action. No comments were received during the period allotted for submission of written comments, and no issues were raised or called to DOE's attention which would have caused DOE to terminate the rescission action.

Any person aggrieved by these Rescission Orders may file an appeal with the DOE Office of Hearings and Appeals (previously the Office of Exceptions and Appeals) in accordance with 10 CFR Part 303, Subpart H. The appeal shall be filed within 30 days after service of the Recission Order. Service by registered mail is complete upon mailing. These has not been an exhaustion of administrative remedies until an appeal has been filed pursuant to Subpart H and the appellate proceeding is completed by the issuance of an order granting or denying the appeal.

Questions regarding this rescission action should be directed to DOE as follows: Steven A. Frank, FSFCA Programs Division, Department of Energy, Economic Regulatory Administration, Room 3318, 2000 M Street, NW., Washington, D.C. 20461 (telephone: (202) 634–6536). Written questions should be identified on the envelope and in the correspondence with the designation, "Kennecott, Utah Copper Units 1, 2, 3, and 4—Rescission Orders".

(Energy Supply and Environmental Coordination Act of 1974 (15 U.S.C. 791 *et seq.*) as amended by Pub. L. 95–70 and Pub. L. 95–620; Federal Energy Administration Act of 1974 (15 U.S.C. 761 *et seq.*) as amended by Pub. L. 95–70 and Pub. L. 95–91; Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*); E.O. 11790 (39 F.P. 23185); E.O. 12009 (42 F.P. 46267).)

Issued in Washington, D.C. February 15, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80–5744 Filed 2–25–80; 8:45 am]

BILLING CODE 6450–01–M

[1] Effective October 1, 1977, the responsibility for implementing ESECA was transferred by Executive Order No. 12009 from the Federal Energy Administration to the Department of Energy pursuant to the Department of Energy Organization Act (42 U.S.C. 7101 *et seq.*).

[ERA Docket No. 79–14–LNG]

Computational Adjustment to F.O.B. Price of Liquefied Natural Gas as Stated in Ordering Section of DOE/ERA Opinion and Order Number 11

AGENCY: Department of Energy, Economic Regulatory Administration.

ACTION: Notice of proposed computational adjustment to the authorized f.o.b. price to be paid for liquefied natural gas (LNG) imported into the United States from Algeria, as stated in DOE/ERA Opinion and Order Number Eleven ("Opinion No. 11").

SUMMARY: On December 29, 1979, the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) issued Opinion No. 11—"Opinion and Order Approving the Joint Application of Columbia LNG Corporation, *et al.* for Amendments to Previous Orders Authorizing Importation of Liquefied Natural Gas into the United States from Algeria, and for Certain Related Contractual Provisions." Opinion No. 11 approved Amendment Number Three to the Contract for Sale and Purchase of Liquefied Natural Gas which included a formula for the calculation of a price for the LNG f.o.b. Arzew, Algeria. Ordering paragraph B (Opinion No. 11, p. 58) stated the authorized f.o.b. price to be no more than U.S. $1.945 per million British thermal units (MMBtu) for the period January 1, 1980, through June 30, 1980. The authorized price was computed by applying the formula contained in Amendment Number Three. (See Opinion No. 11, p. 18, where a figure of $1.9448 per MMBtu is cited. Rounded to three decimal places, this figure was the basis for the price of

$1.945 authorized in Ordering paragraph B.)

Subsequent to issuance of Opinion No. 11, ERA has reviewed the calculations and found that Ordering paragraph B should have stated a price of $1.946 rather than $1.945. As modified, the paragraph will thus read:

(B) Any tariffs or rate schedules covering the importation authorized by Paragraph (A) above shall reflect a f.o.b. price Arzew, Algeria, for the LNG calculated on the basis of no more than U.S. $1.946 per MMBtu, adjusted for boil-off pursuant to the LNG Sales Agreements between the Applicants and El Paso Algeria Corporation, for the period January 1, 1980, through June 30, 1980.

DATES: Protests to or comments on the proposed computational adjustment are due on or before February 27, 1980.

FOR FURTHER INFORMATION CONTACT:

Finn K. Neilsen, Director, Import/Export Division, Office of Petroleum Operations, Economic Regulatory Administration, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, telephone (202) 254–8202.

Martin S. Kaufman, Deputy Assistant General Counsel for International Trade and Emergency Preparedness, 1000 Independence Avenue, S.W., Forrestal Building, Room 5E064, Washington, D.C. 20585, telephone (202) 252–2900.

SUPPLEMENTARY INFORMATION: In the absence of any timely protests to the substitution proposed in this notice, Ordering paragraph B will be deemed to have been modified as described above and the f.o.b. price of $1.946 (rather than $1.945) shall be operative for the period January 1, 1980, through June 30, 1980. In the event that ERA does receive protests to the proposed change, ERA will consider them and issue an order stating its disposition of this matter.

OTHER INFORMATION: All protests, if any, are to be filed with the Economic Regulatory Administration, Director, Import/Export Division, 2000 M Street, N.W., Room 4126, Washington, D.C. 20461, in accordance with the requirements of the rules of practice and procedure as stated at 18 CFR 1.10, no later than 4:30 p.m., February 27, 1980. Any protests filed with ERA in conformity with the procedures set forth herein will be considered by ERA, but will not serve to make protestants parties to the proceeding.

A formal hearing will not be held unless a motion for such hearing is made by any party or intervener and is granted by ERA, or if ERA on its motion believes that such a hearing is required. If such hearing is required, due notice will be given.

Copies of protests will be available for public inspection in Room 4126, 2000 M Street, N.W., Washington, D.C., between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, D.C., February 19, 1980.

Doris J. Dewton,

Assistant Administrator, Office of Petroleum Operation, Economic Regulatory Administration.

[FR Doc. 80-5742 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-01-M

[Docket No. ERA-FC-80-003; OFC Case No. 55381-2900-01-12]

Republic Steel Corp.; Acceptance of Petition for Exemption

AGENCY: Economic Regulatory Administration, Department of Energy.

ACTION: Notice of Acceptance of Petition for Exemption Pursuant to the Interim Rule Implementing the Powerplant and Industrial Fuel Use Act of 1978.

SUMMARY: On January 16, 1980, Republic Steel Corporation (Republic) filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) for an order permanently exempting a new major fuel burning installation (MFBI) from the prohibitions of the Powerplant and Industrial Fuel Use Act of 1978 (FUA or the Act) 42 U.S.C. 8301 *et seq.*, which prohibits the use of petroleum and natural gas as a primary energy source in new MFBI's. Criteria for petitioning for exemptions frm the prohibitions of FUA are published at 44 FR 28530 (May 15, 1979) and 44 FR 28950 (May 17, 1879) Interim Rules.

The MFBI for which the petition is filed, is a field-erected boiler (identified as unit #3 High Pressure (HP) Boiler) to be installed at Republic's Warren Works steel plant located at Warren, Ohio. Unit #3 has a design heat input rate of 467 million BTU's per hour and will be capable of burning blast furnace gas, residual fuel oil and natural gas. Under Section 505.28 of the Interim Rules, Republic has requested a permanent exemption for a certain fuel mixture for this boiler.

FUA imposes statutory prohibitions against the use of natural gas and petroleum as a primary energy source by new MFBI's which consist of a boiler. ERA's decision in this matter will determine whether the boiler installation will be granted a permanent exemption to use a certain fuel mixture containing natural gas and petroleum.

ERA has determined that the petition for a permanent fuel mixtures exemption is complete in accordance with the Interim Rules. Pursuant to § 501.3(c) of the Interim Rules, ERA notified Republic, within the prescribed thirty day period, that its petition for the permanent exemption was acceptable as filed. ERA retains the right to request additional relevant information from Republic at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. A review of the petition is provided in the SUPPLEMENTAL INFORMATION section below.

As provided for in section 701 (c) and (d) of FUA and §§ 501.31 and 501.33 of the Interim Rules, interested persons are invited to submit written comments in regard to this matter; and any interested person may submit a written request that ERA convene a public hearing.

DATES: Written comments are due on or before April 11, 1980. A request for public hearing must also be made within the same 45 day public comment period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Economic Regulatory Administration, Case Control Unit, Box 4629, Room 2313, 2000 M Street, NW., Washington, D.C. 20461.

Docket No. ERA–FC–80–003 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Constance L. Buckley, Chief, New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street NW., Room 3128, Washington, D.C. 20461, Telephone (202) 254–7814. Edward Jiran, Office of the General Counsel, Department of Energy, Forrestal Building, Room 6G–087, 1000 Independence Avenue, SW., Washington, D.C. 20585, Telephone (202) 252–2967. Edward J. Peters, Jr., New MFBI Branch, Office of Fuels Conversion, Economic Regulatory Administration, 2000 M Street, NW., Room 3126, Washington, D.C. 20461, Telephone (202) 634–7593.

SUPPLEMENTARY INFORMATION: ERA published in the Federal Register on May 15 and 17, 1979, its Interim Rules implementing the provisions of Title II of FUA. The Act prohibits the use of natural gas and petroleum as a primary energy source in certain new MFBI's unless an exemption to do so has been granted by ERA.

The new MFBI for which the permanent fuel mixtures exemption is requested is a field-erected boiler (# 3 HP boiler) with a design heat input rate of 467 million BTU's per hour, and a steam generating capactiy of 300,000 pounds per hour. The boiler is designed to burn blast furnace gas (a by-product fuel generated in the steel making blast furnace operation) as its primary energy source, with varying amounts of natural

gas and/or oil for pilot control, equipment outage, emergency and supplemental fuel purposes. The new boiler will replace six existing gas-oil fired boilers and will produce steam to provide additional blast furnace wind production and to provide power for the operation of new environmental control equipment at Republic's Warren Works plant located at Warren, Ohio.

Section 505.28 of the Interim Rules provides for a permanent exemption from the prohibitions of FUA for certain fuel mixtures containing natural gas or petroleum; to qualify, a petitioner must demonstrate to the satisfaction of ERA that: (1) It proposes to use a mixture of natural gas or petroleum and an alternate fuel as a primary energy source; and (2) the amount of petroleum or natural gas proposed for use in the mixture will not exceed the minimum percentage of the total annual Btu heat input needed to maintain operational reliability of the installation consistent with maintaining a reasonable level of fuel efficiency.

If the exemption is granted, ERA will not require that the percentage of petroleum or natural gas used in the mixture be less than 25 percent of the total annual Btu heat input of the installation.

In addressing the eligibility requirements, and the evidentiary requirements in § 505.28(a)(1) and (c)(4), Republic states that it will be using an industrial waste gas (blast furnace gas) as the primary energy source to be supplemented with natural gas and, to a limited extent when available, coke oven gas. During shortages of natural gas, #6 fuel oil is expected to be used. Further, Republic has certified that the total amount of natural gas or petroleum proposed to be used in the boiler will not exceed 25 percent of the total annual Btu heat input of the boiler. Republic contends that supplementation of blast furnace gas in the subject boiler with natural gas or petroleum is required for pilots, flame stabilization and process requirements. Republic states that such supplementation with natural gas or oil will provide sufficient steam to insure continuous plant operation during equipment outages and when blast furnace gas is otherwise unavailable.

In accordance with Part 502 of the Interim Rules, in support of its petition, Republic has addressed the appropriate Fuels Decision Report (FDR) requirements including design specification for the boiler for which this exemption is requested and an engineering assessment of the proportions of natural gas or oil needed to maintain operational reliability and a reasonable level of fuel efficiency.

ERA hereby accepts the filing of the petition for the permanent fuel mixtures exemption as adequate for filing. ERA retains the right to request additional relevant information from Republic at any time during the pendency of these proceedings where circumstances or procedural requirements may so require. As set forth in Section 501.3(g) of the Interim Rules, the acceptance of the petition by ERA does not constitute a determination that Republic is entitled to the exemption requested.

The public file, containing documents on these proceedings and supporting materials is available for inspection upon request at: Economic Regulatory Administration, Room B-110, 2000 M Street, NW., Washington, D.C., Monday-Friday, 8:00 am-4:30 pm.

Issued in Washington, D.C., on February 15, 1980.

Robert L. Davies,

Assistant Administrator, Office of Fuels Conversion, Economic Regulatory Administration.

[FR Doc. 80-5833 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-01-M

Office of Hearings and Appeals

Issuance of Proposed Decisions and Orders, January 28 through February 1, 1980

Notice is hereby given that during the period January 28 through February 1, 1980, the Proposed Decisions and Orders which are summarized below were issued by the Office of Hearings and Appeals of the Department of Energy with regard to Applications for Exception which had been filed with that Office.

Under the procedures which govern the filing and consideration of exception applications (10 CFR, Part 205, Subpart D), any person who will be aggrieved by the issuance of the Proposed Decision and Order in final form may file a written Notice of Objection within ten days of service. For purposes of those regulations, the date of service of notice shall be deemed to be the date of publication of this Notice or the date of receipt by an aggrieved person of actual notice, whichever occurs first. The applicable procedures also specify that if a Notice of Objection is not received from any aggrieved party within the time period specified in the regulations, the party will be deemed to consent to the issuance of the Proposed Decision and Order in final form. Any aggrieved party that wishes to contest any finding or conclusion contained in a Proposed Decision and Order must also file a detailed Statement of Objections within 30 days of the date of service of the Proposed Decision and Order. In that Statement of Objections an aggrieved party must specify each issue of fact or law contained in the Proposed Decision and Order which it intends to contest in any further proceeding involving the exception matter.

Copies of the full text of these Proposed Decisions and Orders are available in the Public Docket Room of the Office of Hearings and Appeals, Room B-120, 2000 M Street, N.W., Washington, D.C. 20461, Monday through Friday, between the hours of 1:00 p.m. and 5:00 p.m., e.d.t., except federal holidays.

Dated: February 20, 1980.

Melvin Goldstein,

Director, Office of Hearings.

Proposed Decision and Orders

Buck's Butane & Propane Service, Inc., San Jose Calif., DEE-5546, propane

Buck's Butane & Propane Service, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit Buck's to establish a price for rental of propane storage tanks which exceeds the maximum permissible price level calculated under Section 212.93. On January 28, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Eagle Oil Co., Waurika, Okla., BEE-0095, gasohol

On October 10, 1979, Eagle Oil Company filed an Application for Exception with the Office of Hearings and Appeals of the Department of Energy. The Eagle exception request, if granted, would increase the firm's allocation of unleaded motor gasoline for the purpose of blending and selling gasohol. On January 31, 1980, the Office of Hearings and Appeals issued a Proposed Decision and Order in which it tentatively granted the firm an allocation of 324,000 gallons of unleaded motor gasoline per month.

FS Services Inc., Bloomington, Ill., BEE-0274, gasohol

FS Services, Inc. filed an Application for Exception from the provisions of 10 CFR 212.93. The exception request, if granted, would permit FS to include in the price of gasohol sold to a particular customer the actual cost of transporting the gasohol to that customer. On January 31, 1980, the Department of Energy issued a Proposed Decision and Order which determined that the exception request be granted.

Gulf Oil Corp., Tulsa, Okla., BXE-0536, crude oil

Gulf Oil Corporation filed an Application for Exception from the provisions of 10 CFR, Part 212, Subpart D. The exception request, if granted, would result in an extension of exception relief previously granted and would permit the firm to sell a certain portion of the crude oil which it produces from the South Stanley Lease for the benefit of the working interest owners at upper tier ceiling prices. On January 30, 1980, the DOE issued a

Proposed Decision and Order and tentatively determined that an extension of exception relief should be granted.

Kings Point Housing Corp., Delray Beach, Fla., DEE–7740, temperature

The Kings Point Housing Corporation filed an Application for Exception from the Provisions of 10 CFR, Part 490. The exception request, if granted, would permit the firm to lower the temperature in its recreational facilities below 78°F. On January 28, 1980, the department of Energy issued a Proposed Decision and Order which determined that the exception request be denied.

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the motor gasoline allocation regulations. The exception requests, if granted, would result in an increase in the firm's base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be granted.

Company Name, Case No., and Location

Bainbridge Enterprises, DEE–3211, Hammond, IN
Groveland Sales & Service, DEE–5620, Abington, MA
Payne's Oil Co., Inc., DEE–2431, Clearwater, FL
Servando Enriquez, DEE–7475, Dos Palos, CA
Twin State Oil Co., BXE–0435, Tabor City, NC

Petitions Involving the Motor Gasoline Allocation Regulations

The following firms filed Applications for Exception from the provisions of the motor gasoline allocation regulations. The exception requests, if granted, would result in an increase in the firm's base period allocations of motor gasoline. The DOE issued Proposed Decisions and Orders which determined that the exception requests be denied.

Company Name, Case No., and Location

Albert A. Grasso d.b.a. Albert Grasso Chevron, DEE–7221, Orange, CA
Alex Nuszen, DEE–7770, Washington, DC
Art's Exxon, DEE–4522, Dixfield, ME
Blodgett Oil Co., DEE–6229, Mt. Pleasant, MI
By-Pass Exxon, DEE–6688, St. Francisville, LA
C. Lee Waugh d.b.a. Shamrock Exxon, DEE–7752, Columbia, SC
Cardinal Pet. Co., DEE–4117, Cumberland, NC
Dillon's Texaco, DEE–6285, Philadelphia, PA
King's Corners, DEE–5732, Nampa, ID
Mall Mart, DEE–3492, Redding, CA
Miller's Pack Horse, DEE–5398, Deadwood, SD
P&R Gulf Service, DEE–4307, Duluth, GA
Snyder's Mini Mart, DEE–5840, Allentown, PA
Wade Hampton Shell, DEE–7725, Greenville, SC.

[FR Doc. 80–5856 Filed 2–25–80; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders

Filed February 4 through February 8, 1980

Notice is hereby given that during the week of February 4 through February 8, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

On or before March 17, 1980, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). On or before March 27, 1980, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461. Issued in Washington, D.C.

Dated: February 20, 1980.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

Proposed Remedial Order

F. M. Buxton, Seminole, Okla., BRO–1004, crude oil

On February 5, 1980, F. M. Buxton, 1019 Fidelity Plaza, Oklahoma City, Oklahoma 73102 filed a Notice of Objection to a Proposed Remedial Order which the DOE Southwest District Office of Enforcement issued to the firm on January 18, 1980.

In the PRO the Southwest District found that during the period January 1, 1975 through October 31, 1977, F. M. Buxton sold condensate in violation of 10 CFR 212.73.

According to the PRO the F. M. Buxton violation resulted in $50,285.18 of overcharges.

[FR Doc. 80–5854 Filed 2–25–80; 8:45 am]
BILLING CODE 6450–01–M

Objection to Proposed Remedial Orders Filed Week of January 28 Through February 1, 1980

Notice is hereby given that during the week of January 28 through February 1, 1980, the Notices of Objection to Proposed Remedial Orders listed in the Appendix to this notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Within 20 days after publication of this notice, any person who wishes to participate in the proceeding which the Department of Energy will conduct concerning the Proposed Remedial Orders described in the Appendix to this notice must file a request to participate pursuant to 10 CFR 205.194 (44 FR 7926, February 7, 1979). Within 30 days of the publication of this notice, the Office of Hearings and Appeals will determine those persons who may participate on an active basis in this proceeding, and will prepare an official service list which it will mail to all persons who filed requests to participate. Persons may also be placed on the official service list as non-participants for good cause shown. All requests regarding this proceeding shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, D.C. 20461.

Issued in Washington, D.C.

Melvin Goldstein,

Director, Office of Hearings and Appeals.

February 20, 1980.

Proposed Remedial Orders

Amerada Hess Company, New York, New York; BRO–0985, crude oil

On February 1, 1980, Amerada Hess Company, 1185 Avenue of the Americas, New York, New York 10036, filed a Notice of Objection to a Proposed Order of Disallowance which the DOE Office of Special Counsel for Compliance issued to the firm on January 9, 1980. In the Proposed Order of Disallowance, the Office of Special Counsel found that during the period October 1973 to May 1975, Amerada Hess Corporation's interaffiliate landed costs for certain types of imported crude oil exceeded maximum prices permitted by the Mandatory Petroleum Price Regulations. The Proposed Order would require disallowance of these costs in the amount of $2,353,660.85.

Marathon Oil Company, Findlay, Ohio; BRO–0983, crude oil

On February 1, 1980, Marathon Oil Company, 539 South Main Street, Findlay, Ohio, filed a Notice of Objection to a Proposed Order of Disallowance which the DOE Office of Special Counsel for Compliance issued to the firm on January 9, 1980. In the Proposed Order of Disallowance, the Office of Special Counsel for Compliance found that during October 1973 to May 1975, Marathon had overstated its costs with respect to interaffiliate Libyan crude oil transactions. The Proposed Order of Disallowance orders Marathon to reduce its costs for the period October 1973 through May 1975 by $17,588,299.37 and to determine whether its selling prices for covered products were excessive.

Murphy Oil Corporation, El Dorado, Arkansas; BRO–0984, crude oil

On February 1, 1980, Murphy Oil Corporation, 200 Jefferson Avenue, El Dorado, Arkansas, filed a Notice of Objection to a Proposed Order of Disallowance which

the DOE Office of Special Counsel for Compliance issued to the firm on January 9, 1980. In the Proposed Order of Disallowance, Office of Special Counsel found that the firm had overstated its costs with respect to interaffiliate Venezuelan and Iranian crude oil transactions by approximately $3.9 million during the period October 1973 through May 1975.

Phillips Petreleum Company, Bartlesville, Oklahoma; BRO-0365, crude oil

On January 28, 1980, Phillips Petroleum Company, Bartlesville, Oklahoma 74004 filed a Notice of Objection to a Proposed Remedial Order which the DOE Office of Special Counsel for Compliance issued to the firm on January 15, 1980. In the PRO, the Office of Special Counsel found that Phillips failed to comply with the provisions of 10 CFR 211.105(d) as a result of its refusal to assume the motor gasoline supply obligations of other base period suppliers of Campbell Oil Company, following Campbell's designation of Phillips as its sole base period supplier.

[FR Doc. 80-5855 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-01-M

Office of the Secretary

Conduct of Employees

Section 602(c) of the Department of Energy Organization Act (Pub. L. 95-91, hereinafter referred to as the "Act") authorizes the Secretary of Energy to grant waivers from the divestiture requirements of section 602(a) of the Act to "supervisory employees" (as defined in section 601(a) of the Act) of the Department of Energy who have vested pension interests in "energy concerns" (as defined in section 601(b) of the Act).

It has been established to my satisfaction that the vested pension interest of the individual "supervisory employees" of the Department of Energy whose names are listed below satisfy the requirements of section 602(c) of the Act. Accordingly, I have granted them waivers from the divestiture provisions of section 602(a) of the Act for the duration of their employment with the Department of Energy.

Name, and Energy Concern

Everhart, Donald L., International Minerals & Chemical Co.
Wood, Richard E., General Electric Co.

Each supervisory employee named above will be directed not to participate personally and substantially, as a Government employee, in any particular matter the outcome of which could have a direct and predictable effect on the energy concern in which he has a financial interest, unless the employee's supervisor and the counselor agree that the financial interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect of the employee.

Date: February 12, 1980.

Charles W. Duncan, Jr.,

Secretary of Energy.

[FR Doc. 80-5741 Filed 2-25-80; 8:45 am]

BILLING CODE 6450-01-M

Voluntary Agreement and Plan of Action To Implement the International Energy Program; Revised Meetings Notices

In accordance with section 252(c)(1)(A)(i) of the Energy Policy and Conservation Act (42 U.S.C. 6201 *et seq.*) notice is hereby provided of the following meetings:

I. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on March 3, 1980, at the offices of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 1:30 p.m. The agenda for the meeting is as follows:

1. Opening remarks.
2. Communication to and from IEA and Reporting Companies.
3. Matters arising from Record Note of IAB meeting of January 24, 1980.
4. Report on Standing Group on Emergency Questions (SEQ) meeting of January 30.
5. Report by IEA on February Governing Board meeting including:
   A. Import targets and monitoring procedures.
   B. Status of stocks at sea—proposed addition to Questionnaire A.
   C. Status of Dispute Settlement Centre (DSC) Charter.
6. Report by IEA on worldwide supply and demand situation following February Questionnaire B and outlook for 1980.
7. Subcommittee A Chairman's report including:
   A. Meeting(s) with SEQ *ad hoc* group on emergency data system.
   B. Meeting with SEQ *ad hoc* group on AST-3 planning.
8. Review Netherlands paper on oil sharing.
9. IEA report on Emergency Management Manual modifications.
10. Future meeting dates.

II. A meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA) will be held on March 4, 1980, at the headquarters of the IEA, 2 rue Andre Pascal, Paris, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IAB at a meeting of the IEA Standing Group on Emergency Questions (SEQ) which is being held at Paris on that date.

The agenda for the meeting is under the control of the SEQ. It is expected that the following draft agenda will be followed.

1. Adoption of the agenda.
2. Summary Record of the Thirty-First Meeting.
3. Import target monitoring:
   A. Monitoring Procedures.
   B. Preliminary First Quarter 1980 import target results.
4. Assessment of the supply and demand situation:
   A. Assessment after the February 1980 submission.
   B. Year 1980 outlook.
   C. Stock position and development.
5. Simplified sharing systems:
   A. Contribution by The Netherlands.
   B. Contribution by Italy.
6. Emergency demand restraint reviews:
   A. Austria.
   B. Turkey.
7. Emergency Management Manual:
   A. IEA—European Economic Community (EEC) interface.
   B. Outlook for further revisions.
8. Data systems:
   A. Base Period Final Consumption (BPFC) (latest data).
   B. Progress report by the *ad hoc* group on the emergency data system.
   C. Product imbalances.
9. Allocation Systems Test—3:
   A. Preliminary outline of test scope.
   B. National Emergency Sharing Organization (NESO) involvement.
10. Future meeting dates.
11. Other business.

As provided in Section 252(c)(1)(A)(ii) of the Energy Policy and Conservation Act, these meetings will not be open to the public. As permitted by 10 CFR section 209.32, the usual 7-day notice period has been shortened because the International Energy Agency (IEA) has only recently requested the meeting dates be changed.

Issued in Washington, D.C., February 21, 1980.

Craig S. Bamberger,

Acting Assistant General Counsel, International Trade & Emergency Preparedness.

[FR Doc. 80-6134 Filed 2-25-80; 11:09 am]

BILLING CODE 6450-01-M

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 (42 U.S.C. 6201 *et seq.)* notice is hereby provided that meeting of the Industry Advisory Board (IAB) to the International Energy Agency (IEA)

will be held on March 5, 1980, at the headquarters of the IEA, 2 rue Andre Pascal, Paries, France, beginning at 9:30 a.m. The purpose of this meeting is to permit attendance by representatives of the IAB at a joint meeting of the IEA Standing Group on Emergency Questions (SEQ) and the IEA Standing Group on the Oil Market (SOM), which is being held at Paris on that date.

The Agenda for the meeting is under the control of the SEQ and the SOM. It is expected that the following draft agenda will be followed:

1. Flexible Stock Policies.

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., February 21, 1980.

Craig S. Bamberger,

Acting Assistant General Counsel International Trade & Emergency Preparedness.

[FR Doc. 80-6135 Filed 2-25-80; 11:09 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[FRL 1419-3]

Intent To Prepare a Draft Environmental Impact Statement

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS).

PURPOSE: To fulfill the requirements of section 102(2)(C) of the National Environmental Policy Act, EPA has identified a need to prepare an EIS and therefore issues this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Ms. Norma Young, Environmental Evaluation Branch M/S 443, U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, Washington 98101, Telephone: (Commercial) (206) 442-4011, (FTS) 8-399-4011.

SUMMARY: 1. Description of proposed action: The EPA action is the approval of proposed facilities plans and the issuance of grant monies pursuant to Section 201 of the Clean Water Act for the design and construction of wastewater treatment facilities for the Hayden Lake Recreation Water and Sewer District and the City of Hayden, adjacent communities located in Kootenai County, Idaho.

2. Description of Alternatives: Alternatives to be considered include a joint wastewater treatment system as well as individual land treatment systems and the "no action" alternative.

3. Public and private participation in the EIS process: Full participation by interested Federal, State and local agencies, private organizations and citizens is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

4. Scoping: EPA Region 10 will conduct a scoping meeting to discuss the alternatives and the scope of the draft EIS. For additional information on the projects, contact the person indicated above. Interested parties will be notified of all meetings to be held during the EIS process.

5. Timing: EPA estimates the draft EIS will be available for public review and comment about the latter part of October, 1980.

6. Requests for Copies of Draft EIS: All interested parties are encouraged to submit name and address to the person indicated above for inclusion on the distribution list for the draft EIS and related public notices.

Dated: February 20, 1980.

William N. Hedeman, Jr.,

Director Office of Environmental Review (A-104).

[FR Doc. 80-5923 Filed 2-25-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1419-8]

Intent To Prepare an Environmental Impact Statement for Sandwich, Mass.

AGENCY: U.S. Environmental Protection Agency.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS) for Sandwich, Massachusetts.

PURPOSE: In accordance with Section 102(2)(c) of the National Environmental Policy Act, the EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7.

FOR FURTHER INFORMATION CONTACT: Mary Jane O'Donnell, Project Officer, Environmental & Economic Impact Office, Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, MA 02203, 617/223-4635.

SUMMARY: 1. Description of the proposed action: The EPA action would be the approval of grant monies to update and amend their 1977 facilities plan to conform with the requirements of section 201 of the Clean Water Act (Pub. L. 95-217) for the design and construction of wastewater collection and treatment system for the town of Sandwich, Barnstable County, Massachusetts.

Previous studies have indicated problems with failure of and inadequate on-lot disposal systems and inadequate septage disposal facilities. The 1977 Facility Plan recommended a limited sewer system and a 0.7 mgd secondary treatment plant with a discharge to the Cape Cod Canal. Following completion of that report, the Commonwealth of Massachusetts amened the Ocean Sanctuary Act to include the Cape Cod Canal. That Act prohibits the construction of any new wastewater outfalls. Therefore, the 1977 Facility Plan must be amended to evaluate alternative methods of wastewater disposal. In addition, in order to comply with the 1977 Amendments to the Clean Water Act, the facility plan must further investigate the wastewater problems and needs, and alternative wastewater collection and treatment options. Due to substantial public controversy in developing the 1977 study, the Town requested the preparation of a full-scale EIS, to be completed concurrently with the updated facilities plan.

2. Description of Alternatives: The Alternatives to be considered will include, but not be limited to the following:

a. The "no action alternative" allowing for continued use of existing practices.

b. Optimum operation of existing facilities (including on-site systems),

c. Non-sewered alternatives such as composing systems, water reducing fixtures, etc.

d. Wastewater collection and treatement facilities with either an ocean or canal discharge or land application with infiltration percolation or spray irrigation.

e. Regional treatment facilities with either South Sagamore or Otis Air Force Base.

f. Septage treatment and disposal facilities.

3. Public and Private Participation in the EIS Process: Full participation by interested Federal, State and local agencies as well as other interested private organizations and persons is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

Significant issues to be discussed in the EIS include:

a. The effects of the treated effluent on groundwater.

b. The effects of growth on water supply.

c. The effects on water quality with discharge to the Cape Cod Canal.

d. The effects of a wastewater collection and treatment system.

e. The effects in archaeological, historic, or cultural sites or areas.

f. The effects of a wastewater control system on the local tax rate, and user costs.

g. The effects on air quality, aesthetics, and wetlands.

4. Scoping: Within two weeks following the issuance of the Notice of Intent, EPA will hold a meeting to determine the scope of the Draft EIS. Public notice will be given prior to this scoping meeting (by inserting a separate Notice of Intent into the local newspaper), and all subsequent meetings and workshops. Before the scoping meeting, federal and state agencies will receive a copy of EPA's draft scope of work for the EIS.

5. Timing: EPA estimates the Draft EIS will be available for public review concurrently with the completed facilities plan in approximately 9 months.

6. Request for Copies of the Draft EIS: All interested persons or organizations are encouraged to submit their names and addresses to the person indicated above for inclusion on the distribution list for the Draft EIS as well as interim bulletins and reports.

Dated: February 15, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

[FR Doc. 80-5926 Filed 2-25-80; 8:45 am]

BILLING CODE 6560-01-M

[FRL 1420-1]

Intent To Prepare an Environmental Impact Statement for Oak Bluffs, Mass.

AGENCY: Environmental & Economic Impact Office, Region I, Environmental Protection Agency.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS) for Oak Bluffs, Massachusetts.

PURPOSE: In accordance with Section 102(2)(C) of the National Environmental Policy Act, the EPA has identified a need to prepare an EIS and therefore publishes this Notice of Intent pursuant to 40 CFR 1501.7

FOR FURTHER INFORMATION CONTACT: Kenneth H. Wood, Project Manager, Environmental & Economic Impact Office, Environmental Protection Agency, Region I, John F. Kennedy Federal Building, Boston, MA 02203, 617-223-3190.

SUMMARY: 1. Description of the Proposed Action: The EPA action would be the approval of a facilities plan and the issuance of grant monies pursuant to Section 201 of the Clean Water Act (P.L. 95-217) for the design and construction of wastewater management facilities for the Town of Oak Bluffs, on the island of Martha's Vineyard, Dukes County, Massachusetts.

Previous studies, as well as the Martha's Vineyard 208 report, have determined that, within limited areas of Oak Bluffs, there are problems with failing or inadequate septic systems, cesspools, and holding tanks. In order to assure the maintenance of the quality of surface waters and the groundwater, a wastewater management program must be instituted. Although the Town is not under a compliance order from either Massachusetts Department of Environmental Quality Engineering (DEQE) or EPA, it recognizes its problems and the need for a solution to those problems. With the acknowledged environmental fragility of Martha's Vineyard, the Town, with the concurrence of Massachusetts Division of Water Pollution Control (DWPC), requested the preparation of a full-scale EIS, to be completed concurrently with the on-going facilities plan.

2. Description of Alternatives: The alternatives to be considered will include, but not be limited to the following:

a. The "no action" alternative allowing the continued disposal of wastewater by on-site systems;

b. A collection system to service the "needs area", with treatment and disposal at a remote site;

c. Neighborhood "cluster systems" with treatment and disposal at nearby available vacant areas;

d. A regulated program of rehabilitation and maintenance of on-site septic systems, with a facility to receive and treat septage at a remote site;

e. A regional facility for the treatment and disposal of septage from two or more towns on the island;

f. Screening and evaluation of potential treatment plant sites will be a cooperative function of the EIS and the 201 consultant;

g. If further study points to ocean outfall as a viable alternative, this will be examined.

3. Public and Private Participation in the EIS Process: Full participation by interested Federal, State and local agencies as well as other interested private organizations and persons is invited. The public will be involved to the maximum extent possible and is encouraged to participate in the planning process.

Significant issues to be discussed in the EIS include:

a. The potential effects of treated effluent on groundwater;

b. The secondary effects of a wastewater collection and treatment system;

c. Effects on archaeological, historic, or cultural sites or areas;

d. Effects of a wastewater management system on the local tax rate, and user costs;

e. Potential adverse impacts on sensitive areas, air quality, aesthetics, agricultural lands, open space, etc.

4. Scoping: Within a month following the issuance of this Notice of Intent, EPA will hold a meeting to determine the scope of the Draft EIS. This meeting will be held on Wednesday, March 12, at the Oak Bluffs Elementary School at 7:30 p.m. A second scoping meeting, to which concerned Federal and State agencies will be invited, is scheduled for March 14, 1:30 p.m., at Region I Headquarters.

5. Timing: EPA estimates the Draft EIS will be available for public review concurrently with the completed facilities plan. This should be accomplished within 12 months.

6. Request for Copies of the Draft EIS: All interested persons or organizations are encouraged to submit their names and addresses to the person indicated above for inclusion on the distribution list for the Draft EIS as well as interim bulletins and reports.

Dated: February 20, 1980.

William N. Hedeman, Jr.,

Director, Office of Environmental Review (A-104).

[FR Doc. 80-5927 Filed 2-25-80; 8:45 am]

BILLING CODE 6560-01-M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. B-2]

FM Broadcast Applications Accepted for Filing and Notification of Cutoff Date

Released: February 19, 1980.

Cut-Off Date: April 14, 1980.

Notice is hereby given that the applications listed below are hereby accepted for filing. Because the applications listed below are in conflict with applications which were accepted for filing and listed previously as subject to a cut-off date for conflicting applications, no application which would be in conflict with the applications listed below will be accepted for filing.

Petitions to deny the applications listed below and minor amendments thereto must be on file with the Commission not later than the close of business on April 14, 1980. Any application previously accepted for filing and in conflict with the applications listed below may also be amended as a matter of right not later than the close of business on April 14, 1980. Amendments filed pursuant to this notice are subject to the provisions of § 73.3572(b) of the Commission's rules.

BPH-781227AE (New) Payson, Arizona, Millard Orick, Jr., Req: 103.9MHz; #280; 1 kW; 490 ft.
BPH-790308AH (New) Taft, California, Valley FM Radio, Req: 103.9MHz; #280; 3 kW; 260 ft.
BPH-790328AR (New) Payson, Arizona, Rim Country Publishing Company, Inc., Req: 103.9MHz; #280; 0.3 kW; 810 ft.
BPH-790730AA (New) Taft, California, Mann Broadcasting Co., Req: 103.9MHz; #280; 3 kW; 155 ft.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-5847 Filed 2-25-80; 8:45 am]
BILLING CODE 6712-01-M

[Report No. 1216]

Petitions for Reconsideration of Actions in Rulemaking Proceedings Filed

February 15, 1980.

Docket or RM No.	Rule No.	Subject	Date received
20649 RM-2531	325(b)	Applicability of Section 325(b) of the Communications Act to Non-Interconnected Distribution of Television Programming to Certain Foreign Stations.	
RM-2385		Request change in cable television rules to prohibit carriage of Canadian television stations in U.S. markets and to afford seven day pre- and seven day post-network program exclusivity. (Filed by Ben C. Fisher and Richard R. Zaragoza, Attorneys for Fisher Broadcasting Inc., (KOMO-TV & KATU)).	Feb. 11, 1980.

NOTE.—Oppositions to petitions for reconsideration must be filed on or before March 12, 1980. Replies to an opposition must be filed within 10 days after time for filing oppositions has expired.

Federal Communications Commission.
William J. Tricarico,
Secretary.

[FR Doc. 80-5846 Filed 2-25-80; 8:45 am]
BILLING CODE 6712-01-M

[BC Docket Nos. 80-28—80-35; Files Nos. BP-21,101, etc.; FCC 80-50]

Merrimack Valley Broadcasting, Inc., et al.; Hearing Designation Order Designating Applications for Consolidated Hearing on Stated Issues

Adopted: January 30, 1980.
Released: February 13, 1980.

In re applications of Merrimack Valley Broadcasting, Inc., Nashua, New Hampshire, BC Docket No. 80-28, File No. BP-21,101, BC Docket No. 80-29, File No. BPH-10,926; Sunrise Broadcasting Corp., Nashua, New Hampshire, BC Docket No. 80-30, File No. BP-21,102, BC Docket No. 80-31, File No. BPH-10,925; Mario Dicarlo, Norman M. Kruglak, Agusta Hornblower and Ada Harkaway, a limited partnership d.b.a. Gateway Broadcasting Associates, Nashua, New Hampshire, BC Docket No. 80-32, File No. BP-21,103, BC Docket No. 80-33, File No. BPH-10,928; Gateway Communications, Nashua, New Hampshire, BC Docket No. 80-34, File No. BPH 10,924; Community Service Broadcasting of Nashua, Inc., Nashua, New Hampshire, BC Docket No. 80-35, File No. BPH 10,927; for construction permits for New AM and/or FM Stations to Replace the Deleted Facilities of Stations WOTW (900 kHz, 1 kW D) and WOTW-FM (106.3 MHz, Channel No. 292), Nashua, New Hampshire.

1. The Commission has before it for consideration the above captioned mutually exclusive applications for the deleted facilities of Stations WOTW and WOTW-FM, Nashua, New Hampshire [1] [2]. In addition, we have before us petitions to specify issues filed by the applicants, various petitions for leave to amend and assorted other pleadings. For purposes of convenience, we will consider the filings on an applicant-by-applicant basis.[3]

Issues Against Merrimack Valley Broadcasting, Inc.

2. *Financial Issues.* To finance its proposed construction and three months' operation, Merrimack Valley relies upon a bank loan commitment and deferred credit from its equipment supplier. We find reasonable assurance of the availability of funds from both sources. To begin with the bank loan, it is clear from the bank's most recent statement of its terms (April 23, 1979) that it will finance an individual AM or FM facility as well as a combined operation.[4] And, insofar as the bank's specific requirements are concerned, we are not troubled by the following language: "(t)his commitment is contingent upon final terms and amounts of capitalization of our potential borrower, the Merrimack Valley Broadcasting Co., Inc., being satisfactory to the Bank." For a bank to base its final decision on conditions existing at the time a grant is actually made is a common business practice which does not in and of itself make reliance on the commitment unjustified. *Multi-State Communications, Inc.* v. *FCC,* 590 F. 2d 1117 (D.C. Cir. 1978), 44 RR 2d 487. A present firm intention to make a loan, future conditions permitting, is the essence of our "reasonable assurance" standard. Read as a whole, Merrimack Valley's bank letter reflects such a commitment, making further inquiry unnecessary.

3. Turning to the equipment purchases, it is true that the supplier has not expressly indicated its examination of and satisfaction with Merrimack Valley's financial condition. However, while such a failure has been held in the past to warrant an issue, se e.g. *RA-AD of Soddy,* 56 FCC 2d 1055, 35 RR 2d 1053 (Rev. Bd. 1975), this approach is not consistent with our current goal of making financial standards more realistic. *Financial Qualifications Standard for Aural Broadcast Applicants,* 699 FCC 2d 407, 43 RR 2d

[1] Holding a consolidated hearing is likely to prove the most efficient and orderly manner of proceeding, we believe. *Webster-Baker Broadcasting Co.,* FCC 79-193, 45 RR 2d 724 (1979).

[2] A sixth applicant, Soundpro, Inc., has requested that its applications be dismissed.

[3] A detailed discussion of the petitioners' allegations would serve no useful purpose and is therefore not provided here. Instead, we have set forth our resolution of the various problems raised.

[4] As the Merrimack Valley financial proposal contemplates a combined operation, it would by necessity provide sufficient funds for a single station.

1101 (1978). Experience shows that permittees do not usually have difficulty obtaining credit for equipment purchases. Hence we will now question an applicant's ability to do so only upon a specific showing that its credit-worthiness is subject to doubt.[5]

4. *Public File Issue.* Information before us indicates that the Merrimack Valley public file was on one occasion not available for inspection as required by § 73.3526 of our rules. We are satisfied from the applicant's explanation, however, that the incident was an isolated one, stemming solely from confusion on the part of a secretary as to the contents of the file. This confusion was subsequently eliminated according to Merrimack Valley, and no further problems seem to have arisen in this area. We are left then with a single violation of our rules too minor to be of significance in this proceeding. See *Peoples Broadcasting Corporation,* 68 FCC 2d 1570, 43 RR 2d 1265 (1978).

5. *Certification Issue.* Our rules do not require that amendments to an application be certified as "true, complete and correct" in the manner that the original application was certified. See §§ 73.3522 and 73.3513 of our rules. All that is necessary is the signature of an appropriate person, a requirement which Merrimack Valley has satisfied.

Issues Against Sunrise Broadcasting Corp.

6. *Financial Issues.* Sunrise relies upon a bank loan plus loans and capital contributions from its shareholders to meet construction and operating expenses.[6] Its reliance is reasonable in all respects. Thus, insofar as the bank's commitment is concerned, the financial institution has expressly acknowledged its awareness of the applicant's present organization and its satisfaction with the collateral provided. And, with respect to the shareholders' obligations, three shareholders (Lee C. White, Phil David Fine and Robert Jean Saner, II) have shown sufficient net liquid assets to meet their commitments, two (Barbara E. Tamposi and Samuel A. Tamposi, Jr.) have submitted personal loan commitments and financial statements establishing the commitments to be reasonable ones, *Peoples Broadcasting Corp., supra.,* and one (James N. Tamposi, Jr.) has shown through personal loan commitments and net liquid assets funds sufficient to meet his obligations.

7. With respect to Sunrise's ability to operate beyond the first year, our *New Financial Qualifications Standard, supra,* has eliminated the need for such inquiries. To begin with the practical considerations, the change from a one year operating standard to a three month standard would logically require a corresponding change from a second year financial issue to a second three months' financial issue. Given, however, the small period of time that would be covered by such an issue and the relatively small expenditures that would be involved, we cannot see how deferrals of fixed costs beyond the first three months could have a significant impact on an applicant's overall financial position. Compare, e.g., *Greenfield Broadcasting Corp.,* 32 FCC 2d 135 (1971).

8. As for the theories underlying our past and present policies, the "*Ultravision* test", *Ultravision Broadcasting Company,* 1 FCC 2d 544, 5 RR 2d 343 (1965), emphasized licensee liquidity, requiring sufficient funds to construct and operate for one year without revenue. Second year financial issues in this context prevented applicants from meeting our requirements solely by deferring debt payments outside the first year. Now however we view market forces and quality of management as the factors determining success or failure and, in line with this view, require only that applicants establish their ability to operate until advertising accounts begin to "pay-off", a period which we have set as three months. Beyond this point, we are convinced, the attractiveness of the facility rather than the liquidity of the licensee will govern the station's future. Where deferred expenses could adversely affect liquidity, they have no role to play in predicting market acceptance. Hence, there is no longer a place for our traditional second year financial issue.

9. *Ascertainment Issue.* Interviews with community leaders are not discounted simply because the person who conducted them is no longer associated with the applicant. *Peoples Broadcasting Corp., supra; Western Television Co.,* 50 FCC 2d 453, 32 RR 2d 350 (Rev. Bd. 1974). Hence, we will credit Sunrise with contacts made by three persons who were, but are not now, principals of the corporation.

10. *Public File Issue.* While the Commission's deficiency letter was admittedly missing from Sunrise's public file for a period of time, the amendment to its application responding to this letter was apparently included as was all other appropriate material. It seems to us under these circumstances that the applicant's single violation of § 73.3526 was too minor to be of significance in this proceeding.

11. *Certification Issue.* In explaining why an amendment to its application included a letter dated after the amendment was certified, Sunrise concedes that the letter was read to its president over the telephone while her certification statement was in transit back to counsel. This procedure, it is true, is inconsistent with the representation that Sunrise's president actually examined the contents of the amendment. Nonetheless, given her awareness of the contents of the late-dated letter and the lack of a motive to conceal or misrepresent on the applicant's part, we will not inquire further into the matter. See *Belo Broadcasting Corp. (WFAA-TV),* 56 FCC 2d 557, 35 RR 2d 839 (Rev. Bd. 1975).

12. *Section 1.65 Issue.*[7] We do not fault Sunrise for failing to report the initiation of a Federal Aviation Administration study of its proposed tower. The study was only preliminary in nature, making it an event of no potential decisional significance. Hence, there was no obligation to report. Significantly, the ultimate conclusion of the study—that Sunrise's tower as proposed would not be a hazard to air navigation—was disclosed to us in a timely fashion.

13. *Legal Qualifications Issues.* By amendment filed after the cutoff date for applications in this proceeding, Sunrise reported a transfer of 48% of its stock, 8% of it to a new person. This change, a minor one under our rules,[8] cannot be transformed into a transfer of control simply because three family members—a brother, a sister and a cousin—obtained a majority of the corporation's stock in the transaction. Family relationship alone is insufficient to create a presumption of common control. *KTRB Broadcasting Co., Inc.,* 46 FCC 2d 605, 29 RR 2d 1578 (1974).

14. *Character Issue.* We have examined and found groundless allegations of impropriety in the conduct of Eastminster Broadcasting Corp. (former licensee of Stations WOTW and WOTW-FM), Cohen and Siegel (interim operator of the facilities) and Sunrise. While somewhat unclear, these allegations suggest that the ownership of

[5] We find in Merrimack Valley's breakdown of its operating expenses sufficient information to evaluate the reasonableness of its estimates.

[6] Sunrise's method of calculating its first three months' expenses, dividing its first year's expenses by four, is one which we have always found acceptable.

[7] Section 1.65 of our rules makes applicants responsible for the continuing accuracy and completeness of information furnished in a pending application.

[8] *Gaffney Broadcasting, Inc.,* FCC Mimeo No. 59922, 35 RR 2d 1607 (1976). A major change would require assignment of a new file number and consequently removal of Sunrise from comparative consideration here.

Eastminster's tower and studio site was concealed so as to permit Sunrise, using "insider" information, to gain unfair advantage over its competitors.[9] We find, however, neither evidence of concealment nor indication of unfair advantage. To begin with Eastminster, there do seem to have been some imprecise representations concerning the ownership of its property. This imprecision involved matters of form rather than substance, though, in that a corporation was presented as owning land actually held by its shareholders as individuals.

15. With regard to Cohen and Siegel, its relationship with Eastminster was found proper in all respects when the grant of interim authority was made. *Robert L. Cohen and Michael A. Siegel, A Partnership,* 68 FCC 2ds 702, 43 RR 725 (1978). As for Sunrise's connection with the property, finally, a person related to some of its principals has purchased the former Eastminster site. As he has made the property available to all interested applicants on the same terms, however, we can see no particular benefit to Sunrise from this arrangement. In short, then, we have been adequately informed of the ownership of Eastminster's property, its transfer has involved no irregularities of concern to us and its current availability to all on equal terms is assured. No grounds for further inquiry thus exist.

Issues Against Gateway Broadcasting Associates

16. *Financial Issues.* Gateway Broadcasting relies primarily upon a bank loan to finance its proposal. According to the bank's commitment letter, "[a]ny advances will be guaranteed by Mario Di Carlo," it also being understood that "prior to any advances, Mario Di Carlo will fully secure this line of credit with various real estate mortgages." The financial statement of Mr. Di Carlo (a Gateway Broadcasting partner) shows real estate far greater in value than the face amount of the loan and he has specifically agreed to provide the requested personal guarantee. *Deep South Radio, Inc.,* 47 FCC 2d 1045, 30 RR 2d 1474 (Rev. Bd. 1974). Furthermore, we think it only logical that the bank examined Mr. Di Carlo's assets before specifying them as collateral. See *Sinton Broadcasting Co., Inc.,* FCC 76–761, 38 RR 2d 341 (1976).[10] We find, therefore, reasonable assurance of the loan's availability.[11] As for the applicant's ability to operate beyond the first year, see paragraphs 7 and 8, *supra.*

17. Turning quickly to matters which require little discussion, the mere fact that Gateway Broadcasting's equipment supplier has not indicated its examination of and satisfaction with the applicant's financial condition does not warrant an issue. (See paragraph 3, *supra*). And, mere opinion as to the reasonableness of the applicant's cost estimates is not sufficient to justify an issue where, as is the case here, the estimates are not unreasonable on their face. *Peoples Broadcasting Corp., supra.*

18. *Ascertainment Issues.* We have examined Gateway Broadcasting's survey of community leaders in light of various allegations of omission and find only one significant group, women, unrepresented. An issue concerning this deficiency will be specified. As for the applicant's survey of the general public, the precise methodology employed is not described. Nonetheless, as the list of interviewees reveals a good alphabetical distribution and a sizeable sample of the population, we believe that the requirements of the *Primer on Ascertainment of Community Problems by Broadcast Applicants,* 27 FCC 2d 650, 21 RR 2d 1507 (1971) have been satisfied. *West Central Investment Co., Inc.,* FCC 78–463, 43 RR 2d 797 (1978). Similarly, with respect to the applicant's listing of ascertained problems by broad categories (for example, municipal services, transportation, housing), this technique permits comparison of needs and proposed programs, thereby fulfilling the *Primer's* objectives in this area.[12]

19. *Legal Qualifications Issue.* At this early stage of the proceedings, we can see no sound basis for requiring Gateway Broadcasting—a Massachusetts partnership—to establish its authority to do business in New Hampshire. It appears from the statutory material submitted that certificates of authoritty to do business in New Hampshire are issued routinely upon simple application. Hence, there is no serious question as to the applicant's ultimate ability to demonstrate its legal qualifications. To insist under these circumstances that it register with the State immediately and become thereby immediately responsible for the State's registration and annual maintenance fees seems to us unnecessary.[13]

20. *Reporting Violations.* While Gateway Broadcasting and its principals have not reported all outside interests accurately,[14] their errors have been extremely minor in nature, involving no matters of potential decisional significance and no apparent motive to conceal. An issue is therefore unwarranted. See *Gilbert Broadcasting Corporation,* 55 FCC 2d 579, 34 RR 2d 1673 (Rev. Bd. 1975.)

21. *Other Matters.* For reasons set forth earlier in this Opinion, we do not believe that the failure to certify amendments (see paragraph 5, *supra*) ore the failure to include our deficiency letter in the public file (see paragraph 10, *supra*) warrant an issue. And, even if copies of documents in the public file were on one occasion denied to a representative of a competing applicant, we do not believe that a single isolated incident of this nature could affect the applicant's basic or comparative qualifications.

Issues Against Gateway Communications

22. *Initial Matter.* Gateway Communications' petitions to specify issues were filed on day late. We will nonetheless consider them on the merits. Good cause has been shown for the delay, which in the context of this proceeding is a minor one. Further, to the extent that issues raised by Gateway Communications are related to issues raised by others and to the extent also that oppositions to these pleadings have already been filed, acceptance is the more orderly and less prejudicial course of action. Lest this decision be interpreted too broadly, we would emphasize that late-filed petitions will not be accepted routinely. We have been guided here by the slight delay and by the complexity of this multi-party proceeding, two factors which is not unique are nevertheless unusual.[15]

23. *Ascertainment Issues.* Gateway Communications concedes that some

[9] Lee C. White, former legal counsel to Eastminster and Cohen and Siegel, is a Sunrise principal.

[10] For this reason, we will not require formal appraisals of the property.

[11] As Gateway Broadcasting's bank commitment expired on November 27, 1979, the applicant will have to update its financial qualifications through an extension of this commitment or the arrangement of a different loan. Our discussion here does not preclude a fresh examination of any new submission.

[12] While a portion of Gateway Broadcasting's general public survey was conducted after the application was submitted, the applicant specifically explained how needs ascertained as this time would be addressed by previously proposed programs.

[13] To the extent that cases such as *Rose Broadcasting Company,* 68 FCC 2e 1242, 43 RE 2d 1317 (1978), require under all circumstances a specific showing of authority to do business, they are hereby reversed.

[14] Section 73.3514 of our rules requires applicants to include all information required by the application form. Section 73.3615 concerns the obligation of licensees to report changes in ownership.

[15] Allegations to the contrary notwithstanding, nothing in our rules precludes acceptance of late-filed petitions to specify issues.

community leader interviews were conducted more than six months before its application was filed, Question and Answer 15 of the *Primer, supra,* 27 FCC 2d at 684, 21 RR 2d at 1545, but does not identify which ones. Hence, we cannot determine whether rejection of the early contacts would leave significant groups unrepresented. A limited issue will therefore be specified. We are not, in contrast, concerned that persons who interviewed community leaders are no longer associated with the applicant (see paragraph 9, *supra*) and will not discount a general public survey conducted after the application was filed, where the problems ascertained were specifically shown to be met by new or previously proposed programs (see note 12, *supra*).

24. *Reporting violations.* While Gateway Communications' application was not entirely complete and correct when submitted, the errors were too minor to be of decisional significance and no motive to conceal is apparent. See *Rose Broadcasting Company, supra.* Thus, with respect to the applicant's failure to list its corporate clerk, his duties are purely ministerial in nature (e.g. keeping records, giving notice of meetings) and the person holding this position—though technically an officer—is not a shareholder, director or participant in company affairs. And, with respect to the other interests of its principals, that Gateway Communications did not report every shift in their ownership of Ocean Coast Properties—a Commission licensee—does not disturb us, as the shifts were slight and the current interests accurately disclosed.[16] We are troubled, however, by the applicant's failure to report Ocean Coast's filing of an application for changes in the facilities of Station WFEA, Manchester, New Hampshire. There already exists, it is true, substantial overlap between Station WFEA's service area and that proposed by Gateway Communications. Nonetheless, the requested changes would create additional overlap, a factor which we cannot dismiss as unimportant. In fact, given the significance of the diversification criterion in our *Policy Statement on comparative Broadcase Hearings,* 1 FCC 2d 393, 5 RR 3d 1901 (1965), we think it a safe generalization that any proposed change in an applicant's broadcast interests or in the broadcast interests of its principals is an event of potential decisional significance requiring submission of an appropriate amendment. As Gateway Communications did not follow this course, we will specify a limited § 1.65 issue. See *Harold James Sharp,* 56 FCC 2d 251, 35 RR 3d 434 (Rev. Bd. 1975).[17]

25. *Site Availability.* By amendment of July 26, 1979, Gateway Communications informed us of the denial by the Nashua Building and Zoning Administration of its request for a special exception to permit construction of an antenna on its proposed site.[18] Subsequently, the applicant informed us that the WOTW facilities had been made available to it, thus eliminating any question as to its lack of an antenna site.

26. *Past Broadcast Record.* Minor flaws in the renewal application of Ocean Coast Properties' Station WPOR, Portland, Maine, did not prevent its routine grant. Hence, we do not see how these flaws can be considered evidence of an "unusually poor" past broadcast record within the contest of our *Policy Statement on comparative Broadcast Hearings, supra.*

27. *Rate Card Issue.* Innaccuracies in the coverage map on Station WPOR's rate card do warrant further inquiry, however. Comparison of the 05mV/m contour depicted on the Station's engineering submission with the contour depicted on the map [19] reveals the latter area to be larger. Moreover, the existence of interference within the 0.5V/m contour is not acknowledged on the rate card. The significance of these deficiencies and the motivation behind them are questions which we cannot resolve on the basis of information before us. Hence, we will specify an issue so that a complete record may be developed.

28. *Other Matters.* Public file and certification issues will not be specified for reasons set forth in paragraphs 10 and 5, *supra.*

Issues Against Community Service Broadcasting of Nashua, Inc.

29. *Financial Issues.* To meet costs estimated at $232,600,[20] Community Service relies upon existing capital, stock subscriptions,[21] a bank loan and credit from its equipment supplier. Beginning with the stock subscriptions, four shareholders (Peter Ferrand, Gale, F. Hennessy, Edward J. Lithgow, Jr. and Jane A. Soloman) have shown sufficient net liquid assets to meet their commitments,[22] While two (James T. Walsh and Martin Nankin) have submitted personal loan commitments and balance sheets establishing these commitments to be reasonable (see paragraph 5, *supra*). One shareholder (Jean R. Wallin), in contrast, has shown net liquid assets of only $8,200 to meet a $10,875 commitment, requiring that we reduce the proposed stock subscriptions of $76,125 by this $2,675 deficit. With respect to the applicant's bank loan, we have stated earlier (see paragraph 2, *supra*) that a present firm commitment to make a loan, future conditions being favorable, is the essence of reasonable assurance. the bank's expressed desire here to review conditions at the time loan proceeds are actually to be disbursed reflects sound business practice, *Multi-State communications, Inc.* v. *FCC, supra,* rejection of which would lead to an absolute rather than reasonable assurance standard. The same is true, we believe, of the bank's request for financial data concerning community Service's shareholders, permitting us to credit the applicant with the proceeds of the loans. Conbining these proceeds with all other available funds,[23] the applicant is financially qualified to construct and operate as proposed.

30. *Ascertainment Issues.* We are satisfied that Community Service's survey of community leaders was conducted in a timely fashion by qualified persons and that its general public survey was a timely random sampling of the population. that some leaders were contacted after the initial progaramming proposal was formulated does not concern us. (See note 12, *supra).*

31. *Programming Issues.* Community Service has not sought a comparative programming issue and we do not believe that one is warranted. Conversely, tha applicant's proposal is not so extraordinary as to call into question either its ability to effectuate the plans or its good faith in setting the forth.

[16] While Gateway Communications listed each of its five directors as a 20% owner of Ocean Coast, it appears that one director at one time held a 12.50% interest while the other four held interests ranging from 2.81% to 21.87%.

[17] In the interest of accuracy and completeness, we will permit Gateway Communications to supply omitted information. Such submissions do not, of course, cure previous reporting failures.

[18] We find no indication of bad faith in Gateway Communications' original specification of this site.

[19] While the rate card's contour bears no identification, it appears to represent the 0.5 mV/m contour.

[20] No specific challenges to these estimates have been offered and they are not unreasonable on their face.

[21] Community Service's classification of funds to be secured from stock subscriptions as existing capital is not entirely accurate. Nonetheless it is clear from the financial proposal which funds have already been paid in to the corporation and which are still be be contributed.

[22] All balance sheets were current when submitted; the passage of time does not render them "stale". Subsequent changes of potential decisional significance must be reported pursuant to Section 1.65 of our Rules.

[23] The precise figures are as follows: Paid in capital, $28,675; subscriptions, $73,450; net bank loan, $97,500; equipment credit, $54,705; total $254,530.

Other Matters

32. Merrimack Valley seeks issues comparing the applicant's equal employment opportunity programs, their female ownership and their local ownership. with respect to the first area, once compliance with Commission requirements is established, no grounds for further inquiry exist. Proposed EEO efforts are a question of basic, no comparative, qualifications. the other two concerns cited by the applicant are within the scope of the standard comparative issue, making specification of separate issues unnecessary.

33. Good cause has been shown for the filing of the following amendments and all will be accepted: Merrimack Valley—April 2, 1979, April 18, 1979, April 26, 1979; Sunrise—April 26, 1979 (Two amendments), May 2, 1979; Gateway Communications—April 25, 1979, July 26, 1979, January 16, 1980; Community Service—January 23, 1979, March 12, 1979, April 30, 1979, May 10, 1979, June 15, 1979, July 17, 1979, January 11, 1980.

34. Data submitted by the applicants indicate that there would be a significant difference in the size of the areas and populations which would receive service from the FM proposals. Consequently, for the purpose of comparison, the areas and populations which would receive FM service of 1 mV/m or greater intensity, together with the availability of other primary aural services in such areas, will be considered under the standard comparative issue, for the purpose of determining whether a comparative preference should accrue to any of the applicants.

35. Except as indicated above, the applicants are qualified to construct and operate as proposed. In view of the foregoing, however, and in light of the fact that the proposals are mutually exclusive, the applications must be designated for hearing.

36. Accordingly, it is ordered, that pursuant to Section 309(e) of the Communications Act of 1934, as amended, the applications are designated for hearing in a consolidated proceeding at a time and place to be specified in a subsequent Order, upon the following issues:

1. To determine whether Gateway Broadcasting Associates interviewed leaders of women's groups in connection with its ascertainment effort.

2. To determine when Gateway Communications conducted its survey of community leaders and, in light of this information, whether its survey complied with Commission requirements.

3. To determine whether Gateway Communications failed to report to the Commission the application of Ocean Coast Properties for changes in the facilities of Station WFEA, Manchester, New Hampshire, and, if so, the effect thereof on the applicant's comparative qualifications to be a Commission licensee.

4. To determine whether the rate card of Ocean Coast Properties' Stations WPOR–AM and WPOR–FM misrepresented the Stations' service contours and, if so, the effect thereof on Gateway Communications' basic and/or comparative qualifications to be a Commission licensee.

5. To determine which of the proposals would, on a comparative basis, best serve the public interest.

6. To determine in light of the evidence adduced pursuant to the foregoing issues which of the applications should be granted.

37. It is further ordered, that the petitions to specify issues filed in this proceeding are granted to the extent indicated herein and are denied in all other respects.

38. It is further ordered, that the motion to accept late filing filed by Gateway Communications is granted, that the motion to accept supplement to pleading to specify issues filed by Community Service Broadcasting of Nashua, Inc. is granted and that the petitions for leave to amend filed in this proceeding are granted and the related amendments are accepted.

39. It is further ordered, that the applications of Soundpro, Inc. for the deleted facilities of Stations WOTW and WOTW–FM, Nashua, New Hampshire, are dismissed.

40. It is further ordered, that, to avail themselves of the opportunity to be heard, the applicants herein shall, pursuant to § 1.221(c) of the Commission's rules, in person or by attorney, within 20 days of the mailing of this Order, file with the Commission in triplicate a written appearance stating an intention to appear on the date fixed for the hearing and to present evidence on the issues specified in this Order.

41. It is further ordered, that the applicants herein shall, pursuant to Section 311(a)(2) of the Communications Act of 1934, as amended, and § 73.3594 of the Commission's rules, give notice of the hearing (either individually or, if feasible and consistent with the rules, jointly) within the time and in the manner prescribed in such rule, and shall advise the Commission of the publication of such notice as required by § 73.3594(g) of the rules.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 80–5845 Filed 2–25–80; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COUNCIL ON THE AGING

Meeting

The Federal Council on the Aging was established by the 1973 Amendments to the Older Americans Act of 1965 (Pub. L. 93–29, 42 U.S.C. 3015) for the purpose of advising the President, the Secretary of Health, Education, and Welfare, the Commissioner on Aging and the Congress on matters relating to the special needs of older Americans.

Notice is hereby given pursuant to the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C. App. 1, Sec. 10, 1976) that the Council will hold a meeting on March 17–18, 1980 from 9:00 a.m. to 5:00 p.m. in Room 1813, Food and Drug Administration Building, 200 C Street, S.W., Washington, D.C. 20201.

The agenda will consist of a discussion on policy implications based on the findings emanating from the Council's study on older workers; the plan of work and strategy for achieving specific tasks of the Congressionally mandated study; an update on the status of its long-term care initiatives; and, an assessment of the Administration's 1980 budget proposal. Final workplans for 1980 will also be presented by the Council's standing committees.

Other issues pertinent to the quality of life of the aged will also be discussed.

Further information on the Federal Council may be obtained from the Federal Council on the Aging, Washington, D.C. 20201, telephone (202) 245–0441. FCA meetings are open for public observation.

Dated: February 10, 1980.

Nelson H. Cruikshank,

Chairman, Federal Council on the Aging.

[FR Doc. 80–5919 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–92–M

FEDERAL MARITIME COMMISSION

[Docket No. 80–9]

Ellenville Handle Works, Inc. v. Far Eastern Shipping Co.; Filing of Complaint

Notice is given that a complaint filed by Ellenville Handle Works, Inc. against Far Eastern Shipping Company was served February 20, 1980. Complainant alleges that it has been subjected to payment of rates for ocean transportation in excess of those

specified in respondent's tariff in violation of section 18(b)(3) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commerce on or before August 20, 1980. The hearing shall include oral testimony and cross examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter in issue is such that an oral hearing and cross-examination are necessary for the develop of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80-5906 Filed 2-25-80 8:45 am]

BILLING CODE 6730-01-M

North American West African Lines Sailing Agreement; Cancellation

Filing Party: Eric de Spirlet, Atlantic Overseas Corporation, Five World Trade Center, New York, New York 10048.

Agreement No. 9475, as amended.

Summary: On February 4, 1980, the Commission received notification of the cancellation of Agreement No. 9475, as amended.

By Order of the Federal Maritime Commission.

Dated: February 20, 1979.

Francis C. Hurney,

Secretary.

[FR Doc. 80-5904 Filed 2-25-80: 8:45 am]

BILLING CODE 6730-01-M

[Docket No. 80-8]

Schenkers International Forwarders, Inc. v. Sea-Land Service, Inc.; Filing of Complaint

Notice is given that a complaint filed by Schenkers International Forwarders, Inc. against Sea-Land Service, Inc. was served February 20, 1980. The complaint alleges that respondent has assessed ocean freight charges in violation of sections 16 First, 17, 18(b)(3) and 18(b)(5) of the Shipping Act, 1916.

Hearing in this matter, if any is held, shall commence on or before August 20, 1980. The hearing shall include oral testimony and cross-examination in the discretion of the presiding officer only upon a proper showing that there are genuine issues of material fact that cannot be resolved on the basis of sworn statements, affidavits, depositions, or other documents or that the nature of the matter is issue is such that an oral hearing and cross-examination are necessary for the development of an adequate record.

Francis C. Hurney,

Secretary.

[FR Doc. 80-5905 Filed 2-25-80 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

Bank Holding Companies; Notice of 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. C.F.R. § 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 whether consumation 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, except, as noted received by the appropriate Federal Reserve Bank not later than March 17, 1980.

A. *Federal Reserve Bank of Atlanta* (Robert E. Heck, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303:

FELICIANA COMMERCE CORPORATION, of St. Francisville, Louisana (finance, insurance and leasing activities; Louisiana): to engage, directly or through its subsidary, the Bank of Commerce & Trust Company, in the making, acquiring, and servicing of loans and other extensions of credit; to act as agent or broker for the sale of life, accident, health, property and casualty insurance directly related to the extensions of credit by itself or its subsidary bank; to act as agent for the sale of general insurance in a community with a population not exceeding 5000; and to acquire and hold real or movable property, either directly itself or through its bank subsidary; which shall be used by the subsidary in the operation of its business; and to lease this property to the subsidary and/or the subsidiary's customers, in accordance with the Board's Regulation Y. These activities would be conducted from an office in St. Francisville, Louisiana, serving West Feliciana Parish and surrounding market area of the subsidiary bank.

B. *Federal Reserve Bank of Kansas City* (John F. Zoellner, Vice President) 925 Grand Avenue, Kansas City, Missouri 64198:

COMMERCE COMPANIES, INC., Topeka, Kansas (consumer and commercial lending activities; Kansas): to engage, through its division known as Commerce Neighborhood Financial Center, in making extensions of consumer and commercial credit. These activities would be conducted from offices in Topeka, Kansas, serving Shawnee and contiguous counties.

C. *Federal Reserve Bank of San Francisco* (Henry B. Jamison, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. BANKAMERICA CORPORATION, San Francisco, California (mortgage banking; Colorado): to engage, through its subsidiary BA Mortgage and International Realty Corporation, in making or acquiring for its own account or for the account of others residential mortgage loans. This activity would be conducted at the existing offices of FinanceAmerica Corporation, a Colorado corporation, in Arvada, Aurora, Boulder, Colorado Springs, Englewood, Fort Collins, Grand Junction, Lakewood, and Thornton, Colorado, serving the State of Colorado.

2. BANKAMERICA CORPORATION, San Francisco, California (industrial loan, finance, and insurance activities; California [2 applications involved]): to engage, through its subsidiary FinanceAmerica Thrift Corporation, Santa Ana, California, in operating an industrial loan company as authorized by California law; making and acquiring loans and other extensions of credit, including consumer installment loans, loans to small businesses, and loans secured by real and personal property; and in selling life, accident and health, and property insurance directly related

to extensions of credit made or acquired by FinanceAmerican thrift Corporation. These activities would be conducted from existing offices of FinanceAmerica Corporation, Santa Ana, California, in Panorama City, Torrance, Whittier, Fremont, Mountain View, Redwood City, San Bruno, and Westlake, Village, California, serving the State of California.

D. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 15, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-5917 Filed 2-25-80; 8:45 am]

BILLING CODE 6210-01-M

Bank Holding Companies; Notice of 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 whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of 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 March 19, 1980.

A. *Federal Reserve Bank of San Francisco* (Henry B. Jamison, Vice President) 400 Sansome Street, San Francisco, California 94120:

1. WELLS FARGO & COMPANY, San Francisco, California (finance activities; Central United States): to engage, through its subsidiary, Wells Fargo Business Credit, in making or acquiring loans or other extensions of credit, including commercial loans secured by a borrower's inventory, accounts receivable, or other assets and in servicing loans in accordance with the Board's Regulation Y. These activities would be conducted from an Office in Overland Park, Kansas, Serving Montana, Wyoming, Utah, Colorado, North Dakota, South Dakota, Nebraska, Kansas, Oklahoma, Minnesota, Iowa, Missouri, Arkansas, Wisconsin, Illinois, Michigan, Indiana, and Ohio.

2. WELLS FARGO & COMPANY, San Francisco, California (insurance activities; California) to engage through its subsidiary, Wells Fargo Insurance Services in acting as agent for the sale of credit life and disability insurance; including mortgage redemption insurance, directly related to extensions of credit by it or its subsidiaries. These activities would be conducted from an office in Sacramento, California, serving the state of California.

B. *Other Federal Reserve Banks:* None.

Board of Governors of the Federal Reserve System, February 19, 1980.

William N. McDonough,

Assistant Secretary of the Board.

[FR Doc. 80-5916 Filed 2-25-80; 8:45 am]

BILLING CODE 6210-01-M

FEDERAL TRADE COMMISSION

Early Termination of the Waiting Period of the Premerger Notification Rules

AGENCY: Federal Trade Commission.

ACTION: Granting of request for early termination of the waiting period of the premerger notification rules.

SUMMARY: The Doubleday & Company, Inc. is granted early termination of the waiting period provided by law and the premerger notification rules with respect to its proposed acquisition of the Metropolitan Baseball Club, Inc. from Charles S. Payson. The grant was made by the Federal Trade Commission and the Assistant Attorney General in charge of the Antitrust Division of the Department of Justice in response to a request for early termination submitted by both parties. Neither agency intends to take any action with respect to this acquisition during the waiting period.

EFFECTIVE DATE: February 13, 1980.

FOR FURTHER INFORMATION CONTACT: Joan S. Truitt, Attorney, Premerger Notification Office, Bureau of Competition, Room 303, Federal Trade Commission, Washington, D.C. 20580 (202-523-3894).

SUPPLEMENTARY INFORMATION: Section 7A of the Clayton Act, 15 U.S.C. § 18a, as added by Title II of the Hart-Scott-Rodino Antitrust Improvements Act of 1976, requires persons contemplating certain mergers or acquisitions to give the Commission and Assistant Attorney General advance notice and to wait designated periods before consummation of such plans. Section 7A(b)(2) of the Act permits the agencies, in individual cases, to terminate this waiting period prior to its expiration and requires that notice of this action be published in the Federal Register.

By direction of the Commission.

Carol M. Thomas,

Secretary.

[FR Doc. 80-5909 Filed 2-25-80; 8:45 am]

BILLING CODE 6750-01-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Center for Disease Control

Grants for Childhood Lead-Based Paint Poisoning Prevention Programs; Availability of Funds

The Center for Disease Control announces the availability of project grant funds for fiscal year 1980 for Childhood Lead-Based Paint Poisoning Prevention, Catalog of Federal Domestic Assistance Number 13.266. These grants are authorized by Section 316 (42 U.S.C. 247a), of the Public Health Service Act as amended by the Health Services and Centers Amendments of 1978, Pub. L. 95-626.

Regulations governing this program were published in the Federal Register on March 5, 1979, under 42 CFR Part 91. Revised regulations incorporating changes made by the Health Services and Centers Amendments of 1978 (Pub. L. 95-626) are expected to be published during 1980. Guidelines developed to assist interested parties in preparing applications may be obtained from the appropriate Department of Health, Education, and Welfare Regional Office.

The objectives of this grant program are to assist in developing and carrying out local programs to detect, treat, and prevent incidents of lead-based paint poisoning among children under 6 years of age, eliminate lead-based paint hazards from surfaces in and around residential dwelling units or houses, and assist in establishing centralized laboratory facilities for determining

erythrocyte protoporphyrin or lead content in biological or environmental specimens obtained in connection with local programs.

Eligible applicants for community programs include agencies of units of general local governments, private nonprofit entities, and agencies of State governments where the State governments provide direct services to individuals on local communities, or where units of general local government within the State are prevented by State law from implementing or receiving such grants or from expending such grants in accordance with their intended purpose. For establishing centralized laboratory facilities, State agencies only are eligible for support. While there are no special matching requirements, applicants are expected to assume part of the project costs.

It is expected that $11.25 million will be available in fiscal year 1980 to award approximately 65 grants designed to assist communities in establishing and conducting a childhood lead-based paint poisoning prevention program. The average award is expected to be $170,000, ranging from $58,000 to $515,000. Of the total grants awarded, it is anticipated that five awards will be made to new programs totaling an estimated $850,000. Initial grants are funded for 12 months in a 3 to 5 year project period. Continuation awards within the project period are made on the basis of satisfactory progress toward meeting project objectives. Although the program allows support of centralized laboratory facilities, it is not anticipated that this funding capability will be required in fiscal year 1980 based upon documented need as of the date of this notice.

Funding criteria for community programs for fiscal year 1980 will place emphasis on the magnitude of the problem identified in the community (with appropriate documentation) and the project's plan to conduct the following activities: (1) An education program intended to communicate the health danger and prevalence of lead-based paint poisoning among children of inner city areas; (2) an intensive community testing program designed to detect incidence of lead-based paint poisoning among community residents and to ensure prompt medical treatment for such afflicted individuals; (3) followup programs to ensure that identified cases are protected against further exposure to lead-based paints in their living environment; (4) opportunities for employing the residents of communities or neighborhoods afflicted by lead-based paint poisoning; and (5) the degree of coordination of program activities with other Federal and community health service programs.

Funding of centralized laboratory facilities in fiscal year 1980, should the need arise, will be based upon level of existing services, documented need, and level of services which will continue after grant support has been terminated.

Applications should be submitted approximately 120 days prior to the beginning date of the period for which funds are requested. However, application review cycles are established within each Regional Office, and information concerning the timing of the review cyles and regional review procedures may be obtained from the appropriate HEW Regional Office. Late applications are generally deferred until the next review cycle. Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974. Application forms may be obtained from and are submitted to the appropriate Department of Health, Education, and Welfare Regional Office as set forth below.

Dated: February 8, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health, Education, and Welfare

Regional Offices

Regional Health Administrator, PHS, DHEW Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health Administrator, PHS, DHEW Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561.

Regional Health Administrator, PHS, DHEW Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health Administrator, PHS, DHEW Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.

Regional Health Administrator, PHS, DHEW Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385.

Regional Health Administrator, PHS, DHEW Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health Administrator, PHS, DHEW Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health Administrator, PHS, DHEW Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461.

Regional Health Administrator, PHS, DHEW Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, DHEW Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430.

[FR Doc. 80-5890 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-86-M

Grants for Childhood Immunization Programs; Availability of Funds

The Center for Disease Control announces the availability of funds for Project Grants for Preventive Health Services, Grants for Childhood Immunization Programs, Catalog of Federal Domestic Assistance Number 13.268. These grants are authorized by Section 317(a)(2), (42 U.S.C. 247b), of the Public Health Service Act as amended by the Health Services and Centers Amendments of 1978, Pub. L. 95–626.

Regulations governing this program were published in the **Federal Register** on July 11, 1979, under 42 CFR Part 51b. Revised regulations incorporating changes made by the Health Services and Centers Amendments of 1978 (Pub. L. 95–626) are expected to be published during 1980. Guidelines developed to assist interested parties in preparing applications may be obtained from the appropriate Department of Health, Education, and Welfare Regional Office.

The objectives of this grant program are to reduce morbidity and mortality due to vaccine-preventable diseases in children; to eliminate indigenous measles from the United States by October 1, 1982; to raise and/or maintain immunization levels above 90 percent for children under age 15 against measles, poliomyelitis, pertussis, tetanus, and rubella; to raise and/or maintain immunization levels above 90 percent for children under age 7 against mumps; and to develop, test, and implement systems for use in the States to ensure that 90 percent or more of all children have completed basic immunizations by age 2.

Any State agency and, in consultation with State health authorities, political subdivisions of a State and other public entities are eligible to apply for a grant. While there are no specific matching requirements, applicants are expected to assume part of the project costs.

It is expected that $24,532,000 will be available in fiscal year 1980 to award 63 grants with the average award expected to be $389,397, with individual grants ranging from $126,100 to $1,197,550. Grants are funded for 12 months in a 3 to 5 year project period. Continuation grants within the project period are made on the basis of satisfactory

progress in meeting project objectives. No new grants are expected to be made in 1980 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above are subject to change.

Funding criteria for fiscal year 1980 will be determined by the project's plan to carry out a balanced program of service delivery, disease and reactions surveillance, assessment, outbreak control, maintenance of immunization levels, and public and professional education.

Applications should be submitted approximately 120 days prior to the beginning date of the period for which funds are requested. However, application review cycles vary, and information concerning the timing of the review cycles and regional review procedures may be obtained from the appropriate HEW Regional Office. Late applications are generally deferred until the next review cycle. Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974. Application forms may be obtained from and are submitted to the appropriate Department of Health, Education, and Welfare Regional Office as set forth below.

Dated: February 8, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health, Education, and Welfare

Regional Offices

Regional Health Administrator, PHS, DHEW Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health Administrator, PHS, DHEW Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561.

Regional Health Administrator, PHS, DHEW Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health Administrator, PHS, DHEW Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.

Regional Health Administrator, PHS, DHEW Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385.

Regional Health Administrator, PHS, DHEW Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health Administrator, PHS, DHEW Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health Administrator, PHS, DHEW Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461.

Regional Health Administrator, PHS, DHEW Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, DHEW Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430.

[FR Doc. 80–5891 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–80–M

Grant for Fluoridation; Availability of Funds

The Center for Disease Control announces the availability of funds for Project Grants for Prevention Health Services, Grants for Fluoridation, Catalog of Federal Domestic Assistant Number 13.980. These grants are authorized by Section 317(a)(2), (42 U.S.C. 247b), of the Public Health Service Act as amended by the Health Service and Centers Amendments of 1978, Pub. L. 95–626, and as corrected by Senate Joint Resolution 14 (Pub. L. 96–32), approved July 10, 1979.

Regulations governing this program were published in the **Federal Register** on September 26, 1979, under 42 CFR Part 51b. Revised regulations incorporting changes made by the Health Services and Centers Amendments of 1978 (Pub. L. 95–626) are expected to be published during 1980. Guidelines developed to assist interested parties in preparing applications may be obtained from the Procurement and Grants Office, Center for Disease Control, Atlanta, Georgia 30333.

The objective of this grant program is to assist States and communities in promoting, implementing, and maintaining fluoridated water systems on a national basis. Any State agency and, in consultation with State health authorities, political subdivision of a State and other public entities are eligible to apply for a grant. While there are no specific matching requirements, applicants are expected to assume part of the project costs.

It is expected that $5 million will be available in fiscal year 1980 to award approximately 25 new and 20 continuation grants, with the average award expected to be $100,000 with individual grants ranging from $5,000 to 300,000. Initial grants are funded for 12 months in a 2 to 5 year project period. Continuation grants within the project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above are subject to change.

Priority for funding of new grants will be based on the following factors:

A. Number of additional individuals who will be provided with fluoridation or prevented from imminent discontinuance of the their access to fluoridated water systems.

B. Need for surveillance of presently fluoridated water systems and replacement equipment where necessary.

C. Overall content of the applicant's described program.

D. Number of individuals who will be provided with fluoridation who reside in areas designated by the Secretary as dental manpower shortage areas.

Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planing and Resource Development Act of 1974. Information on application and review procedures, deadlines, and other information may be obtained from the Procurement and Grants Office, Center for Disease Control, Atlanta, Georgia 30333, or the appropriate Department of Health, Education, and Welfare Regional Office set forth below.

Dated: February 8, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health, Education, and Welfare

Regional Offices

Regional Health Administrator, PHS, DHEW Region I, John Fitzerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health Administrator, PHS, DHEW Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561.

Regional Health Administrator, PHS, DHEW Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health Administrator, PHS, DHEW Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.

Regional Health Administrator, PHS, DHEW Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385.

Regional Health Administrator, PHS, DHEW Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health Administrator, PHS, DHEW Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health Administrator, PHS, DHEW Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461.

Regional Health Administrator, PHS, DHEW Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, DHEW Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430.

[FR Doc. 80–5892 Filed 2–25–80 8:45 am]

BILLING CODE 4110–86–M

Grants for Urban Rat Control Programs Program Announcement—Availability of Funds

The Center for Disease Control announces the availability of funds for Project Grants for Preventive Health Services—Urban Rat Control, Catalog of Federal Domestic Assistance Number 13.267. These grants are authorized by Section 317(a)(2), (42 U.S.C. 247b), of the Public Health Service Act as amended by the Health Services and Centers Amendments of 1978, Pub. L. 95–626.

Regulations governing this program were published in the **Federal Register** on July 11, 1979, under 42 CFR Part 51b. Revised regulations incorporating changes made by the Health Services and Centers Amendments of 1978 (Pub. L. 95–626) are expected to be published during 1980. Guidelines developed to assist interested parties in preparing applications may be obtained from the appropriate Department of Health, Education, and Welfare Regional Office.

The objective of this grant program is to support comprehensive urban rat control activities in communities by improving the living environment to obviate rat proliferation and to promote the identification of local resources during the project period to sustain the program's achievement.

Any State agency and in consultation with State health authorities, political subdivisions of a State and other public entities are eligible to apply for a grant. Applicants must have completed a baseline survey of a proposed target area (200 blocks minimum) and have documented the existence of active rat signs in at least six percent of the premises inspected. While there are no specific matching requirements, applicants are expected to assume part of the project costs.

It is expected that $14,000,000 will be available in fiscal year 1980 for support of approximately 35 grants with an average award of $351,000, with individual grants ranging from $57,000 to $2,000,000. Programs are funded for 12 months in a 3 to 5 year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above are subject to change.

During fiscal year 1980, funding criteria will include the following factors: (1) The magnitude of the rat problem and other causative conditions: (2) the degree to which the proposed program satifactorily provides for citizen participation; employment opportunities for target area residents; community education and motivation; interagency coordination; improved refuse storage and premises sanitation; intensification of municipal services; improvement of residential and accessory structures; rat killing; and development and enforcement of adequate ordinances.

Applications should be submitted approximately 120 days prior to the beginning date of the period for which funds are requested. However, application review cycles vary, and information concerning the timing of the review cycles and regional review procedures may be obtained from the appropriate HEW Regional Office. Late applications are generally deferred until the next review cycle. Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974. Application forms may be obtained from and are submitted to the appropriate Department of Health, Education, and Welfare Regional Office as set forth below.

Dated: February 8, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health, Education, and Welfare

Regional Offices

Regional Health, Administrator, PHS, DHEW Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health, Administrator, PHS, DHEW Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561.

Regional Health, Administrator, PHS, DHEW Region III, Gateway Building, #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health, Administrator, PHS, DHEW Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–02316.

Regional Health, Administrator, PHS, DHEW Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385.

Regional Health, Administrator, PHS, DHEW Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health, Administrator, PHS, DHEW Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health, Administrator, PHS, DHEW Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461.

Regional Health, Administrator, PHS, DHEW Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health, Administrator, PHS, DHEW Region X, 1321, Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430.

[FR Doc. 80–5893 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–86–M

Grants for Venereal Disease Control Program Announcement—Availability of Funds

The Center for Disease Control announces the availability of funds for Project Grants for Venereal Disease Control, Catalog of Federal Domestic Assistance Number 13.977. These grants are authorized by Section 318, (42 U.S.C. 247c), of the Public Health Service Act as amended by the Disease Control Amendments of 1976, Pub. L. 94–317, and Health Services and Centers Amendments of 1978, Pub. L. 95–626.

Regulations governing this program were published in the **Federal Register** on July 11, 1979, under 42 CFR Part 51b. Revised regulations incorporating changes made by the Health Services and Centers Amendments of 1978 (Pub. L. 95–626) are expected to be published during 1980. Guidelines developed to assist interested parties in preparing applications may be obtained from the appropriate Department of Health, Education, and Welfare Regional Office.

The objective of this grant program is to reduce morbidity and mortality from venereal disease by preventing cases and complications. Any State agency and, in consultation with the State health authority, any political subdivision of a State is eligible to apply for a grant. While there are no specific matching requirements, applicants are expected to assume part of the project costs.

It is expected that $38 million to $39 million will be available in fiscal year 1980 to award 63 grants. The average award is expected to be $600,000, with individual grants ranging from $37,000 to $2.9 million. Grants are funded for 12 months in a 3 to 5 year project period. Continuation awards within the project period are made on the basis of satisfactory progress in meeting project objectives. No new grants are expected to be made in 1980 since current grantees are coordinating activities in all political jurisdictions in the United States. Funding estimates outlined above are subject to change.

Funding criteria for venereal disease control for fiscal year 1980 will place priority emphasis on: (1) The relative

extent of the venereal disease problem in the area served by the applicant; (2) the design of the venereal disease prevention and control program; (3) the general quality of the plan of operation and objectives of the program in accordance with the requirements of the regulations and the extent to which the project renders services to groups having the highest incidence of venereal disease; (4) the capacity of the applicant to make effective use of Federal funds; and (5) the commitment of the applicant to the control of venereal disease as reflected in the commitment of applicant resources to the program.

Applications should be submitted approximately 120 days prior to the beginning date for which funds are requested. However, application review cycles vary, and information concerning the timing of the review cycles and regional review procedures may be obtained from the appropriate HEW Regional Office. Late applications are generally deferred until the next review cycle. Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Resource Development Act of 1974. Application forms may be obtained from and are submitted to the appropriate Department of Health, Education, and Welfare Regional Office as set forth below.

Dated: February 8, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health, Education, and Welfare Regional Offices

Regional Health Administrator, PHS, DHEW Region I, John Fitzerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health Administrator, PHS, DHEW Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561.

Regional Health Administrator, PHS, DHEW Region III, Gateway Building #1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health Administrator, PHS, DHEW Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.

Regional Health Administrator, PHS, DHEW Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385.

Regional Health Administrator, PHS, DHEW Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health Administrator, PHS, DHEW Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health Administrator, PHS, DHEW Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461.

Regional Health Administrator, PHS, DHEW Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, DHEW Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430.

[FR Doc. 80–5894 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–86–M

Grants for Venereal Disease Research, Demonstrations, and Public Information and Education; Availability of Funds

The Center for Disease Control announces the availability of funds for Project Grants for Venereal Disease Research, Demonstrations, and Public Information and Education, Catalog of Federal Domestic Assistance Number 13.978. These grants are authorized by Section 318(b), (42 U.S.C. 247c), of the Public Health Service Act as amended by the Disease Control Amendments of 1972, Pub. L. 92–449; Disease Control Amendments of 1976, Pub. L. 94–317; and Health Services and Centers Amendments of 1978, Pub. L. 95–626.

Proposed regulations governing this program are expected to be published in the **Federal Register** early in 1980 under 42 CFR Part 51b. Guidelines developed to assist interested parties in preparing applications may be obtained from the Procurement and Grants Office, Center for Disease Control, Atlanta, Georgia 30333.

The objectives of this grant program are to develop, improve, apply, and evaluate methods for the prevention and control of syphilis, gonorrhea, and other sexually transmitted diseases (STD) through demonstrations and applied research; to develop, improve, apply, and evaluate methods and strategies for public information and education about syphilis, gonorrhea, and other STD; and to support particularly deserving public information and education programs at the community level which cannot be supported through other grant programs.

Any State agency, political subdivisions of a State, and other public or nonprofit private entities are eligible to apply for a grant. While there are no specific matching requirements, applicants are expected to assume part of the project costs.

It is expected that $1 million to $2 million will be available in fiscal year 1980 to award between 8 and 15 grants designed to assist official health agencies and other public or nonprofit private entities in the conduct of demonstrations and application research in evaluating new methodologies for the prevention and control of STD, and in carrying out special STD public information and education activities. The average award is expected to be $100,000, with individual grants ranging from $50,000 to $150,000. Of the total grants awarded, it is anticipated that all will be new grants. Initial grants are funded for 12 months in a 2 to 5 year project period. Continuation awards within this project period are made on the basis of satisfactory progress in meeting project objectives. Funding estimates outlined above are subject to change.

Proposed funding criteria for demonstrations and application research in STD prevention and control and in special public information and education for fiscal year 1980 place emphasis on: (1) Evidence that the proposed project is needed and that the outcome has potential to directly benefit the national venereal disease control effort; (2) the specificity, measureability, realistic nature, and time phased structure of objectives plus their relevance to promoting the purposes of Section 318; (3) the logic and clear relationship of the methods of operation to project objectives and specific attention given to activities which are complex, interrelated, or unprecedented; (4) the inclusion of an assessment describing the impact, both positive and negative, of the conduct of the proposed initiative upon the established venereal disease control program in the immediate locality or localities in which the project will be undertaken; (5) the comprehensive and realistic nature of the plan to evaluate the proposed initiative plus the specificity of measures and instruments of measurement to be used; (6) the reasonableness of the budget request and its consistency with the intended use of grant funds; and (7) if the applicant intends only to evaluate an existing disease prevention and control approach, the extent to which the objectives substantially differ from those which could be met by routine program evaluation.

Applications are subject to review as governed by OMB Circular A–95 and regulations (42 CFR Parts 122 and 123) implementing the National Health Planning and Development Act of 1974. Information on application and review procedures, and other information may be obtained from the Procurement and Grants Office, Center for Disease Control, Atlanta, Georgia 30333, or the appropriate Department of Health, Education, and Welfare Regional Office set forth below.

Dated: February 8, 1980.

William H. Foege,

Director, Center for Disease Control.

Department of Health, Education, and Welfare

Regional Offices

Regional Health Administrator, PHS, DHEW Region I, John Fitzgerald Kennedy Building, Boston, Massachusetts 02203, (617) 223–6827.

Regional Health Administrator, PHS, DHEW Region II, Federal Building, 26 Federal Plaza, New York, New York 10007, (212) 264–2561.

Regional Health Administrator, PHS, DHEW Region III, Gateway Building 1, 3521–35 Market Street, Mailing Address: P.O. Box 13716, Philadelphia, Pennsylvania 19101, (215) 596–6637.

Regional Health Administrator, PHS, DHEW Region IV, 101 Marietta Towers, Suite 1007, Atlanta, Georgia 30323, (404) 221–2316.

Regional Health Administrator, PHS, DHEW Region V, 300 South Wacker Drive, 33rd Floor, Chicago, Illinois 60606, (312) 353–1385.

Regional Health Administrator, PHS, DHEW Region VI, 1200 Main Tower Building, Room 1835, Dallas, Texas 75202, (214) 767–3879.

Regional Health Administrator, PHS, DHEW Region VII, 601 East 12th Street, Kansas City, Missouri 64106, (816) 374–3291.

Regional Health Administrator, PHS, DHEW Region VIII, 1194 Federal Building, 1961 Stout Street, Denver, Colorado 80294, (303) 837–4461.

Regional Health Administrator, PHS, DHEW Region IX, 50 United Nations Plaza, San Francisco, California 94102, (415) 556–5810.

Regional Health Administrator, PHS, DHEW Region X, 1321 Second Avenue, M.D./837, Arcade Plaza Building, Seattle, Washington 98101, (206) 442–0430.

[FR Doc. 80-5895 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-86-M

Food and Drug Administration

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Wednesday, March 12, 1980.

ADDRESS: The meeting will be held at the Mill Creek Community Center Conference Room, 496 Glenwood Ave., Youngstown, OH 44502.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decision on vital issues.

Dated: February 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5645 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by James C. Simmons, District Director, Cincinnati District Office, Cincinnati, OH.

DATE: The meeting will be held at 1 p.m., Thursday, March 13, 1980.

ADDRESS: The meeting will be held at the Anthony Celebrezze Federal Building, Rm. 2069, 1240 E. 9th St., Cleveland, OH 44199.

FOR FURTHER INFORMATION CONTACT: Ruth E. Weisheit, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 601 Rockwell Ave., Rm. 463, Cleveland, OH 44114, 216–522–4844.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Cincinnati District Office, and to contribute to the agency's policymaking decisions on vital issues.

Dated: February 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5646 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a forthcoming consumer exchange meeting to be chaired by John Wiskerchen, District Science Branch Director, Seattle District Office, Seattle, WA.

DATE: The meeting will be held at 1:30 p.m., Tuesday, March 11, 1980.

ADDRESS: The meeting will be held at the Federal Office Bldg. and U.S. Court House, Rm. 589, 550 W. Fort St., Boise, ID.

FOR FURTHER INFORMATION CONTACT: Ellen M. Miller, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 5003 Federal Office Bldg., Seattle, WA 98174, 206–442–5258.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to enhance relationships between local consumers and FDA's Seattle District Office, and to contribute to the agency's policymaking decision on vital issues.

Dated: February 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5647 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces a Joint IRLG consumer exchange meeting to be chaired by James W. Swanson, Region Director, Seattle District Office, Seattle, WA.[1]

DATE: The meeting will be held at 1:30 p.m., Thursday, March 6, 1980.

ADDRESS: The meeting will be held at the Food Circus Seattle Center, Conference, Rm. A, 305 Harrison St., Seattle, WA 98109

FOR FURTHER INFORMATION CONTACT: Susan J. Hutchcroft, Consumer Affairs Officer, Food and Drug Administration, Department of Health, Education, and Welfare, 5003 Federal Office Bldg., Seattle, WA 98174, 206–442–5258.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and officials of the five agencies, to identify and set priorities for current and future health concerns, to enhance

[1] The meeting will be sponsored by the Food and Drug Administration, Environmental Protection Agency, Consumer Product Safety Commission, Occupational Safety and Health Administration, and the Food Safety and Quality Service (USDA).

relationships between local consumers and the agencies' Seattle Offices, and to contribute to the agency's policymaking decision on vital issues.

Dated: February 19, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5648 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

[Docket No. 76C-0033]

FD & C Red No. 2; Denial of Petition for Permanent Listing; Final Decision

Correction

In FR Doc. 80-1911 appearing on page 6252, in the issue of Friday, January 25, 1980, make the following corrections:

1. On page 6252, second column, the nineteenth line of the first complete paragraph should have read: "the Initial Decision as supplemented".

2. On page 6256, first column, the first word of the fourteenth line of the second paragraph should have read: "detailed".

3. On page 6261, third column, the eleventh line of the third full paragraph should have read: "animals as compared with the controls, there would".

4. On page 6264, third column, the twelfth line should have read: "testified that "in none of the animals".

5. On page 6265, second column, the first word of the second line of the second full paragraph should have read: "diagnoses".

6. On page 6267, first column, twenty-fourth line from the bottom of the page should have read: "According to CCMA, greater weight should be".

7. On page 6272, third column, the second line of paragraph "1.a." should have read: "examination was conducted on animal" and in the same paragraph the numerical designation at the end of the fourth line should have read: "G-272,".

8. On page 6272, third column, the last word of the fourth line of paragraph "2.a." should have read: "strongest".

BILLING CODE 1505-01-M

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Meeting

Notice is hereby given of a Workshop to consider two areas within the NIH Program to Assess the Risks of Recombinant DNA Research. This Workshop is being sponsored by the National Institute of Allergy and Infectious Diseases as part of its responsibility to implement the Program. The meeting will be convened at the Huntington Sheraton Hotel, Pasadena, California on April 11 and 12, 1980.

This Workshop is designed to define the scientific issues and assess the potential risks of (1) possible direct adverse effects of hormone-producing strains of *E. coli* K-12, and (2) the possible occurrence of autoantibodies or autoreactive cells due to the production of eukaryotic polypeptides (including hormones) by *E. coli* K-12 should they colonize higher organisms. These potential risks are being considered because there is still debate over the degree of possible risk, even though *E. coli* K-12 has apparently lost those known characteristics that are required for colonization of the normal intestinal tract. The meeting will bring together outstanding scientists from the fields of immunology, endocrinology, physiology, microbiology, infectious diseases and other appropriate disciplines. The entire meeting is open to the public but such attendence is limited to the space available.

Further detailed information can be obtained from Dr. John E. Nutter, Chief, Office of Specialized Research and Facilities, National Institute of Allergy and Infectious Diseases, National Institutes of Health, Bethesda, Maryland 20205, (301) 496-5643.

Dated: February 15, 1980.

Suzanne L. Fremeau,

Committee Management Officer, National Institutes of Health.

[FR Doc. 80-5897 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-08-M

Food and Drug Administration

[Docket No. 79N-0442]

North Shore Biologicals, Inc.; Revocation of U.S. License No. 619

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) announces the revocation on July 12, 1979 of the establishment license (U.S. License No. 619) and product license issued to North Shore Biologicals, Inc., 1015 Walnut Street, Philadelphia, PA 19107 for the manufacture of Source Plasma (Human). Because the firm has not been operational since November 1975, it has been impossible for the agency to conduct a meaningful inspection or evaluation of the firm's manufacturing procedures. In addition, significant changes in location, responsible personnel and operation were made which were not reported to or approved by the Director, Bureau of Biologics.

EFFECTIVE DATE: The revocation of the establishment and product licenses was effective on July 12, 1979.

FOR FURTHER INFORMATION CONTACT: Richard E. Fisher, Bureau of Biologics (HFB-620), Food and Drug Administration, Department of Health, Education, and Welfare, 8800 Rockville Pike, Bethesda, MD 20205, 301-443-1306.

SUPPLEMENTARY INFORMATION: FDA has revoked the establishment license (U.S. License No. 619) and product license issued to North Shore Biologicals, Inc., 1015 Walnut St., Philadelphia PA 19107, for the manufacture of Source Plasma (Human).

The last complete and meaningful FDA inspection of this establishment was conducted on October 10, 1975. A subsequent FDA inspection conducted on September 30, 1977, found that donors had not been plasmapheresed for over a year. An additional FDA inspection conducted on February 21-22, 1979 further revealed that donors had not been plasmapheresed since November 1975, and that manufacturing of Source Plasma (Human) had been discontinued to such an extent that a meaningful inspection or evaluation of the firm's manufacturing procedures could not be made.

The inspections of September 30, 1977 and February 21 and 22, 1979, established that North Shore Biologicals, Inc. has made changes in location, responsible personnel, and operations without reporting such changes to the Director, Bureau of Biologics as required by § 601.12 (21 CFR 601.12) and has not actively engaged in the manufacture of Source Plasma (Human) for approximately 3½ years. As prescribed by § 601.5(b)(2) and (3) (21 CFR 601.5(b)(2) and (3)), if the Commissioner finds that manufacturing of products or a product has been discontinued to an extent that a meaningful inspection or evaluation cannot be made or that the manufacturer has failed to report a change as required by 21 CFR 601.12, the Commissioner shall notify the licensee of his or her intention to revoke the license, setting forth the grounds for, and offering an opportunity for a hearing on, the proposed revocation.

Accordingly, the agency advised the responsible head of North Shore Biologicals, Inc. by letter dated June 4, 1979, that because manufacture of Source Plasma (Human) had been discontinued to such and extent that a meaningful inspection or evaluation of the firm's manufacturing process could not be made and that important changes concerning the firm's operation under license had not been reported as required by 21 CFR 601.12, it was the

agency's intention to revoke U.S. License No. 619 and issue a Notice of Opportunity for Hearing under 21 CFR 601.5(b). Following receipt of this letter and prior to the initiation of further regulatory action, the firm requested by letter dated June 18, 1979, that its establishment license (U.S. License No. 619) and product license be revoked and waived an opportunity for hearing under 21 CFR 601.5(b). FDA has granted the request.

Therefore, under § 12.38 (21 CFR 12.38) and section 351 of the Public Health Sevice Act (58 Stat. 702 as amended (42 U.S.C. 262)) and the authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1) and redelegated to the Director, Bureau of Biologics (21 CFR 5.68), U.S. License No. 619 issued to North Shore Biologicals, Inc., and the product license for the manufacture of Source Plasma (Human) were revoked by letter dated July 12, 1979. This notice of revocation is published under § 601.8 (21 CFR 601.8).

Dated: February 20, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5738 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

Immunology and Microbiology Devices Panel, Immunology Devices Section; Meeting

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). This notice also sets forth a summary of the procedures governing committee meetings and methods by which interested persons may participate in open public hearings conducted by the committees and is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92-463, 86 Stat. 770-776 (5 U.S.C. App. I)), and FDA regulations (21 CFR Part 14) relating to advisory committees. The following advisory committee meeting is announced:

Committee name	Date, time, and place	Type of meeting and contact person
Immunology Devices Section of the Immunology and Microbiology Devices Panel.	March 11 and 12, 9 a.m., Rm. 425, 8757 Georgia Ave., Silver Spring, MD.	Closed presentation of data and closed committee deliberations on those data March 11, 9 a.m. to 4 p.m., Open public hearing and open committee discussion March 12, 9 a.m. to 5 p.m., Srikrishna Vadlamudi (HFK-440), 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7550.

General function of the Committee. The Committee reviews and evaluates available data on the safety and effectiveness of devices currently in use and makes recommendations for their regulation.

Agenda—*Closed presentation of data and closed deliberations on those data.* The Panel will hear presentations on, and discuss, trade secret data in premarket approval applications P780001 and P790021 for alpha-fetoprotein tests and in premarket approval applications for carcinoembryonic antigen (CEA) test products. This portion of the meeting will be closed pursuant to 5 U.S.C. 552b(c)(4).

Open public hearing. Interested persons are encouraged to present information pertinent to the use of alpha-fetoprotein tests for detection of neural tube defects. Submission of data relative to tentative classification findings is also invited. Those desiring to make formal presentations should notify Srikrishna Vadlamudi (address above) by March 5, 1980, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, references to any data to be relied on, and also an indication of the approximate time required to make their comments.

Open committee discussion. The Committee will discuss nontrade secret matters involved in pending premarket approval applications for alpha-fetoprotein tests.

Each public advisory committee meeting listed above may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. The dates and times reserved for the separate portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairman determines will facilitate the committee's work.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairman's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be obtained from the Public Records and Documents Center (HFC-18), 5600 Fishers Lane, Rockville, MD 20857, between the hours of 9 a.m. and 4 p.m., Monday through Friday. The FDA regulations relating to public advisory committees may be found in 21 CFR Part 14.

The Commissioner, with the concurrence of the Chief Counsel, has determined for the reasons stated that those portions of the advisory committee meetings so designated in this notice shall be closed. The Federal Advisory Committee Act (FACA), as amended by the Government in the Sunshine Act (Pub. L. 94-409), permits such closed advisory committee meetings in certain circumstances. Those portions of a meeting designated as closed, however, shall be closed for the shortest possible time, consistent with the intent of the cited statutes.

The FACA, as amended, provides that a portion of a meeting may be closed where the matter for discussion involves a trade secret; commercial or financial information that is privileged or confidential; information of a personal nature, disclosure of which would be a clearly unwarranted invasion of personal privacy; investigatory files

compiled for law enforcement purposes; information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action; and information in certain other instances not generally relevant to FDA matters.

Examples of portions of FDA advisory committee meetings that ordinarily may be closed, where necessary and in accordance with FACA criteria, include the review, discussion, and evaluation of drafts of regulations or guidelines or similar preexisting internal agency documents, but only if their premature disclosure is likely to significantly frustrate implementation of proposed agency action; review of trade secrets and confidential commercial or financial information submitted to the agency; consideration of matters involving investigatory files compiled for law enforcement purposes; and review of matters, such as personnel records or individual patient records, where disclosure would constitute a clearly unwarranted invasion of personal privacy.

Examples of portions of FDA advisory committee meetings that ordinarily shall not be closed include the review, discussion, and evaluation of general preclinical and clinical test protocols and procedures for a class of drugs or devices; consideration of labeling requirements for a class of marketed drugs or devices; review of data and information on specific investigational or marketed drugs and devices that have previously been made public; presentation of any other data or information that is not exempt from public disclosure pursuant to the FACA, as amended; and, notably deliberative sessions to formulate advice and recommendations to the agency on matters that do not independently justify closing.

FDA has established a pilot program for financial assistance to participants in certain agency proceedings, including hearings before public advisory committees under 21 CFR Part 14. This program is described in regulations that were published in the **Federal Register** of October 12, 1979 (44 FR 59174) and that became effective October 25, 1979 (44 FR 72585; December 14, 1979). Subject to the availability of funds and other factors, FDA may reimburse participants meeting the criteria set forth in these regulations for certain costs of participating in this proceeding. For more information regarding the reimbursement program, contact Ron Wylie, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, 301–443–2932. Although reimbursement may be made available for hearings under Part 14, the program's priority will be given to funding participation in formal evidentiary public hearings under Part 12 or public boards of inquiry under Part 13 of FDA's regulations (21 CFR Part 12 or 13).

Applications for reimbursement for participation in the meeting listed above should be sent to Ron Wylie, Office of Consumer Affairs (HF–70), Food and Drug Administration, Department of Health, Education, and Welfare, 5600 Fishers Lane, Rockville, MD 20857, rather than to the Hearing Clerk as prescribed in 21 CFR 10.210 of the regulations. If you wish to submit an application, please call Ron Wylie at 301–443–2932 as soon as possible. The time limit for applying for such reimbursement is as follows:

Committee Meeting

Immunology Devices Section of the Immunology and Microbiology Devices Panel.

Meeting Date

March 11 and 12.

Reimbursement Applications Must Be Received by

March 5, 1980.

FDA has established expedited procedures for review of any application for reimbursement for participation in the meeting announced in this notice. The Office of Consumer Affairs, FDA, will file any applications for reimbursement for participation in the meeting announced in this notice in the docket for this notice.

Dated: February 21, 1980.

Mark Novitch,

Acting Commissioner of Food and Drugs.

[FR Doc. 80–5982 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

Health Resources Administration

Application Announcement for Curriculum Development Grants

The Bureau of Health Manpower, Health Resources Administration, announces that applications for fiscal year 1980 Curriculum Development Grants will be accepted under the authority of section 788(d) of the Public Health Service Act, as amended by the Health Professions Educational Assistance Act of 1976 (Pub. L. 94–484).

Section 788(d) authorizes the award of grants to any health profession, allied health profession, or nurse training institution, or any other public or nonprofit entity for health manpower projects. Funds are available in fiscal year 1980 to support the development and implementation of curriculums in environmental health and humanistic health care, with support in environmental health limited to schools of medicine and osteopathy.

The overall purposes of these grants are either:

(1) To increase the awareness of future primary care physicians of the role that occupational and environmental factors play in causing diseases and provide instruction in the diagnosis, treatment, and prevention of these diseases, or

(2) To support projects in humanistic health care which train and motivate health professions students to provide health services in a more effective manner through improvement of the affective relationships between health practitioners and patients.

Requirements for applications in humanistic health care:

(1) Projects must develop, expand, or improve training programs in humanistic health care for students who are pursuing undergraduate or graduate health professional degrees.

(2) Projects must provide training for students from at least three disciplines which provide direct patient care.

(3) Educational experiences must build upon an appropriate knowledge base and:

(a) Provide affective training in conjunction with direct patient care activities.

(b) Increase the awareness and understanding of the psychological, social, and cultural implications of humanistic health care.

(c) Enable students to assess the impact of their interpersonal relationships upon patients and their families and upon co-workers.

(d) Provide training in communication skills.

Requirements for applications in environmental health:

(1) Have an individual with relevant experience or training, who may be the program director, be responsible for curriculum development and evaluation.

(2) Develop and/or implement the teaching of new course materials designed to improve medical students understanding of disease caused by common harmful environmental factors. These new materials should include instruction in the etiology of the disease, history taking to identify potential exposures, diagnosis, treatment, and prevention. They should be produced and implemented as early as possible in the project period.

Preference will be given to humanistic health care applications that:

(1) Provide training to students of medicine or osteopathic medicine.

(2) Provide experiential training in one or more of the following clinical settings: health maintenance organizations, hospices, and Area Health Education Centers. (AHECs are projects funded, at least in part, through provisions of Section 781, Title VII of the Public Health Service Act.)

(3) Demonstrate a preexisting institutional activity and commitment to humanistic health care teaching and practice.

Requests for application materials [1] and questions regarding grants policy should be directed to: Grants Management Officer (D–31), Bureau of Health Manpower, Health Resources Administration, Center Building, Room 4–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–6098.

To be considered for fiscal year 1980 funding, applications must be received by the Grants Management Officer, Bureau of Health Manpower, at the above address no later than April 7, 1980. Approximately $1,715,000 is expected to be available for competitive grants in fiscal year 1980 and will be allocated in the following manner: Environmental Health, $1,215,000; Humanistic Health Care, $500,000.

Additional programmatic information concerning grants in humanistic health care can be received from: Chief, Interdisciplinary Programs Branch, Division of Associated Health Professions, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 5–41, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–6607.

Additional programmatic information concerning grants in environmental health can be received from: Chief, Multidisciplinary Systems and Programs Branch, Division of Medicine, Bureau of Health Manpower, Health Resources Administration, Center Building, Room 3–27, 3700 East-West Highway, Hyattsville, Maryland 20782, Phone: (301) 436–6436.

Dated February 21, 1980.

Henry A. Foley,

Administrator.

[FR Doc. 80–5966 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–83–M

[1] Application materials will be mailed to the deans of all schools which may apply for grants in the area of environmental health.

Office of Education

Women's Educational Equity Act Program; Closing Date for Transmittal of Applications for Fiscal Year 1980

Applications are invited for new general (13.565A) and small (13.565B) grants under the Women's Educational Equity Act Program.

Authority for this program is contained in Title IX, Part C, of the Elementary and Secondary Education Act, as amended by the Education Amendments of 1978 (Pub. L. 95–561).

This program issues awards to public agencies, private nonprofit organizations, and individuals.

The purpose of the awards is to develop educational materials and model programs designed to promote women's educational equity. The materials and programs are developed for replication throughout the United States.

CLOSING DATE FOR TRANSMITTAL OF APPLICATIONS: An application for a grant must be mailed (postmarked) or hand delivered by May 9, 1980.

APPLICATIONS DELIVERED BY MAIL: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.565A for general grants, and 13.565B for small grants, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) A private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

APPLICATIONS DELIVERED BY HAND: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

PROGRAM INFORMATION: The final rule governing the Women's Educational Equity Act Program is published in this issue of the **Federal Register.** Important changes were made between the proposed regulation and the final regulation. Therefore, applicants should review the final regulation, particularly the program priorities and evaluation criteria in Subpart B, before preparing their applications.

PREAPPLICATIONS: Preapplications will not be required for Fiscal Year 1980.

AVAILABLE FUNDS: $10 million is available for the Women's Educational Equity Act Program under the Fiscal Year 1980 Continuing Resolution, Pub. L. 96–123. It is estimated that these funds could support approximately 10–20 new small grants ($25,000 or less), 30–40 new general grants, 15 noncompeting continuation grants, as well as approximately 10–15 major contracts. A total of approximately $4 million will be available for new grant awards.

PRIORITIES FOR FUNDING: The final regulation includes five priorities for funding of general grants, to ensure that available funds go to projects that are likely to achieve the purpose of the Act most effectively. The priorities are set forth in §§ 160f.23–27 of the final regulation and are discussed in the preamble to the final regulation.

Each year, the Commissioner selects one or more of these priorities for general grants and allocates funds to each selected priority. In addition, funds may be allocated to support projects that are not under a priority but are within the scope of the authorized activities described in § 160f.20 of the final regulation.

For Fiscal Year 1980, the Commissioner selects all five priorities for general grants. Of the funds available for general grants, the Commissioner anticipates allocations to each priority and to other authorized activities in the percentages set out below. However, these figures are only estimates and do not bind the Education Division. The Commissioner may reallocate funds among the priorities and the other authorized activities if too few applications of high quality are received in any selected area.

§ 160f.23—Priority for model projects on Title IX compliance: 25%

§ 160f.24—Priority for model projects on educational equity for racial and ethnic minority women and girls: 25%

§ 160f.25—Priority for model projects on educational equity for disabled women and girls: 10%

§ 160f.26—Priority for model projects to influence leaders in educational policy and administration: 10%

§ 160f.27—Priority for model projects to eliminate persistent barriers to educational equity for women: 25%

§ 160f.20—Other authorized activities: 5%

If an applicant chooses to compete in a priority area, the applicant must select and identify in its application the priority area in which the application will compete. Applications compete only against other applicants in that priority area.

These priorities do not apply to applications for small grants in Fiscal Year 1980. Small grant applicants may focus on innovative approaches to educational equity for women in any priority area or in any of the authorized activities. Small grant applications compete against other small grant applications, regardless of subject matter.

APPLICATION FORMS: Application forms and program information packages may be obtained by writing to the Women's Educational Equity Act Program, U.S. Office of Education, Room 2147, 400 Maryland Avenue, SW., Washngton, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

APPLICABLE REGULATIONS. Regulations applicable to this program include the following:

(1) The regulation governing projects of general significance under the Women's Educational Equity Act published in this issue of the **Federal Register** (45 CFR Par 160f).

(2) The Education Division General Administrative Regulations (EDGAR) (45 CFR Parts 100a and 100c).

FURTHER INFORMATION: For further information contact Dr. Leslie R. Wolfe. Director, Women's Educational Equity Act Program, U.S. Office of Education, Room 2147, 400 Maryland Avenue, SW., Washington, D.C. 20202, Telephone: (202) 245–2181.

(20 U.S.C. 3341–3348).

Dated: January 21, 1980.

(Catalog of Federal Domestic Assistance No. 13.565, Women's Educational Equity Act Program)

William L. Smith,

Commissioner of Education.

[FR Doc. 80–5735 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–02–M

Arts Education Program

AGENCY: Office of Education, HEW.

ACTION: Extension of closing date for transmittal of applications for fiscal Year 1980.

Authority for this program is contained in Title III, Part C, Sections 321–323 of the Elementary and Secondary Education Act of 1965, as amended.

(20 U.S.C. 2961)

The Arts Education Program issues awards to State and local education agencies and other public and private agencies, organizations, and institutions.

The purpose of the awards is to encourage and assist in the establishment and conduct of programs and projects in which the arts are an intergral part of elementary and secondary school curricula.

Closing date for transmittal of applications: An application for a grant must be mailed (Postmarked) or hand delivered by April 22, 1980.

Applications delivered by mail: An application sent by mail must be addressed to the U.S. Office of Education, Application Control Center, Attention 13.566, Washington, D.C. 20202.

An applicant must show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant shall note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

An applicant is encouraged to use registered or at least first class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets, S.W., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C. time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: An application may be submitted in one of three funding categories. However, an applicant may be funded for only one project—whether proposed singly by the applicant or jointly with other applicants.

The funding categories are: (1) State—for statewide projects; (2) urban or large community—for projects in standard metropolitan statistical areas with access to cultural resources; and (3) rural or small community—for projects in areas isolated from metropolitan environments with limited or no cultural resources.

Each of the three categories has specific application requirements that are addressed in the regulations. All projects must be designed to—

(1) Provide opportunities for all students in the schools served by the project to acquire skills in and through several arts media, including at least dance, music, theater, and the visual arts; and

(2) Integrate these disciplines into the regular educational program of the schools, rather than to include them peripherally or as extra-curricular activities.

Each applicant shall provide for a project advisory committee broadly representative of State and local arts and educational resources. A State project shall use its official State arts education advisory committee, if one exists. A local applicant shall submit an information copy of its application to the SEA for a 30 day comment period.

The regulations give examples of types of project activities for which an applicant may request support. The Commissioner may approve projects for a maximum of three years; however, renewals are subject to availability of funds and review.

Applications are judged in the following categories; needs assessment; coordination; project administration; and results, end products, or outcome. The Commissioner may add 10 points to

the total score of an application to achieve geographic distribution and project diversity.

Available funds: It is expected that approximately $1,250,000 will be available for grants under the Arts Education Program in FY 1980.

It is estimated that these funds could support between 20 to 25 new projects at an average of $50,000.

The Federal share is not expected to exceed $100,000.

However, these estimates do not bind the U.S. Office of Education to a specific number of grants or to the amount of any grants unless that amount is otherwise specified by statute or regulations.

Application forms: Application forms and program information packages are currently available.

They may be obtained by writing to the Arts and Humanities Staff, U.S. Office of Education (Room 3728, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that the narrative portion of the application not exceed 15 pages in length. The Commissioner further suggests that applicants not submit information that is not requested.

Applicable regulations: The following regulations apply under this program:

(a) Regulations governing the Arts Education Program (45 CFR Part 161c). Applicants should base their applications on the final regulations published

(b) The Education Division General Administrative Regulations (EDGAR) (45 CFR Part 100a and 100c).

Further information: For further information contact the Arts and Humanities Staff, U.S. Office of Education (Room 3728, Donohoe Building), 400 Maryland Avenue, S.W., Washington, D.C. 20202.

Dated: January 31, 1980.

(Catalog of Federal Domestic Assistance Program No. 13.566, Arts Education Program)

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-5874 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-02-M

Consumers' Education Program; Extension of Closing Date for Submission of Applications for Fiscal Year 1980

AGENCY: Office of Education, HEW.

ACTION: Extension of closing date for submission of applications for fiscal year 1980.

SUMMARY: The December 19, 1979 closing date for the submission of applications under the Consumers' Education Program is extended. The *new closing date is* May 12, 1980.

SUPPLEMENTARY INFORMATION: Authority for this program is contained in sections 331–336 of Title III of the Elementary and Secondary Education Act of 1965, as amended by Pub. L. 95–561.

(20 U.S.C. 2981–2986)

The Consumers' Education Program issues awards to local education agencies, State education agencies, institutions of higher education, other public agencies, and non-profit private organizations.

The purpose of the awards is to assist these groups to develop and carry out innovative special projects designed to help people of all ages function more effectively as consumers and in their roles as consumer-citizens.

Applications delivered by mail: An application sent by mail should be addressed to the U.S. Office of Education, Application Control Center, Attention: 13.564, Washington, D.C. 20202.

An applicant should show proof of mailing consisting of one of the following:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the U.S. Commissioner of Education.

If an application is sent through the U.S. Postal Service, the Commissioner does not accept either of the following as proof of mailing: (1) a private metered postmark, or (2) a mail receipt that is not dated by the U.S. Postal Service.

An applicant should note that the U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, applicants should check with their local post office.

An applicant is encouraged to use registered, certified, or at least first-class mail. Each late applicant will be notified that its application will not be considered.

Applications delivered by hand: An application that is hand delivered must be taken to the U.S. Office of Education, Application Control Center, Room 5673, Regional Office Building 3, 7th and D Streets SW., Washington, D.C.

The Application Control Center will accept a hand-delivered application between 8:00 a.m. and 4:30 p.m. (Washington, D.C., time) daily, except Saturdays, Sundays, and Federal holidays.

An application that is hand delivered will not be accepted after 4:30 p.m. on the closing date.

Program information: Specific information regarding priorities is contained in the regulations and the program information packet. In general, priority is given to applications which are designed to serve as models or which build an organization's long-range capacity to provide consumers' education. All awards are for a 12-month period and will be new; no funds are reserved for continuation awards.

Available funds: The appropriation for the Consumers' Education Program in fiscal year 1980 to support new projects is $3,617,500.

It is estimated that these funds could support 55–60 projects in addition to contract obligations.

The anticipated average award for projects is expected to be approximately $45,000. No minimum or maximum amounts will be set.

These estimates do not bind the U.S. Office of Education except as may be required by the applicable statute and regulations.

Application forms: Application forms and program information packages are expected to be ready for mailing by March 10, 1980. They may be obtained by writing to the Office of Consumers' Education, U.S. Office of Education (Room 807, Riviere Building), 400 Maryland Avenue SW., Washington, D.C. 20202.

Applications must be prepared and submitted in accordance with the regulations, instructions, and forms included in the program information package. The Commissioner strongly urges that applicants not submit information that is not requested.

Special procedures: Local education agencies must certify that an open meeting has been held where members of the community have had an opportunity to comment on the contents of the application.

Applicable regulations: Regulations applicable to this program include the following:

(a) Regulations governing the Consumer's Education Program (45 CFR Part 161e). These final regulations will be published soon in the **Federal Register.**

(b) The Education Division General Administrative Regulations (EDGAR)

(45 CFR Parts 100a and 100c), except for the selection criteria (Subpart D, Part 100a.200–.206). These final regulations will be published soon in the Federal Register.

Application specifications: You MUST foward one original and two copies of the application to the Application Control Center of the U.S. Office of Education.

Further information: For further information, contact Dr. Dustin W. Wilson, Jr., Director, Consumers' Education Program, U.S. Office of Education (Room 807, Riviere Building), 400 Maryland Avenue, SW., Washington, DC 20202, Telephone: (202) 653–5983.

(20 U.S.C. 3386)

Dated: February 19, 1980.

(Catalog of Federal Domestic Assistance Number 13.564; Consumers' Education Program)

William L. Smith,

U.S. Commissioner of Education.

[FR Doc. 80-5871 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-02-M

Public Health Service

List of Qualified Health Maintenance Organizations

AGENCY: Public Health Service, HEW.

ACTION: Notice, January list of qualified health maintenence organizations.

SUMMARY: This notice sets forth the names, addresses, service areas, and date of qualification of entities determined by the Secretary to be qualified health maintenance organizations (HMOs). In addition, changes are reported at the end of the list on several previously qualified HMOs: a service area and name have been changed.

FOR FURTHER INFORMATION CONTACT: Howard R. Veit, Director, Office of Health Maintenance Organizations, Park Building—Third Floor, 12420 Parklawn Drive, Rockville, Maryland 20857, 301/443–4106.

SUPPLEMENTARY INFORMATION: Regulations issued under Title XIII of the Public Health Service Act, as amended, (42 CFR 110.605(b)) require that a list and description of all newly qualified HMOs be published on a monthly basis in the Federal Register. The following entities have been determined to be qualified HMOs under Section 1310(d) of the Public Health Service Act (42 U.S.C. 300e–9(d)):

Qualified Health Maintenance Organizations

Name, address, service area, and date of qualification

(Operational Qualified Health Maintenance Organizations: 42 CFR 110.603(a))

1. Rochester Area Health Maintenance Organization, Inc., d.b.a. Preferred Care, (Individual Practice Association Model, see Section 1310(b)(2)(A) of the Public Health Service Act), 220 Alexander Street, Suite 601, Rochester, New York 14607. Service area: Monroe County, including the City of Rochester, New York. Date of qualification: November 1, 1979. (Achieved preoperational qualification on October 18, 1979).

2. HealthCare , Inc., (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 4484 N. Shallowford Road, Atlanta, Georgia 30338. Service area: Cobb, DeKalb, and Gwinnett Counties, Georgia and the following zip codes in Fulton County:

30075–6 30201 30303 30305 30308–15
30318 30320 30322 30324 30326–8
30330–2 30336–7 30342 30344 30349
30354 30361

Data of qualification: January 1, 1980. (Achieved preoperational qualification on December 26, 1979.)

3. HIP of Greater New Jersey, Inc., (Staff Model, see Section 1310(b)(1) of the Public Health Service Act), 5301–15 Broadway, West New York, New Jersey 07093. Service area: Hudson County, New Jersey and the following communities in Bergen County (Southern portion):

Carlstadt
Cliffside Park
East Rutherford
Edgewater
Fairview
Fort Lee
Little Ferry
Lyndhurst
Moonachie
North Arlington
Palisade Park
Ridgefield
Teterboro

Date of qualification: January 28, 1980.

Name change

Change from: ABC–HMO, Inc., (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 4747 North 22nd Street, Phoenix, Arizona 85016.

Change to: INA Healthplan of Arizona, Inc. (Medical Group Model, see Section 1310(b)(1) of the Public Health Service Act), 4747 North 22nd Street, Phoenix, Arizona 85016. Date of qualification: August 3, 1978, see 43 FR 49854 dated October 25, 1978. Effective date: January 1, 1980.

Service Area Revision

Kaiser Foundation Health Plan of Oregon, 1500 Southwest First Avenue, Portland, Oregon 97201. Add the following to the service area published on April 7, 1978, in the Federal Register, 43 FR 14912:

City of Salem, Oregon and the following zip codes in Oregon: 97101, 97305, 97310–1, 97314, 97321, 97325, 97335, 97338, 97344, 97351, 97353, 97358–9, 97361, 97371–2, 97374–5, 97378, 97381, 97383, 97385, 97392, and 97396. Communities where the 30 mile boundary splits a zip code are described below:

97330—Stalbusch Island and Bald Hill and areas north.
97347—Grand Ronde and Condenser Peak mountain area and areas east.
97354—Crabtree Guard Station and Snow Peak and areas northwest.
97355—Peterson Butte and Ridgeway Butte and areas north.
97360—Indian Prairie and Mill City and areas west.
97370—Hoskins and McDonald State Forest and areas northeast.
97384—Mill City and Elkhorn and areas west.
97389—Towns of Weldwood, Tangent and Peterson Butte and areas north.
97393—Riley Peak and town of Seekay and areas east.
97395—Ridgeway Butte and Crabtree Guard Station and areas north.

Effective date: January 1, 1980.

Files containing detailed information regarding qualified HMOs will be available for public inspection between the hours of 8:30 a.m. and 5:00 p.m., on Tuesdays and Thursday, except for Federal holidays, in the Office of Health Maintenance Organizations, Office of the Assistant Secretary for Health, Department of Health, Education, and Welfare, Park Building, 3rd Floor, Rockville, Maryland 20857.

Questions about the review process or request for information about qualified HMOs should be sent to the same office.

Dated: February 14, 1980.

Howard R. Veit,

Director, Office of Health Maintenance Organizations.

[FR Doc. 80-5725 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-85-M

Subcommittee on Data Concepts and Methodology of the National Committee on Vital and Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the Subcommittee on Data Concepts and Methodology of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k), Paragraph (4) of the Public Health Service Act (42 USC 242K), will convene on Saturday, March 8, 1980 at 9:00 a.m., in Room 606, 677 Huntington Avenue, Boston, Massachusetts 02115.

Principal consideration and discussion will be devoted to issues which grew out of the last meeting of the

full committee; consideration of plans for identifying and prioritizing problems of potential interest to the subcommittee.

Further information regarding this meeting of the subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting Samuel P. Korper, Ph.D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A–31, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: February 20, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80–5740 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–85–M

Subcommittee on International Statistics of the National Committee on Vital and Health Statistics

Pursuant to the Federal Advisory Act (Pub. L. 92–463), notice is hereby given that the Subcommittee on International Statistics of the National Committee on Vital and Health Statistics, pursuant to functions established by Section 306(k), Paragraph (4) of the Public Health Service Act (42 U.S.C. 242K), will convene on Monday, March 17, 1980 at 9 a.m. in Room 423–425 of the Hubert H. Humphrey Building, 200 Independence Avenue, S.W., Washington, D.C. 20201.

Principal consideration and discussion will be devoted to issues which grew out of the last meeting of the full committee; consideration of matters pertaining to cooperation with National Committees of other countries; and the development of comparative studies of international data; discussion of the International Classification of Diseases.

Further information regarding this meeting of the subcommittee or other matters pertaining to the National Committee on Vital and Health Statistics may be obtained by contacting Samuel P. Korper, Ph.D., M.P.H., Executive Secretary, National Committee on Vital and Health Statistics, Room 17A–31, 5600 Fishers Lane, Rockville, Maryland 20857.

Dated: February 20, 1980.

Wayne C. Richey, Jr.,

Associate Director for Program Support, Office of Health Research, Statistics, and Technology.

[FR Doc. 80–5739 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–85–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR 12177]

Oregon; Proposed Withdrawal

Correction

In FR Doc. 80–2244, appearing on page 5842 in the issue of Thursday, January 24, 1980, in the second column the entry for Sec. 12 of T. 35 S., R. 21 E., should read "Sec. 12, NW¼NE¼, NW¼, NE¼SW¼, and W½SW¼."

Champ C. Vaughan, Jr.,

Acting Chief, Branch of Lands and Minerals Operations.

February 8, 1980.

[FR Doc. 80–5724 Filed 2–25–80; 8:45 am]

BILLING CODE 4310–84–M

Bureau of Land Management

[INT DEIS 80–4]

California Desert Conservation Area Plan Alternatives; Availability of Draft Environmental Impact Statement

Pursuant to Section 102(2)(C) of the National Environmental Policy Act of 1969, the Bureau of Land Management has prepared a draft environment impact statement concerning proposed land-use planning for the California Desert Conservation Area. The proposal involves the analysis of four alternative land-use plans that cover the range of viable resource management options for 12.1 million acres of public lands administered by the Bureau of Land Management in the California Desert.

Comments on the draft environmental impact statement are being solicited from public agencies and interested individuals and organizations. These comments will be considered in the preparation of a proposed single, comprehensive land-use plan for the California Desert Conservation Area as well as in preparation of the final environmental impact statement.

Copies of the Plan Alternatives and draft environmental impact statement are available upon request from the following: Desert Planning Staff, Bureau of Land Management, Box 5555, Riverside, California 92517, Telephone: (714) 787–1367.

Copies of the Plan Alternatives and draft environmenal impact statement may be reviewed during normal business hours at all Bureau of Land Management Offices in California. Additionally, copies have been submitted to all Federal Government Depository Libraries in California.

Comments are requested to be sent to the Desert Planning Staff, Bureau of Land Management, Box 5555, Riverside, California 92517 by May 15. Comments and questions may also be submitted by telephone toll free at (800) 442–4946 (in California only).

The following meetings will be held to receive public comment on the draft California Desert Plan Alternatives and Environmental Impact Statement between 3 p.m. and 8 p.m. on the dates shown:

Sacramento

Thursday, April 17, Sutter-Placer Room, Sacramento Community Center, 14th and K Streets.

Oakland

Wednesday, April 23, Kaiser Center Auditorium, 300 Lakeside Drive.

San Diego

Tuesday, April 22, S.D. Veterans Memorial Building, Park Blvd. and Zoo Drive, Balboa Park.

Los Angeles

Wednesday, April 30, Board of Supervisors Hearing Room, 500 W. Temple.

Dated: February 21, 1980.

Ed Hastey,

Associate Director.

[FR Doc. 80–5858 Filed 2–25–80; 8:45 am]

BILLING CODE 4310–84–M

Heritage Conservation and Recreation Service

National Register of Historic Places; Notification of Pending Nominations

Nominations for the following properties being considered for listing in the National Register were received by the Heritage Conservation and Recreation Service before February 15, 1980. Pursuant to § 1201.13 of 36 CFR Part 1202, written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded to the National Register, Heritage Conservation and Recreation Service, U.S. Department of the Interior, Washington, DC 20243. Written comments or a request for additional time to prepare comments should be submitted by March 12, 1980.

Sarah G. Oldham,

Acting Chief, Registration Branch.

ALASKA

Cordova-McCarthy Division

Cordova, *Hegg's Photo Gallery*, 1st and Council Sts.

Kobuk Division

Deering vicinity, *Trail Creek Caves Archeological Site.*

CALIFORNIA

San Bernardino County

Fontana vicinity, *Fontana Pit and Groove Petroglyph Site.*

COLORADO

Mesa County

Grand Junction vicinity, *Cross Land and Fruit Company Orchards and Ranch,* NE of Grand Junction at 3079 F. Rd.

GEORGIA

Henry County

Hampton vicinity, *Crawford-Talmadge House (Lovejoy Plantation)* NW of Hampton at U.S. 19/41 and Talmadge Rd.

Muscogee County

Columbus, *Highland Hall,* 1504 17th St.
Upatoi, *Ridgewood,* Jenkins Rd.

Richmond County

Augusta, *Summerville Historic District,* Roughly bounded by Milledge Lane, Wrightsboro Rd., Highland and Heard Aves., Cumming and Henry Sts.

MARYLAND

Baltimore (independent city).

Ridgely's Delight Historic District, Roughly bounded by S. Fremont Ave., W. Pratt, Conway and Russell Sts.

Baltimore County

Parkton vicinity, *Half-Way House,* 1.3 mi. S of Parkton at 18200 York Rd.

Talbot County

Matthews vicinity, *Rock Clift,* SE of Matthews off MD 328.

MASSACHUSETTS

Bristol County

South Dartmouth, *Hill-School,* 4 Middle St.

Hampden County

East Longmeadow vicinity, *Swetland-Pease House,* SE of East Longmeadow at 191 Pease Rd.

Middlesex County

Framingham, *First Baptist Church,* 1013 Worcester Rd.
Marlborough, *Rice, Capt. Peter, House,* 377 Elm St.
Medford, *Oakes, Edward, House,* 5 Sylvia Rd.

Suffolk County

Boston, *Suffolk County Jail,* 215 Charles St.

Worcester County

Lancaster, *Founder's Hall,* Atlantic Union College campus.

MICHIGAN

Montcalm County

Greenville, *Winter Inn,* 100 N. Lafayette St.

Oakland County

Clarkston Village, *Clarkston Village Historic District,* MI 15.

Wayne County

Garden City, *Ford, Henry, Square House,* 29835 Beechwood Ave.

MONTANA

Blaine County

Chinook, *Lohman Block,* 239—225 Indiana St.

NEBRASKA

Douglas County

Omaha, *First Unitarian Church of Omaha,* 3114 Harney St.

Nemaha County

Auburn, *Reed, Wilber T., House,* 1204 N St.

NEW HAMPSHIRE

Hillsborough County

Nashua, *Abbot House,* 1 Abbot Sq.

Merrimack County

Bradford, *Bradford Town Hall,* W. Main St.

Rockingham County

Deerfield, *Town House,* Old Centre Rd.
Nottingham, *Square Schoolhouse,* SR 156 and Ledge Farm Rd.

Strafford County

Milton, *Milton Town House,* NH 16 and Town House Rd.
New Durham, *New Durham Meetinghouse and Pound,* Old Bay Rd.
New Durham, *New Durham Town Hall,* Main St. and Ridge Rd.
New Durham vicinity, *Free Will Baptist Church,* Ridge Top Rd.

NEW YORK

New York County

New York, *Church of the Immaculate Conception and Clergy House,* 406—414 E. 14th St.
New York, *Harvard Club of New York City,* 27 W. 44th St.

Orange County

Gardnertown, *Gardner, Silas, House,* 1141 Union Ave.

Putnam County

Carmel, *Reed Memorial Library,* 2 Brewster Ave.

Queens County

Jamaica, *St. Monica's Church,* 9420 160th St.

Richmond County

Staten Island, *Elliott, Dr. Samuel MacKenzie, House,* 69 Delafield Pl.

OHIO

Round Barns in the Black Swamp of Northwest Ohio Thematic Resources. Reference—see individual listings under Allen, Auglaize, Paulding, Putnam, and Van Wert Counties.

Allen County

Delphos vicinity, *Round Barn (Round Barns in the Black Swamp of Northwest Ohio Thematic Resources).*
Lima vicinity, *Round Barn (Round Barns in the Black Swamp of Northwest Ohio Thematic Resources).*

Auglaize County

New Hampshire vicinity, *Round Barn (Round Barns in the Black Swamp of Northwest Ohio Thematic Resources).*

Crawford County

Bucyrus, *Beer, Judge Thomas, House,* 306 W. Southern Ave.
Bucyrus, *Blair, Herbert S., House,* 212 S. Lane St.
Bucyrus, *Chesney, Dr. John, House,* 225 E. Mansfield St.

Hamilton County

Cincinnati, *Palace Theatre,* 12 E. 6th St.

Hancock County

Fostoria, *Dana, Marcus, House,* 707 N. County Line St.

Miami County

Brandt vicinity, *Staley Farm,* N of Brandt at 7095 Staley Rd.

Noble County

Summerfield vicinity, *Danford, Samuel, Farm, Church and Cemetery,* N of Summerfield on SR 5–A

Paulding County

Paulding vicinity, *Round Barn (Round Barns in the Black Swamp of Northwest Ohio Thematic Resources).*

Perry County

Crooksville, *West School,* Off OH 93

Putnam County

Columbus Grove vicinity, *Round Barn (Round Barns in the Black Swamp of Northwest Ohio Thematic Resources).*

Van Wert County

Van Wert vicinity, *Round Barn (Round Barns in the Black Swamp of Northwest Ohio Thematic Resources).*

Washington County

Watertown vicinity, *Deming, Col. Simeon, House,* NE of Watertown on Willis Rd.

OKLAHOMA

Atoka County

Daisy vicinity, *Billy, Isaac, Homestead and Family Cemetery,* NE of Daisy.

OREGON

Clackamas County

Eagle Creek, *Foster, Philip, Farm,* Off OR 211.

Curry County

Brookings, *Central Building,* 703 Chetco Ave.

Multnomah County

Corbett vicinity, *Graf, Andreas, House,* SE of Corbett.

Union County

La Grande, *Union County Alliance Flouring Mill,* Willow St. and E. M Ave.

Yamhill County

Newberg, *Edwards, Jesse, House,* 402 S. College St.

TENNESSEE

Cumberland County

Crossville, *Cumberland County Courthouse and Buildings,* Main St.

Davidson County

Antioch vicinity, *Bell, John, Birthplace,* SW of Antioch on Barnes Rd.
Oak Hill, *Overton Lane,* Kirkman Lane.

Knox County

Knoxville, *Bleak House,* 3148 Kingston Pike.
Knoxville, *Knoxville College Historic District,* 901 College St., NW.
Knoxville, *Southern Railway Locomotive No. 154,* Chilhowee Park.

Maury County

Columbia, *Columbia Central High School,* W. 8th St.

Shelby County

Memphis, *Adams Avenue Historic District,* Adams and Washington Aves.
Memphis, *Vance-Pontotoc Historic District,* Irregular pattern along Vance and Pontotoc Aves.

Washington County

Johnson City, *Montrose Court Apartments,* Montrose Ct.

Chittenden County

Shelburne and vicinity, *Shelburne Farms,* Off U.S. 7.

[FR Doc. 80-5436 Filed 2-25-80; 8:45 am]
BILLING CODE 4310-03-M

Office of the Secretary

Performance Review Board Appointments

AGENCY: Department of the Interior.

ACTION: Notice of performance review board appointments.

SUMMARY: This Notice provides the names of those individuals who have been appointed to serve as members of the Department of the Interior Performance Review Boards. The Department has established eight Boards which will make recommendations to the appropriate appointing authorities relating to the performance of senior executives in the Department. The publication of these appointments is required by Sec. 405(a) of the Civil Service Reform Act of 1978 (Pub. L. 95-454; 5 U.S.C. 4314(c)(4)).

DATE: These appointments are effective on February 26, 1980.

FOR FURTHER INFORMATION CONTACT: Morris A. Simms, Director of Personnel, Office of the Secretary, Department of the Interior, Room 5201, 1800 C Streets, NW., Washington, D.C. 20240. Telephone number 343-6761.

Performance Review Board (PRB) Appointments:

Departmental PRB

James A. Joseph, Chairman
Larry E. Meierotto
June G. Brown
Sidney L. Mills
F. Eugene Hester
Clifford I. Barrett

Office of the Secretary PRB

Steve Freudenthal, Chairman
Aurie H. Miller
Gary R. Catron
Newton Frishberg
Edward E. Shelton
Wanda J. Smith

Assistant Secretary—Policy, Budget and Administration PRB

William L. Kendig, Chairman
Heather L. Ross
Morris A. Simms
Lester P. Silverman

Assistant Secretary—Indian Affairs PRB

Rick C. Lavis, Chairman
James D. Webb
Stanley Speaks
Theodore C. Krenzke

Solicitor PRB

John Leshy, Chairman
Robert J. Uram
Raymond Sanford
Jean Lowman

Assistant Secretary for Fish and Wildlife and Parks PRB

David F. Hales, Chairman
Cleo F. Layton
Robert S. Cook
Kenneth E. Black
Margaret G. Maguire
Richard Stanton

Assistant Secretary—Energy and Minerals PRB

Joseph S. Cragwall, Chairman
Edward J. Grant
Frank E. Block
Paul L. Reeves
Daivd A. Schuenke
Richard M. Hall

Assistant Secretary—Land and Water Resources PRB

Dan P. Beard, Chairman
James W. Curlin
R. Keith Higginson
Edward L. Hastey
Walter L. Barnes, Jr.
Joe D. Hall

Dated: February 15, 1980.

William L. Kendig,
Deputy Assistant Secretary of the Interior.

[FR Doc. 80-5723 Filed 2-25-80; 8:45 am]
BILLING CODE 4310-10-M

INTERSTATE COMMERCE COMMISSION

[Application No. MC-1490]

National Motor Freight Classification; Released Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice. Released Rates Application No. MC-1490.

SUMMARY: Carriers participating in the National Motor Freight Classification ICC NMF 100-F want to amend Released Rates Order No. MC-519, which presently authorizes the establishment and maintenance of ratings based on declared value in ICC NMF 100-F for the transportation in interstate or foreign commerce of: Hides, Pelts, or Skins, dressed or not dressed, or tanned, NOI, dry. The proposed amendment would expand this authority to include classes and/or exceptions ratings in tariffs publishing exceptions to ICC NMF 100-F and specific and/or general commodity rates, including commodity column rates. in tariffs which publish such rates.

ADDRESSES: Anyone seeking copies of this application should contact: Mr. Willian W. Pugh, 1616 P Street NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Mr. Max Pieper, Bureau of Traffic, Interstate Commerce Commission, Washington, D.C. 20423, Tel. (202) 275-7553.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730, formerly Section 20(11) of the Interstate Commerce Act, to publish released rates and ratings in tariffs of carriers participating in ICC NMF 100-F and their agents.

Agatha L. Mergenovich,
Secretary.

[FR Doc. 80-5817 Filed 2-25-80; 8:45 am]
BILLING CODE 7035-01-M

[Application No. MC-1492]

National Motor Freight Traffic Association, Inc.; Released Rates

AGENCY: Interstate Commerce Commission.

ACTION: Notice: Released Rates Application No. MC-1492.

SUMMARY: National Motor Freight Traffic Association, Inc., Agent, on behalf of its member carriers, seeks authority to amend Released Rates Order No. MC-545 which applies on glass-ceramic ware. The order presently authorizes the establishment and maintenance of ratings on glass-ceramic ware, but the authority is limited to provisions published in the National Motor Freight Classification and to minimum weight provisions published as exceptions to the National Motor Freight Classification. The amendment proposes that the authority be extended to apply on class and/or exceptions ratings in tariffs publishing exceptions to such classification and to commodity rates, including column commodity

rates, in tariffs which publish commodity rates taking precedence over class rates.

ADDRESS: Anyone seeking copies of this application should contact Mr. Charles E. Jackson, Assistant Director, National Motor Freight Traffic Association, Inc., 1616 P St., NW., Washington, DC 20036, Tel. (202) 797–5311.

FOR FURTHER INFORMATION CONTACT: Max Pieper, Unit Supervisor, Bureau of Traffic, Interstate Commerce Commission, Washington, DC 20423, Tel. (202) 275–7553.

SUPPLEMENTARY INFORMATION: Relief is sought from 49 U.S.C. 10730 (formerly Sections 20(11), 219 and 413 of the Interstate Commerce Act).

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–5818 Filed 2–25–80; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29254F]

Somerset Railroad Corp.—Construction and Operation—of a Line of Railroad in Niagara County, N.Y.

Somerset Railroad Corporation, represented by Messrs. Charles J. McCarthy, of Belnap, McCarthy, Spencer, Sweeney & Harkaway, 1750 Pennsylvania Avenue, N.W., Washington, DC 20006, Gregory J. Blasi, of Huber, Magill, Lawrence & Farrell, 99 Park Avenue, New York, NY 10016, and Allen E. Kintigh, Vice President, New York State Electric & Gas Corporation, 4500 Vestal Parkway East, Binghamton, NY 13902, hereby give notice that on the 12th day of February, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 10901 for a decision approving and authorizing the construction and operation of a line of railroad located wholly and solely within Niagara County, in the State of NY.

Applicant's proposed route runs generally northward from a point of origin on the Falls Road Branch Line of Consolidated Rail Corporation just west of the Hamlet of Gasport to its terminus at the site of New York State Electric & Gas Corporation's proposed Somerset Generating Station. The point of origin consists of both an east and a west connection to the Falls Road Branch Line. The east connection is located approximately 3000 feet west of Gasport Road/Hartland Road in the Hamlet of Gasport, and the west connection is located approximately 5000 feet west of Gasport Road/Hartland Road in the Hamlet of Gasport. The total number of miles of track to be constructed and operated between the Falls Road Branch Line and the Somerset Generating Station is approximately 9.9 miles, all of which will be considered mainline track.

Applicant's proposed construction and operation is necessary to provide rail service to the site of an electric power generating station in the Town of Somerset, NY. Such rail service is required for delivery of plant equipment and other materials during generating station construction, and coal and limestone during generating station operation.

In the opinion of the Applicant, the granting of the authority sought will not constitute a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969. In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—National Environmental Policy Act, 1969,* 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. See *Implementation—National Environmental Policy Act, 1969, supra,* at p. 487.

Pursuant to the provisions of the Interstate Commerce Act, as amended, the proceeding will be handled without public hearings unless comments in support or opposition on such application are filed with the Secretary, Interstate Commerce Commission, 12th and Constitution Avenue, NW., Washington, DC 20423, and the aforementioned counsel for applicant, within 30 days after date of first publication in a newspaper of general circulation. Any interested person is entitled to recommend to the Commission that it approve, disapprove, or take any other specified action with respect to such application.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–5819 Filed 2–25–80; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 29035 (Sub-2)]

Youngstown Sheet & Tube Co., et al.—Control—Chicago Short Line Railway Co., et al.

Youngstown Sheet & Tube Company (Youngstown), P.O. Box 900, Youngstown, OH 44501, represented by Harry J. Jordan, Esquire, Macdonald & McInerny, P.C., Suite 502, Solar Building, 1000 16th Street, N.W., Washington, D.C. 20036, hereby gives notice that on the 28th day of January, 1980, it filed with the Interstate Commerce Commission at Washington, DC, an application pursuant to 49 U.S.C. 11343 to acquire the stock of The Chicago Short Line Railroad Company (Short Line) held in trust by The Riggs National Bank of Washington, D.C., (b) approval of common control by The LTV Corporation (LTV), Jones & Laughlin Industries, Inc. (J & L Industries), and Jones & Laughlin Steel Corporation (J & L Steel) of Short Line, Aliquippa and Southern Railroad Company (Aliquippa), The Cuyahoga Valley Railway Company (Cuyahoga), and The Monongahela Connecting Railroad Company (Monongahela), and (c) continuing common control by LTV, J & L Industries, and J & L Steel of Aliquippa, Cuyahoga, and Monongahela. Authority also sought under 49 U.S.C. 11348 to excuse LTV, J & L Industries, and J & L Steel from the provisions of 49 U.S.C. 11301, 11322, 11709, and 11911.

The Short Line operates over the tracks of the Baltimore and Ohio Railroad Company from Rock Island Junction to Indiana Harbor, IN. It operates from Rock Island Junction in a westerly direction to Pullman Junction, thence in a southeasterly direction over the Chicago & Western Indiana Railroad Company to its South Deering Station. It operates from Rock Island Junction in a southwesterly direction over The Belt Railway Company of Chicago to its South Deering Station. It operates further from Rock Island Junction in a southeasterly direction over Consolidated Rail Corporation to its interchange point with "Conrail" at Colehour Yard. It also operates from a connection with Conrail over a segment of track known as the "River Branch Line" to Claborn, IL for the movement of hot metal to and from Interlake, Inc. The Short Line has four stations or termini. They are at South Chicago, South Deering, Claborn, IL, and Indiana Harbor, IN. The Short Line owns and operates 7.76 miles of yard and classification track, all located at South Chicago and South Deering, IL. The railroad does not own any main line tracks; however, it does operate over the main lines of The Baltimore & Ohio Railroad Company, Conrail and Chicago & Western Indiana Railroad Company. The Short Line maintains direct interchange with the following carriers at the points named: The Baltimore & Ohio Railroad Company at South Chicago and Wolf Lake Yard, IL; The

Baltimore & Ohio Chicago Terminal Railroad Company at South Chicago and Wolf Lake Yard, IL; The Belt Railway Company of Chicago at South Deering and South Chicago, IL; Conrail at South Chicago (Colehour Yard), IL; Chicago & Western Indiana Railroad Company at South Deering, IL; and Chicago, Rock Island and Pacific Railroad Company at South Chicago, IL.

The Aliquippa is a switching and terminal railroad operating in and around the mills of J & L Steel on the south side of the Ohio River in Aliquippa, PA. The Aliquippa owns about 42.2 miles of yard tracks and about 6.0 miles of running tracks, all confined to an area about 7 miles long and 700 yards wide. The Aliquippa interchanges only with the P & LE Railroad at Aliquippa.

The Cuyahoga is a switching and terminal railroad operating in and around J & L Steel and other mills in Cleveland, OH. It has about 10.9 miles of yard tracks and 2.8 miles of running tracks. The Cuyahoga interchanges at Cleveland directly with the Chessie System, the N & W, and the Newburgh and South Shore. It indirectly interchanges with Conrail.

The Monongahela is also a switching and terminal railroad operating on the north and south sides of the Monongahela River at Pittsburgh, PA. It owns approximately 31.4 miles of yard tracks and 9.2 miles of running tracks. These tracks are about 3 miles long and approximately 300 yards in width and are confined to an area on each side of the river. The tracks are generally within the gates of the industries served, but extend slightly beyond the Pittsburgh mills served permitting interchange with the P & LE and Conrail railroads on the south side of the river and the Chessie System on the north side.

In accordance with the Commission's regulations (49 CFR 1108.8) in Ex Parte No. 55 (Sub-No. 4), *Implementation—Nat'l Environmental Policy Act, 1969*, 352 I.C.C. 451 (1976), any protests may include a statement indicating the presence or absence of any effect of the requested Commission action on the quality of the human environment. If any such effect is alleged to be present, the statement shall indicate with specific data the exact nature and degree of the anticipated impact. *See Implementation—Nat'l Environmental Policy Act, 1969, supra*, at p. 487.

Interested persons may participate formally in a proceeding by submitting written comments regarding the application. Such submission shall indicate the proceeding designation Finance Docket No. 29035 (Sub-No. 2) and the original and two copies thereof shall be filed with the Secretary, Interstate Commerce Commission, Washington, DC 20424, not later than 45 days after the date notice of the filing of the application is published in the **Federal Register**. Such written comments shall include the following: The person's position, e.g., party protestant or party in support, regarding the proposed transaction; specific reasons why approval would or would not be in the public interest; and a request for oral hearing if one is desired. Additionally, interested persons who do not intend to formally participate in a proceeding but who desire to comment thereon, may file such statements and information as they may desire, subject to the filing and service requirements specified herein. Persons submitting written comments to the Commission shall, at the same time, serve copies of such written comments upon the applicant, the Secretary of Transportation and the Attorney General.

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80-5816 Filed 2-25-80; 8:45 am]

BILLING CODE 7035-01-M

Permanent Authority Decisions; Decision-Notice

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, (2) has the necessary equipment and facilities for performing that service, and (3) has performed service within the scope of the application either (a) for those supporting the application, or, (b) where the service is not limited to the facilities of particular shippers, from and to, or between, any of the involved points.

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, including the extent, if any, to which petitioner (a) has solicited the traffic or business of those supporting the application, or, (b) where the identity of those supporting the application is not included in the published application notice, has solicited traffic or business identical to any part of that sought by applicant within the affected marketplace. The Commission will also consider (a) the nature and extent of the property, financial, or other interest of the petitioner, (b) the effect of the decision which may be rendered upon petitioner's interest, (c) the availability of other means by which the petitioner's interest might be protected, (d) the extent to which petitioner's interest will be represented by other parties, (e) the extent to which petitioner's participation may reasonably be expected to assist in the development of a sound record, and (f) 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 rule may be rejected. An original and one copy of the petition to intervene shall be filed with the Commission indicating the specific rule under which the petition to intervene is being filed, and a copy shall be serve 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 to timely 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 Commisssion notice, decision, or a 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 administrative 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,

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 regulation. Except where specifically noted, this decision is neither a major Federal action significantly affecting the quality of the human environment not 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 be construed as conferring only a single operating right.

Applicants must comply with all specific conditions set forth in the following decision-notices within 30 days after publication, or the application shall stand denied.

Note.—All applications are for authority to operate as a common carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, except as otherwise noted.

Volume No. 273

Decided: Jan. 15, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier and Hill.

MC 217 (Sub-25F), filed June 11, 1979. Applicant: POINT TRANSFER, INC., 5075 Navarre Rd., SW., P.O. Box 1441, Station C, Canton, OH 44708. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting (1) *roof deck*, from Heidelberg, PA, to points in IN and MI, and (2) *materials* used in the manufacture of roof deck, from points in IN and MI to Heidelberg, PA. (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 9936 (Sub-3F), filed June 8, 1979. Applicant: HAVERHILL & LAWRENCE TRANSPORTATION COMPANY, INC., 17 Locke St., Haverhill, MA 01830. Representative: C. Jack Pearce, 1000 Connecticut Ave. NW., Washington, DC 20036. Transporting (1) *boots and shoes*, and (2) *boot and shoe factory supplies*, between points in MA, ME, and NH. (Hearing site: Portland, ME, or Boston, MA.)

MC 13726 (Sub-8F), filed June 11, 1979. Applicant: WILSON TRUCKING, INC., 12th St. Rd. SE., P.O. Box 1, Linton, IN 47441. Representative: Constance J. Goodwin, Suite 800, Circle Tower Bldg., 5 East Market St., Indianapolis, IN 46204. Transporting (1) *aluminum chairs*, from the facilities of Keller Industries, Inc., at Linton, IN, to points in KY, IL, IN, MN, OH, TN and WI, and (2) *materials, equipment and supplies*, used in the manufacture of aluminum chairs, from the above-named States, to the facilities of Keller Industries, Inc., at Linton, IN. (Hearing site: St. Louis, MO, or Louisville, KY.)

MC 26396 (Sub-241F), filed May 1, 1979, and previously noticed in the **Federal Register** issue of December 11, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 990, Livingston, MT 59047. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *agricultural chemicals* (except commodities in bulk), from Luling, LA, to ports of entry on the international boundary line between the United States and Canada located at points in WA, MT, ID, NE, and MN. (Hearing site: Billings, MT.)

Note.—This republication is to correctly reflect the territorial description and include the above commodity restriction.

MC 26396 (Sub-261F), filed June 11, 1979. Applicant: POPELKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bradford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting *materials, equipment, and supplies* used in the manufacture, sale and distribution of doors and door systems, from points in MI, OH, and AL, to the plantsite of Therma Tru, Inc., at Colorado Springs, CO. (Hearing site: Billings, MT.)

MC 26396 (Sub-262F), filed June 11, 1979. Applicant: POPELIKA TRUCKING CO., d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Bardford E. Kistler, P.O. Box 82028, Lincoln, NE 68501. Transporting (1) *pipe, pipe fittings, couplings, and building materials*, and (2) *materials and supplies* used in the installation of the commodities in (1) above, from the facilities of CertainTeed Corporation, at or near McPhirson, KS, to points in the United States (except AK and HI). (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 41406 (Sub-146F), filed June 7, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Dr., Merrillville, IN 46410. Representative: Wade H. Bourdon (same address as applicant). Transporting *iron, steel, aluminum, nickel, brass, and copper*, between points in IL, IN, KY, MD, MI, OH, WV, PA, and NY, on the one hand, and, on the other, points in GA, AL, FL, NC, SC, VA and LA. (Hearing site: Atlanta, GA, or Chicago, IL.)

MC 41406 (Sub-150F), filed June 7, 1979. Applicant: ARTIM TRANSPORTATION SYSTEM, INC., 8400 Westlake Dr., Merrillville, IN 46410. Representative: Wade H. Bourdon (same address as applicant). Transporting (1) *coke oven component parts*, and (2) *materials, supplies, and equipment* used in the installation of the commodities in (1) above, between Sturgis, KY, on the one hand, and, on the other, points in the United States in and east of ND, SD, NE, KS, CO, OK, and TX. (Hearing site: Evansville, IN, or Chicago, IL.)

MC 42487 (Sub-926F), filed June 11, 1979. Applicant: CONSOLIDATED FREIGHTWAYS CORPORATIONS OF DELAWARE, 175 Linfield Dr., Menlo Park, CA 94025. Representative: H. P. Strong, P.O. Box 3062, Portland, OR 97208. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Borg Textile Corporation, at Delavan, WI, as an off-route point in connection with carrier's presently authorized regular route operations. (Hearing site: Chicago, IL.)

MC 55896 (Sub-118F), filed June 7, 1979. Applicant: R–W SERVICE SYSTEM, INC., 20225 Goddard Road, Taylor, MI 48180. Representative: George E. Batty (same address as applicant). Transporting (1) *automobile parts*, and (2) *materials, equipment and*

supplies used in the manufacture and distribution of automobiles, from Herrin, IL, to points in IN, OH, and the Lower Pensinsula of MI. (Hearing site: Detroit, MI.)

MC 67226 (Sub-10F), filed May 10, 1979. Applicant: THE BALTIMORE MOTOR COACH COMPANY, a corporation, 100 W. West St., Baltimore, MD 21230. Representative: S. Harrison Kahn, Suite 722, 1511 K St. NW., Washington, DC 20005. Transporting (1) *passengers and their baggage,* in the same vehicle with passengers, in round trip charter operations, and special operations in round trip sightseeing or pleasure tours, beginning and ending at Baltimore and Laurel, MD, and points in Harford, Baltimore, Howard, and Anne Arundel Counties, MD, and extending to points in the United States, including AK, but excluding HI. (Hearing site: Baltimore, MD.)

MC 67646 (Sub-85F), filed June 4, 1979. Applicant: HALL'S MOTOR TRANSIT COMPANY, 6060 Carlisle Pike, Mechanicsburg, PA 17055. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting: *General commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Boston, MA, and Wilkes Barre, PA: from Boston over Interstate Hwy 90 to junction Interstate Hwy 86, then over Interstate Hwy 86 to junction Interstate Hwy 84, then over Interstate Hwy 84 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Wilkes Barre, and return over the same routes, serving all intermediate points in CT and MA, and all points in CT, MA and RI as off-route points; (2) between Harrisburg, PA and Wilkes Barre, PA, over Interstate Hwy 81, serving all intermediate points; (3) between West Middlesex, PA, and Wilkes Barre, PA: from West Middlesex over PA Hwy 318 to junction PA Hwy 60, then over PA Hwy 60 to junction Interstate Hwy then over Interstate Hwy 80 to junction Interstate Hwy 81, then over Interstate Hwy 81 to Wilkes Barre, and return over the same routes, serving all intermediate points; (4) between junction U.S. Hwy 22 and PA Hwy 33 and Wilkes Barre, PA: from junction U.S. Hwy 22 and PA Hwy 33.

MC 95336 (Sub-11F), filed May 15, 1979, published in the **Federal Register** issue of November 15, 1979, and republished this issue. Applicant: J. B. WILLIAMS EXPRESS, INC., P.O. Box V, Williamsburgh Station, Brooklyn, NY 11211. Representative: Arthur J. Piken, One Lefrak City Plaza, Flushing, NY 11368. 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 CT, on the one hand, and, on the other, points in MA and RI, NOTE: Applicant states the authority herein would be tacked at points in CT to provide a through service between points in MA and RI, on the one hand, and, on the other, authority presently held, which include points in CT, NJ, and NY. The purpose of this republication is to include the tacking statement. (Hearing site: New York, NY, or Washington, DC.)

MC 107496 (Sub-1203F), filed March 14, 1979. Applicant: RUAN TRANSPORT CORPORATION, 3200 Ruan Center, 666 Grand Ave., Des Moines, IA 50309. Representative: E. Check, P.O. Box 855, Des Moines, IA 50304. Transporting (A) *foundry sand additives and foundry sand ingredients* (except in bulk), and (B) *bentonite clay ingredients* (except in bulk), (1) from points in Hennepin and Ramsey Counties, MN, and Waterloo, IA, to points in the United States (except AK and HI), and (2) from points in (a) Butte County, SD, (b) Weston, Crook and Big Horn Counties, WY, and (c) points in Phillips County, MT, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of American Colloid Co. (Hearing site: Des Moines, IA, or Chicago, IL.)

MC 109397 (Sub-468F), filed June 8, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO. (a Delaware Corporation), P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1)(a) *metal buildings,* complete, knockdown or in sections, and (b) *parts and accessories* for metal buildings, (2)(a) *off-highway vehicles,* and (b) *parts and accessories* for off-highway vehicles, (3) *power plant components and accessories,* (4) *fabricated steel structures,* and (5) *machinery, materials, equipment and supplies* used in the manufacture, distribution, installation and maintenance of the commodities in (1) through (4) above, (except commodities in bulk), between the facilities of Braden Steel Corporation and its subsidiaries, at or near Tulsa, OK, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at or destined to the named facilities. (Hearing site: Tulsa, OK, or Dallas, TX.)

MC 112617 (Sub-440F), filed June 11, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). Transporting *olefin solvent* in bulk, in tank vehicles, from Catlettsburg, KY, Bayonne, NJ, Karns City, PA, Baytown, TX and Beaumont, TX, to points in Dothan, AL, Cotter, AR, Elk Grove, CA, Burnside, KY, Belle, MO, Jacksonville, TX, Springfield, OR, Parsons, WV, and ports of entry on the international boundary line between the United States and Canada to points in ME and ND. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112617 (Sub-441F), filed June 11, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, from Lake Charles, LA, to those points in the United States in and east of LA, AR, MO, IA, and MN. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112617 (Sub-442F), filed June 11, 1979. Applicant: LIQUID TRANSPORTERS, INC., 1292 Fern Valley Rd., P.O. Box 21395, Louisville, KY 40221. Representative: Charles R. Dunford (same address as applicant). Transporting *transmission fluid,* in bulk, in tank vehicles, from Atlanta, GA, to Louisville, KY. (Hearing site: Louisville, KY, or Washington, DC.)

MC 112696 (Sub-63F), filed June 7, 1979. Applicant: HARTMANS, INCORPORATED, P.O. Box 898, Harrisonburg, VA 22801. Representative: Lawrence E. Lindeman, Suite 1032, Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting (1) *frozen foodstuffs,* and (2) *agricultural commodities,* the transportation of which is otherwise exempt pursuant to 49 U.S.C. 10526, when transported in the same vehicle and at the same time as frozen foodstuffs, from Bedford and Harrisonburg, VA, and Martinsburg, WV, to points in the United States in and east of MN, IA, MO, AR and LA. (Hearing site: Washington, DC.)

MC 113106 (Sub-76F), filed June 7, 1979. Applicant: THE BLUE DIAMOND COMPANY, a corporation, 4401 East Fairmount Ave., Baltimore, MD 21224. Representative: Chester A. Zyblut, 366 Executive Bldg., 1030 Fifteenth St., Washington, DC 20005. Transporting (1) *paper and paper products, plastic and plastic products, and chemicals* (except

commodities in bulk), and (2) *materials, equipment and supplies* used in the manufacture or distribution of the commodities in (1) above (except commodities in bulk), between those points in the United States in and east of LA, AR, MO, IA and MN, restricted to the transportation of traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 113646 (Sub-20F), filed June 11, 1979. Applicant: JEFFERSON TRUCKING COMPANY, a corporation, P.O. Box 17, National City, MI 48748. Representative: William B. Elmer, 21635 East Nine Mile Rd., St. Clair Shores, MI 48080. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *gypsum products, and building materials* (except commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), between National City, MI, on the one hand, and, on the other, points in KS, NE, OK, ND, and SD, under continuing contract(s) with Gold Bond Building Products Division National Gypsum Company, of Charlotte, NC. (Hearing site: Lansing, MI.)

MC 114457 (Sub-528F), filed June 7, 1979. Applicant: DART TRANSIT COMPANY, a corporation, St. Paul, MN 55114. Representative: James H. Wills, 2102 University Ave., St. Paul, MN 55114. Transporting *such commodities* as are dealt in by book distributors (except commodities in bulk), from Crawfordville, IN, and Versailles, KY, to Westminster and Savage, MD. (Hearing site: Trenton, NJ, or St. Paul, MN.)

MC 114457 (Sub-529F), filed June 11, 1979. Applicant: DART TRANSIT COMPANY, a corporation, 2102 University Ave., St. Paul, MN 55114. Representative: James W. Wills (same address as applicant). Transporting (1) *canned and preserved foodstuffs,* from the facilities of Heinz U.S.A. at (a) Muscatine and Iowa City, IA to points in WI, and at (b) Fremont, OH, and (c) Holland, MI, to points in WI, MN, ND, SD, and IA, and (2) *empty foodstuffs containers,* from the facilities of Heinz U.S.A., at Holland, MI to the facilities of Heinz U.S.A., at Muscatine, IA and Iowa City, IA. (Hearing site: Philadelphia, PA, or St. Paul, MN)

MC 115826 (Sub-490F), filed June 7, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting (1) *shampoo, toilet preparations, hair mist, soap, cosmetics and* (2) *materials, equipment and supplies used in* the manufacture of the commodities in (1) above, between the facilities of Vidal Sassoon, Inc., at or near Los Angeles, CA on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Denver, CO)

MC 115826 (Sub-491), filed June 6, 1979. Applicant: W. J. DIGBY, INC., (a NV corporation) 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *Canned goods,* from Cade and Lozes, LA, to points in AZ, CA, CO, NV, and UT. (Hearing site: Denver, CO)

MC 115826 (Sub-492F), filed June 8, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting (1)(a) *chemicals,* (b) *plastic liquid,* (c) *plastic sheeting,* (d) *ink,* (e) *lacquer,* (f) *varnish,* and (g) *paint thinner,* and (2) *machinery and machinery parts,* (A) between the facilities of Thiolol/Dynachem Corporation, in Orange County, CA, on the one hand, and, on the other, Indianapolis and Terre Haute, IN, Elmhurst, IL, Herndon, VA, Charlotte and Matthews, NC, Moss Point, MS, Kearney, NJ, Farmingdale, NY, Woburn and South Hadley Falls, MA, and (B) from Moss Point, MD, to Charlotte and Matthews, NC, and South Hadley Falls, MA. (Hearing site: Denver, CO)

MC 119767 (Sub-360F), filed June 14, 1979. Applicant: BEAVER TRANSPORT CO., a corporation, P.O. Box 186, Pleasant Prairie, WI 53158. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th St. NW., Washington, DC 20004. Transporting *such merchandise* as is used or distributed by wholesale, retail, chain grocery and food business houses (except commodities in bulk, in tank vehicles), from the facilities of Lever Brothers Company, at or near Chicago, IL and Hammond, IN, to points in MI, MO, MN, OH, and WI. (Hearing site: Chicago, IL, or Washington, DC)

MC 119777 (Sub-386F), filed June 7, 1979. Applicant: LIGON SPECIALIZED HAULER, INC., Hwy. 85, East, Madisonville, KY 42431. Representative: Carol U. Hurst, P.O. Drawer "L", Madisonville, KY 42431. Transporting *corrugated steel pipe,* from Fontana, CA, to points in AZ, NV and UT. (Hearing site: Los Angeles, CA.)

MC 123407 (Sub-582F), filed June 6, 1979. Applicant: SAWYER TRANSPORT, INC., Sawyer Center, Route 1, Chesterton, IN 46304. Representative: H. E. Miller, Jr. (same address as applicant). Transporting (1) *dry beverage preparations,* and (2) *non-carbonated fruit flavored beverage,* from Haskell, OK, to points in TX and those points in Kansas City, MO, Memphis, TN, Jackson, TN, New Orleans, LA, and Harahan, LA. (Hearing site: Houston, TX.)

MC 124896 (Sub-94F), filed June 6, 1979. Applicant: WILLIAMSON TRUCK LINES, INC., P.O. Box 3485, Wilson, NC 27893. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, Iowa 50309 Transporting: *Foodstuffs* (except commodities in bulk), from the facilities of Pilgrim Farms, Inc. in Indiana, to points in GA, NC, SC, VA, and WV. (Hearing site: Indianapolis, IN.)

MC 124927 (Sub-5F), filed June 14, 1979. Applicant: JUNIOR N. LARRICK, d.b.a. LARRICK TRANSPORTATION, 200 Cook Rd., Lebanon, OH 45036. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) foam and insulation, and (2) *materials, equipment, and supplies* used in the manufacture and processing of foam and insulation, (except commodities in bulk), between the facilities of Tri-Manufacturing and Sales Company, at or near Lebanon, OH, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Tri-Manufacturing and Sales Company, and Tri-Manufacturing and Sales Company, d.b.a. Southern Ohio Foam, of Lebanon, OH. (Hearing site: Columbus, OH, or Washington, DC.)

MC 125777 (Sub-249F), filed June 14, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting *granulated slag,* between the facilities of H. B. Reed Company, at or near Greenville, KY, on the one hand, and, on the other, points in AL, AR, GA, IL, IN, KS, LA, MO, MS, NC, OH, OK, SC, TN, TX, VA, and WV. (Hearing site: Chicago, IL.)

MC 125777 (Sub-250F), filed June 14, 1979. Applicant: JACK GRAY TRANSPORT, INC., 4600 East 15th Ave., Gary, IN 46403. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *lime and limestone products,* in bulk, in dump vehicles, from the facilities of the J. E. Baker Company, at Millersville, OH, to

points in IL, IN, KY, MI, NY, PA, and WV. (Hearing site: Chicago, IL.)

MC 126327 (Sub-13), filed June 6, 1979. Applicant: TRAILS TRUCKING, INC., 1825 De La Cruz Blvd., Santa Clara, CA 95050. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *paper and paper products,* from the facilities utilized by Crown Zellerbach, at or near (a) Lebanon, North Portland, Portland Wauna and West Linn, OR, and (b) Camas, Port Angeles and Port Townsend, WA, to points in AZ, CA, and NV. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 127047 (Sub-38F), filed June 8, 1979. Applicant: ED RACETTE & SON, INC., 6021 North Broadway, Wichita, KS 67219. Representaive: William B. Barker, 641 Harrison St., Topeka, KS 66603. Transporting *materials* used in the manufacture of shipping containers and pallets, from points in AZ, AR, CO, MO, MT, NM, OK, UT and WY, to Wichita, KS. (Hearing site: Wichita, KS, or Kansas City, MO.)

MC 134387 (Sub-69F), filed June 7, 1979. Applicant: BLACKBURN TRUCK LINES, INC., 4998 Branyon Ave., South Gate, CA 90280. Representative: Patricia M. Schnegg, 1800 United California Bank Bldg., Los Angeles, CA 90017. Transporting *glass containers,* from ports of entry on the international boundary line between the United States and Canada at or near Blaine, WA, to points in CA. (Hearing site: Los Angeles, CA.)

MC 135797 (Sub-231F), filed June 14, 1979. Applicant: J. B. HUNT TRANSPORT, INC., P.O. Box 130, Lowell, AR 72745. Representative: Paul R. Bergant (same address as applicant). Transporting *such merchandise* as is dealt in or used by retail, variety and department stores (except commodities in bulk), from points in the United States (except AK and HI), to points in AR, AZ, CA, CO, FL, IA, ID, IL, IN, KS, LA, MI, MN, MO, MT, NE, NV, NM, ND, OH, OK, OR, SD, TX, UT, WA, WV and WY, restricted to the transportation of traffic destined to the facilities of Modern Merchandising, Inc., Ardan Wholesale, Inc., Meijer Inc., Mass Merchandisers, Inc., Dillards Department Stores, Inc. and KANMO Shippers, Inc. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 138076 (Sub-14F), filed March 15, 1979, and previously noticed in the Federal Register issue of July 27, 1979. Applicant: HEAVY HAULING, INC., 1100 West Grand, Salina, KS 67401. Representative: Clyde N. Christey, Kansas Credit Union Bldg., 1010 Tyler, Suite 110L, Topeka, KS 66612. Transporting (1) *iron and steel articles,* (A) from the facilities of Armco Steel at Kansas City, MO, and Norfolk, NE, Houston, TX, Chicago, IL, St. Louis, MO, Pueblo, CO, Sterling, IL, and Oklahoma City, OK, to points in Saline County, KS, and (B) from points in Saline County, KS, to points in NE, OK, and CO, (2) *prefabricated steel articles,* from points in Saline County, KS, to points in the United States (except AK and HI), and (3) *prestressed concrete articles,* from points in Saline County, KS, to points in MO, CO, NE, OK, IA, and TX. (Hearing site: Kansas City, MO.)

Note.—This republication is to correctly reflect the territorial description.

MC 138157 (Sub-161F), filed June 7, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., d.b.a. SOUTHWEST MOTOR FREIGHT, a California corporation, 2931 South Market Street, Chattanooga, TN 37410. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting *wheels, parts and accessories* for wheels, from Los Angeles and Orange Counties, CA, to those points in the United States in and east of ND, SD, NE, KS, OK and TX. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 139697 (Sub-4F), filed June 4, 1979. Applicant: EDWARD BRUCE WAGONER, d.b.a. WAGONER TRANSPORTATION, 19562 Dice St., South Bend, IN 46614. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *foodstuffs,* and (2) *materials supplies and equipment* used in the manufacture and distribution of foodstuffs, (1) between points in IN, on the one hand, and, on the other, points in AL, AR, IL, IN, IA, KS, KY, LA, MN, MI, MS, MO, NE, ND, OK, OH, SD, TN, TX, and WI, (2) from Cockeysville, MD to South Bend, IN, all services are to be performed under continuing contract(s) with McCormick Company, Inc. of Cockeysville, MD. (Hearing site: Washington, DC.)

MC 140717 (Sub-24F), filed June 14, 1979. Applicant: JULIAN MARTIN, INC., Hwy. 25 West, P.O. Box 3348, Batesville, AR 72501. Representative: Theordore Polydoroff, Suite 301, 1307 Dolley Madison Blvd., McLean, VA 22101. 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 packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processores, Inc., at or near Dakota City, NE, to points in AL, AR, FL, GA, KY, MS, NC, OK, SC, and TN, under continuing contract(s) with Iowa Beef Processors, Inc., of Dakota City, NE. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 142167 (Sub-5F) filed June 4, 1979. Applicant: MICHAELSEN TRUCK LINE, INC., 1619 South Garfield, Mason City, IA 50401. Representative: Steven C. Schoenebaum, 1200 Register and Tribune Building, Des Moines, IA 50309. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *soybean meal* (except commodities in bulk or in tank vehicles), from the facilities of AGRI Industries at or near Mason City, IA, to points in Waseca, Steele, Dodge, Olmstead, Winona, Freeborn, Mower, Fillmore, and Houston Counties, MN and Inver Grove Heights, MN, under continuing contract(s) with AGRI Industries of Mason City, IA, and (2) *meat scraps,* (except commodities in bulk or in tank vehicles), from the facilities of Mason City By-Products at or near Mason City, IA to points in Waseca, Steele, Dodge, Olmsted, Winona, Freeborn, Mower, Fillmore, and Houston Counties, MN, under continuing contract(s) with Mason City By-Products of Mason City, IA. (Hearing site: Des Moines, IA, or Minneapolis-St. Paul, MN.)

MC 142686 (Sub-19F), filed June 11, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 South Shoemaker, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning equipment,* and (2) *materials and supplies* used in the manufacture, distribution, and installation of air conditioning equipment, between the facilities of Bohn Heat Transfer Division, at Los Angeles, CA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, CO, IN, IA, IL, KS, KY, LA, ME, MD, MI, MA, MN, MO, MS, NE, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TX, TN, VT, VA, WV, WI, and DC, under continuing contract(s) with Bohn Heat Transfer Division, of Los Angeles, CA.

MC 143267 (Sub-78F) filed June 11, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th Street NW.,

Washington, DC 20005. Transporting *refractory products* (1) from the facilities of Missouri Minerals Processing, Inc., at or near High Hill, MO, to points in MI, MD, OH and PA, and (2) from Wellsville and Farber, MO, to those points in the United States in and east of MN, IA, MO, OK, and TX. (Hearing site: Cleveland, OH, or Washington, DC.)

MC 143387 (Sub-6F), filed June 4, 1979. Applicant: ASSOCIATED COURIERS, INC., 342 Fee Fee Rd., Maryland Heights, MO 63043. Representative: Warren W. Wallin, 10 South LaSalle St., Chicago, IL 60603. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *radioactive pharmaceuticals, radioactive isotopes and medical testing kits,* between Maryland Heights, MO, on the one hand, and, on the other, Birmingham, AL, Nashville, TN, Charlotte, NC, Atlanta, GA, Orlando, Fort Lauderdale, and Miami, FL, and (2) *lead safes and materials* used in the packaging of the commodities described in (1) above, from Oak Ridge, TN to Maryland Heights, MO, all services are to be performed under continuing contract(s) with Mallinckrodt, Inc. of Maryland Heights, MO. (Authority granted will be limited in point of time, to a period of 5 years from date of issuance of permit. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 144027 (Sub-13F), filed June 4, 1979. Applicant: WARD CARTAGE AND WAREHOUSING, INC., Route No. 4, Glasgow, KY 42141. Representative: Walter Harwood, P.O. Box 15214, Nashville, TN 37215. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods, commodities in bulk, and those requiring special equipment), between Nashville, TN, on the one hand, and, on the other points in FL east of the Apalachicola River. (Hearing site: Nashville, TN and Tampa, FL.)

MC 144996 (Sub-2F), filed June 8, 1979. Applicant: D. H. SHARRER & SON, INC., Route 2, Box C, New Oxford, PA 17350. Representative: Walter K. Swartzkopf, Jr., 407 North Front Street, Harrisburg, PA 17101. Transporting *animal and poultry feed and animal and poultry feed ingredients,* in bulk, in dump vehicles, between points in IN, NC, OH, VA, WV, PA, MD, NJ, DE, NY, IL, WI, MI, KY, SC and GA, restricted to the transportation of traffic originating at and destined to the above-named origins and destinations. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 145317 (Sub-10F), filed March 12, 1979. Applicant: QUALITY SERVICE TANK LINES, INC., 9022 Perrin Beitel, P.O. Box 17405, San Antonio, TX 78217. Representative: Charles E. Munson, 500 West Sixteenth St., P.O. Box 1945, Austin, TX 78767. Transporting *fly ash,* in bulk, in tank vehicles, from points in Titus County, TX, to points in LA, AR, OK, MS, AL, TN, MO, KS, and NM. (Hearing site: San Antonio or Dallas, TX.)

MC 145437 (Sub-5F), filed June 11, 1979. Applicant: JWI TRUCKING, INC., 8100 North Teutonia Ave., Milwaukee, WI 53209. Representative: Michael J. Wyngaard, 150 East Gilman Street, Madison, WI 53703. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *wearing apparel and materials, equipment and supplies* used or useful in the manufacture, sale or distribution of wearing apparel, between Kenosha, WI, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Jockey International, Inc., of Kenosha, WI. (Hearing site: Milwaukee, or Madison, WI.)

MC 145587 (Sub-1F), filed June 11, 1979. Applicant: MD TRUCKING CORPORATION, 1221 East Costilla Ave., Littleton, CO 80122. Representative: Fred E. Day (same address as applicant). Transporting *Petroleum products,* in bulk, from Sinclair and Rock Springs, WY, to points in Moffat, Routt, Grand, and Summit Counties, CO. (Hearing site: Denver, CO.)

MC 145886 (Sub-3F), filed June 6, 1979. Applicant: NEWPORT TRUCK SERVICE, INC., 1846 4th Avenue, Newport, Minnesota 55055. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Boulevard, Minneapolis, MN 55416. Transporting *meat, meat products, meat byproducts and articles distributed by meat packinghouses,* from South St. Paul and Worthington, MN, Huron, SD and Madison, NE to points in AZ, CA, NV, OR and WA. (Hearing site: Minneapolis or St. Paul, MN.)

MC 146146 (Sub-4F), filed March 5, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: James F. Schouman, 21925 Garrison Ave., Dearborn, MI 48124. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles,* (2) *deforming compounds* (except in bulk), (3) *machinery,* (4) *aluminum and aluminum articles* (5) *plastic and plastic articles* and (6) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) through (5) above, (except commodities in bulk), between Detroit, MI, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Douglas and Lomas, of Farmington Hills, MI. (Hearing site: Detroit, MI, or Washington, DC.)

MC 146146 (Sub-7F), filed March 5, 1979. Applicant: HADDAD TRANSPORTATION, INC., 5000 Wyoming, Dearborn, MI 48126. Representative: James F. Schouman, 21925 Garrison Ave., Dearborn, MI 48124. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *iron and steel articles,* (2) *machinery,* (3) *contractors' equipment,* and (4) *materials, equipment, and supplies,* used in the manufacture and distribution of the commodities in (1) through (3) above, (except commodities in bulk), between Detroit, MI, on the one hand, and, on the other, points in the United States (except AK and HI), under continuing contract(s) with Hale Steel Co., of Southfield, MI, Ewald Steel Co., of Southfield, MI, Nance Steel Corp., of Southfield, MI, Chappell Steel Co., of Detroit, MI, American Electrical Steel Corp., of Detroit, MI, Paragon Steel Corp., of Detroit, MI, and Robin Steel Co., of Detroit, MI. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 146387 (Sub-2F), filed June 8, 1979. Applicant: VANS BUILDERS SUPPLY, INC., 1422 Western Ave., Las Vegas, NV 89102. Representative: Robert G. Harrison, 4299 James Dr., Carson City, NV 89701. Transporting *gypsum products,* from points in Clark County, NV, to points in Marion County, OR. (Hearing site: Las Vegas, NV.)

MC 146416 (Sub-13F), filed June 11, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, a corporation, 155 N. Eucla Ave., P.O. Box 476, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *toilet preparations,* from East Hills, NY to Los Angeles and San Francisco, CA. (Hearing site: Los Angeles, CA.)

MC 146416 (Sub-14F), filed June 11, 1979. Applicant: HERITAGE TRANSPORTATION COMPANY, a corporation, 155 N. Eucla Ave., P.O. Box 476, San Dimas, CA 91773. Representative: R. Y. Schureman, 1545 Wilshire Blvd., Los Angeles, CA 90017. Transporting *such merchandise, materials, equipment and supplies* as are used, manufactured or dealt in by

manufacturers and distributors of paper and film products, photographic materials, reproduction and duplicating products and supplies, (1) from So. Hadley and Holyoke, MA, to Chicago, IL and Oklahoma City and Tulsa, OK, to points in CA, and (2) between So. Hadley, Holyoke, and Woburn, MA, on the one hand, and, on the other, Tustin, CA. (Hearing site: Los Angeles, CA.)

MC 146536 (Sub-4F), filed June 11, 1979. Applicant: WALTER SHORT AGENCY, INC., 5000 Wyoming Ave., Dearborn, MI 48126. Representative: Edwin M. Snyder, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *lumber,* from Orangeburg, SC, and Hamilton, AL, to points in OH, MI and IN. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 146696 (Sub-2F), filed June 4, 1979. Applicant: AGRI-BUILDING SYSTEMS, INC., P.O. Box 130, 2nd and Euclid Streets, Waukomis, OK 73773. Representative: B. Gene Anderson (same address as applicant). Transporting pre-engineered metal buildings, from Houston, TX, to Paoli, Moore, Clinton, Waukomis, and Ponca City, OK, and Emporia, KS. (Hearing site: Oklahoma City or Tulsa, OK.)

MC 146776 (Sub-1F), filed June 11, 1979. Applicant: QUAD CITY SPOTTING SERVICE, INC., P.O. Box 390, Bettendorf, IA 52722. Representative: William L. Fiarbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *pallets, lumber, and materials* used in the manufacture of pallets, between Champaign, and Moline, IL and Plover and Pound, WI, on the one hand, and, on the other, points in AL, AR, FL, GA, IL, IN, IA, KY, LA, MI, MN, MS, MO, NE, OH, TN and WI, under continuing contract(s) with John M. Boast, Inc. of Bettendorf, IA. (Hearing site: Chicago, IL.)

MC 146827 (Sub-1F), filed June 14, 1979. Applicant: DONOVAN J. SPRY, d.b.a., W. J. SPRY & SONS, P.O. Box 36, Chili, WI 54220. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting (1)(a) *animal and poultry feeds,* and (b) *feed ingredients,* from the facilities of Allied Mills, Inc., at or near Mason City, IA, to points in WI; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, from points in WI, to the facilities of Allied Mills, Inc., at or near Mason City, IA. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

MC 147007 (Sub-2F), filed June 5, 1979. Applicant: EVERFRESH TRANSPORTATION COMPANY (a FL Corporation), 6431 East Palmer, Detroit, MI 48211. Representative: John S. Barbour, 2711 East Jefferson, Detroit, MI 48207. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *juice and juice concentrates,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above, (a) between points in FL, on the one hand, and, on the other, points in IL, under continuing contract(s) with Home Juice Company, and (b) between Detroit, MI, on the one hand, and on the other, points in the United States (except AK and HI), under continuing contract(s) with Everfresh Juice Company. (Hearing site: Lansing, MI, or Chicago, IL.)

MC 147067 (Sub-1F), filed June 11, 1979. Applicant: MACMILLAN OIL COMPANY, INC., P.O. Box 4968, Des Moines, IA 50306. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting *liquid fertilizer,* in bulk, from Council Bluffs and Eldora, IA, to points in NE. (Hearing site: Des Moines, IA, or Omaha, NE.)

MC 147077 (Sub-3F), filed June 14, 1979. Applicant: Q. T. TUGGLE, d.b.a. CALIFORNIA WESTERN, 3325 Linden Ave., Long Beach, CA 90807. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. To operate as a *contract carrier,* by motor vehicle, in interstate of foreign commerce, over irregular routes, transporting (1) *solar hot water heaters, solar collectors, solar energy storage systems, and mounting frames for solar heaters and collectors,* and (2) *materials, equipment and supplies* used in the construction and distribution of the commodities in (1) above, from the facilities of Global Energy Systems, at Long Beach, CA, and Crescent Engineering, at Gardena, CA, to points in AZ and NV, under continuing contract(s) with Global Energy Systems, of Long Beach, CA. (Hearing site: Los Angeles, CA.)

MC 147267 (Sub-1F), filed June 11, 1979. Applicant: GORDON TRANSFER, INC., P.O. Box 2527, Gordon, NE 69343. Representative: Scott E. Daniel, 800 Nebraska Savings Bldg., 1623 Farnam, Omaha, NE 68102. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce over irregular routes, transporting *meats, meat products, meat byproducts and articles distributed by meat packinghouses* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), from points in IA, IL, MN and NE, to Oakland and San Francisco, CA, under continuing contract(s) with Western Foods Products, Inc., of Orinda, CA. (Hearing site: Omaha, NE.)

MC 147467F, filed June 6, 1979. Applicant: SUPERIOR CARTAGE OF OREGON, INC., 1830 S.E. Center, Portland, OR 97202. Representative: David M. Westurn, P.O. Box 60100, Terminal Annex, Los Angeles, CA 90060. Transporting *general commodities* (except those of unusual value, classes A and B explosives, and commodities requiring special equipment) moving on bills of lading of freight forwarders operating pursuant to Part IV of the Interstate Commerce Act, between points in Clackamas, Jackson, Josephine, Lane, Linn, Marion, Multnomah, Washington and Yamhill Counties, OR, and those in Ada, Bannock, Bingham, Bonneville, Canyon, Elmore and Gem Counties, ID. (Hearing site: Portland, OR or Los Angeles, CA.)

MC 147586F, filed June 8, 1979. Applicant: TODD & WATSON ENTERPRISES, INC., 2250 South Green S, Henderson, KY 42420.Representative: Louis J. Amato, P.O. Box E, Bowling Green, KY 42101. Transporting *general commodities* (except commodities in bulk, in tank vehicles), between the Henderson County Riverport Authority Facility, in Henderson County, KY, on the one hand, and, on the other points in AL, AR, IL, IN, KY, MI, MS, MO, NC, OH, PA, SC, WV and TN. (Hearing site: Evansville, IN, or Louisville, KY.)

MC 147597F, filed May 29, 1979. Applicant: HAROLD REINERT, INC., Sell Road, Route 20, Pottstown, PA 19464. Representative: John W. Dry, 541 Penn St., Reading, PA 19601. Transporting (1) *shoe care items, toiletries, cleaning agents* and (2) *raw materials* used in the manufacture of the commodities named in (1) above, from Amity Township, Berks County, PA, Pottstown, Montgomery County, PA, and Havre de Grace, Harford County, MD on the one hand, and, on the other, points in MN, WI, IL, MI, IN, OH, KY, TN, MS, LA, TX, AL, GA, FL, ME, NH, VT, MA, RI, CT, NY, NJ, PA, DE, MD, WV, VA, NC, SC, and DC. (Hearing site: Philadelphia, PA, or Washington, DC.)

MC 148097F, filed June 11, 1979. Applicant: A. JAMES BONNER, INC., Swaledale, IA 50477. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *air entraining agents,* in

bulk, from Hampshire, IL, to points in IA, under continuing contract(s) with Contractors Steel Corporation, of Des Moines, IA. (Hearing site: Des Moines, IA, or St. Paul, MN.)

Note.—Dual operations may be involved.

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Decided: Jan. 17, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 116457 (Sub-47F), filed June 14, 1979. Applicant: GENERAL TRANSPORTATION, INC., 1804 S. 27th Ave., P.O. Box 6484, Phoenix, AZ 85005. Representative: D. Parker Crosby (same address as applicant). Transporting (1) *gypsum wallboard systems, gypsum products, plaster products, and tools,* and (2) *materials, equipment and supplies* used in the installation of the commodities in (1) above (except commodities in bulk, in tank vehicles), from points in TX and NM to points in AZ, CA, NV, OR, WA, ID, UT, CO, WY, and MT. (Hearing site: Phoenix, AZ.)

FF 16 (Sub-1F), filed June 29, 1979. Applicant: SPRINGMEIER SHIPPING COMPANY, INC., 1123 Hadley St., St. Louis, MO 63101. Representative: S. S. Eisen, 370 Lexington Ave., New York, NY 10017. To operate as a *freight forwarder,* in interstate commerce, of *general commodities,* from points in CT, DE, ME, MD, MA, NH, NJ, NY, PA, RI, VT, VA, and DC to points in AR, IL, KS, KY, LA, MS, MO, NE, OK, TN, and TX.

MC 11207 (Sub-494F), filed June 12, 1979. Applicant: DEATON, INC., 317 Avenue W, P.O. Box 938, Birmingham, AL 35201. Representative: Kim D. Mann, suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *building materials* (except commodities in bulk), between the facilities of The Celotex Corporation at (a) Birmingham, AL. (b) Camden, AR, (c) Chester, WV, (d) Chicago and Peoria, IL, (e) Elizabethtown, KY, (f) Goldsboro, NC, (g) Houston and San Antonio, TX, (h) Lockland, OH, (i) Memphis, TN, (j) Perth Amboy and Linden, NJ, (k) Philadelphia, PA, and (l) Wilmington, DE, on the one hand, and, on the other, those points in the United States in and east of MI, IL, MO, OK, and TX. (Hearing site: Tampa, FL, or Washington, DC.)

MC 13726 (Sub-9F), filed June 11, 1979. Applicant: WILSON TRUCKING, INC., 12th St. Rd. SE., P.O. Box 1, Linton, IN 47441. Representative: Constance J. Goodwin, Suite 800, Circle Tower Bldg., 5 East Market Street, Indianapolis, Indiana 46204. Transporting *general commodities,* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), between points in Clay, Crawford, Daviess, Dubois, Floyd, Gibson, Greene, Harrison, Knox, Marion, Martin, Morgan, Owen, Perry, Pike, Putnam, Spencer, Sullivan, Vanderburgh, Vigo, and Warwick Counties, IN, on the one hand, and, on the other, Louisville, KY, and Lawrenceville, IL. (Hearing site: St. Louis, MO, or Louisville, KY.)

MC 26396 (Sub-263F), filed June 13, 1979. Applicant: POPELKA TRUCKING CO., a corporation, d.b.a. THE WAGGONERS, P.O. Box 31357, Billings, MT 59107. Representative: Barbara S. George (same address as applicant). Transporting *agricultural chemicals* (except in bulk), between points in the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Monsanto Company. (Hearing site: Billings, MT.)

Note.—Dual operations may be involved.

MC 37896 (Sub-31F), filed June 15, 1979. Applicant: YOUNGBLOOD TRUCK LINES, INC., P.O. Box 1048, Fletcher, NC 28732. Representative: Charles Ephraim, Suite 600, 1250 Connecticut Ave., NW., Washington, DC 20036. Transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), between those points in the United States in and east of ND, SD, NE, KS, OK, and TX, restricted to the transportation of shipments originating at or destined to the facilities of Champion International Corporation. (Hearing site: Does not specify.)

Note.—Dual operations may be involved.

MC 69116 (Sub-240F), filed June 13, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Highway, Bensenville, IL 60106. Representative: Allan C. Zuckerman, 39 South LaSalle Street, Chicago, IL 60603. Transporting *lawn and garden equipment* and *materials, equipment and supplies* used in the manufacturing and distribution of lawn and garden equipment, serving the facilities of Maxim Manufacturing Inc., at or near Sebastopol, MS, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Chicago, IL.)

MC 69116 (Sub-241F), filed June 13, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Hwy., Bensenville, IL 60106. Representative: Allan C. Zuckerman, 39 South LaSalle St., Chicago, IL 60603. Transporting *general commodities* (except classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the facilities of Mobil Chemical Co., at or near Canandaigua, NY, as an off-route point in connection with carriers' presently authorized regular-route operations. (Hearing site: Chicago, IL.)

MC 69116 (Sub-244F), filed June 14, 1979. Applicant: SPECTOR INDUSTRIES, INC., d.b.a. SPECTOR FREIGHT SYSTEM, 1050 Kingery Hwy., Bensenville, IL 60106. Representative: Joel H. Steiner, 39 South LaSalle St., Chicago, IL 60603. Transporting *rough steel bars,* from Crystal Lake, IL, to Sandusky, OH. (Hearing site: Chicago, IL.)

MC 78687 (Sub-69F), filed June 13, 1979. Applicant: LOTT MOTOR LINES, INC., West Cayuga St., P.O. Box 751, Moravia, NY 13118. Representative: E. Stephen Heisley, 805 McLachlen Bank Bldg., 666 Eleventh St., NW, Washington, DC 20001. Transporting (1) *(a) paper and paper products, (b) plastic and plastic products, (c) chemicals, except those described in (b), (d) building products,* and (2) *materials, supplies and equipment* used in the manufacture and distribution of the commodities named in (1) above (except in bulk, in tank vehicles), between points in the United States (except AK and HI), restricted to the transportation of traffic originating and destined to the facilities of Union Camp Corporation. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 105607 (Sub-12F), filed June 13, 1979. Applicant: CON. WEIMAR CORP., P.O. Box 434, 401 Commerce Rd., Linden, NJ 07036. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting *tallow and grease,* in bulk in tank vehicles, from the facilities of Independent Tallow Co., Inc., at or near Woburn, MA, to Weehawken, NJ, and Philadelphia, PA. (Hearing site: New York, NY, or Washington, DC.)

MC 109397 (Sub-459F), filed May 7, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1)(a) *commodities* the transportation of which because of size or weight requires the use of special equipment, and (b) *related machinery, parts, and contractors' materials and supplies* when their transportation is incidental to the transportation of the commodities named in (1)(a) above, and (2)(a) *self-*

propelled articles and related machinery, tools, parts, and supplies moving in connection with self-propelled articles, on trailers, between points in AZ and NV, on the one hand, and, on the other, points in AR, CT, DE, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, NC, ND, NJ, NM, NY, OH, OK, PA, RI, SD, TX, VA, WI, WV, and DC. (Hearing site: Phoenix, AZ.)

Note.—Applicant states the purpose of this application is to replace interline service it is now providing in conjunction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC–109 which govern the filing and processing of applications for substitution of single-line for existing joint-line service.

MC 109397 (Sub-460F), filed May 8, 1979. Applicant: TRI-STATE MOTOR TRANSIT CO., a corporation, P.O. Box 113, Joplin, MO 64801. Representative: A. N. Jacobs (same address as applicant). Transporting (1) *contractors' equipment, heavy and bulky articles, machinery and machine parts, and articles* requiring specialized handling or rigging, and (2) *self-propelled articles,* each weighing 15,000 pounds or more, and *related machinery, equipment, tools, parts, and supplies* moving in connection therewith, restricted to self-propelled articles which are transported on trailers, between points in ME, VE, and NH, on the one hand, and, on the other, points in WA, OR, CA, WY, UT, CO, NM, TX, OK, MO, KS, LA, AR, IA, WI, MN, ND, SD, IL, IN, KY, OH, MI, NC, VA, WV, MD, DE, PA, NJ, NY, CT, RI, MA, and DC. (Hearing site: Tusla, OK.)

Note.—Applicant states the purpose of this application is to replace interline service it is now providing in conjunction with other carriers. However, this application was not filed under the special rules of Ex Parte No. MC–109 which govern the filing and processing of applications for substitution of single-line service for existing joint-line service.

MC 114896 (Sub-76F), filed June 13, 1979. Applicant: PUROLATOR SECURITY, INC., 255 Old New Brunswick Rd., Piscataway, NJ 08854. Representative: Carl T. Kessler (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *coin, currency, negotiable instruments, and articles of unusual value,* between Pittsburgh, PA, and points in Belmont, Jefferson, and Monroe Counties, OH, and Brooke, Hancock, Ohio, Marshall, Tyler, and Wetzel Counties, WV, under continuing contract(s) with Federal Reserve Bank of Cleveland, OH. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 115826 (Sub-495F), filed June 14, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *frozen foods, and materials and supplies* used in the manufacture and distribution of frozen foods (except commodities in bulk), between the facilities of Pillsbury Company, at or near St. Paul, MN, on the one hand, and, on the other, points in AZ, NM, CA, OR, WA, ID, CO, UT, TX, and NV, restricted to the transportation of traffic originating at or destined to the facilities of Pillsbury Company, at or near St. Paul, MN. (Hearing site: Denver, CO.)

MC 115826 (Sub-496F), filed June 14, 1979. Applicant: W. J. DIGBY, INC., 6015 East 58th Ave., Commerce City, CO 80022. Representative: Howard Gore (same address as applicant). Transporting *alcoholic liquors* in containers, (1) from New York, NY, and Linden, NJ, to Chicago, IL, Denver, CO, and points in AZ, MN, IA, and CA, (2) from Plainfield, IL, to points in CO, TX, CA, TN, MI and OH, and (3) from Lawrenceville, NJ, to points in CA, OR and WA, restricted in (1), (2), and (3) to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Denver, CO.)

MC 121066 (Sub-12F), filed June 14, 1979. Applicant: NEBRASKA TRANSPORT CO., INC., P.O. Box 621, Scottsbluff, Nebraska 69361. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, Nebraska 68501. Transporting, *sugar,* in containers, from Torrington, WY, to Sioux City, IA, and points in NE. (Hearing site: Colorado Springs, CO or Scottsbluff, NE.)

MC 121087 (Sub-2F), filed June 18, 1979. Applicant: EXPLOSIVES CARRIER, INC., 8212 S. Bryant, Oklahoma City, OK 73129. Representative: C. L. Phillips, Rm 248—Classen Terrace Bldg., 1411 N. Classen, Oklahoma City, OK 73129. Transporting *explosives,* between points in OK. Condition: The certificate shall be limited in point of time to a period expiring 5 years from date of issuance to the extent it authorizes the transportation of classes A and B explosives. Applicant states that by this application it seeks to convert its certificate of registration in No. MC 121087 (Sub-1) to a certificate of public convenience and necessity. Issuance of a certificate in this proceeding is conditioned upon applicant's written request for the coincidental cancellation of its certificate of registration in MC 121087 (Sub-1). (Hearing site: Oklahoma City, OK.)

MC 121496 (Sub-27F), filed June 14, 1979. Applicant: CANGO CORPORATION, Suite 2900, 1100 Milam Building, Houston, TX 77002. Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. Transporting *chemicals and petroleum products* (except chemicals) in bulk, in tank vehicles, from Lake Charles, LA, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 123387 (Sub-20F), filed June 13, 1979. Applicant: E. E. HENRY, 1128 S. Military Hwy., Chesapeake, VA 23320. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., P.O. Box 1240, Arlington, VA 22210. Transporting *malt beverages,* in containers, from Pabst (Houston County), GA, to points in AL, DE, FL, MD, MS, NJ, NC, PA, SC, TN, VA, and DC. (Hearing site: Washington, DC.)

MC 133566 (Sub-141F), filed June 14, 1979. Applicant: GANGLOFF & DOWNHAM TRUCKING COMPANY, INC., P.O. Box 479, Logansport, IN 46947. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. Transporting *meats, meat products, 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 Briggs and Company, a subsidiary of Wilson Foods Corporation, at Landover, MD, to points in IA, KS, MN, MO, NE, and WI, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Dallas, TX, or Kansas City, MO.)

MC 133796 (Sub-57F), filed May 2, 1979. Applicant: GEORGE APPEL TRUCKING, INC., 249 Carverton Rd., Trucksville, PA 18708. Representative: Joseph F. Hoary, 121 South Main St., Taylor, PA 18517. Transporting (1) *paint,* (2) *roofing cement,* (3) *masonry cleaning compounds,* (4) *glazing and caulking compounds,* and (5) *adhesives,* from Dunmore, PA, to Goshen, CA. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 134477 (Sub-350F), filed June 13, 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. Transporting *steel products* (except in

bulk), from Cleveland, NY, to Oelwein, IA, and Minneapolis, MN. (Hearing site: St. Paul, MN.)

MC 134477 (Sub-351F), filed June 13, 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. Transporting *meat, meat products, 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 Goldberger Foods, Inc., at or near Minneapolis, MN, to points in CT, DE, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, TX, VT, VA, WV, and DC, restricted to the transportation of traffic originating at the above named origin and destined to the indicated destinations. (Hearing site: St. Paul, MN.)

MC 136786 (Sub-163F), filed June 11, 1979. Applicant: ROBCO TRANSPOTATION INC., 4333 Park Ave., Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. Transporting *frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, points in CA, CT, DE, GA, MD, MA, NJ, NY, NC, OR, PA, RI, SC, VA, WA, WV, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 136786 (Sub-164F), filed June 11, 1979. Applicant: ROBCO TRANSPORTATION, INC., 4333 Park Ave., Des Moines, IA 50321. Representative: Stanley C. Olsen, Jr., 4601 Excelsior Blvd., Minneapolis, MN 55416. Transporting *confectionery* (except in bulk), *dessert preparations,* and *gum ball machines and stands,* in vehicles equipped with mechanical refrigeration, from the facilities of Leaf Confectionery, Inc., at or near Chicago, IL to points in AZ, CA, CO, CT, DE, ID, IA, KS, MD, MA, MN, MO, MT, NE, NV, NJ, NM, NY, OH, OR, PA, RI, UT, VA, WA, WV, WY, and DC. (Hearing site: Minneapolis, MN, or Chicago, IL.)

MC 138157 (Sub-160F), filed June 4, 1979. Applicant: SOUTHWEST EQUIPMENT RENTAL, INC., doing business as SOUTHWEST MOTOR FREIGHT, 2931 South Market Street, Chattanooga, TN 37412. Representative: Patrick E. Quinn, P.O. Box 9596, Chattanooga, TN 37412. Transporting (1) *chemicals, cleaning, scouring and washing compounds,* (2) *plastic liquid,* (3) *defoaming compounds* (4) *ink,* (5) *plastic sheeting,* (6) *laminating machinery and laminating machinery parts,* and (7) *equipment, materials and supplies* used in the manufacture, production and distribution of the commodities named in (1) through (6) above, (a) between the facilities of Thiokol/Dynachem Corporation in Orange County, CA, 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, and (b) between the facilities of Thiokol Chemical Corporation, at or near Moss Point, MS, 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 Thiokol/Dynachem Corporation and Thiokol Chemical Corp., and further restricted against the transportation of commodities in bulk. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 138687 (Sub-3F), filed June 13, 1979. Applicant: BYNUM TRANSPORT, INC., 4609 Hwy 92, East, Lakeland, FL 33801. Representative: Thomas F. Panebianco, P.O. Box 1200, Tallahassee, FL 32302. Transporting *dry feed and feed supplements,* in bulk, from New Wales, FL, to points in CA, AL, NC, SC, LA, MS, and TX. (Hearing site: Orlando or Tampa, FL.)

MC 141097 (Sub-22F), filed June 4, 1979. Applicant: CAL-TEX, INC., P.O. Box 1678, Costa Mexa, CA 92626. Representative: Greg P. Steffire, Suite 1724, 700 S. Flower St., Los Angeles, CA 90017. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *synthetic fiber, synthetic fiber yarn, and synthetic plastics,* from Landrum, Irmo, and Columbia, SC, Rossville and Milledgeville, GA, Moncure, NC, and Bermuda Hundred, VA, to points in CA, under continuing contract(s) with Allied Chemical Corporation, of New York, NY. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142096 (Sub-12F), filed June 11, 1979. Applicant: MILLER BROS. TRUCKING CO., INC., 4100 West Mitchell St., Milwaukee, WI 53215. Representative: James A. Spiegel, Olde Towne Office Park, 6425 Odana Rd., Madison, WI 53719. Transporting *such commodities* as are dealt in and used by manufacturers, converters, and printers of paper and paper products (except commodities in bulk), between the facilities of Bay West Co., at or near Columbus, Green Bay, and Mosinee, WI, and Chicago, IL. (Hearing site: Milwaukee, WI.)

MC 142686 (Sub-18F), filed June 18, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *air conditioning equipment* and (2) *materials and supplies* used in the manufacture, distribution, and installation of the commodities in (1) above, between the facilities of Frigid Coil/Frick, Inc., at Los Angeles, CA, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, GA, CO, IN, IA, IL, KS, KY, LA, ME, MD, MI, MA, MN, MO, MS, NE, NH, NJ, NY, NC, ND, OH, OK, PA, RI, SC, SD, TX, TN, VT, VA, WV, WI, and DC, under continuing contract(s) with Frigid Coil/Frick, Inc., of Santa Fe Springs, CA. (Hearing site: Los Angeles or San Diego, CA.)

MC 142686 (Sub-20F), filed June 14, 1979. Applicant: MID-WESTERN TRANSPORT, INC., 10506 S. Shoemaker, Santa Fe Springs, CA 90670. Representative: Joseph Fazio (same address as applicant). To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *brass, bronze, copper, and nickel rods,* and (2) *copper sheets and tubing,* from the facilities of Anaconda Brass Division at Paramount, CA, to points in NM, NY, PA, OH, VA, NJ, GA, FL, DE, WA, OR, CO, NV, UT, ID, OK, TX, and MT, under continuing contract(s) with Anaconda Brass Division, of Paramount, CA. (Hearing site: Los Angeles or San Diego, CA.)

MC 143127 (Sub-44F), filed June 8, 1979. Applicant: K. J. TRANSPORTATION, INC., 100 Jefferson Rd., Rochester, NY 14623. Representative: S. Michael Richards, P.O. Box 225, Webster, NY. Transporting *carpet, tile, and vinyl floor covering,* from Lancaster, Landisville, and Marietta, PA, to points in NY, (Hearing site: Buffalo, NY.)

Note.—Dual operations may be involved.

MC 143267 (Sub-76F), filed June 6, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th Street, N.W., Washington, D.C. 20005. Transporting (1) *refractory products,* (2) *materials and supplies* used in the manufacture, distribution and installation thereof (except, commodities in bulk), and (3) *aluminum and aluminum articles* between those points in the United States in and east of MN, IA, NE, KS, OK, and TX, restricted to the

transportation of traffic moving to or from the facilities of Kaiser Aluminum & Chemical Corp. (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Issuance of a certificate in this proceeding is conditioned upon the coincidental cancellation of Certificate MC 143267 Sub 43.

MC 143267 (Sub-77F), filed June 8, 1979. Applicant: CARLTON ENTERPRISES, INC., P.O. Box 520, Mantua, OH 44255. Representative: Neal A. Jackson, 1156 15th Street, N.W., Washington, D.C. 20005. Transporting (1) *refractories,* and (2) *materials and supplies* used in the production, sale and distribution of refractories (except commodities in bulk) between the facilities of A.P. Green Refractories Co. in AL, GA, IL, MO, NJ, OH, PA and TX, on the one hand, and, on the other, those points in the United States in and east of MN, IA, NE, KS, OK, and TX. (Hearing site: Cleveland, OH, or Washington, DC.)

Note.—Issuance of a certificate in this proceeding is conditioned upon the coincidental cancellation of Certificate MC 143267 Sub 24.

MC 143586 (Sub-4F), filed June 11, 1979. Applicant: RANGEN TRANSPORTATION, INC., P.O. Box 706, Buhl, ID 83316. Representative: Bruce W. Shand, 430 Judge Bldg., Salt Lake City, UT 84111. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *ferric sulphate solution,* in bulk, in tank vehicles, from Wilder, ID, to points in ID, MT, NV, OR, UT, WA, and WY, under continuing contract(s) with Smith & Ardussi, Inc., of Seattle, WA. (Hearing site: Boise, ID.)

MC 146256 (Sub-6F), filed June 13, 1979. Applicant: SHORT LINE TRUCKING CO., INC., P.O. Box 20026, Louisville, KY 40220. Representative: Lavern R. Holdeman, 521 South 14th St., Suite 500, P.O. Box 81849, Lincoln, NE 68501. Transporting (1) *such commodities* as are dealt in by wholesale, retail and chain, grocery, drug and food business houses, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except in bulk), between Louisville, KY, on the one hand, and, on the other, points in AL, FL, GA, IL, KY, LA, MI, OH, TN, TX, WV and WI, restricted to the transportation of traffic originating at or destined to the individual destinations. (Hearing site: Jeffersonville, IN, or Louisville, KY.)

MC 146466 (Sub-3F), filed June 4, 1979. Applicant: SUMMIT TRUCK LINES LTD., Route 3, Pella, IA 50219. Representative: Robert R. Rydell, 1020 Savings and Loan Bldg., Des Moines, IA 50309. Transporting *meats, meat products, meat byproducts, articles distributed by meat-packing houses, and such commodities as are used by meat packers in the conduct of their business,* as described in sections A, C and D 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), between the facilities of Lauridsen Foods, Inc., at or near Britt, IA, and the facilities of Armour & Company, at or near Mason City, IA, on the one hand, and, on the other, Chicago, IL, and Ft. Worth, TX, and points in OR, WA and CA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Des Moines, IA, or Minneapolis, MN.)

MC 146577 (Sub-2F), filed June 8, 1979. Applicant: UNITED HAULING CORPORATION, 3rd & Railroad, Caldwell, ID 83605. Representative: David E. Wishney, P.O. Box 837, Boise, ID 83701. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *scrap metal,* (2) *batteries,* and (3) *compressed automobile bodies and parts,* from the facilities of United Metal & Scrap Co., Inc., at Caldwell, ID, to points in CA, OR, UT, and WA, under continuing contract(s) with United Metal & Scrap Co., Inc., of Caldwell, ID. (Hearing site: Boise, ID, or Portland, OR.)

MC 147566F, filed June 14, 1979. Applicant: CHEROKEE TRUCKING, INC., 7300 West 15th Ave., Gary, IN 46406. Representative: Kenneth F. Dudley, 1501 E. Main St., P.O. Box 279, Ottumwa, IA 52501. Transporting (1) *iron and steel, aluminum and zinc articles,* from Chicago, IL, Portage and South Bend, IN, and Detroit, MI, to points in IL, IN, MI, MO, and WI, and (2) *iron and steel articles,* from St. Louis and Winfield, MO, to points in IL, IN, MI, MO and WI. (Hearing site: Chicago, IL.)

MC 147577F, filed June 15, 1979. Applicant: THRIFT TRANSFER, INC., 4650 Eisenhower Ave., Alexandria, VA 22304. Representative: John C. Bradley, Suite 1301, 1600 Wilson Blvd., Arlington, VA 22209. Transporting *iron and steel articles,* from (1) Baltimore, MD, to Hyattsville, MD, (2) Hyattsville, MD, to points in CT, DE, GA, MA, NH, NJ, NY, NC, OH, PA, RI, SC, TN, VT, VA, and WV, (3) from Alexandria, VA and points in Fairfax County, VA, to points in DE, MD, NC, NJ, PA, and DC, (4) from Bethlehem, Fairless, Pittsburgh, Philadelphia and Steelton, PA, Camden, NJ, and Baltimore, MD, to Hyattsville, MD, Alexandria, VA, and points in Fairfax and Prince William Counties, VA, and DC, (5) from Alexandria, VA, to points in MD, NC and DC, (6) from Warrenton, VA, to points in CT, DE, GA, MD, MA, NJ, NY, NC, RI, SC, TN, WV, and DC, and (7) between the facilities of Bethlehem Steel Corporation, in Woodbridge, VA, on the one hand, and, on the other, points in DE, MD, NC, PA, and DC. (Hearing site: Washington, DC.)

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Decided: February 4, 1980.

By the Commission, Review Board Number 2, Members Eaton, Boyle and Liberman.

MC 2202 (Sub-601F), filed August 17, 1979. Applicant: ROADWAY EXPRESS, INC., P.O. Box 471, 1077 Gorge Boulevard, Akron, OH 44309. Representative: William O. Turney, Suite 1010, 7101 Wisconsin Ave., Washington, DC 20014. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving the plantsite of AMP, Inc., at or near Shrewsbury, PA as an off-route point in connection with applicant's authorize regular-route operations. (Hearing site: Harrisburg, PA.)

MC 2392 (Sub-130F), filed August 7, 1979. Applicant: WHEELER TRANSPORT SERVICE, INC., 7722 F Street, P.O. Box 14248, West Omaha Station, Omaha, NE 68124. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Transporting (1) *tallow,* in bulk, from the facilities of Iowa Beef Processors, Inc., at or near (a) Dakota City and West Point, NE, (b) Denison and Ft. Dodge, LA, (c) Emporia, KS, and (d) Luverne, MN, to points in IL, IN, LA, MN, MO, OH, TX, and WI, and (2) *fluid lard* and *grease,* in bulk, from Crete, NE, and Denison and Iowa Falls, IA, to points in AR, CO, IL, IN, IA, KS, LA, MN, MS, MO, NE, ND, OK, TX, TN, and WI. (Hearing site: Omaha, NE or Sioux City, IA.)

MC 2962 (Sub-69F), filed August 3, 1979. Applicant: A. & H. TRUCK LINE, INC., 1111 E. Louisiana Street, Evansville, IN 47717. Representative: George M. Catlett, Suite 708 McClure Building, Frankfort, KY 40601. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Calvert City,

KY, as an off-route point in connection with carrier's presently authorized regular-route operations. (Hearing site: Louisville, KY, or Memphis, TN.)

MC 4483 (Sub-27F), filed August 6, 1979. Applicant: MONSON DRAY LINE, INC., R.R. #1, Red Wing, MN 55066. Representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting *materials, equipment, and supplies* used in the manufacture, distribution or application of sorbents, wallboard, cushioning materials, insulation materials and mulch (except commodities in bulk), from points in IL, IN, IA, KS, MI, MO, NE, and WI to the facilities of Conwed Corporation at or near Cloquet, MN. (Hearing site: Duluth, MN or St. Paul, MN.)

MC 10343 (Sub-37F), filed August 23, 1979. Applicant: CHURCHILL TRUCK LINES, INC., U.S. Hwy 36 West, P.O. Box 250, Chillicothe, MO 64601. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, or those requiring special equipment), (1) between McAlester, OK and Ft. Smith, AR: (a) from McAlester, OK over OK Hwy 31 to junction U.S. Hwy 271, then over U.S. Hwy 271 to Ft. Smith, AR, and return over the same route, and (b) from McAlester, OK over Indian Nation Turnpike to junction Interstate Hwy 40, then over Interstate Hwy 40 to Ft. Smith, AR, and return over the same route, serving the intermediate point of Sallisaw, OK, (2) between Muskogee, OK and Memphis, TN: (a) from Muskogee, OK over U.S. Hwy 64 to junction OK Hwy 2, then over OK Hwy 2 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, TN, and return over the same route, and (b) from Muskogee, OK over Muskogee Turnpike to junction Interstate Hwy 40, then over Interstate Hwy 40 to Memphis, TN, and return over the same route, and serving Sallisaw, OK, as an intermediate point, (3) between Kansas City, MO and Ft. Smith, AR, from Kansas City, MO over Interstate Hwy 435 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction U.S. Hwy Alternate 71, then over U.S. Hwy Alternate 71 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Ft. Smith, AR, and return over the same route, serving the intermediate points of Anderson, MO, for the purpose of joinder only, (4) between Springfield, MO and Little Rock, AR: from Springfield, MO over U.S. Hwy 65 to junction Interstate Hwy 40, then over Interstate Hwy 40 to Little Rock, AR, and return over the same route, (5) between Kansas City, MO and Springfield, MO: from Kansas City, MO over Interstate Hwy 435 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction MO Hwy 7, then over MO Hwy 7 to junction MO Hwy 13, then over MO Hwy 13 to Springfield, MO, and return over the same route, (6) between Springfield, MO, and the junction of Interstate Hwy 44 and U.S. Hwy Alternate 71, over Interstate Hwy 44, and serving the junction of Interstate Hwy 44, and U.S. Hwy Alternate 71, for the purpose of joinder only, (7) between St. Louis, MO and Springfield, MO, over Interstate Hwy 44, (8) between Springfield, MO and Memphis, TN, from Springfield, MO over U.S. Hwy 60 to junction U.S. Hwy 63, then over U.S. Hwy 63 to junction Interstate Hwy 55, then over Interstate Hwy 55 to Memphis, TN, and return over the same route, (9) between St. Louis, MO and Little Rock, AR, from St. Louis, MO over Interstate Hwy 55 to junction U.S. Hwy 67, then over U.S. Hwy 67 to Little Rock, AR, and return over the same route, (10) between St. Louis, MO and Memphis, TN, over Interstate Hwy 55 and serving the junction of Interstate Hwy 55 and MO Hwy 51 for purposes of joinder only, (11) between Dallas, TX and Little Rock, AR, over Interstate Hwy 30 and serving the junction of TX Hwy 8 and Interstate Hwy 30 for purposes of joinder only, (12) between junction Interstate Hwy 40 and U.S. Hwy 64 and junction U.S. Hwy 64 and U.S. Hwy 67, over U.S. Hwy 64, (13) between junction U.S. Hwy 65 and AR Hwy 124 and junction AR Hwy 36 and U.S. Hwy 67, from junction U.S. Hwy 65 and AR Hwy 124 over AR Hwy 124 to junction AR Hwy 36, then over AR Hwy 36 to junction U.S. Hwy 67, and return over the same route, (14) between Anderson, MO and Ft. Smith, AR, from Anderson, MO over MO Hwy 59 to its junction with AR Hwy 59 to Ft. Smith, AR, and return over the same route and serving Anderson for purposes of joinder only, (15) between Ft. Smith, AR and the junction of TX Hwy 8 and Interstate Hwy 30 at or near New Boston, TX, from Ft. Smith, AR over U.S. Hwy 71 to its junction with AR Hwy 41, then over AR Hwy 41 to its junction with TX Hwy 8, then over TX Hwy 8 to its junction with Interstate Hwy 30, and return over the same route and serving the junction of TX Hwy 8 and Interstate Hwy 30 for the purposes of joinder only, (16) between Harrison, AR and Caddo Valley, AR, over AR Hwy 7, (17) between Little Rock, AR and Pine Bluff, AR, over U.S. Hwy 65, (18) between the junction of U.S. Hwy 270 and Interstate Hwy 30 and Pine Bluff, AR, over U.S. Hwy 270, (19) between Perryville, AR and Forest City, AR, from Perryville, AR over MO Hwy 51 to its junction with MO Hwy 91, then over MO Hwy 91 to its junction with MO Hwy 25, then over MO Hwy 25 to MO Hwy 1, then over MO Hwy 1 to its junction with AR Hwy 1, then over AR Hwy 1 to its junction with Interstate Hwy 40, and return over the same route, and serving all Arkansas intermediate points located on Routes 1 through 19, inclusive, and (20) serving all points in the St. Louis, MO-East St. Louis, IL commercial zone as intermediate or off-route points in connection with carrier's regular-route operations and serving all points in the Springfield, MO commercial zone, as intermediate or off-route points with carrier's regular-routes operation. NOTE: Applicant proposes to tack all of the authority described in 1 through 20 so as to provide through service as well as tacking its existing authority with all of the routes listed in Routes 1 through 20. (Hearing site: St. Louis, MO, and Dallas, TX.)

MC 14252 (Sub-75F), filed August 17, 1979. Applicant: COMMERCIAL LOVELACE MOTOR FREIGHT, INC., 3400 Refugee Road, Columbus, OH 43227. Representative: William C. Buckham (same address as applicant). Transporting (1) *alcoholic liquors* in containers and (2) *materials and supplies used in the manufacturing or sales of beverage products,* between the plantsites of Hiram Walker & Sons, Inc. at Peoria, and Delavan, IL on the one hand, and, on the other, the plantsites of Hiram Walker & Sons, Inc. at Bardstown, Clermont, Coxs Creek, Frankfort and Louisville, KY. (Hearing site: Chicago, IL.)

MC 14702 (Sub-82F), filed August 10, 1979. Applicant: OHIO FAST FREIGHT, INC., P.O. Box 808, Warren, OH 44482. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Transporting *iron and steel articles,* between the facilities of the Regal Tube Company at Chicago, IL, on the one hand, and, on the other, points in MI. (Hearing site: Columbus, OH.)

MC 16682 (Sub-95F), filed August 10, 1979. Applicant: MURAL TRANSPORT, INC., P.O. Box 1785, North Brunswick, NJ 08902. Representative: W. C. Mitchell, 370 Lexington Avenue, New York, NY 10017. Transporting *cooling or freezing box parts,* from San Fernando, CA, to Belleville, WI. (Hearing site: Chicago, IL.)

MC 59583 (Sub-174F), filed August 9, 1979. Applicant: THE MASON AND DIXON LINES, INCORPORATED, Eastman Road, P.O. Box 969, Kingsport, TN 37662. Representative: Kim D. Mann,

Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *foodstuffs* (except in bulk), *in vehicles equipped with mechanical refrigeration,* from the facilities utilized by J. H. Filbert, Inc., in Clayton, Cobb, DeKalb and Douglas Counties, GA, to points in IL and IN. (Hearing site: Atlanta, GA.)

MC 61592 (Sub-466F), filed August 16, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting (1) *plastic pipe* from Booneville, MS to points in AR, TN, KY, IN, IL, MO, IA, KS, OK, NE, ND, SD, MS, AL, GA, LA, and TX and (2) *pollution control equipment housing and parts for pollution control equipment housing* (except commodities in bulk) from the facilities of Iulton Metal Mfg. Co. at or near Rochester, IN to points in the United States (except AK and HI). (Hearing site: Louisville, KY.)

MC 61592 (Sub-467F), filed August 20, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting *rubber products and rubber materials* (except commodities in bulk, in tank vehicles), from Conshohocken, Frazer, Montgomeryville, Norristown, and Ryersford, PA to points in CO, IA, IL, IN, KS, KY, MI, MN, MO, NE, TX, AR, OK, NM, WY, UT, and ID, and (2) water softeners and equipment and carbon (except in bulk and materials and supplies and equipment used in the manufacture and sale thereof (except commodities in bulk) between Conshohocken, PA on the one hand, and, on the other, points in the United States (except AK and HI), and (3) *marine fenders,* between points in AL, CA, CT, DE, FL, GA, IL, ID, LA, ME, MD, MA, MI, MN, MS, MT, NH, NJ, NY, NC, ND, OH, OR, RI, SC, TX, VT, VA, WA, and WI. (Hearing site: Washington, DC.)

MC 61592 (Sub-471F), filed August 16, 1979. Applicant: JENKINS TRUCK LINE, INC., P.O. Box 697, Jeffersonville, IN 47130. Representative: E. A. DeVine, P.O. Box 737, Moline, IL 61265. Transporting (1) *grain handling equipment* between Wichita, KS on the one hand, and, on the other Portland, OR, and points in CO, MO, NE, IL, OK, TX, AR and IA, and (2) *contractors heavy equipment and parts and tools for contractors heavy equipment* from the facilities of T & J Industries, Inc. at or near Kansas City, MO to points in the United States (except AK & HI).

MC 69833 (Sub-145F), filed August 7, 1979. Applicant: ASSOCIATED TRUCK LINES, INC., 200 Monroe Avenue NW., 6th Floor, Grand Rapids, MI 49503. Representative: Harry Pohlad (same address as applicant). 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 Jonesville and Adrian, MI, from Jonesville over MI Hwy. 99 to junction MI Hwy. 34, then over MI Hwy. 34 to Adrian, serving all intermediate points and the off-route points of Homer, Litchfield, Addison, Tecumseh, Morenci, Camden, and Reading, MI. (Hearing site: Lansing or Detroit, MI.)

MC 80443 (Sub-28F), filed August 10, 1979. Applicant: OVERNITE EXPRESS, INC., 2550 Long Lake Road, Roseville, MN 55113. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *containers, plastic articles, and such other commodities as are dealt in by office furniture and supply houses,* including retail stores, drug stores, catalog outlets and mail order houses (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 the facilities utilized by Liberty Shamrock, Inc., at (a) Woodbridge, NJ, (b) Chicago, IL, (c) Minneapolis, Lake City and Winona, MN, (d) Gardena, CA, (e) Dallas, TX, and (f) Atlanta, GA, on the one hand, and, on the other, points in the United States (except AK and HI), restricted to traffic originating at or destined to the named facilities. (Hearing site: Minneapolis or St. Paul, MN.)

MC 80653 (Sub-24F), filed August 16, 1979. Applicant: DAVID GRAHAM COMPANY, a corporation, P.O. Box 254, Levittown, PA 19059. Representative: Paul F. Sullivan; 711 Washington Building, Washington, DC 20005. Transporting *automotive and truck parts and empty containers* between the facilities of Mack Trucks, Inc., at Allentown, Macungie, and Stockertown, PA, on the one hand, and, on the other, New York, NY, Philadelphia, PA, and Baltimore, MD. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 103373 (Sub-8F), filed August 7, 1979. Applicant: HOWARD MARTIN, INC., 4315 Meyer Road, Fort Wayne, IN 46801. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *machinery,* and (2) *commodities which, because of size or weight, require the use of special equipment* between Fort Wayne, IN, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Indianapolis, IN.)

MC 107002 (Sub-557F), filed August 13, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth, P.O. Box 8573, Jackson, MS 39204. Transporting *petroleum and petroleum products,* in bulk, in tank vehicles, from Greenville, MS, to points in the United States (except AK and HI). (Hearing site: Jackson, MS.)

MC 107002 (Sub-560F), filed August 20, 1979. Applicant: MILLER TRANSPORTERS, INC., P.O. Box 1123, Jackson, MS 39205. Representative: John J. Borth (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, from Laurel, MS, to points in CA, LA, MO, OH, PA, and TX. (Hearing site: Jackson, MS.)

MC 107012 (Sub-421F), filed August 17, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Applicant's representative: David D. Bishop (same as above). Transporting (1) *duct work, pipe, and fittings for pipe and air ducts,* and (2) *parts and accessories* for the commodities named in (1) above, from the facilities of Southwark Metal Manufacturing Company at or near Philadelphia, PA to points in OH, MI, IN and KY. (Hearing sites: Philadelphia, PA, or Washington, DC.)

MC 107012 (Sub-479F), filed August 17, 1979. Applicant: NORTH AMERICAN VAN LINES, INC., 5001 U.S. Highway 30 West, P.O. Box 988, Fort Wayne, IN 46801. Representative: David D. Bishop (same address as applicant). Transporting *carpet and carpet padding* from points in Chattanooga, TN and points in GA to points in IA. (Hearing site: Des Moines, IA, Cedar Rapids, IA, or Chicago, IL.)

MC 107162 (Sub-55F), filed August 13, 1979. Applicant: NOBLE GRAHAM TRANSPORT, INC., Rural Route #1, Brimley, MI 49715. Representative: John Duncan Varda, 121 South Pinckney Street, Madison, WI 53703. Transporting (1) *lumber and lumber products,* from Bangor, WI, to points in Nassau County, NY, (2) *lumber* from Camden, NJ, Norfolk, VA, Charleston, SC, and New Orleans, LA, to points in IA, IL, IN, MI, MN, OH, and WI, and (3) *materials* (except iron and steel articles and commodities in bulk) from the facilities of the CertainTeed Corporation in Scott County, MN, to points in WI and the Upper Peninsula of MI. (Hearing site: Chicago, IL or Detroit, MI.)

Note.—Approval of dual operations may be involved.

MC 107912 (Sub-24F), filed August 10, 1979. Applicant: REBEL MOTOR FREIGHT, INC., 3934 Homewood Drive, Memphis, TN 38118. Representative: James N. Clay, III, 2700 Sterick Building, Memphis, TN 38103. Transporting *chemicals* (except in bulk), from West Helena, AR, to points in MS and LA. (Hearing site: Memphis, TN or Jackson, MS.)

MC 110012 (Sub-58F), filed August 17, 1979. Applicant: ROY WIDENER MOTOR LINES, INC., 707 N. Liberty Hill Road, Morristown, TN 37814. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting (1) *new furniture and furniture parts* from points in Hancock County, TN to points in the United States (except AK and HI) and (2) *materials and supplies* used in the manufacture of furniture in the reverse direction. (Hearing site: Washington, DC.)

MC 110563 (Sub-300F), filed August 9, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N., Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Transporting *frozen meats,* from New Haven, CT, to points in CO, IL, IN, IA, KS, KY, MI, MN, MO, NE, OH, WI, and those points in PA on and west of US Hwy 219. (Hearing site: Hartford, CT or New York, NY.)

MC 110563 (Sub-301F), filed August 9, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N., Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Transporting *canned, cooked and preserved foodstuffs,* from New Hyde, Park, NY, to points in MD, VA, NC, SC, DE, WV, FL, GA, ND, SD, and DC. (Hearing site: New York, NY or Washington, DC.)

MC 110563 (Sub-302F), filed August 20, 1979. Applicant: COLDWAY FOOD EXPRESS, INC., P.O. Box 747, State Route 29 N., Sidney, OH 45365. Representative: Joseph M. Scanlan, 111 West Washington Street, Chicago, IL 60602. Transporting: (1) *food and food ingredients,* (2) *animal foods and animal food ingredients,* (3) *meat by-products and requiring mechanical refrigeration* except those in (1), (2) and (3) above between Fogelsville, PA on the one hand, and on the other, points in CO, CT, DE, IL, IN, IA, KS, KY, ME, MD, MA, MI, MO, NE, NH, NJ, NY, OH, PA, RI, VT, VA, WV, WI, and DC. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 110683 (Sub-151F), filed August 20, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 16th St. NW., Suite 502, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), serving points in Pike and Lackawanna Counties, PA; those in Wayne County, PA, south of PA Hwy 370; those in Susquehanna County, PA, southeast of a line drawn from Herrick, PA, to the junction of Interstate Hwy 81 with the Susquehanna-Lackawanna County line; those in Luzerne County, PA, east of a line drawn from the junction of PA Hwy 92 with the Luzerne-Wyoming County line along PA Hwy 92 to its junction with U.S. Hwy 11, then along U.S. Hwy 11 to a point 1 mile east of Nanticoke, PA, then east along an unnumbered hwy to its junction with Interstate Hwy 81, then along Interstate Hwy 81 to its junction with the Luzerne-Schuylkill County line; those in Schuylkill County, PA, on and east of PA Hwy 309 including points on the indicated highways, as off-route points in connection with carrier's regular-route operations.(Hearing site: Washington, DC or Richmond, VA.)

Note.—Applicant is currently authorized to serve substantially all of the territory sought as off-route points appurtenant to its existing regular routes under its existing irregular-route authority. Applicant proposes to tack the authority sought with existing authorized authority. *The authority granted shall not be severable by sale or otherwise from carrier's presently-authorized operating rights.*

MC 110683 (Sub-152F), filed August 20, 1979. Applicant: SMITH'S TRANSFER CORPORATION, P.O. Box 1000, Staunton, VA 24401. Representative: Francis W. McInerny, 1000 16th St., NW., Suite 502, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (1) between Youngstown, OH, and Morgantown, WV, from Youngstown over Interstate Hwy 680 to its junction with Interstate Hwy 76, then over Interstate Hwy 76 to its junction with U.S. Hwy 119, then over U.S. Hwy 119 to Morgantown and return over the same route, serving all intermediate points, (2) between Weirton, WV, and Ebensburg, PA, over U.S. Hwy 22, serving all intermediate points, (3) between Youngstown, OH, and Fentonville, NY, over U.S. Hwy 62, serving all intermediate points, (4) between Williamsfield, OH, and Lantz Corners, PA, from Williamsfield over U.S. Hwy 322 to its junction with U.S. Hwy 6, then over U.S. Hwy 6 to Lantz Corners, and return over the same route, serving all intermediate points, (5) between Erie, PA, and Pittsburgh, PA, from Erie over U.S. Hwy 19, serving all intermediate points, (6) between Youngstown, OH, and junction U.S. Hwys. 30 and 219, from Youngstown over OH Hwy 7 to its junction with U.S. Hwy 30, then over U.S. Hwy 30 to its junction with U.S. Hwy 219, and return over the same route, serving all intermediate points, (7) between Cumberland, MD and Limestone, NY, from Cumberland over U.S. Hwy 40 to its junction with U.S. Hwy 219, then over U.S. Hwy 219 to Limestone and return over the same route, serving all intermediate points, (8) between Conneaut, OH, and State Line, PA, over U.S. Hwy 20, serving all intermediate points, (9) between Youngstown, OH, and Paterson, NJ, over Interstate Hwy 80, serving all intermediate points in OH and NJ, an those in PA west of U.S. Hwy 219, and those in PA east of Interstate Hwy. 81, (10) between Wheeling, WV, and Hagerstown, MD, from Wheeling over Interstate Hwy 70 to its junction with Interstate Hwy 81, then over Interstate Hwy 81 to Hagerstown and return over the same route, serving all intermediate points in WV and MD, and those in PA west of U.S. Hwy 219, (11) between Washington, PA, and Cumberland, MD, over U.S. Hwy 40, serving all intermediate points, (12) between Morgantown, WV and Somerset, PA, from Morgantown over U.S. Hwy 48 to its junction with WV Hwy 26, then over WV Hwy 26 to its junction with PA Hwy 281, then over PA Hwy 281 to Somerset and return over the same route, serving all intermediate points, and (13) between Somerset, PA, and Philadelphia, PA, over Interstate Hwy 76, serving no intermediate points, and serving in connection with regular routes described above all off-route points in PA west of U.S. Hwy 219. The purpose of this application is to convert present irregular-route authority to regular routes and to eliminate the state of WV as a gateway for western PA. *The authority granted shall not be severable by sale or otherwise from carrier's presently-authorized operating rights.* Applicant proposes to tack the authority sought with existing authorized authority. (Hearing site: Washington, DC or Richmond, VA.)

MC 111812 (Sub-681F), filed August 20, 1979. Applicant: MIDWEST COAST TRANSPORT, INC., P.O. Box 1233, Sioux Falls, SD 57101. Representative: R. H. Jinks, P.O. Box 1233, Sioux Falls, SD

57101. Transporting *frozen bakery products,* from the facilities of Entenmann's, Inc., Div. Warner-Lambert Company, at Northlake, IL to points in CA, CO, FL, GA, KY, MN, MO, NJ, NC, OH, PA, TX and UT. (Hearing site: Chicago, IL.)

MC 112713 (Sub-284F), filed August 17, 1979. Applicant: YELLOW FREIGHT SYSTEM, INC., P.O. Box 7270, Overland Park, KS 66207. Representative: John M. Records (same address as applicant). Transporting (1) *glass lined chemical reactors,* and (2) *parts* for (1) above from Union, NJ to Magness, AR. (Hearing site: Newark, NJ or Washington, DC.)

MC 112822 (Sub-474F), filed August 6, 1979. Applicant: BRAY LINES INCORPORATED, P.O. Box 1191, 1401 N. Little Street, Cushing, OK 74023. Representative: Dudley G. Sherrill (same address as applicant). Transporting *petroleum products,* and *automotive aftermarket chemicals and products,* in containers, between (1) Chicago, Wheeling and Lake Bluff, IL, Dallas and Lubbock, TX, Denver, CO, Kansas City, MO, Los Angeles, CA, Minneapolis, MN, Milwaukee, OR, Tulsa, OK, and Jackson, MS, (2) from Evansville, IN, to those points in the United States in and west of IN, IL, MO, AR, LA and WI, and (3) from Tulsa, OK, to points in LA and TX. (Hearing site: Tulsa, OK or Kansas City, MO.)

MC 113063 (Sub-10F), filed August 9, 1979. Applicant: RALPH H. BURNS & SON, INC., P.O. Box 38, Hillsboro, WV 24946. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *aspha ltic cement, liquid asphalt, and by-products thereof,* in bulk, in tank vehicles, from the facilities of Chevron, U.S.A., Inc., at or near Marietta, OH, to points in Barbour, Braxton, Doddridge, Fayette, Gilmer, Greenbrier, Harrison, Lewis, Nicholas, Pendleton, Pocahontas, Raleigh, Randolph, Taylor, Tucker, Upshur and Webster Counties, WV. (Hearing site: Charleston, WV.)

MC 113843 (Sub-267F), filed August 10, 1979. Applicant: REFRIGERATED FOOD EXPRESS, INC., 316 Summer Street, Boston, MA 02210. Representative: Lawrence T. Sheils (same address as applicant). Transporting *general commodities* (except those of unusual value, classes A & B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) from points in MA and VT to points in CO, IL, IN, MI, MN, MO, OH, OK, TX, and WI, restricted to traffic originating at the facilities of New England Shippers Association Co-operative and destined to indicated destinations. (Hearing site: Boston, MA.)

MC 115162 (Sub-496F), filed August 9, 1979. Applicant: POOLE TRUCK LINE, INC., P.O. Drawer 500, Evergreen, AL 36401. Representative: Robert E. Tate (same address as applicant). Transporting *such commodities as are dealt in or used by agricultural and industrial equipment manufacturers and dealers* (except commodities in bulk), (1) from the facilities of Massey Ferguson, Inc., at Detroit and Taylor, MI, to points in AL, FL, GA, TN, NC, SC, VA, and MS, and (2) from ports of entry on the international boundary line between the United States and Canada, at Detroit, MI, and Buffalo, NY, to points in AL, FL, GA, TN, NC, SC, VA, and MS. (Hearing site: Des Moines, IA or Detroit, MI.)

MC 115242 (Sub-18F), filed August 13, 1979. Applicant: DONALD MOORE, 601 North Prairie Street, Prairie du Chien, WI 53821. Representative: Michael S. Varda, 121 South Pinckney Street, Madison, WI 53703. Transporting *malt beverages* from LaCrosse, WI, to Dubuque, IA. (Hearing site: Madison, WI or Chicago, IL.)

MC 116763 (Sub-566F), filed August 7, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: H. M. Richters (same address as applicant). Transporting *equipment, materials and supplies used in the manufacturing and distribution of paper and paper products* (except commodities in bulk, in tank vehicles), from points in AL, AR, CO, FL, GA, IL, IN, KS, KY, LA, MI, MS, MO, NE, NM, NC, ND, OH, OK, SC, SD, TX, VA, WV, and WI to the facilities of Bowater Southern Paper Corporation at or near Calhoun, TN, restricted to traffic originating in the origin territory and destined to the indicated destination. (Hearing site: Memphis, TN.)

MC 116763 (Sub-578F), filed August 27, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street, Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting (1) *prefabricated ducts and pipes,* and (2) *materials and supplies* used in the installation of commodities mentioned in (1) above (except commodities in bulk, in tank vehicles), from the facilities of Southwark Metal Manufacturing Company at or near Philadelphia, PA, to points in CT, IA, IL, IN, KY, MI, MN, MO, NE, NC, NH, NY, OH, TN, VA and WI, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Philadelphia, PA.)

MC 116763 (Sub-579F), filed August 20, 1979. Applicant: CARL SUBLER TRUCKING, INC., North West Street Versailles, OH 45380. Representative: Gary J. Jira (same address as applicant). Transporting *such commodites as are dealt in or used by manufacturers and distributors of printed matter* (except commodities in bulk, in tank vehicles), between the facilities of Mid-American Webpress, Inc. at or near Lincoln, NE, on the one hand, and, on the other, 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 origin and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 117503 (Sub-16F), filed August 27, 1979. Applicant: HATFIELD TRUCKING SERVICE, INC., 1625 North C Street Sacramento, CA 95814. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 9410. Transporting *foodstuffs,* from the facilities of Tree Top, Inc. at Cashmere, Selah and Wenatchee, WA, to points in CA and NV. (Hearing site: San Francisco or Sacramento, CA.)

MC 117883 (Sub-255F), filed August 9, 1979. Applicant: SUBLER TRANSFER, INC., One Vista Drive, Versailles, OH 45380. Representative: Thomas R. Stone, P.O. Box 62, Versailles, OH 45380. Transporting (1) *foodstuffs* and (2) *materials and supplies* used in the manufacturing of foodstuffs (except in bulk in tank vehicles) (1) between Naugatuck, CT, Frankfort, IN, and Hazelton and York, PA, and (2) from Frankfort, IN, to Kansas City, MO, restricted to traffic originating at and destined to the facilities utilized by Peter-Paul Cadbury, Inc., at the named points. (Hearing site: New York, NY or Washington, DC.)

MC 118142 (Sub-234F), filed August 7, 1979. Applicant: M. BRUENGER & CO., INC., 6250 North Broadway, Wichita, KS 67219. Representative: Brad T. Murphree, 814 Century Plaza Building, Wichita, KS 67202. Transporting *frozen boxed meat,* from the facilities of Pork Packers International at Downs, KS, to St. Joseph, MO, and York, NE. (Hearing site: Wichita, KS or Kansas City, MO.)

Note.—Dual operations may be involved.

MC 118202 (Sub-133F), filed August 9, 1979. Applicant: SCHULTZ TRANSIT, INC., 323 Bridge Street, P.O. Box 406, Winona, MN 55987. Representative: Thomas J. Beener, Suite 4959, One World Trade Center, New York, NY 10048. Transporting *foodstuffs* (except in bulk) from the plantsites of Duff-Mott Co., Inc., at Hamlin, Holley, and Williamson, NY, to points in IL, IN, MI, MN, MO, ND, SD, and WI. (Hearing site: New York, NY.)

MC 118202 (Sub-134F), filed August 13, 1979. Applicant: SCHULTZ TRANSIT, INC., P.O. Box 406, Winona, MN 55987. Representative: Robert S. Lee, 1000 First National Bank Bldg., Minneapolis, MN 55402. Transporting *parts, materials, equipment and supplies* (except commodities in bulk) used in the manufacture of construction and materials handling equipment, from those points in the United States in and east of ND, SD, NE, CO, OK, and TX to Winona, MN, restricted to the transportation of traffic destined to the facilities of Badger Construction Equipment Co., division of Burro Badger Corporation. (Hearing site: St. Paul, MN.)

MC 118263 (Sub-88F), filed August 19, 1979. Applicant: COLDWAY CARRIERS, INC., P.O. Box 2038, Clarksville, IN 47130. Representative: William L. Willis, 708 McClure Building, Frankfort, KY 40601. Transporting *candy* (1) from the facilities of M&M/MARS at (a) Hackettstown and Elizabeth, NJ, and (b) Elizabethtown, PA, to points in OH, MI, IN, IL, and KY, and (2) from the facilities of M&M/MARS at Chicago, IL, to points in MA. (Hearing site: Louisville, KY, or New York, NY.)

MC 119493 (Sub-315F), filed August 17, 1979. Applicant: MONKEM COMPANY, INC., P.O. Box 1196, Joplin, MO 64801. Representative: Thomas D. Boone (same as above). Transporting *fertilizer, tree and weed killing compounds, insecticides and fungicides* (except in bulk) and *materials and supplies used in the manufacture and distribution thereof* (except in bulk), between East St. Louis, IL on the one hand, and, on the other, points in the US in and east of MT, WY, CO, and NM (except AR, IA, KS, MO, NE, and OK). (Hearing site: St. Louis or Springfield, MO.)

MC 119632 (Sub-106F), filed August 10, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence, 611 Gibson, Defiance, OH 43512. Transporting *foodstuffs* (except frozen), *cooking oils, shortening, and matches,* between the facilities of Hunt-Wesson Foods, Inc., at Rossford, OH, on the one hand, and, on the other, points in IL and WV, those in NY on and west of U.S. Hwy 11, and those in PA on and west of Interstate Hwy 81. (Hearing site: Toledo or Columbus, OH.)

MC 119632 (Sub-109F), filed August 6, 1979. Applicant: REED LINES, INC., 634 Ralston Ave., Defiance, OH 43512. Representative: Wayne C. Pence (same address as applicant). Transporting (1) *animal and poultry feed, ingredients thereof,* and *health and sanitation products* (except frozen or in bulk), and (2) *materials and supplies* used in the manufacture, sale and distribution of commodities in (1) above, between Portland, IN, on the one hand, and, on the other, points in the United States in and east of MN, IA, MO, AR, and LA, restricted to traffic originating at or destined to facilities used by International Multifoods Corp. at Portland, IN. (Hearing site: Fort Wayne or Indianapolis, IN.)

MC 121223 (Sub-10F), filed August 6, 1979. Applicant: GEORGE HALLDEN SONS CO., a corporation, P.O. Box 2271, 3710 LeHarps Road, Youngstown, OH 44504. Representative: Paul B. Sonoski, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting: *railway car parts,* from the facilities of Youngstown Steel Door Company, Division of Lamson Sessions Company, at Youngstown, OH to points in AL, FL, GA and MO. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 123993 (Sub-58F), filed August 20, 1979. Applicant: FOGLEMAN TRUCK LINE, INC., P.O. Box 1504, Crowley, LA, 70526. Representative: Austin L. Hatchell, 801 Vaughn Bldg., Austin, TX, 78y01. Transporting: *flour, corn meal,* and flaked potatoes (except in bulk) (1) from Decatur, AL to points in AR, LA and TX; and (2) from Sherman, TX to points in AL, AR, CO, KS, MS, MO and OK. (Hearing site: Dallas, TX or New Orleans, LA.)

Note.—Dual operations may be involved.

MC 124783 (Sub-17F), filed August 9, 1979. Applicant: KATO EXPRESS, INC., U.S. 31N, P.O. Box 291, Elizabethtown, KY 42701. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *magazines and periodicals* between Cincinnati, OH, and Louisville, KY. (Hearing site: Cincinnati, OH or Louisville, KY.)

MC 124813 (Sub-216F), filed August 10, 1979. Applicant: UMTHUN TRUCKING CO., a corporation, 910 South Jackson Street, Eagle Grove, IA 50533. Representative: William L. Fairbank, 1980 Financial Center, Des Moines, IA 50309. Transporting (1) *scrap metal* from Mason City and Webster City, IA, to Chicago, IL, and (2) *iron and steel articles* from Chicago, IL, to Algona and Webster City, IA. (Hearing site: St. Paul, MN or Des Moines, IA.)

Note.—Dual operations may be involved.

MC 125023 (Sub-79F) filed August 16, 1979. Applicant: SIGMA–4 EXPRESS, INC., P.O. Box 9117, Erie, PA 16504. Representative: Paul F. Sullivan 711 Washington Bldg., Washington, D.C. 20005. Transporting: (a) *malt beverages,* in containers, from Milwaukee, WI to points in WV (except Weirton and Short Gap), and (b) *empty used malt beverage containers* and *materials and supplies* (except commodities in bulk) used in the production and sale of malt beverages in the reverse direction. (Hearing site: Washington, DC.)

MC 125433 (Sub-300F) filed August 20, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, Ut 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *insulated building panels* and (2) *equipment, materials and supplies* used in the installation of the commodities in (1) above (except in bulk), from the facilities of Thermal Systems, Inc., at or near Salt Lake City, UT to those points in the US in and east of ND, SD, NE, KS, OK and TX. (Hearing: Salt Lake City, UT.)

MC 125433 (Sub-301F) filed August 20, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting *cast stone veneer* from Napa, CA to points in the United States (excluding AK and HI). Restricted to shipments originating at the facilities of Stucco Stone Products. (Hearing: San Francisco, CA.)

MC 125433 (Sub-302F) filed August 27, 1979. Applicant: F–B TRUCK LINE COMPANY, a corporation, 1945 South Redwood Road, Salt Lake City, UT 84104. Representative: John B. Anderson (same address as applicant). Transporting (1) *such commodities* as are dealt in or used by agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers (except commodities in bulk), from the facilities of International Harvester Company at or near (a) Moline, East Moline, Rock Island, and Canton, IL. (b) Louisville, KY: and (c) Memphis, TN to points in the United States (except AK and HI); and (2) *such commodities* as are dealt in or used by agricultural equipment, industrial equipment and lawn and leisure products manufacturers and dealers and equipment, materials and supplies used in the manufacture of the above (except in bulk), from points in the United States (except AK and HI) in the reverse direction. (Hearing: Chicago, IL.)

MC 125533 (Sub-41F), filed August 20, 1979. Applicant: GEORGE W. KUGLER, INC., 2800 East Waterloo Road, Akron, OH 44312. Representative: Joseph D. Morris (same address as applicant). Transporting *bricks* from Caledonia and Morral, OH, to points in IL, IN, and MI. (Hearing site: Columbus, OH.)

MC 126822 (Sub-66F), filed August 20, 1979. Applicant: WESTPORT TRUCKING COMPANY, 15580 South 169 Highway, Olathe, KS 66061. Representative: Kenneth E. Smith (same as above). Transporting *canned goods* from the facilities of Stanislaus Food Products Company, at or near Modesto, CA, to points in TX, OH, IL, WI, and MO. (Hearing site: San Francisco, CA.)

MC 129032 (Sub-99F), filed August 13, 1979. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, OK 74134. Representative: David R. Worthington (same address as applicant). Transporting *refined sugar,* in packages, from the facilities of Imperial Sugar Company at or near Sugar Land, TX, to points in the United States (except AK, HI, and TX), restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: St. Louis, MO or Chicago, IL.)

MC 129032 (Sub-100F), filed August 13, 1979. Applicant: TOM INMAN TRUCKING, INC., 5656 South 129th East Avenue, Tulsa, OK 74134. Representative: David R. Worthington (same address as applicant). Transporting (1) *such merchandise* as is dealt in by wholesale, retail, chain grocery and food business houses and agricultural feed business houses, (2) *soy products, paste, flour products, dairy based products,* and (3) *materials, equipment and supplies* used in the manufacture, distribution, and sale of the products in (1) and (2) above, (except commodities in bulk), between points in the United States (except AK and HI), restricted to traffic originating at or destined to facilities used by the Ralston Purina Company. (Hearing site: St. Louis, MO or Chicago, IL.)

MC 134592 (Sub-26F), filed August 8, 1979. Applicant: HERB MOORE and HAZEL MOORE, d.b.a. H & H TRUCKING CO., 10360 N. Vancouver Way, Portland, OR 97211. Representative: Philip G. Skofstad, 1525 NE. Weidler Street, Portland, OR 97232. Transporting *foodstuffs* (except in bulk in tank vehicles) from the facilities of American Home Foods, Division of American Home Products Corporation, at Vacaville, CA, to points in OR and WA. (Hearing site: Portland, OR.)

MC 136012 (Sub-6F), filed August 20, 1979. Applicant: UNITED STATES TRANSPORTATION, INC., 4963 Provident Drive, Cincinnati, OH 45246. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Transporting *liquid chemicals, vegetable oils and products, animal oils and products, tallows, tallow products,* in bulk, in tank vehicles, between Cincinnati, OH, on the one hand, and, on the other, Hurricane, WV and Chicago, IL, and points in IN and KY. (Hearing site: Columbus, OH.)

Note.—Dual operations may be involved.

MC 136343 (Sub-176F), filed August 10, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: George A. Olsen, P.O. Box 357, Gladstone, NJ 07934. Transporting (1) *paper and paper products,* and (2) *materials, equipment, and supplies* used in the manufacuture and sale thereof between the facilities of the International Paper Company at or near Ticonderoga, NY, on the one hand, and, on the other, points in KY, TN, NC, SC, GA, FL, AL, MS, and VA, restricted to traffic originating at the named origins and destined to the indicated destinations. (Hearing site: New York, NY or Washington, DC.)

MC 136343 (Sub-179F), filed August 20, 1979. Applicant: MILTON TRANSPORTATION, INC., P.O. Box 355, Milton, PA 17847. Representative: Herbert R. Nurick, P.O. Box 1166, 100 Pine Street, Harrisburg, PA 17108. Transporting *fabricated sheet metal, fabricated plastic products, and material, equipment and supplies used in the manufacture, distribution and installation thereof,* between the facilities of Acme Manufacturing Company at or near (a) Philadelphia, PA, (b) Medina, NY, and (c) Lithonia, GA, on the one hand, and, on the other, points in WI, MI, IL, IN, OH, KY, WV, VA, TN, NC, SC, GA, AL, MS, FL, MD, DE, DC, PA, NJ, NY, VT, NH, ME, MA, RI, CT, and DC, restricted to the transportation of traffic originating at or destined to the facilities of Acme Manufacturing Company at or near Philadelphia, PA, Medina, NY, and Lithonia, GA. (Hearing site: Washington, DC or Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 138882 (Sub-286F), filed August 17, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Representative: James W. Segrest (same address as applicant). Transporting *iron and steel articles* from the facilities of Wheeling-Pittsburgh Steel Corporation at Allenport, PA to points in MI. (Hearing site: Pittsburgh, PA or Birmingham, AL.)

MC 138882 (Sub-287F), filed August 6, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: James W. Segrest (same address as applicant). Transporting *bentonite clay,* in bags, from the facilities of Dresser Industries at or near Greybull, WY, to points in IL, IN, KY, MI, OH, WV, AR, and LA. (Hearing site: Houston, TX or Birmingham, AL.)

MC 138882 (Sub-288F), filed August 6, 1979. Applicant: WILEY SANDERS TRUCK LINES, INC., P.O. Drawer 707, Troy, AL 36081. Applicant's representative: James W. Segrest (same address as applicant). Transporting (1) *machinery, machinery parts, bearings, oil seals, motor mounts, rubber products, environmental control equipment,* and *air conditioning, heating,* and *purifying systems,* and (2) *materials, equipment, and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk), between the facilities of LSB Industries, Inc., at or near Oklahoma City, OK, and points in the United States (except AK and HI). (Hearing site: Oklahoma City, OK or Birmingham, AL.)

MC 139482 (Sub-145F), filed August 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Applicant's representative: James E. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting (1) *such commodities* as is dealt in by grocery and food business houses and agricultural feed business houses; soy products; paste, flour products; pet foods products and (2) *materials, ingredients, equipment and supplies* used in the manufacture, distribution and sale of the products in (1) above (except commodities in bulk), between points in the United States (except AK and HI), restricted to shipments originating at or destined to facilities used by Ralston Purina Company. (Hearing site: St. Louis, MO.)

MC 139482 (Sub-151F), filed August 16, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Applicant's representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting (1) *such commodities as are dealt in by office furniture and supply houses,* retail stores, drug stores, catalog outlets and mail order houses (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 the facilities used by Liberty Shamrock, Inc., at (a) Woodbridge, NJ; (b) Chicago, IL; (c) Minneapolis, Lake City and Winona, MN; (d) Gardena, CA; (e) Dallas, TX; and (f) Atlanta, GA, on the one hand, and on the other hand, points in the United States (except AK and HI) restricted to the transportation of traffic originating at or destined to the facilities

used by Liberty Shamrock, Inc. (Hearing site: Minneapolis or St. Paul, MN.)

MC 139482 (Sub-52F), filed August 20, 1979. Applicant: NEW ULM FREIGHT LINES, INC., P.O. Box 877, New Ulm, MN 56073. Representative: James F. Ballenthin, 630 Osborn Building, St. Paul, MN 55102. Transporting *household appliances* and *equipment, materials and supplies* used in the manufacture and distribution of household appliances (except commodities in bulk) between those points in the U.S. in and east of ND, SD, NE, CO, OK and TX, restricted to the transportation of traffic originating at or destined to the facilities of General Electric Company.(Hearing site: Louisville, KY.)

MC 140852 (Sub-6F), filed August 20, 1979. Applicant: C. W. MITCHELL, INC., d.b.a., MITCHELL TRANSPORT, 4401 N. Westshore Blvd., Tampa, FL 33684. Representative: Rudy Yessin, 314 Wilkinson Street, Frankfort, KY 40601. Transporting *pet food,* in packages, from the facilities of Kal Kan Foods, Inc. at Columbus, OH to points in AL, FL, and SC. (Hearing site: Tampa, FL.)

MC 141443 (Sub-30F), filed August 10, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *charcoal, charcoal briquettes, hickory chips, lighter fluid, fireplace logs,* and *barbecue supplies,* from the facilities of Husky Industries, Inc., at or near White City, OR, to points in AZ, CA, CO, ID, MT, NM, NV, TX, UT, WA, and WY. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 141443 (Sub-31F), filed August 8, 1979. Applicant: JOHN LONG TRUCKING, INC., 1030 East Denton, Sapulpa, OK 74066. Representative: Wilburn L. Williamson, Suite 615, East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *charcoal briquettes, fireplace logs,* and *hickory chips,* from Jacksonville, TX, Cotter, AR, and Belle, MO, to those points in the United States in and west of MN, IA, MO, AR, and LA (except IA, ND, and SD). (Hearing site: Louisville, KY.)

Note.—Dual operations may be involved.

MC 141443 (Sub-No. 32F), filed August 10, 1979. Applicant: JOHN LONG TRUCKING INC., 1030 East Denton, Sapulpa, OK 74066. Applicant's representative: Wilburn L. Williamson, Suite 615-East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *glass containers* from the facilities of Midland Glass Co., Inc., at or near Henryetta, OK, to points in AZ, AR, CA, CO, ID, KS, MO, MT, NV, NM, OR, TX, UT, WA, and WY. (Hearing site: Oklahoma City, OK or Tulsa, OK.)

Note.—Dual operations may be involved.

MC 142252 (Sub-No. 2F), filed August 20, 1979. Applicant: C. WHITE & SON, INC., Evans Road, Rocky Hill, CT 06067. Representative: Gerald A. Joseloff, 80 State Street, Hartford, CT 06103. Transporting: *petroleum and petroleum products, and automobile accessories* (a) between points in CT, MA, and RI, and (b) from Newark, NJ to points in MA, CT, and RI. (Hearing site: Hartford, CT, New York, NY, or Boston, MA.)

MC 142743 (Sub-No. 18F), filed August 16, 1979. Applicant: FAST FREIGHT SYSTEMS, INC. P.O. BOX 132C, Tupelo, MS 38801. Applicant's representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville MI. 48167. Transporting: *Clay and clay products* (except commodities in bulk) from Meigs, GA to points in AL, AR, DE, IL, IN, IA, KS, KY, LA, MD, MI, MN, MS, MO, NJ, NY, OH, OK, PA, TN, TX, VA, WV and WI. (Hearing site: Washington, DC., Atlanta, GA, or Chicago, IL.)

MC 143402 (Sub-No. 2F), filed August 17, 1979. Applicant: JOHN HENSAL TRUCKING, INC., 1709 14th Street, Woodward, OK 73801. Applicant's representative: John Hensal (same address as applicant). Transporting *oilfield equipment, materials and supplies,* (except commodities in bulk), between points in OK, KS and TX (Hearing site: Tulsa, OK, Oklahoma City, OK, or Washington, DC.)

MC 143533 (Sub-5F), filed August 8, 1979. Applicant: DIXON LEASING CO., INC., 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Robert B. Einhorn, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19107. Transporting (1) *refractory products, aggregate materials, bonding material and coatings, castables, gunning materials, insulation materials, metal anchors, clips and castings,* and *plastics and ramming mixes,* from Philadelphia, PA, to points in CT, DE, MA, NJ, NY, and RI, and those points in MD and VA on and east of U.S. Hwy 15, (2) *raw materials* used in the manufacture of refractory products, from New York, NY, Worcester, MA, points in DE and NJ, and those points in MD on and east of U.S. Hwy 15, to Philadelphia, PA, (3) *fire clay,* from Crossmans, Perth Amboy, South River, Woodbridge, Millville, Trenton, and Winslow Junction, to Philadelphia, PA, and (4) *fire brick and clay,* from Philadelphia, PA, to Baltimore, MD, Wilmington and Dover, DE, New York, NY, and points in NJ. Condition: Cancellation of applicant's existing permit embracing the same authority. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143533 (Sub-6F), filed August 8, 1979. Applicant: DIXON LEASING CO., INC., 2620 Old Egg Harbor Road, Lindenwold, NJ 08021. Representative: Robert B. Einhorn, 3220 P.S.F.S. Building, 12 South 12th Street, Philadelphia, PA 19107. Transporting (1) *insulating materials* and (2) *materials used in the installation thereof* from the facilities of Owens-Corning Fiberglass Corp. at Berlin and Barrington, NJ, to points in AZ, CA, CO, ID, MT, NB, ND, NV, OR, SD, UT, WA, and WY. (Hearing site: Philadelphia, PA, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143873 (Sub-5F), filed August 10, 1979. Applicant: TITAN TRANSFER, INC., 4302 South 30th Street, Omaha, NE 68107. Representative: Paul D. Kratz, Suite 610, 7171 Mercy Road, Omaha, NE 68106. Transporting *meats, meat products, meat by-products and articles distributed by meat-packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk) from Omaha, NE, to Sioux City, IA, and Yankton and Sioux Falls, SD. (Hearing site: Omaha, NE.)

MC 144503 (Sub-19F), filed August 13, 1979. Applicant: ADAMS REFRIGERATED EXPRESS, INC., P.O. Box F, Forest Park, GA 30050. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting (1) *peanuts and peanut products,* and (2) *peanuts* otherwise exempt from regulation, when moving in mixed loads with the commodities in (1) above from the facilities of Seabrook Blanching Corporation at or near Sylvester, GA and Edenton, NC, to points in MN, NJ, PA, WI, IL, MO, GA, IA, NE, KS, TX, OK, LA, AR, TN, OH, KY, and MI. (Hearing site: Atlanta, GA.)

MC 144682 (Sub-28F), filed August 27, 1979. Applicant: R. R. STANLEY, An Individual, 1738 Empire Central, Dallas, TX 75235. Applicant's representative: D. Paul Stafford, Suite 1125, Exchange Park, P.O. Box 45538, Dallas, TX 75245. Transporting *frozen potatoes,* in mechanically refrigerated equipment from Clearfield, UT, Bettendorf, IA, Mount Airy, MD, Atlanta, GA, Mount Morris, NY, and points in WA and ID to Syosset, NY, Detroit, MI, Cleveland, OH, Atlanta, GA, Miami, FL, Greensboro,

NC, Kansas City, MO, Denver, CO, Minneapolis, MN, and Bellmawr, NJ, and points in CA and TX. (Hearing site: Dallas, TX.)

MC 144982 (Sub-8F), filed August 9, 1979. Applicant: OHIO PACIFIC EXPRESS, INC., 2385 South High Street, Columbus, OH 43207. Applicant's representative: Harry F. Horak, Suite 115, 5001 Brentwood Stair Road, Fort Worth, TX 76112. Transporting *quarry tile and building brick,* from the facilities utilized by Summitville Tile, Inc., at or near Summitville, OH, to points in CA, OR, and WA. (Hearing site: Cleveland, OH, or St. Louis, MO.)

Note.—Dual operations may be involved.

MC 145102 (Sub-38F), filed August 10, 1979. Applicant: FREYMILLER TRUCKING, INC., P.O. Box 188, Shullsburg, WI 53586. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting *such commodities as are dealt in or used by manufacturers and distributors of printed matter* (except commodities in bulk) between those points in the United States in and west of MN, IA, MO, AR, and MS, restricted to traffic originating at or destined to a facility of W. A. Krueger Company. (Hearing site: Madison, WI or Milwaukee, WI.)

Note.—Dual operations may be involved.

MC 145503 (Sub-2F), filed August 8, 1979. Applicant: ART ANDERSON, INC., P.O. Box 138, Oakford, IL 62673. Applicant's representative: Edward D. McNamara, Jr., 907 South Fourth Street, Springfield, IL 62703. Transporting *fertilizer* (1) from Clinton and Fort Madison, IA, to points in IL and MO, and (2) from Pekin, Marseilles, Amboy, and Meredosia, IL, to points in MO, IN, IA, and WI. (Hearing site: Springfield, IL or St. Louis, MO.)

MC 146562 (Sub-No. 2F), filed August 13, 1979. Applicant: VICTOR L. MATHIS, d.b.a., Lobo Leasing Company, 26 Westlake Drive, N.E., Albuquerque, NM 87112. Applicant's representative: Jack Smith, 420 Lomas Boulevard, N.W., Albuquerque, NM 87102. Transporting *petroleum products* and *drywall products,* in packages or containers, between points in NM, on the one hand, and, on the other, points in CA. (Hearing site: Albuquerque, NM.)

MC 146763 (Sub-No. 5F), filed August 16, 1979. Applicant: IOWA-CALIFORNIA EXPRESS, INC., 4603 South 96th Street, Omaha, NE 68127. Applicant's representative: (Same as above). Transporting *cabinets* and accessories for cabinets, from the facilities of Diamond Industries, division of Medford Corporation, from Grants Pass, OR, Hillsboro, OR, and Park Rose, OR, to Mountville, PA, Ottumwa, IA, and Denver, CO, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Omaha, NE.)

MC 146782 (Sub-No. 11F), filed August 13, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Applicant's representative: Stephen L. Edwards, 806 Nashville Bank & Trust Bldg., Nashville, TN 37201. Transporting (1) *wire, rod,* and *products thereof* from the facilities of Andrews Wire Division, Georgetown Steel Corporation, in Georgetown County, SC, and Sumner County, TN, to those points in the United States in and east of ND, SD, NE, KS, OK and TX, and (2) *wire carriers, spools or pallets,* in the reverse direction. (Hearing site: Nashville, TN.)

MC 146782 (Sub-No. 12F), filed August 20, 1979. Applicant: ROBERTS CONTRACT CARRIER CORPORATION, 300 First Avenue, South, Nashville, TN 37201. Applicant's representative: Stephen L. Edwards, 806 Nashville Bank & Trust Building, Nashville, TN 37201. Transporting (1) *iron and steel articles,* and (2) *equipment, materials and supplies* used in the manufacture of iron and steel articles (except commodities in bulk), between the facilities of Weirton Division of National Steel Corp., at (a) Weirton, WV, and (b) Steubenville, OH, on the one hand, and, on the other, points in AL, AR, FL, GA, KY, LA, MS, NC, SC, and TN, restricted to the transportation of traffic originating at or destined to the above named facilities. (Hearing site: Nashville, TN or Weirton, WV.)

MC 147203 (Sub-No. 4F), filed August 7, 1979. Applicant: HUDSON PRODUCTS, INC., P.O. Box 142, Hudson, WI 54016. Applicant's representative: Grant J. Merritt, 4444 IDS Center, Minneapolis, MN 55402. Transporting *gummed paper, plastic film,* and *aluminum foil* from points in OH on, north, or east of a line beginning at the PA–OH State line and extending along Interstate Hwy. 76 to its junction with Interstate Hwy. 77, then north along Interstate Hwy. 77 to its junction with Interstate Hwy. 90, then east along Interstate Hwy. 90 to its junction with U.S. Hwy. 20, and then east along U.S. Hwy. 20 to the OH–PA State line to Sioux Falls, SD, and points in MN and WI. (Hearing site: Minneapolis, and St. Paul, MN.)

MC 147372 (Sub-2F), filed August 20, 1979. Applicant: WILLIAM A. NISKANEN d.b.a. BURNS—JOHN DAY BUS SERVICE, 1068 N.W. Bond Street, Bend, OR 97701. Representative: Earle V. White, 2400 S.W. Fourth Avenue, Portland, OR 97201. Transporting *passengers* and their baggage, and express and newspapers in the same vehicle with passengers, between Burns and John Day, OR, from Burns over US Hwy 20 to junction US Hwy 395, then over US Hwy 395 to John Day, and return over the same route, serving the intermediate point of Seneca, OR. (Hearing site: Portland, OR.)

MC 147552 (Sub-1F), filed August 7, 1979. Applicant: CAJUN CARTAGE AND WAREHOUSING CORP., St. Louis St., New Orleans, LA 70150. Representative: Thomas N. Willess, 1000 16th St., NW., Washington, DC 20036. Transporting *pulpboard, fiberboard, paper bags, plastic bags, and wrapping paper* from Hodge, LA, to Lake Charles, LA, restricted to the transportation of traffic having a subsequent movement by water. (Hearing site: New Orleans, LA.)

MC 148062F, filed August 7, 1979. Applicant: FAR WEST EXPRESS, INC., 2323 Federal Way, Boise, ID 83705. Representative: Irene Warr, 430 Judge Building, Salt Lake City, UT 84111. Transporting *general commodities* (except articles of unusual value, classes A & B explosives, commodities in bulk, household goods as defined by the Commission, and commodities requiring the use of special equipment) from points in Ada and Canyon Counties, ID, to points in Malheur County, OR, and Payette, Gem, Canyon, Ada, Elmore, and Owyhee Counties, ID, restricted to traffic having an immediately prior movement by rail. (Hearing site: Boise, ID.)

MC 148112, filed August 17, 1979. Applicant: MEACHAM'S WRECKER SERVICE, INC., 2802 West McCarty Street, Indianapolis, IN 46221. Representative: Thomas F. Quinn, 1301 First Federal Building, Indianapolis, IN 46204. Transporting (1) *disabled and repossessed motor vehicles,* (2) *replacement vehicles* for disabled motor vehicles, and (3) *motor vehicle parts, and supplies* used in connection with wrecked or disabled vehicles, by the use of wrecker equipment only, between Indianapolis, IN, on the one hand, and, on the other, points in MO, IL, WI, MI, KY, OH, TN, PA and WV. (Hearing site: Indianapolis, In or Chicago, IL.)

MC 148123F, filed August 16, 1979. Applicant: A & W TRUCK SERVICE, INC., Route 4, Siloam Springs, AR 72761. Representative: Tom B. Kretsinger, 20 East Franklin, Liberty, MO 64068. Transporting *grill accessories, revolving chairs, gymnasim apparatus, skooters*

and games and *toys,* from the facilities of Turco Manufacturing Company at or near DuQuoin and Williamson County, IL to points in AZ, CA, OK, OR, and WA (Hearing site: Little Rock, AR.)

MC 148323 (Sub-1F), filed August 17, 1979. Applicant: A. B. & K. TRUCKING, INC., 5535 Walter Ave., Hammond, IN 46320. Representative: Donald W. Smith, P.O Box 40248, Indianapolis, IN 46240. Transporting (1) *void fillers,* from the facilities of Down River Forest Products Division of Graf Company at or near Dixmoor, IL to ponts in MI, IN, OH, WI, KY, MN, IA and MO, and (2) *materials and equipment,* used in the manufacture and distribution of void fillers, in the reverse direction, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL.)

MC 148572F, filed August 17, 1979. Applicant: EUGENE K. WERCH d.b.a. E W Express, Route 2, Box 312A, Berlin, WI 54923. Representative: David V. Purcell, 111 East Wisconsin Avenue, Milwaukee, WI 53202. Transporting *such commodities* as are dealt in and used by wholesale and retail drug, grocery, and food business houses, from Bedford Park, IL, and Milwaukee, WI, to Menominee, MI, and points in Adams, Brown, Calumet, Columbia, Dane, Dodge, Door, Fond du Lac, Green, Green Lake, Jefferson, Juneau, Kenosha, Kewaunee, LaCrosse, Langlade, Lincoln, Manitowoc, Marathon, Marinette, Marquette, Menominee, Milwaukee, Oconto, Oneida, Outagamie, Ozaukee, Portage, Racine, Rock, Sauk, Shawano, Sheboygan, Walworth, Washington, Waukesha, Waupaca, Waushara, Winnebago, and Wood Counties, WI. (Hearing site: Milwaukee, WI)

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Decided: Jan. 9, 1980

By the Commission, Review Board Number 2, Members Boyle, Eaton and Liberman. Boyle not participating.

MC 1395 (Sub-13F), filed July 30, 1979. Applicant: ALVAN MOTOR FREIGHT, INC., 3600 Alvan Road, Kalamazoo, MI 49001. Representative: John C. Scherbarth, Sullivan and Leavitt, P.C., 22375 Haggerty Road, P.O. Box 400, Northville, MI. 48167. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over *regular routes* transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Three Rivers and Constantine, MI, over U.S. Hwy 131, serving all intermediate points. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 4484 (Sub-12F), filed July 26, 1979. Applicant: CROWN TRANSPORT, INC., R.D. #2, Wampum, PA 16157. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *cylinders, machinery, machinery parts and commodities* which because of their size or weight require the use of special equipment, between the facilities of Finch Manufacturing Company at or near West Pittston, PA, 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. Condition: The person or persons who appear to be engaged in common control of of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 20 days from the date of publication. (Hearing site: Scranton or Philadelphia, PA.)

MC 4484 (Sub-13F), filed July 30, 1979. Applicant: CROWN TRANSPORT, INC., R.D. #2, Wampum, PA 16157 Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *Cranes and crane parts,* from Douglasville, PA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the facilities of American Crane & Freight Equipment. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a), or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 20 days from the date of publication. (Hearing site: Scranton or Philadelphia, PA.)

MC 19945 (Sub-72F), filed July 26, 1979. Applicant: BEHNKEN TRUCK SERVICE, INC., Route #13, New Athens, IL 62264. Representative: Ernest A. Brooks II, 1301 Ambassador Bldg., St. Louis, MO 63101. Transporting *coke,* in bulk, from the facilities of Great Lakes Carbon Corporation, Missouri Coke and Chemical Division, at St. Louis, MO, to points in IL, IN, IA, MI, MN, and WI. (Hearing site: St. Louis, MO.)

MC 24784 (Sub-36F), filed August 1, 1979. Applicant: BARRY, INC., 463 South Water, Olathe, KS 66061. Representative: Arthur J. Cerra, 2100 Ten Main Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *petroleum products,* in containers, from Kansas City, MO, to points in CO, WY, NM, NE, KS, OK, TX, MI, MN, IL, and WI. (Hearing site: Kansas City, MO.)

MC 26825 (Sub-40F), filed July 30, 1979. Applicant: ANDREWS VAN LINES, INC., P.O. Box 1609, Norfolk, NE 68701. Representative: J. Max Harding, P.O. Box 82028, Lincoln, NE 68501. Transporting *air circulating equipment,* from the facilities of Lasko Metal Products, Inc., at or near Franklin, TN, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named origins. (Hearing site: Nashville, TN.)

MC 27754 (Sub-21F), filed July 26, 1979. Applicant: FRANK J. KUBLY TRANSFER, INC., P.O. Box 135, Monroe, WI 53566. Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Transporting (1) *cheese,* in vehicles equipped with mechanical refrigeration, from Winsted, Pine Island, Zumbrota, Rochester, Watkins, and Bongards, MN, to Monroe, Mayville, Mosinee, Waupaca, Manitowoc, Kaukauna, Plymouth, Spencer, Green Bay, Marshfield, Wisconsin Rapids, and Fremont, WI, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of cheese, in the reverse direction. (Hearing site: Madison or Milwaukee, WI.)

MC 30844 (Sub-651F), filed June 29, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes (same address as applicant). Transporting *meats, meat products,* and *meat byproducts,* and articles distributed *by meat-packing houses* 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 (except hides and commodities in bulk), from the facilities of Wilson Foods Corporation, at Cedar Rapids, IA, to points in IL, and Kenosha and Racine, WI, restricted to the transportation of traffic originating at the above named origins and destined to the named destinations. (Hearing site: Kansas City, MO.)

MC 30844 (Sub-52F), filed June 29, 1979. Applicant: KROBLIN REFRIGERATED XPRESS, INC., P.O. Box 5000, Waterloo, IA 50704. Representative: John P. Rhodes, P.O. Box 5000, Waterloo, IA 50704. Transporting (1) *such commodities* as are dealt in by retail and discount department stores (except foodstuffs, commodities in bulk, new furniture, new commercial and institutional fixtures, new household fixtures, and appliances, and new household and office furnishings), and (2) *new furniture, new commercial and institutional fixtures,*

new household fixtures and *appliances,* and *new household and office furnishings,* in mixed loads with the commodities described in (1) above, (1) from points in CO, NE, ND, OK, SD, and TX, to points in IL, IA, MN, MO, WI, and (2) from those points in the United States in and east of IN, KY, TN, MS, and LA, to points in CO, IL, IA, MN, MO, NE, ND, OK, SD, TX, and WI, restricted in (1) and (2) to the transportation of traffic originating at or destined to the facilities of Target Stores, Inc. (Hearing: St. Paul, MN.)

MC 44735 (Sub-44F), filed July 30, 1979. Applicant: KISSICK TRUCK LINES, INC., 7101 East 12th Street, Kansas City, MO 64126. Representative: William B. Barker, 641 Harrison Street, Topeka, KS 66603. Transporting *iron and steel articles,* from Butler, WI, to points in IA, IL and MO. (Hearing site: Kansas City, MO.)

MC 49304 (Sub-36F), filed August 1, 1979. Applicant: BOWMAN TRUCKING CO., INC., P.O. Box 6, Stephens City, VA 22655. Representative: Gary E. Thompson, 4304 East-West Highway, Washington, DC 20014. Transporting *coal residues,* from points in the District of Columbia, to points in Frederick County, MD, and Frederick County, VA. (Hearing site: Washington, DC.)

MC 52704 (Sub-236F), filed June 29, 1979. Applicant: GLENN McCLENDON TRUCKING COMPANY, INC., P.O. Box Drawer "H", LaFayette, AL 36862. Representative: Archie B. Culbreth, Suite 202, 2200 Century Parkway, Atlanta, GA 30345. Transporting (1) *containers* and *pulpboard,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk, in tank vehicles), between those points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Container Corporation of America. (Hearing site: Atlanta, GA.)

MC 53965 (Sub-159F), filed July 30, 1979. Applicant: GRAVES TRUCK LINE, INC., P.O. Drawer 1387, Salina, KS 67401. Representative: Bruce A. Bullock (same as applicant). Transporting *meats, meat products, meat by-products and articles distributed by meat packinghouses* as described in Sections A and C 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 Swift and Company, at Guymon, OK, to points in LA and MS. (Hearing site: Chicago, IL or Kansas City, KS.)

MC 56244 (Sub-87F), filed July 30, 1979. Applicant: KUHN TRANSPORTATION COMPANY, INC., P.O. Box 98, R.D. #2, Gardners, PA 17324. Representative: John M. Musselman, P.O. Box 1146, 410 North Third Street, Harrisburg, PA 17108. Transporting *such commodities* as is dealt in by grocery and food business houses (except commodities in bulk), (1) from the facilities of Hunt-Wesson Foods, Inc., at Chicago, IL, to Dayton, McComb and Rossford, OH and (2) between the facilities of Hunt-Wesson Foods, Inc., at (a) Chicago, IL, (b) Valparaiso, and Austin, IN, (c) Rossford, OH, (d) Bayonne, and Jersey City, NJ, and (e) Camp Hill, PA. (Hearing site: Harrisburg, PA, or Washington, DC.)

MC 58035 (Sub-21F), filed July 26, 1979. Applicant: TRANS-WESTERN EXPRESS, LTD., 48 East 56th Avenue, Denver, CO 80216. Representative: Thomas J. Burke, Jr., 1600 Lincoln Center Building, 1660 Lincoln Street, Denver, CO 80264. Transporting *scrap metals,* from the facilities of Liss Metals, Inc., in Larimer and Weld Counties, CO, to Chicago and Joliet, IL. (Hearing site: Denver, CO.)

MC 59625 (Sub-7F), filed August 1, 1979. Applicant: DELAWARE TRUCKING COMPANY, INC., 301 West Seymour Street, Muncie, IN 47305. Representative: Norman R. Garvin, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting *Automotive parts and automotive machinery,* from the facilities of the Chrysler Corporation, at or near Kokomo, IN, to Detroit, MI. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 61825 (Sub-111F), filed July 2, 1979. Applicant: ROY STONE TRANSFER CORPORATION, V. C. Drive, Post Office Box 385, Collinsville, VA 24078. Representative: John D. Stone (same address as applicant). Transporting *such commodities as are dealt in by manufacturers of (a) glassware, (b) chinaware, and (c) plastic and metal products,* between these points in the United States in and east of MN, IA, MO, OK, and TX, restricted to the transportation of traffic originating at or destined to the facilities of Anchor Hocking Corporation, Amerock Corporation, Moldcraft, Inc., and The Phoenix Glass Company. (Hearing site: Washington, DC.)

MC 82735 (Sub-5F), filed July 27, 1979. Applicant: HUDSON-BERGEN TRUCKING CO., 200 Central Ave., Teteboro, NJ 07608. Representative: Charles J. Williams, 1815 Front St., Scotch Plains, NJ 07076. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *such commodities* as are dealt in by department stores (except commodities in bulk), between the facilities of Marschall Warehouse Company, at Teterboro and South Hackensack, NJ, on the one hand, and, on the other, points in DE, IL, IN, ME, MD, MI, NH, OH, VT, VA, WV, and DC, under continuing contract(s) with Marschall Warehouse Company, of Teterboro, NJ. (Hearing site: Newark, NJ, or New York, NY.)

MC 95084 (Sub-147F), filed July 30, 1979. Applicant: HOVE TRUCK LINE, Stanhope, IA 50246. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 E. Main St., Ottumwa, IA 52501. Transporting (1) *irrigation systems,* (2) *parts* for *irrigation systems,* (3) *solar energy systems, fuel burning heating appliances,* (4) *parts and accessories* used in the installation, operation, and maintenance of the commodities in (3) above, (5) *pipe, tubing, and poles,* (6) *materials, equipment and supplies* used in the installation and maintenance of the commodities in (5) above, (7) *iron and steel articles,* (8) *materials, equipment, and supplies* used in the manufacture and assembly of the commodities described in (1) through (7) above, (9) *used irrigation systems and parts* for used irrigation systems, between the facilities of Valmont Industries, Inc., at or near Valley, NE, 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. (Hearing site: Omaha, NE or Kansas City, MO.)

MC 106674 (Sub-411F), filed July 30, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson (same address as applicant). Transporting *iron and steel articles* (except commodities in bulk), from the facilities of Southwestern Ohio Steel Company, Inc., in Butler County, OH, to points in AL, GA, IL, IN, KY, AR, LA, MI, MS, MO, NC, SC, TN, and WV. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 106674 (Sub-435F), filed August 1, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L. Johnson, P.O. Box 123, Remington, IN 47977. Transporting *iron and steel articles* (except commodities in bulk), from the facilities of Atlantic Steel Company, at Atlanta and Cartersville, GA, to points in IL, IN, KY, OH, and PA. (Hearing site: Chicago, IL, or Indianapolis, IN.)

MC 106674 (Sub-438F), filed July 30, 1979. Applicant: SCHILLI MOTOR LINES, INC., P.O. Box 123, Remington, IN 47977. Representative: Jerry L.H. Johnson (same address as applicant).

Transporting (1) *zinc, zinc alloys, and zinc products,* from the facilities of Jersey Miniere Zinc Company, at Clarksville (Montgomery County), TN, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX; and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, (except commodities in bulk), in the reverse direction.

MC 107934 (Sub-31F), filed July 31, 1979. Applicant: BYRD MOTOR LINE, INCORPORATED, Box 787, Lexington, NC 27292. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425 13th Street NW., Washington, DC 20004. Transporting *household applicances,* from Grand Rapids and Greenville, MI, to Richmond, Altavista, Collinsville, and Roanoke, VA. (Hearing site: Washington, DC or Charlotte, NC.)

MC 110525 (Sub-1305F), filed August 1, 1979. Applicant: CHEMICAL LEAMAN TANK LINES, INC., 520 East Lancaster Ave., Downingtown, PA 19335. Representative: Thomas J. O'Brien (same address as applicant). Transporting *plastic pellets,* in bulk, in tank vehicles, from the facilities of Gulf Oil Company, at Riverview, OH, to points in AL, CT, DE, IL, IN, KY, LA, MD, MA, MI, MN, MO, NJ, NY, NC, OH, PA, SC, TN, VA, WI, and WV. (Hearing site: Houston, TX.)

Note.—Dual operations may be involved.

MC 112304 (Sub-206F), filed July 27, 1979. Applicant: ACE DORAN HAULING & RIGGING CO., a corporation, 1601 Blue Rock Street, Cincinnati, Ohio 45223. Representative: John D. Herbert (same address as applicant). Transporting (1) *steel buildings and parts for steel buildings* from the facilities of Republic Buildings Corp., at or near Rainsville, AL, to points in AR, FL, GA, IL, IN, KS, KY, LA, MD, MS, MO, NC, OH, OK, PA, SC, TN, TX, VA and WV, and (2) *equipment, materials, and supplies* (except commodities in bulk), used in the manufacture and distribution of commodities in (1) above, in the reverse direction. (Hearing site: Columbus, OH, or Washington, DC.)

MC 113434 (Sub-142F), filed July 30, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Ave., Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting (1) *such commodities* as are dealt in or used by food processors, between points in IA, IL, IN, KY, MI, MO, OH, PA, and WI, and points in NY on and west of Interstate Hwy 81, restricted to the transportation of traffic originating at or destined to the facilities of Mrs. Smith's Pie Company, and (2) *frozen foods,* from Lake City, PA, to points in IL, IN, and MI, and Plover, WI, restricted to the transportation of traffic originating at the facilities of Ore-Ida Foods, Inc., at Lake City, PA, and destined to the named destinations. (Hearing site: Detroit, MI, or Washington, DC.)

MC 113434 (Sub-143F), filed July 30, 1979. Applicant: GRA-BELL TRUCK LINE, INC., A–5253 144th Ave., Holland, MI 49423. Representative: Wilhelmina Boersma, 1600 First Federal Bldg., Detroit, MI 48226. Transporting *such commodities* as are dealt in or used by food processors, between points in IL, IN, IA, KY, MI, MO, NY, OH, PA, WV, and WI, restricted to the transportation of traffic originating at or destined to the facilities of Kellogg Company, (2) *foodstuffs* (except in bulk), from Bridgeport, Imlay City, and Memphis, MI, to points in IL, IN, OH, PA, KY, and WV, and points in that portion of NY on and west of Interstate Hwy 81, restricted to the transportation of traffic originating at the facilities of Vlasic Foods, Inc., and destined to the named destinations, and (3) *prepared animal feed* (except in bulk), from Holland and Hamilton, MI, to St. Louis, MO, and points in IL, IN, OH, PA, NY, and NJ, restricted to the transportation of traffic originating at the facilities of Hi-Life Packing Company, and destined to the named destinations. (Hearings site: Detroit of Lansing, MI.)

MC 114334 (Sub-57F), filed July 27, 1979. Applicant: BUILDERS TRANSPORTATION COMPANY, a corporation, 3710 Tulane, Memphis, TN 38116. Representative: Dale Woodall, 900 Memphis Bank Building, Memphis, TN 38103. Transporting *iron* and *steel articles,* from St. Louis, MO, to points in IL, AR, MS, and TN. (Hearing site: St. Louis, MO.)

MC 116164(Sub-13F), filed July 27, 1979. Applicant: ARROW TANSPORTATION CO., a corporation, 1911 NE. 58th Avenue, Des Moines, IA 50313. Representative: Thomas E. Leahy, Jr., 1980 Financial Center, Des Moines, IA 50309. To operate as a contract carrier by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *brick, tile* and *clay products* (except commodities in bulk) (1) from Sergeant Bluff, IA to points in WI and IL and (2) from Des Moines and Adel, IA to points in KS, under continuing contracts in (1) and (2) above, with United Brick and Tile Co., Ballou Brick Co., Sioux City Brick Co., and Minnesota Brick & Tile Co. (Hearing site: Omaha, NE, or Kansas City, MO.)

MC 116254 (Sub-287F), filed August 1, 1979. Applicant: CHEM-HAULERS, INC., 118 East Mobile Plaza, Florence, AL 35630. Representative: Hampton M. Mills (same address as applicant). Transporting *chemicals,* in bulk, in tank vehicles, between the facilities of Dow Chemicals U.S.A., in Brazoria County, TX, on the one hand, and, on the other, points in AL, GA, TN, FL, MS, LA, AR, NC, SC, KY, VA, WV, IN, MO, KS, IA, WI, MN, MI, OH, PA, NJ, NY, and IL. (Hearing site: Washington, DC, or Houston, TX.)

MC 116915 (Sub-95F), filed July 26, 1979. Applicant: ECK MILLER TRANSPORTATION CORP., Rt. No. 1, P.O. Box 248, Rockport, IN 47635. Representative: Fred F. Bradley, P.O. Box 773, Frankfort, KY 40602. Transporting *iron* and *steel articles,* between the facilities of Midwest Steel, Division of National Steel Corp., at Portage, IN, on the one hand, and, on the other, points in KY, AL, GA, and MS. (Hearing site: Chicago, IL, or Louisville, KY.)

MC 119274 (Sub-4F), filed June 29, 1979. Applicant: LEWIS & THOMPSON TRUCKING, INC., Montgomery City, MO 63361. Representative: Thomas P. Rose, P.O Box 205, Jefferson City, MO 65102. Transporting (1) *animal and poultry feed and animal and poultry feed ingredients,* (1) *animal health aids,* and (3) *animal sanitation products,* between the facilities of Allied Mills, Inc., at or near East St. Louis, IL, on the one hand, and, on the other, Mason City, IA, and those points in MO, on and east of U.S. Hwy 63. (Hearing site: Jefferson City or St. Louis, MO.)

MC 123255 (Sub-211F), filed July 26, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). Transporting (1) *kitchen cabinets,* and *dressing tables,* and (2) *materials, equipment, and supplies* used in the installation of the commodities in (1) above, from the facilities of DelMar, a Division of Triangle Pacific Corp., at or near Union City, IN, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and DC. (Hearing site: Columbus, OH.)

MC 123744 (Sub-1F), filed July 2, 1979. Applicant: BUTLER TRUCKING COMPANY, a corporation, P.O. Box 88, Woodland, PA 16881. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting *refractories,* and *materials and supplies* used in the manufacture of refractories, (1) between the facilities of A. P. Green Refractories Co., at or near (a) Jackson and Oak Hill, OH, (b)

Bessemer and Kimberly, AL, (c) Macon, GA, (d) Sulphur Springs, TX, and (e) Tarentum and Climax, PA, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, KS, and NM; (2) between the facilities of A. P. Green Refractories Co., at or near East Greenville, OH, on the one hand, and, on the other, points in TX, LA, AR, MS, AL, GA, FL, NC, OK, IA, MN, WI, and SC. (Hearing site: Washington, DC, or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 125254 (Sub-67F), filed August 3, 1979. Applicant: MORGAN TRUCKING CO., a corporation, P.O. Box 714, Muscatine, IA 52761. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting (1) *canned and preserved foodstuffs,* from the facilities of Heinz USA, a division of H. J. Heinz Co., at or near Muscatine and Iowa City, IA, to the facilities of Heinz USA, a division of H. J. Heinz Co., at or near (a) Toledo, OH, and (b) Pittsburgh, PA, and (2) *canned and preserved foodstuffs, and empty foodstuffs containers,* from the facilities of Heinz USA, a division of H. J. Heinz Co., at or near Holland, MI, to the facilities of Heinz USA, a division of H. J. Heinz Co., at or near Muscatine and Iowa City, IA, restricted in (1) and (2) to the transportation of traffic originating at and destined to the named facilities. (Hearing site: Pittsburgh, PA.)

MC 125335 (Sub-74F), filed July 27, 1979. Applicant: GOODWAY TRANSPORT, INC., P.O. Box 2283, York, PA 17405. Representative: Gailyn L. Larsen, P.O. Box 82816, Lincoln, NE 68501. Transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration (except commodities in bulk, in tank vehicles), from the facilities of M&M/MARS, at or near Cleveland, TN, to points in GA, IL, WI, and MN. (Hearing site: Philadelphia or Harrisburg, PA.)

Note.—Dual operations may be involved.

MC 126844 (Sub-85F), filed July 2, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, 1501 E. Main Street, P.O. Box 279, Ottumwa, IA 52501. Transporting *food and food products* (except frozen foods and commodities in bulk), from the facilities of Globe Products Company, Inc. at Clifton, NJ, to points in AL, AR, CO, CT, DE, FL, GA, IA, IL, IN, KS, KY, LA, MA, MD, MI, MN, MO, MS, NC, NE, NJ, NY, OH, OK, PA, RI, SC, TN, TX, VA, WI, and WV. (Hearing site: Newark, NJ, or Washington, DC.)

MC 127705 (Sub-89F), filed July 30, 1979. Applicant: KREVDA BROS. EXPRESS, INC., P.O. Box 68, Gas City, IN 46933. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *glass containers,* from the facilities of Pierce Glass Co., at (a) Port Allegheny, PA. and (b) Lincoln, IL, to St. Louis, MO, and points in NY, NJ, MO, WV, OH, MI, IL, IN, and KY. (Hearing site: Washington, DC.)

MC 129974 (Sub-17F), filed July 2, 1979. Applicant: THOMPSON BROS., INC., 3604 Hovland Drive, Sioux Falls, SD 57101. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To operate as a *contract* carrier, by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *pipe, pipe fittings, couplings,* and *building materials* and (2) *materials and supplies* used in the installation of the commodities named in (1) above, from the facilities of Certain-Teed Corporation, at or near McPherson, KS, to points in ND, SD, and MN, under continuing contract(s) with Certain-Teed Products Corporation. (Hearing site: Washington, DC.)

MC 133095 (Sub-269F), filed August 1, 1979. Applicant: TEXAS CONTINENTAL EXPRESS, INC., P.O. Box 434, Euless, TX 76039. Representative: Kenneth R. Hoffman, 801 Vaughn Building, Austin, TX 78701. Transporting *woven synthetic fabric,* (except in bulk, in tank vehicles), from Houston, TX, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 133655 (Sub-167F), filed July 30, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting (1) *fiberglass rovings, woven rovings, chopped strands* and *mats,* (2) *reinforcements* for the commodities in (1) above, and (3) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above, between points in TX, on th one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 133655 (Sub-168F), filed July 30, 1979. Applicant: TRANS–NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX, 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting *Such commodities* as are used in the construction and operation of nuclear power plants, between point in Rogers County, OK, on and south of OK Hwy 33, on the one hand, and, on the other, points in the United States in and west of ND, SD, NE, KS, OK, and TX (except AK and HI). (Hearing site: Chicago IL.)

MC 133965 (Sub-12F), filed July 26, 1979. Applicant: CALZONA TRANSPORTATION, INC., P.O. Box 6558, Phoenix, AZ 85005. Representative: William J. Lippman, Suite 330 Steele Park, 50 South Steele Street, Denver, CO 80209. Transporting *tallow,* in bulk, in tank vehicles, from the facilities of Iowa Beef Processors, Inc., at or near Amarillo, TX to points in AZ, CA and NV, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Omaha, NE or Sioux City, IA.)

MC 133975 (Sub-9F), filed July 26 1979. Applicant: FLAMINGO TRANSPORTATION, INC., 11405 N.W. 36th Ave., Miami, FL 33167. Representative: Richard B. Austin, 5255 N.W. 87th Ave., Suite 214, Miami, FL 33178. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, those requiring special equipment, and mobile homes), which are at the time moving on bills of lading of freight forwarders under 49 U.S.C. § 10102(8) between points in Escambia, Leon, and Duval Counties, FL, on the one hand, and, on the other, points in Escambia, Santa Rosa, Okaloosa, Walton, Holmes, Washington, Bay, Jackson, Calhoun, Liberty, Gulf, Gadsden, Franklin, Wakulla, Leon, Jefferson, Madison, Taylor, Hamilton, Suwannee, Lafayette, Dixie, Levy, Gilchrist, Columbia, Baker, Union, Bradford, Alachua, Putnam, Flagler, St. Johns, Clay, Duval and Nassau Counties, FL. (Hearing site: Miami or Jacksonville, FL.)

MC 135215–7F filed July 30 1979. Applicant: BULK TRANSPORTATION, 415 Lemon Avenue, Walnut, CA 91789. Representative: Melvin G. Thurman, 415 Lemon Avenue, Walnut, CA 91789. Transporting *dry fertilizers and agricultural chemicals,* from points in CA, to points in AZ and NV. (Hearing site: Los Angeles, CA.)

MC 135614 (Sub-2F), filed June 20, 1979. Applicant: ESKELIN, INC., 4604 Wornall Rd., Kansas City, MO 64112. Representative: Max G. Morgan, 1503 E. 19th St., P.O. Box 1540, Edmond, OK 73034. 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 manufacturers and distributors of chemicals (except commodities in bulk), (1) between Kansas City, MO, and points in OK, KS, MO, TN, KY, OH, IN, IL, WI, MN, IA,

ND, SD, NE, CO, FL, and MI, and (2) between points in TX, LA, AR, MS, AL, and GA, on the one hand, and, on the other, points in OK, KS, MO, IN, KY, OH, TN, IL, WI, MN, IA, ND, SD, NE, CO, FL, and MI, under continuing contract(s) in (1) and (2) above with (a) Thompson-Hayward Chemical Company of Kansas City, KS, and (b) Mobay Chemical Corporation, Agricultural Chemical Division, of Kansas City, MO. (Hearing site: Kansas City, MO, or Denver, CO.)

MC 135895 (Sub-47F), filed July 30, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Station, Jackson, MS 39204. Representative: Harold H. Mitchell, Jr., P.O. Box 1295, Greenville, MS 38701. Transporting (1) *carbonated beverages, in containers,* and (2) *materials, equipment and supplies* used in the manufacture and distribution of carbonated beverages (except commodities in bulk), between the facilities of Shasta Beverage Company, Inc., at or near (a) Birmingham, AL and (b) Houston, TX, on the one hand, and, on the other, points in AL, FL, LA, MS, and TN. (Hearing site: Houston, TX, or Birmingham, AL.)

MC 136545 (Sub-28F), filed August 1, 1979. Applicant: NUSSBERGER BROS. TRUCKING CO., INC., 929 Railroad St., Prentice, WI 54556. Representative: Richard A. Westley, 4506 Regent St., Suite 100, Madison, WI 53705. Transporting *iron* and *steel articles,* from the facilities of Jones & Laughlin Steel Corporation, at or near Aliquippa and Pittsburgh, PA, to points in WI and MN. (Hearing site: Milwaukee, WI, or Chicago, IL.)

MC 138104 (Sub-81F), filed July 30, 1979. Applicant: MOORE TRANSPORTATION CO., INC., 3509 N. Grove St., Fort Worth, TX 76106. Representative: Bernard H. English, 6270 Firth Road, Fort Worth, TX 76116. Transporting (1) *cement asbestos pipe,* and (2) *fittings* and *accessories* for cement asbestos pipe, from Ragland, AL, to points in TX. (Hearing site: Dallas or Ft. Worth, TX.)

MC 139495 (Sub-467F), filed June 29, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting (1) *frozen foodstuffs,* from the facilities of Morton Frozen Foods, Division I.T.T. Continental Baking Co., Inc., at or near (a) Crozet, VA and (b) Searcy and Russellville, AR, to points in AZ, CA, CT, DE, FL, GA, IN, KS, KY, LA, ME, MD, MA, MI, NE, NH, NJ, NY, NC, OH, PA, RI, SC, UT, VT, VA, and WV; and (2) *materials and supplies* used in the manufacture of frozen foodstuffs, from points in the United States (except AK and HI), to the facilities of Morton Frozen Foods, Division I.T.T. Continental Baking Co., Inc., at or near (a) Crozet, VA and (b) Searcy and Russellville, AR. (Hearing site: Washington, DC.)

MC 139495 (Sub-475F), filed July 30, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. Transporting *petroleum products* (except in bulk), from Kansas City, MO, to points in AL, CO, GA, IL, IN, KS, KY, LA, MI, MN, MS, NE, NM, OH, OK, TN, TX, WI, and WY. (Hearing site: Washington, DC.)

MC 140024 (Sub-157F), filed July 30, 1979. Applicant: J. B. MONTGOMERY, INC., 5565 East 52nd Avenue, Commerce City, CO 80022. Representative: Don Bryce (same address as applicant). Transporting *foodstuffs* (except in bulk), between Hillsdale, MI, on the one hand, and, on the other, City of Industry, CA, and points in CO. (Hearing site: Denver, CO, or Washington, DC.)

MC 140484 (Sub-51F), filed July 26, 1979. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). Transporting (1) *malt beverages* (except in bulk), from the facilities of Miller Brewing Company, at or near Albany, GA, to points in AL, FL, NC, and SC, and (2) *materials, supplies, and equipment* used in the manufacture and distribution of malt beverages from points in IN, OH, PA, NJ, and NY, to the origin facilities named in (1) above. (Hearing site: Atlanta, GA, or Washington, DC.)

MC 141774 (Sub-28F), filed July 27, 1979. Applicant: R & L TRUCKING CO., INC., 105 Rocket Avenue, Opelika, AL 36801. Representative: Robert E. Tate, P.O. Box 517, Evergreen, AL 36401. Transporting *(1) Petroleum, petroleum products, vehicle body sealer, and sound deadener compounds (except commodities in bulk, in tank vehicles), and filters,* from points in Warren County, MS, to AL, FL and GA on and south of U.S. Hwy 80; and *(2) Petroleum, petroleum products, vehicle body sealer, and sound deadener compounds, filters, materials, supplies, and equipment* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction restricted in both (1) and (2) above to the transportation of traffic originating at or destined to the facilities of Quaker State Oil Refining Corporation, in Warren County, MS. (Hearing site: Washington DC.)

MC 141804 (Sub-266F), filed July 26, 1979. Applicant: WESTERN EXPRESS, DIVISION, of INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman (same address as applicant). Transporting *beverages,* from Evansville, IN and Perry, GA, to Nashville, TN (Hearing site: Los Angeles or San Francisco, CA.)

MC 141914 (Sub-61F), filed July 26, 1979. Applicant: FRANKS AND SON, INC., Route 1, Box 108A, Big Cabin, OK 74332. Representative: Kathrena J. Franks (same address as applicant). Transporting *paper* and *paper products,* from Dummerston, Bellows Falls and Putney, VT, to points in the United States except CA, CO, FL, GA, IA, KY, MD, OH, SC, TN, TX, UT, VA, AK, and HI. (Hearing site: Portland, ME.)

MC 143815 (Sub-8F), filed July 30, 1979. Applicant: R & D TRUCKING CO., INC., Church Rd., Lauderdale Industrial Park, Florence, AL 35630. Representative: Roland M. Lowell, 618 United American Bank Bldg., Nashville, TN 37219. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *adhesives, sealants, solvents, stains, and preservatives,* (2) *materials, equipment, and supplies* used in the installation and application of the commodities in (1) above, and (3) *carpeting, molding, wood trim,* and *equipment and supplies* used in the installation of flooring, (a) between the facilities of Roberts Consolidated Industries at or near (i) Dayton, OH, (ii) Kalamazoo, MI, (iii) Vancouver, WA, and (iv) Los Angeles CA, and (b) from the facilities named in (a) above, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX, under continuing contract(s) with Roberts Consolidated Industries. (Hearing site: Los Angeles, CA, or Nashville, TN.)

MC 144535 (Sub-1F), filed August 1, 1979. Applicant: ROBERT P. PEDIGO, INC., 611 W. Township Line Road, Plainfield, IN 46168. Representative: Walter F. Jones, Jr., 601 Chamber of Commerce Bldg., Indianapolis, IN 46204. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *dry fertilizer,* in bulk, from Cincinnati, OH, to those points in IN on and south of IN Hwy 26, under continuing contract(s) with Indiana Farm Bureau Cooperative Association, Inc., of Indianapolis, IN. (Hearing site: Washington, DC.)

MC 145094 (Sub-4F), filed July 2, 1979. Applicant: BOBBY KITCHENS, INC., P.O. Box 6161, Jackson, MS 39208. 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 (1) *tile,* from Houston, MS, to points in AZ, CA, CO, ID, MT, NM, NV, OR, TX, UT, and WA; and (2) *soapstone,* in bags, from Riverside and VanHorn, TX, to Houston, MS, under continuing contract(s) in (1) and (2) with Spartek, Inc., Gulf States Ceramic Tile Division, of Houston, MS. (Hearing site: Jackson, MS, or Tupelo, MS.)

MC 145224 (Sub-7F), filed July 22, 1979. Applicant: ALL-CAL TOURS, INC., 1415 Sebastopol Road, Santa Rosa, CA 95401. Representative: Eldon M. Johnson, 650 California Street, Suite 2808, San Francisco, CA 94108. Transporting *passengers and their baggage,* in the same vehicle with passengers, in round-trip special and charter operations, beginning and ending at points in Lake and Mendocino Counties, CA, and extending to points in the United States (including AK, but excluding HI). (Hearing site: San Francisco, CA.)

MC 145815 (Sub-1F), filed July 28, 1979. Applicant: COBRA TRUCKING, INC., 132 Highway 80 West, P.O. Box 2137, Clinton, MS 39056. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting (1)(a) *glass beads, glass spheres and thermal plastic marking materials,* and (b) *materials, equipment and supplies* used in the installation of the commodities named in (1)(a) above (except commodities in bulk), from the facilities of Cataphote Div. of Ferro Corporation, at or near Jackson, MS, to points in CT, DE, IL, IN, KY, ME, MA, MI, NH, NJ, NY, OH, PA, RI, VT, VA, WV, and WI, and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk), in the reverse direction. (Hearing site: Jackson, MS.)

Note.—Dual operations may be involved.

MC 145894 (Sub-1F), filed July 30, 1979. Applicant: EQUIPMENT SUPPLIES, INC., 7736 West 62nd Place, Summit, IL 60501. Representative: Eugene L. Cohn, One North LaSalle St., Chicago, IL 60602. 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), in containers or trailers having an immediately prior or subsequent movement by water or rail, between Chicago, IL, on the one hand, and, on the other, points in IL, IN, IA, WI, and the lower peninsula of MI. (Hearing site: Chicago, IL.)

MC 145964 (Sub-1F), filed July 26, 1979. Applicant: MELBA S. POWELL, d.b.a. C.B.M. TRANSPORT, 922 South 2300 East, Salt Lake City, UT 84108. Representative: Harry D. Pugsley, 1283 East South Temple #501, Salt Lake City, UT 84102. Transporting (1) *water heaters,* from City of Industry, CA, to Las Vegas, NV, and points in Cache County, UT, (2) *oxymac,* from Gabbs, NV, to points in CA, and (3) *soda ash,* in bags, from the facilities of F.M.C. near Green River, WY, to points in CA. (Hearing site: Salt Lake City, UT.)

MC 146035 (Sub-3F), filed June 25, 1979. Applicant: SOUTHERN DRAYAGE, INC., 4223 Space Center Dr., P.O. Box 1983, Jackson, MS 39205. Representative: John A. Crawford, 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting, (1) *such commodities* as are dealt in or used by department stores (except commodities in bulk), from North Bergen, NJ, to points in Hinds County, MS and Montgomery and Mobile Counties, AL: (2)(a) *lawn mowers, rotary snow plows, lawn tractors, and garden tractors,* and (b) *parts, attachments, and accessories* for the commodities in (2)(a) above, from points in Lincoln County, MS, to points in AL, GA, IL, IN, KY, MA, MI, NJ, NY, NC, OH, PA, SC, TN, VA, and WI, and (3) *equipment, materials and supplies* used in the manufacture of the commodities named in (2) (a) and (b) above, from points in IL, IN, KY, MI, OH, TN, and WI, to points in Lincoln County, MS. (Hearing site: Jackson, MS.)

MC 146325 (Sub-2F), filed July 30, 1979. Applicant: J. H. SIMS TRUCKING COMPANY, INC., 505 South Palmetto Ave., Ontario, CA 91761. Representative: Richard C. Celio, 1415 West Garvey Ave., Suite 102, West Covina, CA 91790. Transporting *citrus products,* between Ontario and Corona, CA, on the one hand, and, on the other, Long Beach and Los Angeles, CA, restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Los Angeles, CA.)

MC 146654 (Sub-2F), filed July 27, 1979. Applicant: COMMUNITY MOVING & STORAGE CO., INC., Route 2, Box 839, Sinnston, WV 26431. Representative: John M. Friedman, 2930 Putnam Ave., Hurricane, WV 25526. Transporting *such commodities* as are dealt in by mail order houses and retail stores (except commodities in bulk), from Parkersburg, WV, to points in Athens, Meigs, Monroe, Morgan, Noble and Washington Counties, OH. (Hearing site: Charleston, WV.)

MC 147675 (Sub-1F), filed July 27, 1979. Applicant: DICKERSHOFF TRUCKING, INC., P.O. Box 116, Mentone, IN 46539. Representative: Robert A. Kriscunas, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting (1) *animal and poultry feeding and ventilation equipment,* and (2) *parts* for the commodities in (1) above, from the facilities of C.T.B. Corporation, at (a) Milford, IN, (b) Watkinsville, GA, and (c) Decatur, AL, to points in AR, CT, DE, FL, GA, IL, IN, IA, KS, KY, LA, MD, ME, MA, MI, MN, MS, MO, NE, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV, WI, and DC. (Hearing site: Indianapolis, IN, or Chicago, IL.)

MC 147904F, filed July 30, 1979. Applicant: BALLY CASE & COOLER, INC., Bally, PA 19503. Representative: Irving W. Coleman, 825 N. 12th St., Allentown, PA 18102. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *glass refrigerator and freezer doors,* from San Fernando, CA, to those points in the United States in and east of MN, WI, IL, KY, TN, MS, and LA, under continuing contract(s) with Anthony's Manufacturing Co., Inc., of San Fernando, CA. (Hearing site: Harrisburg, PA.)

MC 147915F, filed July 26, 1979. Applicant: RUSSO MOTOR EXPRESS, INC., P.O. Box 1929, Camden, NJ 08101. Representative: Leonard A. Jaskiewicz, 1730 M Street, N.W., Suite 501, Washington, DC 20036. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Able Warehousing and Distributing Company, Inc., at Camden and Beverly, NJ, on the one hand, and, on the other, points in CT, DE, MD, MA, NJ, NY, PA, RI, VA, and DC. (Hearing site: Washington, DC.)

MC 148074F, filed July 27, 1979. Applicant: FRUTH MOTOR TRUCK SERVICE, INC., 801 Howard St., St. Louis, MO 63102. Representative: Edward D. McNamara, Jr., 907 South Fourth St., Springfield, IL 62703. 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 manufacturers of containers (except commodities in bulk)

from the facilities of Brockway Glass Company, Inc., at or near (a) Zanesville and Columbus, OH, and (b) Rosemont, MN, to St. Louis, MO and Madison, IL, under continuing contract(s) with Brockway Glass Company, Inc. (Hearing site: Springfield, IL, or St. Louis, MO.)

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Decided: Jan. 31, 1980.

By the Commission, Review Board Number 2, Members Eaton, Liberman, and Jensen. Jensen not participating.

MC 1824 (Sub-99F), filed June 25, 1979. Previously noticed in the **Federal Register** issue of January 24, 1980. Applicant: PRESTON TRUCKING COMPANY, INC., 151 Easton Blvd., Preston, MD 21655. Representative: Charles S. Perry (same address as applicant). Transporting *petroleum, petroleum products, vehicle body sealer,* and *sound deadener compounds,* (except commodities in bulk), from Congo and St. Marys, WV, and Emlenton, Farmers Valley, and New Kensington, PA, to points in IL, IN, MD, MI, OH, VA, and WI. (Hearing site: Washington, DC.)

Note.—This republication indicates the correct origins.

MC 8515 (Sub-28F), filed August 23, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South La Salle Street, Chicago, IL 60603. Transporting *plastics* and *chemicals* (except commodities in bulk), between Ottawa, IL, on the one hand, and, on the other, points in IA, IN, KY, MI, MN, MO, OH, TN, WI, and WV. (Hearing site: Chicago, IL.)

MC 8515 (Sub-29F), filed August 24, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. To transport, *iron and steel articles, and materials, equipment, and supplies,* used in the manufacture, sale and distribution of iron and steel articles, between Peru, IL, on the one hand, and, on the other, points in IN, IA, MN, MO, OH, PA, and WI. (Hearing site: Chicago, IL.)

MC 8515(Sub-30F), filed August 24, 1979. Applicant: TOBLER TRANSFER, INC., Junction Interstate 80 and Illinois 89, Spring Valley, IL 61362. Representative: Leonard R. Kofkin 39 South La Salle Street, Chicago, IL 60603. To transport *chemicals* (except commodities in bulk), from La Salle, IL to points in PA, NC, SC, KY, OH, NY, KS, and MN. (Hearing site: Chicago, IL.)

MC 8535 (Sub-98F), filed August 23, 1979. Applicant: GEORGE TRANSFER AND RIGGING COMPANY, INCORPORATED, P.O. Box 500, Parkton, MD 21120. Applicant's Representative: John Guandolo, 1000 Sixteenth Street, N.W., Washington, DC 20036. To transport *iron and steel articles,* between the facilities of Bliss & Laughlin Steel Co., at Medina, OH, on the one hand, and, on the other, points in IL and IN, restricted to the transportation of traffic originating at or destined to the named facility. (Hearing sites: Cleveland or Columbus, OH.)

MC 13134 (Sub-72F), filed, August 22, 1979. Applicant: GRANT TRUCKING, INC., Box 256, Oak Hill, OH 45656. Representative: James M. Burtch, 100 E. Broad Street, Columbus, OH 43215. To transport *lumber and lumber products,* from the facilities of Kimberly-Clark Corporation, at or near Waynesboro, GA, to points in IL, IN, KY, MI, TN, OH, WV, and those in PA on and west of US Hwy 15. (Hearing site: Columbus, OH.)

MC 14215 (Sub-63F), filed August 23, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329 Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Avenue, P.O. Box 12241, Columbus, OH 43212. To transport *ferro nickel alloy, electrolytic nickel cathode, granular nickel, cobalt cathodes, and copper,* (except commodities in bulk, in tank vehicles), from Baltimore, MD, to points in IL, IN, MI, MN, NC, NJ, NY, OH, PA, WI, and WV. (Hearing site: Columbus, OH, or Washington, DC.)

MC 14215 (Sub-64F), filed August 23, 1979. Applicant: SMITH TRUCK SERVICE, INC., P.O. Box 1329, Steubenville, OH 43952. Representative: John L. Alden, 1396 West Fifth Ave., P.O. Box 12241, Columbus, OH 43212. To transport (1) *aluminum ingots and zinc alloy ingots,* from the facilities of Aluminum Smelting and Refining Co., Inc. and Certified Alloys Company at or near Maple Heights, OH, to points in AL, IN, NJ, and PA, and (2) *aluminum, and materials, equipment, and supplies* used in the manufacture of aluminum, from points in IN, MI, NY, and PA, to the facilities named in (1) above. (Hearing site: Columbus, OH, or Washington, DC.)

MC 14314 (Sub-33F), filed August 24, 1979. Applicant: DUFF TRUCK LINE, INC., P.O. Box 359, Broadway & Vine Streets, Lima, OH 45802. Representative: Paul F. Beery, 275 E. State Street, Columbus, OH 43215. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, and those requiring special equipment), serving the facilities used by General Electric Company at or near Mt. Vernon, IN, as an off-route point in connection with carrier's otherwise authorized regular-route operations. (Hearing site: Columbus, OH.)

MC 52574 (Sub-59F), filed August 23, 1979. Applicant: ELIZABETH FREIGHT FORWARDING CORP., 120 South 20th St., Irvington, NJ 07111. Representative: Edward F. Bowes, P.O. Box 1409, 167 Fairfield Road, Fairfield, NJ 07006. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *bakery products,* from Frederick, MD, to Detroit, Ann Arbor, Ypsilanti, Inkster, Farmington, Pontiac and Mount Clemens, MI, under a continuing contract(s) with S. B. Thomas, Inc., of Totowa, NJ. (Hearing site: New York, NY.)

MC 94265 (Sub-320F), filed August 21, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Route 460, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. 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 Swift & Company, at Rochelle, IL, to points in AL, FL, GA, MS, NC, SC, and TN. (Hearing site: Chicago, IL, or Washington, DC.)

MC 94265 (Sub-321F), filed August 23, 1979. Applicant: BONNEY MOTOR EXPRESS, INC., P.O. Box 305—Route 460, Windsor, VA 23487. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. To transport, *confectionery products,* in vehicles equipped with mechanical refrigeration (except in bulk, in tank vehicles), from the facilities used by L. S. Heath & Sons, Inc., at or near Robinson, IL, to points in AL, GA, LA, MS, NC, SC, TN, VA, and WV. (Hearing sites: Chicago, IL, or Washington, DC.)

MC 96324 (Sub-37F), filed October 1, 1979. Applicant: GENERAL DELIVERY, INC., P.O. Box 1816, Fairmont, WV 26554. Representative: Mel P. Booker, Jr., 110 S. Columbus St., Alexandria, VA 22314. Transporting *malt beverages* and *empty malt beverage containers,* between Newport, KY, Evansville, IN, and Baltimore, MD, on the one hand, and, on the other, points in WV, and PA. (Hearing sites: Milwaukee, WI, or Washington, DC.)

MC 105045 (Sub-114F), filed August 23, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. To transport (1) *construction, earth-moving, and material-handling equipment,* and (2) *parts* and *accessories* for the commodities in (1) above, from White Marsh, MD, to points in the United States (except AK and HI). (Hearing site: Washington, DC.)

MC 105045 (Sub-115F), filed August 24, 1979. Applicant: R. L. JEFFRIES TRUCKING CO., INC., P.O. Box 3277, Evansville, IN 47701. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. To transport (1) *machinery parts,* from West Pittston, PA, to points in ME, NH, VT, MA, CT, RI, NY, NJ, DE, MD, MN, VA, WV, NC, SC, and DC, and those in the United States in and west of NM, SD, WY, CO, and NM; (2) *machinery parts, castings,* and *forgings,* in the reverse direction. (Hearing sites: Philadelphia, PA, and Washington, DC.)

MC 106074 (Sub-131F), filed August 24, 1979. Applicant: B AND P MOTOR LINES, INC., Shiloh Rd. and U.S. Hwy. 221 South, Forest City, NC 28043. Representative: Clyde W. Carver, P.O. Box 720434, Atlanta, GA 30328. To transport *household applicances,* from Fort Dodge, IA, to points in AL, AR, AZ, CA, FL, GA, KS, LA, MS, MO, NV, NM, NC, OK, OR, SC, TN, TX, and WA. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 107295 (Sub-935F), filed September 4, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. Transporting *construction materials, and construction supplies* (except commodities in bulk), from Muskegon, MI, to points in the United States (except AK and HA). (Hearing site: Columbus, OH.)

MC 107295 (Sub-936F), filed August 21, 1979. Applicant: PRE-FAB TRANSIT CO., P.O. Box 146, Farmer City, IL 61842. Representative: Mack Stephenson, 42 Fox Mill Lane, Springfield, IL 62707. To transport *lumber, wood products, and composition board* (except commodities in bulk), from points in Colleton and Orangeburg Counties, SC, to points in the United States (except AK and HA). (Hearing site: Atlanta, GA.)

MC 107515 (Sub-1278F), filed August 24, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor—Lenox Towers South, Atlanta, GA 30326. To transport *foodstuffs,* from points in FL to points in AZ, CA, CO, ID, MT, NV, NM, OR, UT, WA and WY. (Hearing site: Orlando, FL.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1279F), filed August 24, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. To transport *footwear* and *material, equipment, and supplies* used in the sale and distribution of footwear, from the facilities of Meldisco Shoe Company, at or near Morrow, GA, to points in TX. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1281F), filed August 24, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. To transport *frozen foods,* from the facilities of Winter Garden, Inc., at or near Rossville, Memphis, Bells, and Humboldt, TN to points in IL, MI, WI, IN, OH, WV, VA, PA, NJ, NY, IA, TX, KS, LA and CA. (Hearing site: Memphis, TN.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1282F), filed August 24, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. To transport *foodstuffs, cheese analog,* and *calcium cassinate* (except commodities in bulk) from the facilities of Anderson Clayton Foods, at Humboldt, TN, to points in the United States (except AK, HI, and TN). (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 107515 (Sub-1283F), filed August 24, 1979. Applicant: REFRIGERATED TRANSPORT CO., INC., P.O. Box 308, Forest Park, GA 30050. Representative: Alan E. Serby, 3390 Peachtree Road, N.E., 5th Floor, Lenox Towers South, Atlanta, GA 30326. To transport *meats, meat products and meat by-products, and articles distributed by meat-packing house,* 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 commodities in bulk, in tank vehicles, and hides), from the facilities of Jimmy Dean Meat Company, at Plainview, TX, to points in AL, CT, DE, FL, GA, KY, LA, MA, MD, ME, NC, NJ, NY, PA, SC, TN, VA, and DC. (Hearing site: Atlanta, GA.)

Note.—Dual operations may be involved.

MC 109124 (Sub-90F), filed August 22, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. To transport (1) *building and insulation materials* (except iron and steel articles and commodities in bulk), and (2) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities in (1) above (except iron and steel articles and commodities in bulk), between the facilities of CertainTeed Corporation in Chatham County, GA, on the one hand, and, on the other, points in AL, NC, SC, FL, TN, KY and LA, and (b) between the facilities of CertainTeed Corporation in Granville County, NC, on the one hand, and, on the other, points in KY, OH, TN, VA, WV, PA, NY, IN, IL, MI and WI. (Hearing site: Columbus, OH.)

MC 109124 (Sub-91F), filed August 22, 1979. Applicant: SENTLE TRUCKING CORPORATION, P.O. Box 7850, Toledo, OH 43619. Representative: James M. Burtch, 100 E. Broad Street, Suite 1800, Columbus, OH 43215. To transport *building materials,* and *equipment and supplies* used in the manufacture, installation, and distribution of building materials, between the facilities of Georgia-Pacific Corporation, Gypsum Division, at or near Hampton, GA, 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. (Hearing site: Columbus, OH).

MC 109324 (Sub-43F), filed August 20, 1979. Applicant: GARRISON MOTOR FREIGHT, INC., P.O. Box 1278, Harrison, AR 72601. Representative: Jay C. Miner (same address as applicant). To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Vilonia, AR, and Van Buren, AR, over U.S. Hwy 64, serving all intermediate points. (Hearing site: Conway or Little Rock, AR.)

MC 109634 (Sub-5F), filed August 22, 1979. Applicant: TRAILER CONVOYS, INC., 2113 Fern Valley Road, Louisville, KY 40213. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes,

transporting *trailers, and trailer chassis,* (except trailers designed to be drawn by passenger automobiles), between points in the United States (except AK and HI), under continuing contract(s) with Pullman Trailmobile Division of Pullman, Inc., of Chicago, IL. (Hearing site: Chicago, IL.)

MC 114274 (Sub-71F), filed August 20, 1979. Applicant: VITALIS TRUCK LINES, INC., 137 N.E. 48th St. Place, Des Moines, IA 50306. Representative: William H. Towle, 180 North LaSalle Street, Chicago, IL 60601. To transport *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in KS, IL, IN, IA, MI, MN, MO, NE, OH and WI. (Hearing site: Des Moines, IA.)

MC 118535 (Sub-144F), filed September 4, 1979. Applicant: TIONA TRUCK LINE, INC., 102 West Ohio, Butler, MO 64730. Representative: Jim Tiona, Jr. (same address as applicant). Transporting *soda ash,* from Green River, WY, to Gurnee, IL, Winchester, IN, and Houston, TX. (Hearing site: Kansas City, MO.)

MC 119864 (Sub-77F), filed August 23, 1979. Applicant: CRAIG TRANSPORTATION CO., 26699 Eckel Road, Perrysburg, OH 43551. Representative: Martin J. Leavitt, 22375 Haggerty Road, P.O. Box 400, Northville, MI 48167. Transporting *such commodities* as are dealt in or used by grocery and food business houses (except commodities in bulk), between points in IL, IN, IA, KY, MI, MO, OH, and WI. (Hearing site: Chicago, IL or Columbus, OH.)

MC 123255 (Sub-216F), filed September 4, 1979. Applicant: B & L MOTOR FREIGHT, INC., 1984 Coffman Rd., Newark, OH 43055. Representative: C. F. Schnee, Jr. (same address as applicant). Transporting *grain products* (except commodities in bulk), from Kankakee, IL, to points in CT, DE, ME, MD, MA, NH, NJ, NY, OH, PA, VT, VA, and WV. Condition: The person or persons who appear to be engaged in common control of applicant and another regulated carrier must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary. Affidavits are due 20 days from the date of publication. (Hearing site: Columbus, OH.)

MC 123744 (Sub-66F), filed August 23, 1979. Applicant: BUTLER TRUCKING COMPANY, P.O. Box 88, Woodland, PA 16881. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, N.W., Washington, DC 20001. To transport *iron and steel articles,* from the facilities of Northwestern Steel and Wire Company, at or near Sterling and Rock Falls, IL, to those points in the United States in and east of WI, IL, KY, TN, and MS. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 126844 (Sub-87F), filed August 23, 1979. Applicant: R.D.S. TRUCKING CO., INC., 1713 North Main Road, Vineland, NJ 08360. Representative: Kenneth F. Dudley, P.O. Box 279, 1501 East Main Street, Ottumwa, IA 52501. To transport *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 Swift & Company at Rochelle, Bradley, and St. Charles, IL, to points in CT, DE, MA, MD, ME, NH, NJ, NY, PA, RI, VT, VA, WV, and DC. (Hearing site: Chicago, IL.)

MC 133655 (Sub-181F), filed August 23, 1979. Applicant: TRANS-NATIONAL TRUCK, INC., P.O. Box 31300, Amarillo, TX 79120. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To transport *paper and paper products, and equipment, materials, and supplies* used in the manufacture and distribution of paper and paper products (except commodities in bulk), between Dallas, TX, on the one hand, and, on the other, points in AR, KS, MO, KY, TN, and MS. (Hearing site: Chicago IL.)

MC 134574 (Sub-42F), filed October 1, 1979. Applicant: FIGOL DISTRIBUTORS LIMITED, a corporation, P.O. Box 6298, Station "C", Edmonton, AB T5B 4K6 Canada. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. 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, from Billings, MT, to (a) points in AZ, CA, ID, OR, and WA, and (b) ports of entry on the international boundary line between the United States and Canada located in ND and MT. (Hearing site: Great Falls, MT.)

MC 134645 (Sub-30F), filed September 4, 1979. Applicant: LAKE STATE TRANSPORT, INC., P.O. Box 944, St. Cloud, MN 56301. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. Transporting (1) *albums, scrapbooks,* and *pulpboard,* from St. Cloud, MN, to Colorado Springs, CO, and (2) *plastic film, plastic sheeting, pulpboard,* and *paper,* from Mobile, AL, Joliet and Chicago, IL, Lowville, NY, and West Warwick, RI, and points in Queens County, NY, to St. Cloud, MN, restricted to the transportation of traffic originating at the named origins and destined to the named destinations. (Hearing site: St. Paul, MN.)

MC 134755 (Sub-203F), filed September 4, 1979. Applicant: CHARTER EXPRESS, INC., P.O. Box 3772, Springfield, MO 65804. Representative: Raymond P. Keigher, 1400 Gerard St., Rockville, MD 20850. Transporting *tires, tubes, tire flaps,* and *rubber products* (except commodities in bulk), from the facilities of Lee Tire & Rubber Company at Kansas City, MO, to those points in the United States in, south, and west of OH, KY, TN, and NC (except AK, HI, and MO), restricted to the transportation of traffic originating at the named facilities. (Hearing site: Kansas City, MO.)

Note.—Dual operations may be involved.

MC 135524 (Sub-37F), filed August 23, 1979. Applicant: G.F. TRUCKING CO., P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Road, Youngstown, OH 44509. To transport (1) *zinc, zinc dust, lead sheets, metallic cadmium, zinc dross, zinc residues,* and *zinc skimmings,* and (2) *materials, equipment, and supplies* used in the production of zinc and zinc oxide, between Josephtown, PA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Pittsburgh, PA.)

MC 135524 (Sub-44F), filed August 24, 1979. Applicant: G.F. TRUCKING CO., P.O. Box 229, 1028 Rayen Avenue, Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Road, Youngstown, OH 44509. To transport *commodities* the transportation of which because of size or weight require the use of special equipment, between points in IL and WI, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Milwaukee, WI.)

MC 135524 (Sub-57F), filed August 23, 1979. Applicant: G.F. TRUCKING, CO., P.O. Box 229, 1028 West Rayen Avenue, Youngstown OH 44501. Representative: George Fedorisin, 914 Salts Springs Road, Youngstown, OH 44509. To transport *iron and steel articles, and equipment, materials, and supplies* used in the manufacture and distribution of *iron and steel articles,* between the facilities of North Star Steel Corporation at or near Newport, MN, on the one hand, and, on the other, points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH,

NJ, NY, OH, PA, RI, VA, VT, WV, WI, and DC. (Hearing site: Columbus, OH, or Minneapolis, MN.)

MC 135524 (Sub-62F), filed September 4, 1979. Applicant: G.F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting *glassware* from Waterloo, IA, to points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Des Moines, IA.)

MC 135524 (Sub-67F), filed October 1, 1979. Applicant: G.F. TRUCKING CO., a corporation, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting (1) *rubber articles* and *plastic articles,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, between the facilities of Entek Corporation of America, at or near Irving, TX, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH, or Dallas, TX.)

MC 135524 (Sub-68F), filed October 1, 1979. Applicant: G.F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting *lumber, lumber mill products, forest products, wood products,* and *saw mill products,* from Chicago, IL, and points in AR, LA, MS, AL, and SC, to those points in the United States in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: Columbus, OH, or Chicago, IL.)

MC 135524 (Sub-69F), filed October 1, 1979. Applicant: G.F. TRUCKING CO., a corporation, P.O. Box 229, 1028 West Rayen Ave., Youngstown, OH 44501. Representative: George Fedorisin, 914 Salts Springs Rd., Youngstown, OH 44509. Transporting *flavoring compounds* from Granite City, IL, to Omaha, NE, Lenexa, KS, Houston, TX, Birmingham, AL, Eustis, FL, Columbus, OH, Charlotte, NC, Baltimore, MD, Union, NJ, and New Bedford, MA. (Hearing site: Columbus, OH, or San Francisco, CA.)

MC 135895 (Sub-53F), filed September 4, 1979. Applicant: B & R DRAYAGE, INC., P.O. Box 8534, Battlefield Sta., Jackson, MS 39204. Representative: Douglas C. Wynn, P.O. Box 1295, Greenville, MS 38701. 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 the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of (1) Union Camp Corporation, (2) Moore Handley, (3) Branitek, Incorporated, (4) The Branigar Organization, (5) Sherwood & James Advertising, Inc., (6) Transtates Properties Incorporated, (7) Titanium Enterprises, (8) Cargal Ltd., (9) Cartonaijes Union, (10) Lafarge Emballage, and (11) Philibert Delastre. (Hearing site: Jackson, MS, or New Orleans, LA.)

MC 138395 (Sub-14F), filed August 23, 1979. Applicant: DOUGLAS H. WEST, P.O Box 1274, Salisbury, MD 21801. Representative: Edward N. Button, 1329 Pennsylvania Ave., P.O. Box 1417, Hagerstown, MD 21740. To transport *printed matter,* between Philadelphia, PA and the plantsite of Middle Atlantic Printing Company, Inc., at or near Salisbury, MD (Hearing site: Salisubury, MD.)

MC 139495 (Sub-478F), filed August 21, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To transport *petroleum and petroleum products, vehicle body sealer, and sound deadener compounds* (except commodities in bulk, in tank vehicles), from the facilities of Quaker State Oil Refining Corporation, at or near (a) St. Marys and Newell, WV, (b) Bradford, Emlenton, and North Warren, PA, and (c) Buffalo and North Tonawanda, NY, to points in the United States (except AK, CT, HI, ME, MA, NH, RI, and VT). (Hearing site: Washington, DC.)

MC 139495 (Sub-479F), filed August 21, 1979. Applicant: NATIONAL CARRIERS, INC., 1501 East 8th Street, P.O. Box 1358, Liberal, KS 67901. Representative: Herbert Alan Dubin, Sullivan & Dubin, 1320 Fenwick Lane, Silver Spring, MD 20910. To transport (1) *wiring equipment, electrical equipment, and lighting equipment,* from the facilities of GTE Sylvania, at or near Parkersburg, WV, to points in CA, FL, GA, IL, IN, IA, LA, MN, NY, NC, ND, OK, OR, PA, TX, and WA; and (2) *materials and supplies* used in the manufacture of the commodities named in (1) above, from points in IL, LA, NY, and PA, to the facilities of GTE Sylvania, at or near Parkersburg, WV. (Hearing site: Washington, DC.)

MC 140484 (Sub-71F), filed August 21, 1979. Applicant: LESTER COGGINS TRUCKING, INC., P.O. Box 69, Fort Myers, FL 33902. Representative: Frank T. Day (same address as applicant). To transport *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 MBPXL Corporation at or near Plainview, TX, to points in IN, KY, MI, and OH. (Hearing site: Wichita, KS, or Washington, DC.)

MC 140665 (Sub-63F), filed August 21, 1979. Applicant: PRIME, INC., Route 1, Box 115–B, Urbana, MO 65767. Representative: Clayton Geer, P.O. Box 786, Ravenna, OH 44266. To transport (1) *paper products, plastic products, rubber products, and petroleum products,* (2) *cloth,* and (3) *materials and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, (except commodities in bulk), from Painesville, OH, to points in AZ, CA, CO, NV, ID, NM, UT, WY, MT, OR, TX, and WA. (Hearing site: Washington, DC.)

MC 141124 (Sub-51F), filed August 23, 1979. Applicant: EVANGELIST COMMERCIAL CORPORATION, P.O. Box 15000, Wilmington, DE 19850. Representative: Boyd B. Ferris, 50 West Broad Street, Columbus, OH 43215. To transport *such commodities* as are dealt in or used by manufacturers and convertors of paper and paper products, (except commodities in bulk), between Burlington, IA, Crossett, AR, Gary, IN, Kalamazoo, MI, Lockport and Taylorville, IL, New Burnswick, NJ, Reading, PA, St. Genevieve and St. Louis, MO, Tomahawk, WI, Woodland, ME, Gilman, VT, Lyons Falls, Thomson, Warwick, and Plattsburgh, NY, and Richmond, VA, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Cincinnati, OH.)

MC 141205 (Sub-21F), filed August 20, 1979. Applicant: HUSKY OIL TRANSPORTATION COMPANY, 600 South Cherry Street, Denver, CO 80222. Representative: F. Robert Reeder, P.O. Box 11898, Salt Lake City, UT 84147. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *crude oil, scrubber oil and condensate,* from Trap Springs, NV, to the facilities of Gary Western Refinery, near Fruita, CO, under continuing contract(s) with Husky Oil Company. (Hearing site: Denver, CO.)

MC 141804 (Sub-273F), filed August 24, 1979. Applicant: WESTERN EXPRESS, DIVISION OF INTERSTATE RENTAL, INC., P.O. Box 3488, Ontario, CA 91761. Representative: Frederick J. Coffman

(same address as applicant). To transport *furniture,* from Terre Haute and Columbus, IN, to Salt Lake City, UT. (Hearing site: Los Angeles or San Francisco, CA.)

MC 142715 (Sub-73F), filed August 22, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To transport *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 Worthington, MN, Huron, SD, Madison, NE, and St. Joseph, MO, to those points in the United States in and east of WI, IL, KY, TN and AL, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations (except for traffic moving in foreign commerce). (Hearing site: Phoenix, AZ or St. Paul, MN.)

MC 142715 (Sub-74F), filed August 21, 1979. Applicant: LENERTZ, INC., P.O. Box 479, South St. Paul, MN 55075. Representative: K. O. Petrick (same address as applicant). To transport *such commodities* as are dealt in or used by manufacturers and distributors of containers (except commodities in bulk), between the facilities of Container Corporation of America, at (a) Atlanta, Lithonia, and Stone Mountain, GA, and (b) Chattanooga, TN, on the one hand, and, on the other, points in ND, SD, NE, KS, MO, IA, MN, WI, IL, KY, IN, MI, OH, NY, NJ, DE, PA, WV, MD, VA and NC, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Atlanta, GA.)

MC 143594 (Sub-19F), filed August 20, 1979. Applicant: NATIONAL BULK TRANSPORT, INC., Suite 13, 624 Holcomb Bridge Road, Roswell, GA 30075. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. To transport *chemicals,* in bulk, in tank vehicles, from Jonesboro, GA, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 145624 (Sub-3F), filed August 24, 1979. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974 Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To transport *stone and stone products,* from Robsen Township, Berks County, PA, to points in DE, VA, WV, and MD. (Hearing site: Washington, DC.)

MC 145624 (Sub-4F), filed August 24, 1979. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974 Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To transport *stainless steel scrap,* in dump vehicles, from Newark, NJ, to Providence, RI, Bridgeport, CT, Wilmington, DE, Boston, MA, Pittsburgh, PA, Baltimore, MD, Buffalo, Syracuse, and Rochester, NY, and Mansfield, OH. (Hearing site: Washington, DC.)

MC 145624 (Sub-5F), filed August 24, 1979. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974 Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To transport *roofing spar, irma stone, and roofing aggregates,* from East Hanover and Irvington, NJ, to points in NY and PA. (Hearing site: Washington, DC.)

MC 145624 (Sub-6F), filed August 24, 1979. Applicant: J. V. CARBONE, INC., 33 Marion Avenue, New Providence, NJ 07974 Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. To transport *slag and slag products,* in bulk, in dump vehicles, from Falls Township, PA, to those points in the United States in and east of MN, IA, MO, AR and LA (except NJ and NY). (Hearing site: Washington, DC.)

MC 146735 (Sub-3F), filed September 4, 1979. Applicant: R. J. ANDERSON, INC., 1020 Heinz Street, Berkeley, CA 94710. Representative: William D. Taylor, 100 Pine Street, Suite 2550, San Francisco, CA 94111. Transporting *general commodities* (except commodities in bulk, those of unusual value, household goods as defined by the Commission, Classes A and B explosives, and those requiring special equipment), between points in San Francisco, Alameda, Santa Clara, Marin, San Mateo, Solano, Sacramento, San Joaquin, Monterey, Fresno, Sonoma, Contra Costa, and Santa Cruz Counties, CA. (Hearing site: San Francisco or Los Angeles, CA.)

MC 147404 (Sub-2F), filed September 4, 1979. Applicant: DONALD J. GETTELFINGER, d.b.a. GETTELFINGER FARMS, R.R. 2, Box 241, Palymyra, IN 47164. Representative: Robert W. Loser, II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting *meats, meat products, meat byproducts, dairy products, articles* distributed by meat packinghouses, and *commodities* used by meat packers in the conduct of their business, as described in Sections A, B, C, and D 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), between the facilities of Armour and Company, at or near Louisville, KY, on the one hand, and, on the other, points in AL, AR, FL, GA, LA, MS, NC, PA, SC, TN, VA, and WV, restricted to the transportation of traffic originating at or destined to the named points. (Hearing site: Louisville, KY, or Washington, DC.)

MC 147415 (Sub-2F), filed August 21, 1979. Applicant: SKY CORPORATION, P.O. Box 838, Bismarck, ND 58501. Representative: Richard P. Anderson, 502 First National Bank Bldg., Fargo, ND 58126. To transport (1) *fertilizer* (except in bulk, in tank vehicles), from points in MN, to points in ND, SD, and MT, and (2) *feed and feed ingredients* (except in bulk, in tank vehicles), (a) from points in ND and SD, to points in ND, SD, MT, MN, WI, IA, ID, WA, OR, and CA; and (b) from points in MN, to points in ND, SD, MT, ID, WA, OR, and CA. (Hearing site: Minneapolis-St. Paul, MN.)

Note.—Dual operating may be involved.

MC 147545 (Sub-2F), filed August 23, 1979. Applicant: FLORIAN A. DITTRICH d.b.a. FLORIAN DITTRICH TRUCKING, 726 North State Street, New Ulm, MN 56073. Representative: Donna M. Wallner (same address as applicant). To transport *concrete slabs and slats,* (except those requiring special equipment), between Courtland, MN, on the one hand, and on the other, points in ND, SD, IA, WI, and NE. (Hearing site: Minneapolis or St. Paul, MN.)

MC 147854 (Sub-2F), filed September 4, 1979. Applicant: CONTACT CARTAGE CO., INC., 11499 Conner, Detroit, MI 48213. Representative: Edwin M. Snyder, 22375 Haggerty Rd., P.O. Box 400, Northville, MI 48167. 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 Traverse City, and Saginaw, MI, to the facilities of Burlington Northern Air Freight, Inc., at or near Romulus, MI. (Hearing site: Detroit, MI, or Chicago, IL.)

MC 148535F, filed October 1, 1979. Applicant: BAKERSTOWN TRANSPORTATION CORP., P.O. Box 12, Middlesex St., Bakerstown, PA 15007. Representative: Arthur J. Diskin, 806 Frick Bldg., Pittsburgh, PA 15219. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (a) *petroleum and petroleum products,* in containers, from McKees Rocks, PA, and Bakerstown, PA, to points in OH, WV, NY, and MI, under a continuing contract(s) with Arco Petroleum Products Co., of Los Angeles,

CA; and (b) *empty steel drums,* from points in OH, WV, NY, and MI, to the facilities of Bakerstown Container Corp., at Bakerstown, PA, under a continuing contract(s) with Bakerstown Container Corp., of Bakerstown, PA. (Hearing site: Pittsburgh, PA, or Washington, DC.)

Passenger

MC 2835 (Sub-43F), filed July 12, 1979. Applicant: ADIRONDACK TRANSIT LINES, INC., 18 Pine Grove Ave., P.O. Box 1758, Kingston, NY 12401. Representative: Edward G. Villalon, 1032 Pennsylvania Bldg., Pennsylvania Ave. & 13th St., NW, Washington, DC 20004. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, (A) over regular routes, transporting *passengers* and *their baggage,* and *express* and *newspapers,* in the same vehicle with passengers, (1) between Plattsburgh, NY and the port of entry on the international boundary line between the United State and Canada, at or near Champlain, NY, from Plattsburgh, over NY Hwy 3 to junction Interstate Hwy 87, then over Interstate Hwy 87 to the port of entry on the international boundary line between the United States and Canada, at or near Champlain, and return over the same route, serving all intermediate points; and (2) between Plattsburgh, NY, and Champlain, NY, over U. S. Hwy 9, serving all intermediate points; and (B) over irregular routes, transporting *passengers and their baggage,* in special and charter operations, between those points described in (A) above, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Plattsburgh, or Albany, NY.)

MC 145845 (Sub-1F), filed August 16, 1979. Applicant: RAYMOND W. PAYNE, d.b.a. PAYNE BUS SERVICE, Route #1, Box 122, Beaverdam, VA 23015. Representative: Leonard A. Jaskiewicz, Suite 501, 1730 M Street, N.W., Washington, DC 20036. To transport *passengers and their baggage* in round-trip charter operations, beginning and extending at points in Spotsylvania, Hanover, and Louisa Counties, VA, and extending to those points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Fredericksburg, VA.)

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Decided: Feb. 1, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 2229, (Sub-221F), filed September 7, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Boulevard, Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Transporting *concrete roofing,* from Shawnee, OK to points in the U.S. (except AK, HI, and OK). (Hearing site: Oklahoma City, OK or Dallas, TX.)

MC 2428 (Sub-31F), filed August 8, 1979. Applicant: H. PRANG TRUCKING CO., INC., 112 New Brunswick Avenue, Hopelawn (Perth Amboy), NJ 08861. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting (1) *building and construction materials,* and (2) *materials and supplies* used in the manufacture or distribution of the commodities named in (1) above (except commodities in bulk), between the facilities of The Celotex Corporation at or near (a) Linden, NJ, (b) Deposit, NY, (c) Pittston, Sunbury, and Philadelphia, PA, and (d) Chester, WV, on the one hand, and, on the other, points in ME, NH, VT, RI, CT, NJ, NY, DE, MD, VA, MA, WV, PA, and DC, under continuing contract(s) with the Celotex Corporation, of Tampa, FL. (Hearing site: Tampa, FL.)

MC 5649 (Sub-30F), filed September 24, 1979. Applicant: KULP & GORDON, INC., Pothouse Road, P.O. Box 628, Phoenixville, PA 19460. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Transporting *precast concrete products,* from the facilities of Universal Concrete Products Corporation, located in Montgomery County, PA to points in CT, DE, MD, NJ, NY and DC. (Hearing site: Philadelphia, PA.)

MC 18738 (Sub-62F), filed August 13, 1979. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Eugene L. Cohn, One North LaSalle St., Chicago, IL 60602. Transporting *sheet steel,* in coils, from Butler and Leechburg, PA, and Zanesville, OH, to the facilities of Tempel Steel Co., at Chicago, IL. (Hearing site: Chicago, IL.)

MC 18738 (Sub-63F), filed August 13, 1979. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Eugene L. Cohn, One North LaSalle St., Chicago, IL 60602. Transporting *iron and steel articles,* from the facilities of Jones & Laughlin Steel Corporation at (a) Aliquippa and Pittsburgh, PA, and (b) Youngstown, OH, to points in IL, IN, and KY. (Hearing site: Chicago, IL.)

MC 18738 (Sub-64F), filed August 13, 1979. Applicant: SIMS MOTOR TRANSPORT LINES, INC., 610 West 138th St., Riverdale, IL 60627. Representative: Eugene L. Cohn, One North LaSalle St., Chicago, IL 60602. Transporting *iron and steel articles,* from Chicago, IL, to Horicon, WI. (Hearing site: Chicago, IL.)

MC 24379 (Sub-53F), filed September 11, 1979. Applicant: LONG TRANSPORTATION COMPANY, a corporation, 14650 West Eight Mile Road, Oak Park, MI 48232. Representative: John P. McMahon, 100 East Broad Street, Columbus, OH 43215. Transporting *iron and steel articles* from the facilities of Wheeling-Pittsburgh Steel Corporation at Canfield, Martins Ferry, Mingo Junction, Steubenville, and Yorkville, OH, Allenport and Monessen, PA, and Beech Bottom, Benwood, Follansbee, and Wheeling, WV to points in OH, IN, and MI. (Hearing site: Columbus, OH.)

MC 25798 (Sub-386F), filed August 10, 1979. Applicant: CLAY HYDER TRUCKING LINES, INC., Post Office Box 1186, Auburndale, FL 33823. Representative: Tony G. Russell, Post Office Box 1186, Auburndale, FL 33823. Transporting *bananas,* from (1) Port Hueneme, CA, to points in CO, IA, KS, MN, MO, NE, NM, ND, OK and SD, and (2) From Galveston, TX, to points in IA, IL, IN, KS, KY, MI, MN, MO, NE, ND, OK, SD, and WI. (Hearing site: Tampa, FL.)

Note.—Common Control may be involved.

MC 28088 (Sub-46F), filed August 16, 1979. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, NW., Washington, DC 20004. Transporting *meat and meat products* (except commodities in bulk), from Mt. Airy and Baltimore, MD, Newark, Camden, Elizabeth, and Bayonne, NJ, Philadelphia and Punxsutawney, PA, New Orleans, LA, New York, NY, Boston, MA, Wilmington, DE, Norfolk, VA, Charleston, SC, Miami, Tampa and Jacksonville, FL, Omaha, NE, Chicago and Peoria, IL, Logansport and Ft. Wayne, IN, Cleveland, OH, Des Moines and Cedar Rapids, IA, to points in the United States (except Alaska and Hawaii). (Hearing site: Washington, DC or Harrisonburg, VA.)

MC 28088 (Sub-47F), filed August 16, 1979. Applicant: NORTH & SOUTH LINES, INC., 2710 S. Main Street, Harrisonburg, VA 22801. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, NW., Washington, DC 20004. Transporting *feed and feed ingredients* (except commodities in bulk), (1) from points in NY to points in DE, MD, PA, VA, and WV, and (2) from

points in MN, IA, MO, AR, and OK to points in WV, VA, PA, MD, KY, DE, NC, NY and NJ, (3) from points in AL, CA, GA, FL, IL, IN, KS, KY, MI, NE, NV, NC, OH, SC, SD, TN, TX, WI, WY and points in that part of PA south and east of a line beginning at the MD–PA state line and extending along U.S. Hwy 11 to junction PA Hwy 34, then along PA Hwy 24 to junction U.S. Hwy 209 then along U.S. Hwy 209 to the PA–NY state line, to points in WV on and west of U.S. Hwy 219, points in Bradford, Columbia, Wycoming, Montour, North Umberland, Sullivan, and Tioga Counties, PA, and points in NY, NJ and NC, and, (4) between the facilities of The Fox Company, Incorporated, located in NC, VA, DE, PA and OH. (Hearing site: Washington, DC or Harrisonburg, VA.)

MC 28088 (Sub-48F), filed August 22, 1979. Applicant: NORTH & SOUTH LINES, INC., 2710 South Main Street, Harrisonburg, VA 22801. Representative: Henry E. Seaton, 929 Pennsylvania Bldg., 425 13th Street, N.W., Washington, D.C. 20004. Transporting *salt and salt products,* from Watkins Glen, NY to points in NC, SC, IN, IL, the lower peninsula of MI, and Cleveland, OH, (2) from Cleveland, OH, to Horsehead and Watkins Glen, NY, (3) from Cincinnati, OH, to Watkins Glen, NY, (4) from Avery Island, LA, to Roanoke, VA, Harrisonburg, VA, and Watkins Glen, NY and (5) from Retsof, NY, to Harrisonburg, VA, (6) from Cincinnati, OH, to Harrisonburg, VA, (7) from Harrisonburg, VA, to NC, SC, and TN, restricted to traffic originating at or destined to the facilities of International Salt Co. (Hearing site: New York, New York.)

MC 29079 (Sub-124F), filed August 8, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW, Washington, DC 20006. Transporting *iron and steel articles,* between the facilities of Dereeve Company, at or near Philadelphia, PA, on the one hand, and, on the other, points in AL, GA, IL, IN, KY, MI, MS, NC, NJ, NY, OH, SC, TN, VA, WI, WV, and those points in LA east of the Mississippi River. (Hearing site: Washington, DC.)

MC 29079 (Sub-125F), filed August 8, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW, Washington, DC 20006. Transporting *iron and steel articles,* and *materials, equipment, and supplies* used in the manufacture of iron and steel articles, between Baltimore, MD, on the one hand, and, on the other, points in AL, DE, GA, IL, IN, KY, MD, MI, MO, MS, NC, NJ, NY, OH, PA, SC, TN, VA, WI, WV, and DC, and those points in LA east of the Mississippi River. (Hearing site: Washington, DC.)

MC 29079 (Sub-126F), filed August 8, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW, Washington, DC 20006. Transporting (1) *iron and steel articles,* and *metal and metal products,* from Steubenville, OH, to points in AL, AR, GA, IN, KY, MD, MI, MO, MS, NC, NJ, NY, PA, SC, TN, VA, WI, WV, and DC, and (2) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) above, in the reverse direction. (Hearing site: Washington, DC.)

MC 29079 (Sub-127F), filed August 8, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW, Washington, DC 20006. Transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, and liquid commodities in bulk), between the facilities of Arvin Industries, Inc., at or near (a) Fayette and Monroeville, AL, (b) Monticello, AR, (c) Columbus, Franklin, Indianapolis, and North Vernon, IN, and (d) Dexter, MO, on the one hand, and, on the other, points in AL, AR, DE, IL, IN, MI, MO, NJ, NY, OH, PA, WI, and WV. (Hearing site: Washington, DC.)

MC 29079 (Sub-129F), filed August 8, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW, Washington, DC 20006. Transporting *iron and steel articles,* from Madison, IN, to points in IN and MI. (Hearing site: Washington, DC.)

MC 29079 (Sub-135F), filed September 1, 1979. Applicant: BRADA MILLER FREIGHT SYSTEM, INC., P.O. Box 935, Kokomo, IN 46901. Representative: Chandler L. Van Orman, 1729 H St. NW, Washington, DC 20006. Transporting *iron and steel articles,* between the facilities of Lucas Steel Company, at or near Toledo, OH, on the one hand, and, on the other, points in AL, DE, GA, IL, IN, KY, MD, MI, MO, MS, NC, NJ, NY, OH, PA, SC, TN, VA, WI, WV, DC, and those points in LA east of the Mississippi River. (Hearing site: Washington, DC.)

MC 40978 (Sub-62F), filed August 1, 1979. Applicant: CHAIR CITY MOTOR EXPRESS COMPANY, a corporation, 3321 Business 141 South, Sheboygan, WI 53081. Representative: William C. Dineen, 710 N. Plankinton Ave., Milwaukee, WI 53203. Transporting *materials and supplies* used in the manufacture and distribution of office furniture, from those points in the United States east of a line beginning at the mouth of the Mississippi River, and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundaries of Itasca and Koochiching Counties, MN, to the international boundary line between the United States and Canada, to the facilities of All-Steel, Inc., at Aurora, IL. (Hearing site: Milwaukee, WI.)

MC 43038 (Sub-486F), filed September 12, 1979. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, Fourth Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones (same as applicant). Transporting *Motor Vehicles,* (excluding trailers), in secondary movements, in truckaway service between Omaha, NE and points in NE.

MC 43038 (Sub-487F), filed September 17, 1979. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones (same as applicant). Transporting *Motor Vehicles,* (except trailers), in secondary movements, in truckaway service, between points in CA and OR.

MC 43038 (Sub-488F), filed September 17, 1979. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones (same as applicant). Transporting *Motor Vehicles,* (except trailers), in secondary movements, in truckaway service, between points in CO on the one hand, and, on the other, points in MT, OR, ND and SD.

MC 43038 (Sub-489F), filed September 17, 1979. Applicant: COMMERCIAL CARRIERS, INC., 20300 Civic Center Drive, 4th Floor, Box CS 5027, Southfield, MI 48037. Representative: Paul H. Jones (same as applicant). Transporting *Motor Vehicles,* (excluding trailers), in secondary movements, in truckaway service, between Atlanta, GA, on the one hand, and, on the other, points in NC and SC.

MC 50069 (Sub-550F), filed September 10, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114.

Transporting *paint,* in bulk, in tank vehicles, from Flint, MI to Aurora, IN.

Note.—Dual operations may be involved.

MC 55889 (Sub-54F), filed September 8, 1979. Applicant: AAA COOPER TRANSPORTATION, Post Office Box 6827, Dothan, AL 36302. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, DC 20423. 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 over regular routes (1) between Augusta and Albany, GA, serving no intermediate points and serving Augusta and Albany for purposes of joinder only, from Augusta over U.S. Hwy 1 to junction U.S. Hwy 221, then over U.S. Hwy 221 to junction U.S. Hwy 319, then over U.S. Hwy 319 to Dublin, GA, then over GA, then over GA Hwy 257 to Albany, and return over the same route, (2) between Augusta and Atlanta, GA, serving all intermediate points between Athens, GA and Atlanta and serving Augusta for purposes of joinder only, from Augusta over U.S. Hwy 78 to Athens, then over U.S. Hwy 29 to Atlanta, and return over the same route; (3) between Albany and Columbus, GA, serving all intermediate points for purposes of joinder only, from Albany over U.S. Hwy 82 to Dawson, GA, then over GA Hwy 55 to junction U.S. Hwy 280, then over U.S. Hwy 280 to Columbus, and return over the same route; (4) between Albany and Atlanta, GA, serving all intermediate points for purposes of joinder only, over U.S. Hwy 19; (5) between Columbus and Atlanta, GA, serving all intermediate points for purposes of joinder only, over GA Hwy 85; (6) between Augusta, GA and Greer, SC, serving all intermediate points between Greenville; SC and Greer, including Greenville, and serving Augusta for purposes of joinder only, from Augusta over U.S. Hwy 25 to Greenville, then over U.S. Hwy 29 to Greer, and return over the same route 28; (7) between Charlotte, NC and Athens, GA, serving all intermediate points, over U.S. Hwy 29; (8) between Charlotte and Greensboro, NC, serving all intermediate points, over U.S. Hwy 29; (9) between Charlotte and Raleigh, NC, serving all intermediate points, from Charlotte over NC Hwy 49 to junction U.S. Hwy 64, then over U.S. Hwy 64 to Raleigh, and return over the same route; (10) between Charlotte and Winston-Salem, NC, serving all intermediate points, from Charlotte over U.S. Hwy 21 to Statesville, NC, then over U.S. Hwy 64 to junction U.S. Hwy 158, then over U.S. Hwy 158 to Winston-Salem, and return over the same route; (11) between Greer, SC and Asheville, NC, serving all intermediate points, from Greer over SC Hwy 14 to junction U.S. Hwy 176, then over U.S. Hwy 176 to junction U.S. Hwy 25, then over U.S. Hwy 25 to Asheville, and return over the same route; (12) between Raleigh and Durham, NC, serving all intermediate points, over U.S. Hwy 70 serving as off-route points in connection with carrier's regular-route authority (1) all points in Georgia between Albany and Dawson on U.S. Hwy 82, including Albany and Dawson, between Dawson and Columbus on GA Hwy 55 to junction U.S. Hwy 280 and then over U.S. Hwy 280 to Columbus, including Columbus, between Albany and Atlanta on U.S. Hwy 19, including Atlanta, and between Columbus and Atlanta on GA Hwy 85, and (2) all points in North Carolina between Greensboro and Durham on U.S. Hwy 70, including Greensboro and Durham. (Hearing site: Atlanta, GA; Birmingham, AL.)

Note.—Applicant proposes to tack the roughts sought with each other and with applicant's existing regular routes.

MC 55898 (Sub-61F), filed August 13, 1979. Applicant: DECATO BROS., INC., Heater Road, Lebanon, NH 03766. Representative: David M. Marshall, 101 State Street—Suite 304, Springfield, MA 01103. Transporting *building materials* and *materials, supplies and equipment* used in the manufacture, distribution and installation of such commodities, between the facilities of MacMillan Bloedel Building Materials located at Port Arthur and Houston, TX, and points in the United States in and east of MN, IA, MO, AR and LA on the one hand, and, on the other, points in and east of MN, IA, MO, AR and LA. (Hearing site: Washington, D.C.)

MC 56679 (Sub-131F), filed August 10, 1979. Applicant: BROWN TRANSPORT CORP. 352 University Ave, SW, Atlanta, GA 30310. Representative: David L. Capps (same address as applicant). Transporting *lawn care equipment,* and *materials, equipment, and supplies* used in the manufacture and distribution of lawn care equipment, (1) from New Holstein, WI, to Williamsburg, KY, and Orangeburg, SC, (2) between McRae and Swainsboro, GA, Williamsburg KY, and Orangeburg and Pickens, SC, and (3) from points in OH to Williamsburg, KY. (Hearing site: Atlanta, GA.)

MC 59909 (Sub-15F), filed August 10, 1979. Applicant: JACOBS TRANSFER, INC., 2300 Beaver Road, Landover, MD 20785. Representative: Richard A. Mehley, 1000 16th Street, NW, Washington, DC 20036. Transporting *manufactured tobacco products and related materials and supplies,* between Arlington, VA, on the one hand, and, on the other, points in Maryland and Delaware east of the Chesapeake Bay and south of the Chesapeake and Delaware Canal. (Hearing site: Washington, DC, or Baltimore, MD.)

MC 61619 (Sub-13F), filed August 13, 1979. Applicant: L & H TRUCKING COMPANY, INC., RD 3, Spring Grove, PA 17362. Representative: John E. Fullerton, 407 N. Front St., Harrisburg, PA 17101. 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 Bergstrom Division of P.H. Glatfelter Co., at W. Carrollton, OH, to points in NY, NJ, PA, MD, DE, VA, and WV, under continuing contract(s) with P.H. Glatfelter Co., of Spring Grove, PA. (Hearing site: Washington, DC.).

MC 73688 (Sub-101F), filed August 13, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *agricultural implements,* from Yazoo City, MS, to points in AR, IA, IL, IN, KS, KY, MD, MI, MN, MO, ND, NE, NY, OH, PA, SD, VA, and WI. (Hearing site: Jackson, MS, or Little Rock, AR.)

MC 73688 (Sub-102F), filed August 16, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *hardware* (except commodities in bulk and those which because of size or weight require the use of special equipment), between the facilities of Steel City Corp. at Youngstown, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Columbus, OH or Little Rock, AR.)

Note.—Common control may be involved.

MC 73688 (Sub-104F), filed August 13, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7195, Memphis, TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting *hogs and cattle feeders* from Yazoo City, MS, to points in AL, AR, GA, FL, IN, IA, IL, KS, MN, NE, OK, TN and TX. (Hearing site: Memphis, TN or Little Rock, AR.)

Note.—Common control may be involved.

MC 78118 (Sub-46F), filed June 22, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407

North Front St., Harrisburg, PA 17101. Transporting (1) *Paints, stains, varnishes, gasoline, fuel oil, and lubricating oil additives* (except commodities in bulk), between the facilities of Mobil Oil Corporation, at or near Edison, NJ, on the one hand, and, on the other, points in OH and PA; (2) *Petroleum and petroleum products* (except commodities in bulk); between the facilities of Mobil Oil Corporation at or near Paulsboro, NJ, on the one hand, and, on the other, points in OH and PA; (3)(a) *Plastic articles,* and (b) *materials or supplies* used in the manufacture of plastic articles (except commodities in bulk), between the facilities of Mobil Oil Corporation at or near Washington, NJ, on the one hand, and, on the other, points in OH and PA. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 78228 (Sub-139F), filed September 1, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Rd., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *iron and steel articles,* between the facilities of Bishopric Products, Inc., at Cincinnati, OH, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Washington, DC, or Pittsburgh, PA.)

MC 78228 (Sub-142F), filed September 16, 1979. Applicant: J. MILLER EXPRESS, INC., 962 Greentree Road., Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Bldg., Pittsburgh, PA 15219. Transporting *aluminum dross,* in bulk, in dump vehicles, from the facilities of Republic Foil, Division of National Aluminum Corporation at Salisbury, NC, to points in the United States on and east of a line beginning at the mouth of the Mississippi River and extending along the Mississippi River to its junction with the western boundary of Itasca County, MN, then northward along the western boundary of Itasca and Koochiching Counties, MN to the International Boundary line between United Sates and Canada. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 87928 (Sub-51F), filed September 7, 1979. Applicant: AUTOMOBILE TRANSPORT, INC., 36555 Michigan Avenue, Wayne, MI 48184. Representative: Eugene C. Ewald, 100 West Long Lake Road, Suite 102, Bloomfield Hills, MI 48013. Transporting *motor vehicles,* in truckaway service, in initial movements, from Battle Creek, MI to points in the United States (except AK and HI). (Hearing site: Detroit, MI.)

MC 106398 (Sub-939F), filed Augut 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 525 South Main, Tulsa, OK 74103. Transporting *trucks,* in secondary movements, from Elkhart, IN, to points in the United States (except AK and HI). (Hearing site: Chicago, IL.)

MC 106398 (Sub-940F), filed Augut 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *plastic pipe and fittings,* and *materials, equipment, and supplies* used in the manufacture and distribution of plastic pipe and fittings, between the facilities of Robintech, Inc., at Magnolia, AR, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Little Rock, AR.)

MC 106398 (Sub-941F), filed Augut 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *iron and steel articles,* from the facilities of Interlake, Inc., at Newport, KY, to Decatur, Depue, Moline, Freeport, Galesburg, Monmouth, Peru, Rockford, Rock Island, Quincy, Springfield, South Beloit, Kewanee, La Salle, and Havana, IL, and points in IA, KS, ND, and SD, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Newport, KY.)

MC 106398 (Sub-942F), filed Augut 13, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr. (same address as applicant). Transporting *brass, bronze, copper sheet, rod and wire products,* from the facilities of Bridgeport Brass Company at Bridgeport and Seymour, CT, to points in the United States (except AK and HI). (Hearing site: Bridgeport, CT.)

MC 106398 (Sub-943F), filed Augut 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr. 705 South Elgin, Tulsa, OK 74120. Transporting *buildings,* knocked down or in sections, from the facilities of Engineered Components, Inc. located at Stafford, TX, and Jemison, AL, to points in the United States (except AK and HI). (Hearing site: Houston, TX.)

MC 106398 (Sub-944F), filed August 17, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 705 South Elgin, Tulsa, OK 74120. Transporting *Iron and steel articles,* from the facilities of United States Steel Corporation located (a) at or near Cleveland, Lorain, Youngstown, OH, and (b) Braddock, Clairton, Dravosburg, Duquesne, Homestead, Irvin, Johnstown, McKeesport, McKees Rocks, Pittsburgh Vandergrift, and Fairless Hills, PA to points in AR, GA, IL, IN, KY, MI, MO, MC, SC, TN, VA, WI, and those points in OH on and south of Route 70. Hearing site: Pittsburgh, PA.

MC 106398 (Sub-947F), filed August 19, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 705 South Elgin, Tulsa, OK 74120. Transporting (1) *building and construction materials* and (2) *equipment, materials and supplies* used in the manufacture, distribution and transportation of commodities in (1) above, between points in the United States (except AK and HI), restricted in (1) above to shipments originating at facilities of the Flintcote Corp. and (2) above to shipments destined to the facilities of the Flintcote Corp. Hearing site: Dallas or Houston, TX.

MC 107678 (Sub-74F), filed August 7, 1979. Applicant: HILL & HILL TRUCK LINE, INC., P.O. Box 9698, Houston, TX 77015. Representative: David A. Sutherland, 1150 Connecticut Ave., NW, Suite 400, Washington, DC 20423. Transporting (1) *pole line construction material,* from Belle Chasse, LA to points in the United States (including AK, but excluding HI), and (2) *raw material* used in the manufacture of pole line construction material, from points in AL and TX to Belle Chasse, LA. (Hearing site: New Orleans, LA.)

MC 108119 (Sub-179F), filed August 13, 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 Bldg., Minneapolis, MN 55402. Transporting (1) *structural steel footwalks,* from the facilities of IKG Industries, at or near Nashville, TN, to points in the United States (except AK and HI), and (2) *materials equipment, and supplies* used in the manufacture and distribution of the commodities in (1) above, in the reverse direction, restricted to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Nashville, TN.)

MC 108119 (Sub-180F), filed August 20, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *metal working machinery,* from the facilities of Pearl Equipment Company, Inc., at or near (a) Nashville, TN, and (b) Houston, TX to points in the United States (except AK and HI), restricted to traffic originating at the above-named facilities. Hearing site: Nashville, TN.

Note.—Common control may be involved.

MC 108119 (Sub-181F), filed August 14, 1979. Applicant: E. L. MURPHY TRUCKING COMPANY, P.O. Box 43010, St. Paul, MN 55164. Representative: Andrew R. Clark, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *(1)(a) solid waste disposal equipment and (b) parts, attachments and accessories* for the commodities in (1)(a) above, from Baxley, GA to points in the United States (except AK and HI); and *(2) parts, materials and supplies* used in the manufacture of the commodities named in (1) (a) and (b) above (except commodities in bulk, in tank vehicles), in the reverse direction, restricted to traffic originating at or destined to the facilities of Selco Products, Inc., at Baxley GA. Hearing site: Jacksonville, FL or Atlanta, GA.

Note.—Common control may be involved.

MC 108119 (Sub-186F), filed September 4, 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 Building, Minneapolis, MN 55402. Transporting *precast stone,* and *materials and supplies* used in the installation of precast stone, from the facilities of Stucco Stone Company, Inc., in Napa County, CA, to points in the United States (except AK and HI), restricted to the transportation of traffic originating at the named facilities. (Hearing site: San Francisco or Los Angeles, CA.)

MC 108119 (Sub-188F), filed September 10, 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 Building, Minneapolis, MN 55402. Transporting *(1) construction machinery and equipment; and (2) parts, materials and supplies for the commodities named above (except commodities in bulk),* between points in the United States (excluding AK and HI), restricted to traffic originating at or destined to the facilities of Blount International Corporation.

MC 108589 (Sub-20F), filed September 10, 1979. Applicant: EAGLE EXPRESS COMPANY, Post Office Box 12047, Lexington, Ky 40580. Representative: Michael Spurlock, 275 East State Street, Columbus, OH 43215. Transporting *general commodities,* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), serving Morristown, TN, as an off-route point in connection with applicant's existing regular-route authority.

MC 109478 (Sub-151F), filed September 24, 1979. Applicant: WORSTER MOTOR LINES, INC., P.O. Box 110, Gay Road, North East, PA 16428. Representative: Robert D. Gunderman, Suite 710 Statler Building, Buffalo, NY 14202. Transporting *paper and paper products* from Erie and Lock Haven, PA and Oswego, NY to points in ND, SD, NE, KS, MN, IA, MO, AR, LA, TN, NC, SC, GA, FL, AL and MS. (Hearing site: Erie, PA or Buffalo, NY.)

MC 109689 (Sub-358F), filed September 10, 1979. Applicant: W. S. HATCH CO., P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 West Broadway, #400, Salt Lake City, UT 84101. Transporting *tallow,* in bulk, from the facilities of Iowa Beef Processors, Inc. at or near Amarillo, TX and Emporia, KS to points in AZ, CA, CO, NV, OR, UT, and WA, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations.

MC 109689 (Sub-359F), filed September 11, 1979. Applicant: W. S. HATCH CO., P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 West Broadway, #400, Salt Lake City, UT 84101. Transporting *lime, limestone* and *limestone products* (1) from Nelson, AZ, to points in TX, NM, UT, CO, NV, and CA, and (2) from Clark County NV, to points in CA, AZ, ID, and NM.

MC 109689 (Sub-360F), filed September 11, 1979. Applicant: W. S. HATCH CO., P.O. Box 1825, Salt Lake City, UT 84110. Representative: Mark K. Boyle, 10 West Broadway, #400, Salt Lake City, UT 84101. Transporting *petroleum and petroleum products,* in bulk, (1) between points in UT and WY and (2) from Natrona County, WY to UT, NV and ID.

MC 109818 (Sub-66F), filed September 21, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *metal buildings, complete, knocked down, or in sections, and parts and accessories for metal buildings,* from Chicago, IL, to points in UT, CO, WY, TX, MN, SD, IA, WI, MI, NE, OK, ID, MT, KS, ND, IN, and MO. (Hearing site: Des Moines, IA.)

MC 111289 (Sub-12F), filed August 13, 1979. Applicant: RICHARD D. FOLTZ, P.O. Box 161, Orwigsburg, PA 17961. Representative: S. Berne Smith, P.O. Box 1166, Harrisburg, PA 17108. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration, (except commodities in bulk), from the facilities of Nestle Company, Inc., at points in Camden and Gloucester Counties, NJ, to Derry Township, PA, under continuing contract(s) with Nestle Company, Inc., of White Plains, NY. (Hearing site: Washington, DC, or Harrisburg, PA.)

MC 111729 (Sub-762F), filed August 15, 1979. Applicant: PUROLATOR COURIER CORP., 3333 New Hyde Park Road, New Hyde Park, NY 11042. Representative: Elizabeth L. Henoch (same address as applicant). Transporting *business papers, records,* and *audit and accounting media,* between Blytheville, AR, on the one hand, and, on the other, Butler, Caruthersville, Chaffee, Charleston, Doniphan, Hayti, Ironton, Jackson, Kennett, Kirksville, Malden, New Madrid, Piedmont, Portageville, Potosi, Sikeston and Steele, MO. Hearing site: Washington, DC.

Note.—(1) Dual operations may be involved, (2) common control may be involved.

MC 113388 (Sub-127F), filed September 4, 1979. Applicant: LESTER C. NEWTON TRUCKING CO., a corporation, P.O. Box 618, Seaford, DE 19973. Representative: Charles Ephraim, 1250 Connecticut Ave. NW., Washington, DC 20036. Transporting *foodstuffs,* in vehicles equipped with mechanical refrigeration, from Philadelphia, PA, Boston, MA, and New York, NY, to points in CT, DE, FL, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, and DC. (Hearing site: New York, NY, or Washington, DC.)

MC 113528 (Sub-44F), filed September 7, 1979. Applicant: MERCURY FREIGHT LINES, INC., P.O. Box 1247, Mobile, AL 36601. Representative: Joy Stephenson (same as applicant). Transporting *mineral fibre products* and *insulating materials,* and *materials, supplies,* and *equipment* used in connection with the installation thereof, from facilities of the Owens-Corning Fiberglas Corp. at or near Waxahachie, TX, to points in LA on or south of a line beginning at the TX-LA State Line, then over State Hwy 12 to U.S. Hwy 190, then over U.S. Hwy 190 to U.S. Hwy 90, then over U.S. Hwy 90 to the LA-MS State Line; and to points in MS on or east of Interstate Hwy 55, and on or south of Interstate Hwy 20. (Hearing site: Dallas, TX, or Mobile, AL.)

MC 114569 (Sub-327F), filed June 27, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting *meats, meat products and meat byproducts, dairy products, and*

articles distributed by meat-packing houses as described in sections A, B, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates*, 61 M.C.C. 209 and 766 (except hides, skins, and commodities in bulk), from the facilities used by John Morrell and Co., at or near (a) Sioux Falls, SD, (b) Estherville and Sioux City, IA, and (c) Worthington, MN, to points in AZ, CA, and NM, restricted to the transportation of traffic originating at the named facilities. (Hearing site: Chicago, IL, or Washington, DC.)

Note.—Dual operations may be involved.

MC 114569 (Sub-338F), filed August 19, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant). Transporting (1) *foodstuffs and pet food*, and (2) *such commodities* that are used in the manufacturing of foodstuffs and pet foods (except commodities in bulk, in tank vehicles) between points in the United States in and east of ND, SD, NE, CO, OK, and TX, restricted to traffic originating at or destined to the facilities of Carnation Company. (Hearing site: Los Angeles, CA or Washington, DC.)

MC 114569 (Sub-339F), filed August 19, 1979. Applicant: SHAFFER TRUCKING, INC., P.O. Box 418, New Kingstown, PA 17072. Representative: N. L. Cummins (same address as applicant) Transporting *foodstuffs* (except in bulk, in tank vehicles) from Elizabeth, NJ, New Orleans, LA, Downingtown, PA, Philadelphia, PA, New York, NY, and Wilmington, DE, to points in IN, IL, MI, MO, NE, and OH. (Hearing site: New York City, NY or Washington, D.C.)

MC 116519 (Sub-69F), filed September 7, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R. R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733 Investment Building, Washington, D.C. 20005. Transporting *flat glass* and *glass glazing units*, from Pennsauken and Cinnaminson, NJ, and Truesdale and St. Louis, MO, to ports of entry on the international Boundary Line between the United States and Canada in MI, NY, ME, and VT, restricted to traffic moving in foreign commerce (Hearing site: Washinton, D.C.)

MC 116519 (Sub-70F), filed September 7, 1979. Applicant: FREDERICK TRANSPORT LIMITED, R. R. 6, Chatham, Ontario, Canada N7M 5J6. Representative: Jeremy Kahn, Suite 733, Investment Building, Washington, D.C. 20005. Transporting *salt*, in packages, from ports of entry on the International Boundary line between the United States and Canada located in MI, to points in IL, IN, KY, MI, OH and WI, restricted to traffic moving in foreign commerce. (Hearing site: Washington, D.C.)

MC 117119 (Sub-767F), filed August 17, 1979. Applicant: WILLIS SHAW FROZEN EXPRESS, INC., P.O. Box 188, Elm Springs, AR 72728. Representative: L. M. McLean (same address as applicant). Transporting *frozen foods*, from (1) Noblesville, IN to Carthage, MO and from (2) Carthage, MO to points in AZ, CA, NV, and NM, restricted to traffic originating at the facilities of Fred's Frozen Foods, Inc. (Hearing site: Chicago, IL, or Washington, D.C.)

MC 117878 (Sub-16F), filed September 7, 1979. Applicant: DWIGHT CHEEK d.b.a., DWIGHT CHEEK TRUCKING, P.O. Box 31538, Amarillo, TX 79120. Representative: Thomas F. Sedberry, 801 Vaughn Building, Austin, TX 78701. Transporting *animal feed and feed ingredients*, and *materials* and supplies used in the manufacture of animal feeds, from the facilities of Kal Kan Foods, Inc., at or near Vernon, Cerritos and Irvine, CA, to points in TX, NM, OR, WA, and AZ. (Hearing site: Amarillo or Dallas, TX.)

MC 118159 (Sub-360F), filed September 17, 1979. Applicant: NATIONAL REFRIGERATED TRANSPORT, INC., P.O. Box 51366, Dawson Station, Tulsa, OK 74151. Representative: Warren L. Troupe, 2480 E. Commercial Blvd., Fort Lauderdale, FL 33308. Transporting *foodstuffs* (except in bulk) from the facilities of Welch Foods, Inc. at or near Westfield, NY, and North East, PA, to points in AR, KS, LA, MS, MO, NM, OK, TN, and TX. (Hearing site: Atlanta, GA.)

MC 118838 (Sub-61F), filed August 10, 1979. Applicant: GABOR TRUCKING, INC., R.R. 4, Detroit Lakes, MN 56501. Representative: Robert D. Gisvold, 1000 First National Bank Bldg., Minneapolis, MN 55042. Transporting *railway car parts*, from points in Trumbull and Mahoning Counties, OH, and Mercer County, PA, to Renton, WA, and Portland, OR. (Hearing site: Youngstown, OH.)

MC 118989 (Sub-228F), filed August 17, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th St., Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North La Salle St., Chicago, IL 60601. Transporting *agricultural chemicals (other than in bulk)*, between points in the United States (except HI and AK), restricted to the transportation of traffic originating at or destined to the facilities of Monsanto Company. (Hearing site: Chicago, IL or St. Louis, MO.)

MC 119349 (Sub-26F), filed September 7, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street NW., Washington, DC 20001. Transporting *petroleum lubricating products, in containers*, from Edison, NJ to points in the United States (except AK, HI and FL), restricted to the transportation of traffic originating at the facilities of Burmah Castrol, Inc., at or near Edison, NJ. (Hearing site: Washington, DC.)

MC 119349 (Sub-29F), filed September 14, 1979. Applicant: STARLING TRANSPORT LINES, INC., P.O. Box 1733, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *bananas and agricultural commodities*, otherwise exempt from economic regulations pursuant to Section 10526(a)(6) of the Interstate Commerce Act, in mixed loads with bananas, from Tampa, FL, to points in FL, GA, TN, KY, OH, IN, IL, MI, WI, and MN. (Hearing site: Washington, DC.)

MC 119399 (Sub-104F), filed August 13, 1979. Applicant: CONTRACT FREIGHTERS, INC., P.O. Box 1375, 2900 Davis Blvd., Joplin, MO 64801. Representative: Don D. Lacy (same address as applicant). Transporting *malt beverages*, in containers, from Evansville, IN, to Joplin, Lamar, Rolla, Springfield, and West Plains, MO, and points in AR and OK. (Hearing site: St. Paul, MN, or St. Louis, MO.)

MC 119789 (Sub-621F), filed August 16, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Transporting *medicines*, from New Brunswick, South Plainfield, North Brunswick, and Somerset, NJ to Houston, TX. (Hearing site: Newark, NJ.)

MC 119789 (Sub-623F), filed September 7, 1979. Applicant: CARAVAN REFRIGERATED CARGO, INC., P.O. Box 226188, Dallas, TX 75266. Representative: James K. Newbold, Jr., P.O. Box 226188, Dallas, TX 75266. Transporting *malt beverages* from Trenton, NJ and Norfolk, VA, to points in AL, GA, FL, LA, MS, and TX. (Hearing Site: Norfolk, VA.)

MC 120028 (Sub-16F), filed September 28, 1979. CRAW CARTING, INC., 160 Despatch Drive, P.O. Box 267, East Rochester, NY 14445. Representative: Herbert M. Canter, 305 Montgomery Street, Syracuse, NY 13202. Transporting

(1) *Electrical household appliances, accessories and parts* therefor and (2) *materials, equipment, supplies* and *parts* used in the manufacture, packaging, sale and distribution of the commodities named in (1) above, between Buffalo, Castile, Perry and Rochester, NY, Girard and McKees Rocks, PA, Lancaster, OH, Muskogee, OK, Swainsboro, GA, and Woodville, WI. (Hearing Site: Rochester, NY or Washington, DC.)

MC 121568 (Sub-17F), filed August 6, 1979. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Ave., Nashville, TN 37211. Representative: James G. Caldwell (same address as applicant). Transporting *non-ferrous metals and metal products,* (except commodities in bulk) from the facilities of Gulf Metals Industries, Inc., at or near Houston, TX, to points in AR and TN. (Hearing site: Houston, TX, or Nashville, TN.)

Note.—The person or persons who appear to be engaged in common control must either file an application under 49 U.S.C. 11343(a) or submit an affidavit indicating why such approval is unnecessary.

MC 124078 (Sub-988F), filed August 16, 1979. Applicant: SCHWERMAN TRUCKING CO., 611 South 28th Street, Milwaukee, WI 53215. Representative: Richard H. Prevette, P.O. Box 1601, Milwaukee, WI 53201. Transporting *cement,* from the facilities of Missouri Portland Cement Company at (1) Memphis, TN, to points in AR and MS, and (2) Decatur, AL, to points in GA, MS, and TN. (Hearing site: St. Louis, MO.)

MC 125368 (Sub-89F), filed September 4, 1979. Applicant: CONTINENTIAL COAST TRUCKING COMPANY, INC., P.O. Box 26, Holly Ridge, NC 28445. Representative: C. W. Fletcher (same address as applicant). Transporting *foodstuffs,* and *supplies* used in the manufacture of foodstuffs, between the facilities of J. H. Filbert, Inc., at points in GA and MD, on the one hand, and, on the other, points in AL, AR, CT, DE, FL, IA, IL, IN, KS, KY, LA, MA, ME, MI, MO, MS, NC, ND, NE, NH, NJ, NY, OH, OK, PA, RI, SC, SD, TN, TX, VA, VT, WI, WV, and DC. (Hearing site: Washington, DC, or Chicago, IL.)

MC 126118 (Sub-172F), filed August 17, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *meat, meat products, meat by-products and articles distributed by meat packinghouses* as described in Appendix A and C of Appendix I to the report in *Descriptions on Motor Carrier Certificates* 61 MCC 209 and 766 (except hides and commodities in bulk), from the facilities of Iowa Beef Processors, Inc. located at or near (a) Dakota City and West Point, NE, (b) Denison and Ft. Dodge, IA, and (c) Luverne, MN, to points in OH, NY, and PA. (Hearing site: Omaha, NE or Lincoln, NE.)

Note.—Common control may be involved.

MC 126118 (Sub-173F), filed August 17, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative: David R. Parker (same address as applicant). Transporting *such commodities as are distributed and used by manufacturers of animal and poultry feed and ingredients* (except in bulk), between Portland, IN, on the one hand, and, on the other, points in the United States (except HI and AK). (Hearing site: Minneapolis, MN or Omaha, NE.)

Note.—Common control may be involved.

MC 126898 (Sub-9F), filed September 11, 1979. Applicant: BULLDOG HIWAY EXPRESS, P.O. Box 506, Charleston, SC 29402. Representative: Frank A Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Transporting *woodpulp,* in rolls or bales between Jesup GA and Savannah, GA, and Charleston, SC.

MC 127539 (Sub-79F), filed September 12, 1979. Applicant: PARKER REFRIGERATED SERVICE, INC., 1108 54th Avenue East, Tacoma, WA 98424. Representative: Michael D. Duppenthaler, 211 South Washington Street, Seattle, WA 98104. Transporting *medicines, toilet preparations, plastic articles, foodstuffs, health and beauty products, washing, cleaning and scouring compounds, and mops and brooms,* from Los Angeles, CA to points in OR, UT and WA. (Hearing site: Seattle, WA.)

MC 128638 (Sub-20F), filed September 4, 1979. Applicant: CENTRAL GRAIN HAULERS, INC., Route 7, Van Meter Rd., Winchester, KY 40391. Representative: William L. Willis, 708 McClure Bldg., Frankfort, KY 40601. Transporting *animal and poultry feed,* from St. Marys, OH, to points in KY, MD, VA, and WV. (Hearing site: Lexington or Frankfort, KY.)

MC 133119 (Sub-167F), filed August 13, 1979. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Dr., Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 1103, 300 S. Thompson Ave., Sioux Falls, SD 57103. Transporting *dairy products,* from Newman Grove, NE, to points in the United States (except NE, AK, and HI). (Hearing site: Sioux Falls, SD, or Omaha, NE.)

MC 133119 (Sub-170F), filed September 10, 1979. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Dr., Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 1103, 300 S. Thompson Avenue, Sioux Falls, SD 57103. Transporting *meats, meat products, meat by-products,* and *articles distributed by meat packinghouses,* from the facilities of Farmland Foods, Inc. at or near (a) Cherokee, Carroll, Denison, Des Moines, Ft. Dodge, Iowa Falls and Sioux City, IA, and (b) Crete, Lincoln and Omaha, NE to points in AZ, CA, CO, ID, KS, MO, NE, NV, NM, ND, OR, SD, UT, WA, MT, and WY. (Hearing site: Omaha, NE or Denison, IA.)

MC 133189 (Sub-30F), filed September 21, 1979. Applicant: VANT TRANSFER, INC., 1257 Osborne Road, Minneapolis, MN 55432. Representative: John B. Van de North, Jr., 2200 First National Bank Building, St. Paul, MN 55101. Transporting *crushed stone,* from the facilities of GAF Corporation located at Pembine, WI to points in MN, IL, MI, IN, OH, ND, SD, CO, NE, and MT. (Hearing site: Minneapolis or St. Paul, MN.)

MC 133689 (Sub-305F), filed September 4, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First St. SW., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul, MN 55118. 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 the United States (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Union Camp Corporation. (Hearing site: St. Paul, MN.)

MC 135598 (Sub-32F), filed September 10, 1979. Applicant: SHARKEY TRANSPORTATION, INC., P.O. Box 3156, Quincy, IL 62301. Representative: Carl L. Steiner, 39 South LaSalle Street, Chicago, IL 60603. Transporting (1) *dry animal and poultry feed, dry animal and poultry mineral mixtures, animal and poultry tonics and medicines, insecticides, pesticides, livestock and poultry feeders and equipment* (except liquid commodities in bulk) from Quincy, IL to points in AR, LA, and MS (2) *materials, equipment and supplies* used in the manufacture, sale and distribution of the above-named commodities (except liquid commodities in bulk) from points in AR, LA and MS to Quincy, IL. (Hearing site: Chicago, IL.)

Note.—Dual operations may be involved.

MC 138328 (Sub-98F), filed August 7, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Highway 50,

P.O. Box 37308, Omaha, NE 68137. Representative: J. F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting *cookies,* from the facilities of Grandma's Foods, Inc., at Beaverton, OR, to those points in the United States in and west of MT, WY, CO, and NM (except AK and HI). (Hearing site: Portland, OR, or Seattle, WA.)

Note.—Dual operations may be involved.

MC 138328 (Sub-99F) filed August 8, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Hwy 50, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137 Transporting *iron and steel articles,* from points in IL, IN, KY, and OH to the facilities of The Maytag Co., at Newton, IA. (Hearing site: Omaha, NE.)

Note.—Dual operations may be involved.

MC 138328 (Sub-101F) filed August 17, 1979. Applicant: CLARENCE L. WERNER, d.b.a. WERNER ENTERPRISES, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting (1) *charcoal, charcoal briquettes, fireplace logs, charcoal lighter fluid,* and *hickory chips,* and (2) *materials, equipment,* and *supplies* used in the manufacture and distribution of the commodities named in (1) above (except commodities in bulk, in tank vehicles) between the facilities of The Kingsford Company, at or near Burnside, KY, on the one hand, and, on the other, points in IL, IN, IA, MI, MN, OH, and WI. (Hearing site: Louisville, KY.)

MC 138469 (Sub-180F) filed September 23, 1979. Applicant: DONCO CARRIERS, INC., 4720 S. W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 W. Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting *frozen foods,* (except in bulk), in vehicles equipped with mechanical refrigeration, from (1) Chickasha and Tulsa, OK to points in the U.S. (except AK and HI), and (2) From Dallas, TX to Chickasha, OK, restricted in (1) and (2), above, to the transportation of traffic originating at or destined to the facilities of Pet Incorporated. (Hearing site: St. Louis, MO; Oklahoma City, OK.)

MC 140768 (Sub-43F) filed August 17, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representative: Morton E. Kiel and Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *such commodities* as are dealt in by business machine equipment and equipment and supplies houses, (1) between New York, NY, and points in Middlesex and Sumerset Counties, NJ, on the one hand, and, on the other, points in Dauphin County, PA, (2) between New York, NY, on the one hand, and, on the other, points in Somerset County, NJ. (Hearing site: New York, NY.)

MC 140768 (Sub-44F), filed August 20, 1979. Applicant: AMERICAN TRANS-FREIGHT, INC., P.O. Box 796, Manville, NJ 08835. Representatives: Morton E. Kiel and Eugene M. Malkin, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting (1) *malt beverages,* from the facilities of G. Heileman Brewing Company, Inc. at or near Evansville, IN, to points in AL, LA, MS, KY and TN, (2) (a) *charcoal briquets, vermiculite, active carbon, hickory chips, charcoal lighter fuel, charcoal grills and accessories* for charcoal grills, from the facilities of Husky Industries, Inc. at or near Scotia and Stamford, NY to points in CT, DC, DE, KY, MA, ME, MD, NH, NJ, OH, PA, RI, VA, VT and WV, and (b) *materials, supplies and equipment* (except commodities in bulk and those which, because of size or weight, require the use of special equipment) used in the manufacture and distribution of the commodities specified in (a) above, in the reverse direction, (3) *such merchandise* as is dealt in by grocery, department, and food business houses, and *equipment materials and supplies* used in the conduct of such business (except in bulk), (a) from Baltimore, MD to Cleveland, OH, and (b) from Morrows, GA to points in AL. (Hearing site: New York, NY.)

MC 140829 (Sub-304F), filed September 4, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *frozen foodstuffs,* between Indianapolis, IN, on the one hand, and, on the other, those points in the United States in and east of ND, SD, WY, CO, and NM, restricted to the transportation of traffic originating at or destined to the facilities of Monument Distribution Warehouse, Inc., at Indianapolis, IN. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-307F), filed September 1, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *plastic material* (except in bulk, in tank vehicles), (1) from Leominster, MA, to points in IL, IN, KY, LA, MI, MO, OH, and WI, and (2) from Illiopolis, IL, to points in GA, IN, KS, KY, MD, MA, MI, MN, MO, NH, NJ, NY, NC, OH, OK, PA, RI, TX, and WI, restricted to the transportation of traffic originating at the named origins, and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-310F), filed September 4, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting *paint and paint products,* and *materials, equipment, and supplies* used in the manufacture of paint and paint products (except commodities in bulk, in tank vehicles), (1) from Huron, OH, to points in CO, IL, IA, KS, KY, MN, MO, and NE, and (2) from Chicago, IL, to points in CO, IA, KS, KY, MN, MO, and NE, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 141269 (Sub-2F), filed August 10, 1979. Applicant: CHAS. R. MORGAN, INC., 18574 South Hwy 99E, Oregon City, OR 97045. Representative: Earle V. White, 2400 S.W. Fourth Ave., Portland, OR 97201. To operate as a *contract carrier,* by motor vehicle, in interstate or foreign commerce, over irregular routes, transporting *malt beverages,* from Portland, OR, to those points in CA north of Monterey, San Benito, Fresno, and Inyo Counties, under continuing contract(s) with Blitz Weinhard Company, of Portland, OR. (Hearing site: Portland, OR.)

MC 141859 (Sub-3F), filed September 11, 1979. Applicant: K. B. COMPANY, INC., P.O. Box 931, Winston-Salem, NC 27102. Representative: Eric Meierhoefer, Suite 423, 1511 K Street, N.W., Washinton, DC 20005. Transporting *chain saws, and gasoline cutting, boring, and blowing tools, and their parts and accessories* from the facilities of Stihl, Inc. located at Virginia Beach, VA, to Chehalis, WA, Albuquerque, NM, and Chico, CA. (Hearing site: San Francisco, CA.)

MC 142368 (Sub-25F), filed August 17, 1979. Applicant: DANNY HERMAN TRUCKING, INC., 1415 East Ninth Ave., Pomona, CA 91766. Representative: William J. Monheim, P.O. Box 1756, Whittier, CA 90609. Transporting *safes,* from City of Industry, CA, and Cincinnati, OH, to points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

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Decided: Feb. 8, 1980.

By the Commission, Review Board Number 1, Members Carleton, Joyce and Jones.

MC 228 (Sub-No 78F), filed October 1, 1979. Applicant: HUDSON TRANSIT LINES, INC., 17 Franklin Turnpike, Mahwah, NJ 07430. Representative: Michael J. Marzano, 99 Kinderkamack Road, Westwood, NJ 07675. To operate as a *common carrier*, by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *passengers and their baggage, and express and newspapers*, in the same vehicle with passengers, (1) between New York, NY and Patchogue, NY, from New York, NY over NY Hwy 24 to junction Fulton Street in Hempstead, NY, then over Fulton Street to junction Washington Street, then over Washington Street to junction NY Hwy 24 (Front Street), then over NY Hwy 24 to junction NY Hwy 110 near Farmingdale, NY, then over NY Hwy 110 to junction NY Hwy 27A near Copiague, NY, then over NY Hwy 27A to junction NY Hwy 111 near Islip, NY, then over NY Hwy 111 to junction NY Hwy 27, then over NY Hwy 27 to junction NY Hwy 19 near Patchogue, NY, then over NY Hwy 19 to Patchogue, NY, and return over the same route, serving all intermediate points, and (2) between New York, NY and Hempstead, NY, from New York, NY over NY Hwy 495 (Long Island Expressway) to Exit 39S Glen Cove Road-Guinea Woods Road, then over Glen Cove Road-Guinea Woods Road to Clinton Road, then over Clinton Road to junction Fulton Avenue, then over Fulton Avenue to junction Washington Street in Hempstead, NY, and return over the same route, serving all intermediate points, and (3) between junction NY Hwy 109 and NY Hwy 24 at or near Farmingdale, NY and junction NY Hwy 109 and NY Hwy 27A at or near Babylon, NY, over NY Hwy 109, serving all intermediate points, and (4) between junction NY Hwy 110 and NY Hwy 27 at or near Amityville, NY and junction NY Hwy 27 and NY Hwy 111 at or near Islip, NY, over NY Hwy 27 serving all intermediate points. (Hearing site: New York, NY.)

Note.—Applicant proposes to join the proposed routes with its existing authorized routes.

MC 488 (Sub-13F), filed October 25, 1979. Applicant: BREMAN'S EXPRESS COMPANY, a corporation, 318 Haymaker Road, Monroeville, PA 15146. Representative: Joseph E. Breman, 700 Fifth Avenue Building, Fifth Floor, Pittsburgh, PA 15219. Transporting *refractory products* and *materials and supplies* (except in bulk) *used in the manufacture and installation of refractories*, from the facilities of Harbison Walker Refractories, Division of Dresser Industries, Inc., at (1) Clearfield and Mount Union, PA, to Baltimore, MD, and (2) Baltimore, MD, to points in PA. (Hearing site: Pittsburgh, PA.)

MC 2229 (Sub-225F), filed October 22, 1979. Applicant: RED BALL MOTOR FREIGHT, INC., 3177 Irving Blvd., Dallas, TX 75247. Representative: Jackie Hill (same address as applicant). Transporting *fired clay cat litter* (except in bulk in tank vehicles) from the facilities of O.C.P.C., Inc., at or near Stroud, OK, to points in the United States (except AK, HI, and OK).

MC 14768 (Sub-3F), filed October 12, 1979. Applicant: LANDES OZARK TRANSFER CO. d.b.a. OZARK TRANSFER COMPANY, a corporation, P.O. Box 294, Ozark, MO 65721. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce over regular routes, transporting *general commodities* (except those of unusual value, Class A & B explosives, household goods as defined by the Commission, commodities in bulk and commodities requiring special equipment) (1) between Ozark, MO and Little Rock, AR, over U.S. Hwy 65 serving the intermediate points of Harrison, Marshall, and Clinton, AR, (2) between Ava, MO and Mountain Home, AR, from Ava, MO over MO Hwy 5 to junction AR Hwy 5, and then over AR Hwy 5 to Mountain Home, AR, and return over the same route, serving the intermediate point of Midway AR, and (3) between Mountain Home, AR and Berryville, AR, over U.S. Hwy 62 serving all intermediate points.

MC 15859 (Sub-12F), filed October 11, 1979. Applicant: THE HINE LINE, a corporation, 247 Emmet St., Newark, NJ 07114. Representative: Alki E. Scopelitis, 1301 Merchants Plaza, Indianapolis, IN 46204. Transporting: *iron and steel articles*, from the facilities of National Steel Corp. at (a) Weirton, WV and (b) Steubenville, OH, to points in IN, IA, KS, MN, MO, NE, and WI. (Hearing site: Chicago, IL or Indianapolis, IN.)

MC 25869 (Sub-164F), filed October 1, 1979. Applicant: NOLTE BROS. TRUCK LINE, INC., 6217 Gilmore Avenue, P.O. Box 7184, Omaha, NE 68107. Representative: Donald L. Stern, Suite 619, Xerox Bldg., 7171 Mercy Road, Omaha, NE 68106. Transporting: *internal combusion engines, iron and steel articles, agricultural implement parts and hardware, and materials, and equipment and supplies* used in the manfacture of agricultural implements, (except in bulk) from points in IL, IN, KY, OH, and WI to the facilities of Sperry New Holland at, or near, Grand Island and Lexington, NE, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations.

MC 31389 (Sub-385F), filed October 24, 1979. Applicant: McCLEAN TRUCKING COMPANY, a corporation, 1920 West First Street, Winston-Salem, NC 27104. Representative: David F. Eshelman, P.O. Box 213, Winston-Salem, NC 27102. Transporting over regular routes, *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), (1) between Nashville, TN, and Christiansburg, VA, from Nashville over Interstate Hwy 40 to the junction of Interstate Hwy 81 at or near Knoxville, TN, then over Interstate Hwy 81 to Christiansburg, and return over the same route, (2) between Roanoke, VA, and Harrisonburg, VA, over Interstate Hwy 81, (3) between Lexington, VA, and Amherst, VA, over U.S. Hwy 60, (4) between Lynchburg, VA, and Culpeper, VA, over U.S. Hwy 29, (5) between Staunton, VA, and Charlottesville, VA, over U.S. Hwy 250, (6) between Harrisonburg, VA, and Richmond, VA, over U.S. Hwy 33, (7) between Waynesboro, VA, and Front Royal, VA, over U.S. Hwy 340, (8) between Winchester, VA, and Harrisburg, PA, over Interstate Hwy 81, serving (a) all intermediate points on routes (2) through (7) above, (b) the off-route points of Radford, Hiwassee, Fincastle, Eagle Rock, Iron Gate, Clifton Forge, Covington, Goshen, Stuarts Draft, Weyers Cave, the facilities of Stehli-Carrisbrook Corporation in Fluvanna County, VA, and Martinsburg, WV, and (c) the junction of Interstate Hwy 77 and 81 for joinder only, in conjunction with carrier's regular-route operations. (Hearing site: Washington, DC, or Richmond, VA.)

Note.—Dual operations may be involved.

MC 35628 (Sub-421F), filed October 12, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a Corporation, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49501. Representative: Michael P. Zell, Interstate Motor Freight System, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49501. Transporting *such commodities* as are dealt in by grocery and food business houses (except frozen commodities and commodities in bulk), from the facilities of The Clorox Company facilities at Kansas City, MO to points in SD.

MC 35628 (Sub-429F), filed October 25, 1979. Applicant: INTERSTATE MOTOR FREIGHT SYSTEM, a corporation, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49501. Representative:

Michael P. Zell, P.O. Box 175, 110 Ionia Avenue, N.W., Grand Rapids, MI 49501. Transporting *iron and steel articles* between points in AL, AR, CO, CT, DE, GA, IL, IN, IA, KS, KY, ME, MD, MA, MI, MN, MO, NE, NH, NJ, NY, OH, OK, PA, RI, TN, VT, VA, WV, WI, and DC.

MC 44639 (Sub-95F), filed October 12, 1979. Applicant: L. & M. EXPRESS CO., INC., 220 Ridge Road, Lyndhurst, NJ 07071. Representative: Robert B. Russell (same as applicant). Transporting *wearing apparel* and *materials and supplies* used in the manufacture of wearing apparel (except commodities in bulk), (1) between points in VA, on the one hand, and, on the other, points in WV, and (2) between points in WV, on the one hand, and, on the other New York, NY.

MC 48958 (Sub-205F), filed October 22, 1979. Applicant: ILLINOIS-CALIFORNIA EXPRESS, INC., 510 East 51st Avenue, P.O. Box 16404, Denver, CO 80216. Representative: Lee E. Lucero (same address as applicant). Transporting (1) *such merchandise as is dealt in by wholesale, retail, chain grocery, and feed business houses, soy products, paste, flour products, dairy based products,* and (2) *materials, ingredients and supplies used in the manufacture, distribution, and sale of the commodities in (1) above* (except commodities in bulk, in tank vehicles), between points in AR, AZ, CA, CO, ID, IL, IN, IA, KS, MO, NE, NV, NM, OH, OK, TX, and UT, restricted to the transportation of shipments originating at or destined to the facilities of Ralston Purina Co. (Hearing site: St. Louis, MO, or Chicago, IL.)

MC 50069 (Sub-553F), filed October 26, 1979. Applicant: REFINERS TRANSPORT & TERMINAL CORPORATION, 445 Earlwood Avenue, Oregon, OH 43616. Representative: J. A. Kundtz, 1100 National City Bank Building, Cleveland, OH 44114. Transporting *ferric chloride,* in bulk, in tank vehicles, from Cleveland, OH, to points in OH, restricted to traffic having a prior movement by rail.

Note.—Dual operations may be involved.

MC 55709 (Sub-15F), filed October 22, 1979. Applicant: ANDING TRANSIT, INC., P.O. Box 112, Arena, WI 53503. Representative: James A. Spiegel, Attorney, Olde Towne Office Park, 6425 Odana Road, Madison, WI 53719. Transporting (1) *Cheese, cheese products, and synthetic cheese and cheese products,* and (2) *materials, equipment, and supplies* used in the manufacture and distribution of such commodities, between Green Bay, WI, and Carthage and Monett, MO, on the one hand, and, on the other, points in IA, IL, KS, MO, MN, ND, SD, and WI. (Hearing site: Madison, WI.)

MC 56388 (Sub-38F), filed October 11, 1979. Applicant: HAHN TRANSPORTATION, INC., New Market, MD 21774. Representative: Francis J. Ortman, 7101 Wisconsin Avenue, Suite 605, Washington, D.C. 20014. Transporting *granule dust filler,* in bulk, in pneumatic vehicles, from the facilities of G.A.F. Corporation, at or near Blue Ridge Summit, PA to the facilities of Tamko Corporation, Lime Kiln, MD. (Hearing site: Washington, DC.)

MC 57239 (Sub-48F), filed October 19, 1979. Applicant: RENNER'S EXPRESS, INC., 1350 South West Street, Indianapolis, IN 46206. Representative: Robert C. Bamford, 501 Perpetual Building, 1111 E Street, NW., Washington, DC 20004. Transporting over regular routes, *general commodities,* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) (1) between Ft. Wayne, IN and Jackson, MI, from Ft. Wayne over U.S. Hwy 24 to junction U.S. Hwy 127, then over U.S. Hwy 127 to Jackson, and return over the same route, serving the junction of U.S. Hwys 127 and 12 and the junction of U.S. Hwys 127 and 20 for joinder only, (2) between Ft. Wayne, IN, and the junction of Interstate Hwy 80 and Ohio Hwy 109, from Ft. Wayne over Interstate Hwy 69 to junction U.S. Hwy 20, then over U.S. Hwy 20 to junction Interstate Hwy 80, then over Interstate Hwy 80 to junction OH Hwy 109, and return over the same route, serving the junction of Interstate Hwy 80 and OH Hwy 109 for joinder only, (3) between Ft. Wayne, IN, and the junction of OH Hwy 2 and U.S. Hwy 127, from Ft. Wayne over IN Hwy 37 to the IN-OH State line, then over OH Hwy 2 to junction U.S. Hwy 127, and return over the same route, serving the junction of OH Hwy 2 and U.S. Hwy 127 for joinder only, (4) between Jackson, MI, and Tecumseh, MI, over MI Hwy 50, and (5) between the junction of U.S. Hwys 127 and 12 and the junction of U.S. Hwy 12 and MI Hwy 50, over U.S. Hwy 12, serving the junction of U.S. Hwy 12 and MI Hwy 50 for joinder only, and serving no intermediate points in (1) through (5) above, as alternate routes for operating convenience only. (Hearing site: Indianapolis, IN.)

MC 73688 (Sub-109F), filed October 15, 1979. Applicant: SOUTHERN TRUCKING CORPORATION, 1500 Orenda Avenue, P.O. Box 7195, Memphis TN 38107. Representative: Diane Price, Route 6, Box 15, North Little Rock, AR 72118. Transporting: *meats, meat products, meat byproducts* and *articles distributed by meat-packing houses,* as described in Sections A and C of Appendix 1 to the report in *Descriptions in Motor Carrier Certificates 61 M.C.C. 209 and 766,* from Mansfield, OH to points in AL, CA, CT, FL, GA, IL, KY, LA, MD, MA, MO, NJ, NY, NC, PA, SC, TN, TX, VA and WA.

MC 77129 (Sub-9F), filed October 11, 1979. Applicant: RAYMOND H. PUFFER, INC., Box 15, R.D. 1, Vernon, VT 05354. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *wood chips, in bulk,* from points in VT to Ticonderoga, NY and Berlin, NH, and points in ME. (Hearing site: Boston, MA.)

MC 77129 (Sub-10F), filed October 11, 1979. Applicant: RAYMOND H. PUFFER, INC., Box 15, R.D. 1, Vernon, VT 05354. Representative: Morton E. Kiel, Suite 1832, 2 World Trade Center, New York, NY 10048. Transporting *petroleum products, in bulk,* in tank vehicles, from New Haven, CT and Springfield, MA, to points in Windsor and Caledonia Counties, VT and Cheshire County, NH. (Hearing site: Boston, MA.)

MC 78118 (Sub-49F), filed October 22, 1979. Applicant: W. H. JOHNS, INC., 35 Witmer Road, Lancaster, PA 17602. Representative: Christian V. Graf, 407 North Front Street, Harrisburg, PA 17101. Transporting (1) *plumbing goods,* (2) *bathroom vanities* and their *accessories,* and (3) *equipment, materials and supplies* used in the manufacture and distribution of the commodities named in (1) and (2) above (except commodities in bulk), between Union Point and Monroe, GA, Rensselaer and Crawfordsville, IN, Salem, OH, and New Castle, PA, on the one hand, and, on the other, points in FL, GA, AL, MS, NC, SC, TN, KY, VA, WV, IN, MI, OH, MD, NJ, PA, and DC, restricted to traffic originating at or destined to the facilities of Universal-Rundle Corporation. (Hearing site: Washington, DC or Harrisburg, PA.)

MC 78228 (Sub-147F), filed October 5, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting: (1)(a) *iron and steel articles* and (b) *railway parts, material, equipment and supplies* from the facilities of McConway & Torley Company at Pittsburgh, PA to those points in the United States in and east of MN, IA, MO, OK, TX and (2) *materials, equipment, and supplies used in the manufacture,* in (1) above *and distribution of the commodities* in the

reverse direction. (Hearing site: Washington, DC or Pittsburgh, PA.)

MC 78228 (Sub-145F), filed October 12, 1979. Applicant: J MILLER EXPRESS, INC., 962 Greentree Road, Pittsburgh, PA 15220. Representative: Henry M. Wick, Jr., 2310 Grant Building, Pittsburgh, PA 15219. Transporting: (1) *(a) iron and steel articles and (b) railway parts, material, equipment and supplies* from the facilities of Edgewater Steel Company at Oakmont, PA to those points in the US in and east of MN, IA, MO, OK, TX and (2) *materials, equipment, machinery and supplies* used in the manufacture, and distribution of the commodities described in (1) above in the reverse direction. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 103798 (Sub-48F), filed October 12, 1979. Applicant: MARTEN TRANSPORT, LTD., Rural Route 3, Mondovi, WI 54755. Representative: Robert S. Lee, 1000 First National Bank Building, Minneapolis, MN 55402. Transporting *meats, meat products, meat by-products, articles distributed by meat-packing houses and such commodities as are used by meat packers in the conduct of their business,* as described in Sections A, C and D of Appendix I to the Report in *Description in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except hides and commodities in bulk), between the facilities of (a) Lauridsen Foods, Inc., at or near Britt, IA and (b) Armour and Company at or near Mason City, IA, on the one hand, and, on the other, points in AZ, CA, CO, ID, KS, MN, MT, NE, NV, NM, OR, UT, WA, WI, and WY, restricted to the transportation of traffic originating at or destined to the above named facilities. (Hearing site: Phoenix, AZ.)

MC 106398 (Sub-969F), filed October 1, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal (same as applicant). Transporting (1) *metal products,* and (2) *materials and supplies* used in the manufacture and distribution of metal products between points in the US (except AK and HI) restricted in (1) above to the transportation of traffic originating at the Abex Corporation and in (2) above to the transportation of traffic destined to the facilities of the Abex Corporation. (Hearing site: New York, NY.)

MC 106398 (Sub-989F), filed October 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, 525 South Main, Tulsa, OK 74103. Transporting *materials, equipment* and *supplies* used in the manufacture, sale, and distribution of metal buildings and metal building parts (except commodities in bulk), from points in the United States (except AK and HI) to the facilities of Butler Manufacturing Company at (a) Annville, PA, (b) Birmingham, AL, (c) Galesburg, IL, (d) Kansas City, MO, (e) Laurinburg, NC, and (f) Visalia, CA. (Hearing site: Chicago or Peoria, IL.)

MC 106398 (Sub-990F), filed October 22, 1979. Applicant: NATIONAL TRAILER CONVOY, INC., 705 South Elgin, Tulsa, OK 74120. Representative: Fred Rahal, Jr., 525 South Main, Tulsa, OK 74103. Transporting (1) *iron and steel decking* from the facilities of Southeast Metal Deck, Inc., at Norfolk, VA, to points in NC, SC, GA, FL, VA, MD, WV, NJ, PA, DE, NY, MA, OH, MI, CT, and RI, and (2) *materials and supplies* used in the manufacture of iron and steel decking in the reverse direction. (Hearing site: Richmond or Roanoke, VA.)

MC 107478 (Sub-55F), filed October 22, 1979. Applicant: OLD DOMINION FREIGHT LINE, INC., Post Office Box 2006, High Point, NC 27261. Representative: Kim D. Mann, Suite 1010 7101 Wisconsin Avenue, Washington, DC 20014. Transporting *stone, concrete cast stone, prestressed and precast concrete, and prestressed and precast concrete products* between Raleigh, NC, on the one hand, and, on the other, points in MD and VA. (Hearing site: Raleigh, NC; Washington, DC.)

MC 108119 (Sub-196F), filed October 1, 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 Building, Minneapolis, MN 55402. Transporting *(1) high lifts, (2) logging skidders, (3) haulers and (4) loaders,* from the facilities of Pettibone Alabama, Inc., Greenville, AL to points in the US (excluding AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Birmingham, AL.)

MC 108119 (Sub-197F), filed October 1, 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 Building, Minneapolis, MN 55402. Transporting *(1) dust collectors; (2) parts, attachments and accessories for dust collectors; and (3) metal fabrications,* from the facilities of St. Louis Blow Pipe at Meridian, MS to points in the US (excluding AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Jackson, MS.)

MC 108119 (Sub-198F), filed October 1, 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 Building, Minneapolis, MN 55402. Transporting *(1) fabricated steel grapple hooks, and (2) parts, and attachments for fabricated steel grapple hooks,* from the facilities of Mack Manufacturing Company at Prichard, AL, to points in the US (excluding AK and HI), restricted to the transportation of traffic originating at the named origin. (Hearing site: Birmingham, AL.)

MC 108649 (Sub-13F), filed October 22, 1979. Applicant: STURM FREIGHTWAYS, INC., 8919 North University, Peoria, IL 61614. Representative: Leonard R. Kofkin, 39 South LaSalle Street, Chicago, IL 60603. To operate as a *common carrier,* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *general commodities* (except those of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between Chicago, IL, and Des Moines, IA, from Chicago over Interstate Hwy 55 to junction Interstate Hwy 80, then over Interstate Hwy 80 to Des Moines and return over the same route, serving no intermediate points. (Hearing site: Chicago, IL.)

MC 109818 (Sub-68F), filed October 11, 1979. Applicant: WENGER TRUCK LINE, INC., P.O. Box 3427, Davenport, IA 52808. Representative: Larry D. Knox, 600 Hubbell Building, Des Moines, IA 50309. Transporting *paper and paper products,* from Gary, IN, to points in IA. (Hearing site: Chicago, IL.)

MC 111548 (Sub-26F), filed October 26, 1979. Applicant: SHARPE MOTOR LINES, INC., P.O. Box 517, Hildebran, NC 28637. Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Ave. & 13th St., N.W., Washinton, DC 20004. Transporting *canned and preserved foodstuffs* from the facilities of Heinz USA at or near (a) Muscatine and Iowa City, IA, (b) Fremont and Toledo, OH, (c) Holland, MI, and (d) Pittsburgh, PA, to points in NC and SC, restricted to traffic originating at the named facilities and destined to the indicated destinations. (Hearing site: Pittsburgh, PA or Washington, DC.)

MC 112989 (Sub-113F), filed October 22, 1979. Applicant: WEST COAST TRUCK LINES, INC., 85647 Highway 99 South, Eugene, OR 97405. Representative: John W. White, Jr., 85647 Highway 99 South, Eugene, OR

97405. Transporting *petroleum and petroleum products* between the facilities of Union Oil Company at points in CA, on the one hand, and, on the other, points in OR and WA. (Hearing site: Los Angeles, CA.)

Note.—Dual operations may be involved.

MC 113678 (Sub-850F), filed October 25, 1979. Applicant: CURTIS, INC., 4810 Pontiac Street, Commerce City, CO 80022. Representative: Roger M. Shaner (same as Applicant) Transporting *bakery products,* from the facilities of Stella D'Oro Biscuit Co., Inc., at or near St. Elmo. IL, to points in CA, CO, and TX.

MC 116519 (Sub-71F), filed October 4, 1979. Applicant: FREDERICK TRANSPORT LIMITED, RR. 6, Chatham, Ontario, Canada. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. To operate as a *common carrier,* by motor vehicle, over irregular routes, transporting *refractories,* and materials and supplies used in the manufacture and installation of refractories, from points in AL, GA, IL, IN, KY, MD, MI, MO, NJ, NY, OH, PA, and WV, to ports of entry on the United States-Canada international boundary line in MI and NY. (Hearing site: Washington, DC.)

MC 116519 (Sub-72F), filed October 4, 1979. Applicant: FREDERICK TRANSPORT LIMITED, RR. 6, Chatham, Ontario, Canada. Representative: Jeremy Kahn, Suite 733 Investment Building, 1511 K Street, NW., Washington, DC 20005. Transporting, in foreign only *fireplace logs, sawdust* (wax impregnated), *charcoal briquettes,* and *hickory chips,* between ports of entry on the United States-Canada international boundary line in MI and NY on the one hand, and, on the other, points in the United States (except AK, AZ, CA, CO, ID, MT, NV, NM, HI, OR, UT, WA, and WY). (Hearing site: Washington, DC.)

MC 116859 (Sub-25F), filed October 4, 1979. Applicant: CLARK TRANSFER, INC., P.O. Box 190, Burlington, NJ 08016. Representative: David A. Sutherlund, 1150 Connecticut Ave., NW., Suite 400, Washington, DC 20036. Transporting: *printed matter* from Chicago, IL, to Old Saybrook, CT, Baltimore and Glendale, MD, Lancaster and Philadelphia, PA, and Washington, DC. (Hearing site: Washington, DC.)

MC 117068 (Sub-121F), filed October 4, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway 63, Rochester, MN 55901. Representative: Paul F. Sullivan, 711 Washington Building, Washington, DC 20005. Transporting: *Mechanical lifting devices* from Selma, CA, to points in IL and IN. (Hearing site: Chicago, IL.)

MC 117068 (Sub-122F), filed October 12, 1979. Applicant: MIDWEST SPECIALIZED TRANSPORTATION, INC., P.O. Box 6418, North Highway, Rochester, MN 55901. Representative: Richard C. McGinnis, 711 Washington Building, Washington, DC 20005. Transporting *material handling equipment and parts,* (1) from Battle Creek, MI, to points in IL, WI, MN (except Minneapolis), ND, SD, NE, WY, UT, AZ, NV, and CA; and (2) from points in Scott County, KY, to points in NE, SD, KS, CO, WY, UT, AZ, NV, and CA. (Hearing site: Chicago, IL.)

MC 118959 (Sub-241F), filed October 5, 1979. Applicant: JERRY LIPPS, INC., 130 South Frederick Street, Cape Girardeau, MO 63701. Representative: Donald B. Levine, 39 South LaSalle Street, Chicago, IL 60603. Transporting *plastic articles (except in bulk),* between Nicholasville, KY on the one hand, and, on the other, points in GA and IL. (Hearing site: Chicago, IL.)

MC 118989 (Sub-231F), filed October 12, 1979. Applicant: CONTAINER TRANSIT, INC., 5223 South 9th Street, Milwaukee, WI 53221. Representative: Albert A. Andrin, 180 North LaSalle Street, Chicago, IL 60601. Transporting *canned and preserved foodstuffs,* from the facilities of Heinz USA at or near Muscatine and Iowa City, IA to points in MN, WI, IL and those in MO in the St. Louis, MO-East St. Louis, IL, commercial zone, restricted to the transportation of traffic originating at the named origins and destined to the indicated destinations. (Hearing site: Chicago, IL, or Washington, DC.)

MC 119988 (Sub-219F), filed October 1, 1979. Applicant: GREAT WESTERN TRUCKING CO., INC., P.O. Box 1384, Lufkin, TX 75901. Representative: High T. Matthews, 2340 Fidelity Union Tower, Dallas, TX 75201. Transporting (1) *forest products, paper, paper products,* and *plastic articles,* (2) *building materials,* (3) *metal products, concrete products* (except those commodities described in (2) above, (4) *machinery,* and (5) *materials, equipment, and supplies* used in the manufacture and distribution of the commodities named in (1) through (4) above, between the facilities of St. Regis Paper Company in the United States (except AK and HI), 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 St. Regis Paper Co. (Hearing site: Dallas, TX.)

MC 121568 (Sub-20F), filed October 22, 1979. Applicant: HUMBOLDT EXPRESS, INC., 345 Hill Avenue, Nashville, TN 37211. Representative: James G. Caldwell, 345 Hill Avenue, Nashville, TN 37211. Transporting *penumatic rubber tires, rubber tubes, and materials* used in the manufacture, production, and distribution thereof (except in bulk) between the facilities utilized by General Tire and Rubber Company at or near (a) Mayfield, KY, and (b) Dallas and Waco, TX.

MC 123048 (Sub-471F), filed October 5, 1979. Applicant: DIAMOND TRANSPORTATION SYSTEM, INC., 5021 21st Street, Racine, WI 53406. Representative: John L. Bruemmer, 121 West Doty Street, Madison, WI 53703. Transporting (1) *cooling towers, evaporative condensers, and industrial fluid coolers,* and (2) *parts* for the commodities described in (1) above, from Paxton, IL, to points in AL, AR, CO, IN, IA, KS, KY, LA, MI, MN, MS, MO, NE, ND, OH, OK, SD, TN, TX, and WI. (Hearing site: Chicago, IL, or Washington, DC.)

MC 125299 (Sub-9F), filed October 22, 1979. Applicant: WITTE BROTHERS EXCHANGE, INCORPORATED, 690 E. Cherry Street, Troy, MO 63379. Representative: Herman W. Huber, 101 East High Street, Jefferson City, MO 65101. Transporting *animal feed and feed ingredients* (except in bulk in tank vehicles) from the facilities of MINER-OL Co., Inc., at Warsaw, IL, to points in the United States (except AK and HI).

MC 125708 (Sub-183F), filed October 26, 1979. Applicant: THUNDERBIRD MOTOR FREIGHT LINES, INC., 425 W. 152nd Street, East Chicago, IN 46312. Representative: Anthony C. Vance, 1307 Dolley Madison Blvd., McLean, VA 22101. Transporting *iron and steel articles* from East Jordan, MI, to points in the United States (except AK and HI). (Hearing site: Detroit, MI, or Washington, DC.)

MC 126018 (Sub-4F), filed October 19, 1979. Applicant: PREM–PAK, INC., 1 Exeter Road, North Hampton, NH 03862. Representative: Frank J. Weiner, 15 Court Square, Boston, MA 02108. Transporting *paper, paper products, and materials and supplies* used in the manufacture or distribution thereof (except in bulk), between the facilities of Scott Paper Company in PA, DE, NJ, NY, and ME, on the one hand, and, on the other, points in MA, NJ, PA, NY, CT, RI, VT, ME, NH, and DE. (Hearing site: Boston, MA.)

MC 126118 (Sub-195F), filed October 4, 1979. Applicant: CRETE CARRIER CORPORATION, P.O. Box 81228, Lincoln, NE 68501. Representative:

David R. Parker, P.O. Box 81228, Lincoln, NE 68501. Transporting: *Electrical appliances,* from Manchester, KY to points in GA, IL, NV and TX. (Hearing site: Knoxville, TN or Lincoln, NE.)

Noted.—Dual operations may be involved.

MC 126679 (Sub-19F), filed October 1, 1979. Applicant: DENNIS TRUCK LINE, INC., P.O. Box 189, Vidalia, GA 30474. Representative: Virgil H. Smith, Suite 12, 1587 Phoenix Boulevard, Atlanta, GA 30349. Transporting *iron and steel articles, steel roof deck and bar joist,* from Columbia and Florence, SC, to points in AL, FL, GA, MS, and TN. (Hearing site: Atlanta, GA.)

MC 126898 (Sub-11F), filed October 5, 1979. Applicant: BULLDOG HIWAY EXPRESS, a corporation, Post Office Box 506, Charleston, SC 29402. Representative: Frank A. Graham, Jr., 707 Security Federal Building, Columbia, SC 29201. Transporting *sand (except in bulk)* from Starke and Tampa, FL, to points in SC on and east of US Highway 1. (Hearing site: Columbia, SC, Charleston, SC or Tampa, FL.)

MC 133119 (Sub-173F), filed October 1, 1979. Applicant: HEYL TRUCK LINES, INC., P.O. Box 206, 200 Norka Drive, Akron, IA 51001. Representative: A. J. Swanson, P.O. Box 1103, 300 S. Thompson Avenue, Sioux Falls, SD 57103. Transporting, in foreign commerce only, *glass beads, glass spheres, glass cullet, thermoplastic materials,* from ports of entry on the International Boundary line between the U.S. and Canada, to points in the U.S. (except AK and HI). (Hearing site: Sioux Falls, SD or Fargo, ND.)

MC 133689 (Sub-310F), filed October 4, 1979. Applicant: OVERLAND EXPRESS, INC., 719 First Street S.W., New Brighton, MN 55112. Representative: Robert P. Sack, P.O. Box 6010, West St. Paul. Transporting *glass and glass products, equipment, materials and supplies* used or useful in the manufacture and distribution of glass and glass products (except commodities in bulk), between the facilities of Viracon Inc., at or near Owatonna, MN and Chicago and Bensonville, IL on the one hand, and, on the other, those points in the U.S. in and east of ND, SD, NE, KS, OK, and TX. (Hearing site: St. Paul, MN.)

MC 136268 (Sub-27F), filed October 4, 1979. Applicant: WHITEHEAD SPECIALTIES, INC., 1017 Third Avenue, Monroe, WI 53566. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting: (1) *cheese and cheese products* from Monroe, WI to points in CT, DE, IN, MD, MA, MI, NJ, NY, OH, PA and RI; and (2) *materials, equipment and supplies* used in the manufacture and distribution of cheese and cheese products in the reverse direction. (Hearing sites: Madison, WI or Milwaukee, WI.)

MC 138308 (Sub-92F), filed October 5, 1979. Applicant: KLM, INC., Old Highway 49 South, P.O. Box 6098, Jackson, MS 39208. Representative: Donald B. Morrison, P.O. Box 22628, Jackson, MS 39205. Transporting: *Malt beverages* and *materials* and *supplies* dealt in by malt beverage distributors from Fort Worth and San Antonio, TX to Jackson, MS.

Note.—Dual operations are involved.

MC 138328 (Sub-103F), filed October 4, 1979. Applicant: Clarence L. Werner, d.b.a. Werner Enterprises, I–80 and Highway 50, P.O. Box 37308, Omaha, NE 68137. Representative: James F. Crosby, P.O. Box 37205, Omaha, NE 68137. Transporting: (1) paper, and paper articles, and (2) foam, and foam products, and (3) supplies, materials, and equipment used in the production and distribution of the commodities described in (1) and (2) above. Between the facilities of Scott Paper Company in WA, WI, AL, AR, MI, OH, IN, and IL on the one hand, and, on the other, points in CA, CO, KS, OK, NE, TX, AR, MO, IL, IA, WI, IN, KY, TN, AL, MS, LA, MI, MN, and OH. (Hearing site: Philadelphia, PA.)

Note.—Dual operations may be involved.

MC 138469 (Sub-185F), filed October 15, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting: *caulking compounds,* (except in bulk, in tank vehicles), from the facilities of the H.B. Fuller Company at Dallas, TX to points in the U.S. (except AK and HI), restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Dallas, TX or Oklahoma City, OK.)

MC 138469 (Sub-186F), filed October 15, 1979. Applicant: DONCO CARRIERS, INC., 4720 S.W. 20th St., Oklahoma City, OK 73128. Representative: Jack H. Blanshan, 205 West Touhy Ave., Suite 200, Park Ridge, IL 60068. Transporting: (1) *vinyl plastic* in rolls, from Newton Falls, MA, and Seattle, WA to Arlington, TX and (2) *printed matter* from Arlington, TX to Brook, IN, restricted in parts one (1) and two (2) above to the transportation of traffic originating at or destined to the facilities of Optigraphics Corporation/Visual Panographics, Inc., at Arlington, TX. (Hearing site: Dallas, TX, or Oklahoma City, OK.)

MC 140829 (Sub-324F), filed October 11, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Transporting *meats, meat products, meat by-products, and articles distributed by meat-packing houses,* as described in Sections A, and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of MBPXL Corporation, at or near Rockport, MO, to points in CT, DE, IL, IN, KY, ME, MD, MA, MI, NH, NJ, NY, OH, PA, RI, VA, VT, WV, WI and DC, restricted to the transportation of traffic originating at named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-328F), filed October 22, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King (same address as applicant). Transporting (1) *bags, envelopes, packets, pouches, wrappers, and bag ties,* and (2) *materials, equipment, and supplies* used in the manufacture thereof, between Sioux Falls, SD, on the one hand, and, on the other, those points in the United States in and east of ND, SD, NE, CO, and NM, restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 140829 (Sub-329F), filed October 25, 1979. Applicant: CARGO, INC., P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Representative: David L. King, P.O. Box 206, U.S. Hwy 20, Sioux City, IA 51102. Transporting (1) *bags, envelopes, packets, pouches, wrappers, and bag ties,* and (2) *materials, equipment, and supplies* used in the manufacture thereof, from Tyler, TX, to the points in the United States in and east of MT, WY, CO, and NM, restricted to traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Washington, DC.)

Note.—Dual operations may be involved.

MC 142059 (Sub-99F), filed October 11, 1979. Applicant: CARDINAL TRANSPORT, INC., 1830 Mound Road, Joliet, IL 60436. Representative: Jack Riley, 1830 Mound Road, Joliet, IL 60436. Transporting: *foodstuffs* (except in bulk) from Jacksonville, IL to Sherman, TX and points in AL, FL, GA, KY, MS, NC, OH, SC, TN, and TX, and Sherman, TX to Jacksonville, IL. (Hearing site: Chicago, IL; Dallas, TX or Washington, DC.)

MC 142508 (Sub-122F), filed October 22, 1979. Applicant: NATIONAL TRANSPORTATION, INC., Post Office Box 37465, 10810 South 144th Street, Omaha, NE 68137. Representative: Lanny N. Fauss, Post Office Box 37096, Omaha, NE 68137. Transporting (1) *welding equipment, materials and supplies* from the facilities of Miller Electric Manufacturing Company at Appleton and Neenah, WI, to points in the United States (except AK, CO, HI, KS, LA, MO, NE, OK, SD, TN, and WY), and (2) *Equipment, materials, and supplies used in the manufacturing of welding equipment* from points in the United States (except AK and HI), to the facilities of Miller Electric Manufacturing Company at Appleton WI. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 142559 (Sub-121F), filed October 1, 1979. Applicant: BROOKS TRANSPORTATION, INC., 3830 Kelley Avenue, Cleveland, OH 44114. Representative: David A. Turano, 100 East Broad Street, Columbus, OH 43215. Transporting (1) *electrical appliances,* (2) *fans, heaters, heat recyclers, vacuum cleaners, household compactors, door chimes, range hoods, range splash plates and roof cappings* [except those in (1) above], and (3) *parts, materials and supplies* used in the manufacture, sale, and distribution of the commodities in (1) above (except commodities in bulk), between points in the US (except AK and HI), restricted to the transportation of traffic originating at or destined to the facilities of Broan Manufacturing Company. (Hearing site: Columbus, OH, or Washington, DC.)

Note.—Dual operations may be involved.

MC 143059 (Sub-109F), filed October 22, 1979. Applicant: MERCER TRANSPORTATION CO., a corporation, 12th & Main Streets, P.O. Box 35610, Louisville, KY 40232. Representative: John M. Nader, Suite 1600, Citizens Plaza Building, Louisville, KY. 40202. Transporating (1) *Prefabricated buildings, knocked down,* (2) *parts, attachments, tools,* and *accessories* used in the erection and installation of the commodities in (1), above, from the facilities of Com-Struct International and its Fibreshell Division at Sacramento, CA, and in Placer County, CA, to points in the United States (including AK but excluding HI), and (3) *equipment materials, and supplies* used in the manufacture and distribution of the commodities in (1) and (2) above, except in bulk, in the reverse direction, restricted in (1), (2) and (3), above, to the transportation of traffic originating at or destined to the named facilities. (Hearing site: Sacramento or San Francisco, CA.)

MC 144969 (Sub-15F), filed October 11, 1979. Applicant: WHEATON CARTAGE CO., Wheaton Avenue, Millville, NJ 08332 Representative: E. Stephen Heisley, 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting (1) *foodstuffs,* and (2) *materials, equipment and supplies* used in the manufacture of foodstuffs between the facilities of Anderson Clayton Foods, Division of Anderson Clayton and Company at or near Humboldt, TN, on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Dallas, TX.)

Note.—Dual operations may be involved.

MC 145579 (Sub-10F), filed October 11, 1979. Applicant: D. IRVIN TRANSPORT LIMITED, Box 8, Station T, Calgary, Alberta, Canada T2H 2G7. Representative: Charles E. Johnson, 418 East Rosser Avenue, P.O. Box 1982, Bismarck, ND 58501. Transporting in foreign commerce only, (1) *drilling mud, drilling mud additives, oil field chemicals, lost circulation materials, polymers,* and *oil well sealing fiber,* from points in the US (including AK, but excluding HI), to ports of entry on the international boundary line between the United States and Canada, and (2) *Materials and supplies* used in the construction and maintenance of oil and gas wells and pipelines, from ports of entry located on the international boundary line between Canada and the US in ND, MT, ID, WA, and AK to points in the US (including AK but excluding HI). (Hearing site: Billings, MT.)

Note.—Dual operations may be involved.

MC 145768 (Sub-5F), filed October 22, 1979. Applicant: KREILKAMP TRUCKING, INC., Route 1, Allenton, WI 53002. Representative: Nancy J. Johnson, Attorney, 103 East Washington Street; Box 218, Crandon, WI 54520. Transporting *bituminous conduit and pipe,* and *accessories thereto,* from the plantsite of Bermico Co., at or near West Bend, WI, to points in IL, MI, MN, MO, IA, IN, OH, KY, AR, KS, OK, TX, CO, and NM.

MC 145928 (Sub-4F), filed October 19, 1979. Applicant: PANTEGO DISTRIBUTING CO., INC., Post Office Box 176, Pantego, NC 27860. Representative: Peter A. Greene, 900 17th Street, N.W., Washington, D.C. 20006. Transporting *forest products* from the facilities of Weyerhaeuser, Inc., in NC to points in NY, NJ, DE, MD, PA, and VA. (Hearing site: Washington, D.C.)

MC 146128 (Sub-7F), filed October 11, 1979. Applicant: MERRITT FOODS COMPANY d/b/a/, MERRITT REFRIGERATED SERVICE, a corporation, 2840 Guinotte, Kansas City, MO 64120. Representative: Arthur J. Cerra, 2100 TenMain Center, P.O. Box 19251, Kansas City, MO 64141. Transporting *confectionery* in mecanically refrigerated equipment from the facilities of Peter Paul Cadbury, Inc., at Frankfort, IL, to Kansas City, MO and Dallas, TX.

MC 146448 (Sub-4F), filed October 22, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting (1) *wooden dining and game furniture* from Searcy, AR, to points in the United States (except AK and HI) and (2) *materials, equipment and supplies* used in the manufacture of wooden dining furniture (except in bulk), in the reverse direction. (Hearing site: Little Rock, AR.)

MC 146448 (Sub-5F), filed October 22, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *chemicals, alloys, salt, and materials, equipment and supplies* used in the manufacture of chemicals (except in bulk), in vehicles equipped with mechanical refrigeration, (1) from Irvine CA, to Berkeley, CA, Portland, OR, Dallas, TX, Chicago, IL, and Westwood, MA, and (2) from Westwood, MA, to Chicago, IL, and Portland, OR. (Hearing site: Boston, MA.)

MC 146448 (Sub-6F), filed October 22, 1979. Applicant: C & L TRUCKING, INC., P.O. Box 409, Judsonia, AR 72081. Representative: Theodore Polydoroff, Suite 301, 1307 Dolley Madison Boulevard, McLean, VA 22101. Transporting *plastic sheeting,* in rolls, from Stratford, CT, to points in the United States (except AK and HI). (Hearing site: New York, NY or Hartford, CT.)

MC 146659 (Sub-4F), filed October 11, 1979. Applicant: GOLDSTON TRANSFER INC., Post Office Box 338, Eden, NC 27288. Representative: Archie W. Andrews, Executive Vice President, Post Office Box 528, Eden, NC 27288. Transporting: *materials, equipment, and supplies* used in the manufacture of malt beverages, from points in NC to points in Rockingham County, NC.

Note.—Dual operations may be involved.

MC 146719 (Sub-5F), filed October 26, 1979. Applicant: MATERIAL DELIVERY

SERVICE, INC., P.O. Drawer F, County Road 26, Alabaster, AL 35007. Representative: Edward J. Kiley, 1730 M Street, NW., Washington, D.C. 20036. Transporting *cement* from points in Shelby, Jefferson and Marengo Counties, AL, to points in GA, MS, TN, FL, and SC. (Hearing site: Atlanta, GA or Washington, DC.)

MC 1472480 (Sub-2F), filed October 25, 1979. Applicant: CONTAINER SHUTTLE SERVICE CORPORATION, 6950 College Oaks "G," Beaumont, TX 77707. Representative: Edward F. Schiff, 1333 New Hampshire Avenue, NW., Washington, DC 20036. Transporting *plastic materials,* in containers, between Beaumont, TX, on the one hand, and, on the other, Houston, TX, restricted to traffic moving in foreign commerce. (Hearing site: Washington, DC.)

MC 147489 (Sub-3F), filed October 22, 1979. Applicant: SLAW TRUCKING, INC., 5117 Varna Avenue, Sherman Oaks, CA 91423. Representative: Leona Laverty (same address as applicant). Transporting *such merchandise as is sold and used by wholesale and retail outlets* between the facilities of American Olean Tile Co. at Fayette, AL, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Los Angeles, CA.)

MC 147848 (Sub-2F), filed October 1, 1979. Applicant: A–1 EXPRESS CHARTERED BUS SERVICE, INC., 5910 East 45th Street, Indianapolis, IN 46226. Representative: Warren C. Moberly, 777 Chamber of Commerce Building, Indianapolis, IN 46204. Transporting *passengers and their baggage, in round-trip charter operations,* beginning and ending in Indianapolis, IN, and extending to points in the United States (except AK and HI).

MC 147939 (Sub-2F), filed October 5, 1979. Applicant: CHARLOTTE VAN & STORAGE COMPANY, INC., P.O. Box 3544, Charlotte, NC 28203. Representative: Frank E. Watson, III (same as applicant). Transporting *new furniture and furnishings* from points in NC to points in AL, CT, DE, FL, GA, KY, ME, MD, MA, MS, NH, RI, IN, VT, and SC. (Hearing site: Charlotte, NC.)

MC 148339 (Sub-3F), filed October 15, 1979. Applicant: WILLIAM POTT & SON, INC., 5547 Chevoit Road, Cincinnati, OH 45239. Representative: James W. Muldoon, 50 West Broad Street, Columbus, OH 43215. Transporting: *Such commodities* as are or dealt in or used by manufacturers of bedding or upholstery (except commodities in bulk) between Mason, OH, on the one hand, and, on the other, points in IN, IL, KY, MO, MI, OH, PA, TN, VA, and WV. (Hearing sites: Washington, DC or Columbus, OH.)

MC 148558F, filed October 12, 1979. Applicant: VICTOR SHIMONIS, 11 Reynolds Street, Pittston, PA 18640. Representative: Joseph F. Hoary, 121 South Main Street, Taylor, PA 18517. Transporting *disposible polystyrene articles* from the facilities of Genpak Corporation at Middletown, NY to points in IN, IL, OH, MI, WI, WV, and KY.

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Decided: Jan. 25, 1980.

By the Commission, Review Board Number 3, Members Parker, Fortier, and Hill.

MC 200 (Sub-382F), filed August 20, 1979. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 2809, Kansas City MO, 64142. Representative: H. Lynn Davis, 903 Grand Avenue, Kansas City, MO 64106. Transporting *mineral wool, fiber glass products, insulation materials, and insulated air ducts,* from the facilities of Knauf Fiber Glass at Shelbyville, IN to points in CO, CT, DC, DE, IA, IL, IN, KS, KY, MA, MD, MI, MO, NE, NJ, NY, OH, OK, PA, RI, TX, VA, and WV, restricted to the transportation of traffic originating at the named origin and destined to the indicated destinations. (Hearing site: Kansas City, MO.)

MC 200 (Sub-385F), filed August 20, 1979. Applicant: RISS INTERNATIONAL CORPORATION, P.O. Box 2809, Kansas City, MO 64142. H. Lynn Davis, 903 Grand Avenue, Kansas City, MO 64106. To operate as a *common carrier* by motor vehicle, in interstate or foreign commerce, over regular routes, transporting *plastic articles* (except in bulk), serving Peru, IN as an off-route point in connection with carrier's regular route authority. (Hearing site: Kansas City, MO.)

MC 531 (Sub-423F), filed August 13, 1979. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *petroleum,* in bulk, in tank vehicles, in shipper owned trailers, from Oak Point, LA, to Pascagoula, MS. (Hearing site: New Orleans, LA.)

MC 531 (Sub-425F), filed August 22, 1979. Applicant: YOUNGER BROTHERS, INC., P.O. Box 14048, Houston, TX 77021. Representative: Wray E. Hughes (same address as applicant). Transporting *liquid chemicals,* in bulk, in tank vehicles, from Houston, TX, to points in CA. (Hearing site: Houston, TX.)

MC 720 (Sub-71F), filed August 14, 1979. Applicant: BIRD TRUCKING COMPANY, INC., P.O. Box 227 Waupun, WI 53963. Representative: Tom Westerman, P.O. Box 227, Waupun, WI 53963. Transporting *such commodities as are dealt in by department stores, variety houses, and catalog order houses* between the facilities of J. C. Penney Company, Inc., at or near Wauwatosa, WI, on the one hand, and, on the other, points in IN and MI, restricted to the transportation of traffic originating at one named point on one hand and destined to a named point on the other hand. (Hearing site: Milwaukee or Madison, WI.)

MC 730 (Sub-464F), filed August 21, 1979. Applicant: PACIFIC INTERMOUNTAIN EXPRESS CO., a corporation, 25 North Via Monte, Walnut Creek, CA 94598. Representative: A. G. Krebs (same address as above). To operate as a *common carrier* by motor vehicle, over regular routes, tranporting *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 Florence Jct., AZ and Albert Lea, MN: from Florence Jct. over U.S. Hwy 60 to junction U.S. Hwy 70, then over U.S. Hwy 70 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction combined U.S. Hwys 62 and 180, then over combined U.S. Hwys 62 and 180 to junction U.S. Hwy 180, then over U.S. Hwy 180 to junction U.S. Hwy 80, then over U.S. Hwy 80 to junction U.S. Hwy 75, then over U.S. Hwy 75 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction U.S. Hwy 60, then over U.S. Hwy 60 to junction U.S. Hwy 71, then over U.S. Hwy 71 to junction Interstate Hwy 435, then over Interstate Hwy 435 to junction U.S. Hwy 69, then over U.S. Hwy 69 to junction U.S. Hwy 6, then over U.S. Hwy 6 to junction Interstate Hwy 35, and then over Interstate Hwy 35 to Albert Lea, and return over the same route, as an alternate route for operating convenience only, in connection with carrier's regular route operations, serving no intermediate points, with service at junction U.S. Hwy 80 and combined U.S. Hwys 62 and 180, junction U.S. Hwys 75 and 80, junction U.S. Hwy 71 and Interstate Hwy 435, and junction U.S. Hwys 6 and 69 for joinder purposes only. (Hearing site: Washington, DC or San Francisco, CA.)

MC 2421 (Sub-28F), filed August 21, 1979. Applicant: NEWTON TRANSPORTATION COMPANY, INC., P.O. Box 678 Lenoir, NC 28645.

Representative: Edward G. Villalon, 1032 Pennsylvania Building, Pennsylvania Avenue & 13th St., NW, Washington, DC 20004. Transporting *veneer,* from the facilities of Foreign and Domestic Veneers, Inc., in Knoxville, TN, to points in NC. (Hearing site: Louisville, KY.)

MC 4941 (Sub-64F), filed August 20, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same as applicant). Transporting *paper and paper products* from the facilities of Diamond International Corporation, Penobscot Division, at Bangor and Old Town, ME to points in MD, PA and VA. (Hearing site: Boston, MA or Washington, DC.)

MC 4941 (Sub-66F), filed August 20, 1979. Applicant: QUINN FREIGHT LINES, INC., 1093 North Montello Street, Brockton, MA 02403. Representative: Russell S. Callahan (same as applicant). Transporting *prefabricated metal products,* from the facilities of H. H. Robertson Company at (a) Ambridge and Zelienople, PA to points in IL, IN, ME, MD, MI, NJ, NC, OH, SC, VT, VA and WV; (b) Batavia, OH and Connersville, IN to points in CT, IL, IN, ME, MD, MA, MI, NH, NJ, NY, NC, OH, PA, RI, SC, VT, VA and WV; (c) Ambridge and Zelienople, PA, Batavia, OH and Connersville, IN to the ports of entry on the international boundary line between the United States and Canada at or near Rouses Point, NY, Highgate Springs, VT and Calais, ME. (Hearing site: Boston, MA or Washington, DC.)

MC 8771 (Sub-59F), filed August 17, 1979. Applicant: SAW MILL SUPPLY, INC., Hemlock Building, 5000 Linker Street, Mechanicsburg, PA 17055. Representative: John R. Sims, Jr., 915 Pennsylvania Bldg., 425—13th Street, N.W., Washington, D.C. 20004. Transporting *tractors and tractor excavating, grading and loading attachments* from Deerfield, IL to points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 11220 (Sub-171F), filed August 20, 1979. Applicant: GORDONS TRANSPORT, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Boc 59, Memphis, TN 38101. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of Monsanto Company or near Muscatine, LA, on the one hand, and, on the other, points in AL and MS; those in that part of GA located on and west of U.S. Hwy 441; those in that part of LA located on and east of the Mississippi River; and those in that part of TN located on and west of U.S. Hwy 41. (Hearing site: St. Louis, MO.)

Note.—Applicant proposes to join the authority heresought with its existing regular route authority at common points in LA, MS and TN.

MC 11220 (Sub-175F), filed August 20, 1979. Applicant: GORDONS TRANSPORTS, INC., 185 West McLemore Avenue, Memphis, TN 38101. Representative: James J. Emigh, P.O. Box 59, Memphis, TN 38101. Transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment), between the facilities of the Toro Company at Minneapolis, MN, on the one hand, and, on the other, points in AL and MS, those in that part of GA located on and west of U.S. Hwy 441, and those in that part of TN located on and west of Interstate Hwy 24. (Hearing site: Minneapolis, MN.)

MC 21060 (Sub-23F), filed August 13, 1979. Applicant: IOWA PARCEL SERVICE, 3123 Delaware, Des Moines, Iowa. Representative: Harold W. Sternberg, 3123 Delaware, Des Moines, Iowa. Transporting *such commodities as are dealt in by home product distributors* (except commodities in bulk), from Des Moines, IA, to points in IA, NE, Rock Island and Moline, IL. Restricted to the transportation of traffic having a prior interstate, movement and further restricted to the transportation of packages weighing 200 pounds or less and no service shall be performed in the transportation of any packages weighing in the aggregate more than 750 pounds from one consignor at one location to one consignee at one location on any one date.

MC 21390 (Sub-1F), filed August 21, 1979. Applicant: ROEDERER TRANSFER & STORAGE CO., P.O. Box 3587, Davenport, Iowa 52808. Representative: Robert J. Gallagher, 1000 Connecticut Avenue, N.W., Suite 1200, Washington, D.C. 20036. Transporting *household goods,* as defined by the Commission, between points in IL and IA, on the one hand, and, on the other, points in NE, CO, KS, OK, TX, AR, TN, KY, OH, MI, PA, WI, MO, MN, IN, NY, IL and IA.

MC 29910 (Sub-228F), filed August 20, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, Fort Smith, AR 72902. Transporting *metals and metal products* (except in bulk), from points in Henry County, KY to points in the United States (except AK and HI). (Hearing site: Cincinnati, OH, Louisville, KY or Washington, DC.)

MC 29910 (Sub-229F), filed August 13, 1979. Applicant: ARKANSAS-BEST FREIGHT SYSTEM INC., 301 South 11th Street, Fort Smith, AR 72901. Representative: Don A. Smith, P.O. Box 43, 510 North Greenwood, Fort Smith, AR 72902. Transporting *building materials, and laminated modular panels* (except in bulk), from Tarboro, NC to points in the U.S. (except AK and HI). (Hearing site: Washington, DC.)

MC 35890 (Sub-54F), filed August 17, 1979. Applicant: BLODGETT FURNITURE SERVICE, INC., 5650 Foremost Drive, SE., Grand Rapids, MI 49508. Representative: Ronald C. Nesmith, Allied Van Lines, Inc., P.O. Box 4403, Chicago, IL 60680. Transporting *(1) artificial trees, shrubbery, wreath decorations, and ornaments; (2) venetian blinds (3) metal and plastic lawn and garden items; and (4) parts, materials, supplies, and equipment used in the manufacture and distribution of the commodities in (1), (2), and (3),* between the facilities of Marathon Carey-McFall Company, in PA, GA, and TX, on the one hand, and, on the other, points in the United States (excluding HI and AK). (Hearing site: Chicago, IL, or Washington, DC.)

MC 47171 (Sub-738F), filed August 16, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, S.C. 29602. Representative: Harris G. Andrews (same address as applicant). Transporting: *iron and steel articles* from Baltimore, MD to Toccoa, GA. (Hearing site: Washington, DC.)

MC 47171 (Sub-740F), filed August 23, 1979. Applicant: COOPER MOTOR LINES, INC., P.O. Box 2820, Greenville, SC 29602. Representative: Harris G. Andrews (same address as above). Transporting *textiles and textile products,* between points in Spartanburg County, SC, on the one hand, and, on the other, points in AR, DE, and KY. (Hearing site: Columbia, SC.)

MC 52460 (Sub-256F), filed August 14, 1979. Applicant: ELLEX TRANSPORTATION, INC., P.O. Box 9637, Tulsa, OK 74107. Representative: Wilburn L. Williamson, Suite 615 East, The Oil Center, 2601 Northwest Expressway, Oklahoma City, OK 73112. Transporting *coffee and coffee products,* from the facilities of the Proctor & Gamble Distributing Company and the Folger Coffee Company at New Orleans, LA to points in TX. (Hearing site: Dallas, TX.)

MC 52861 (Sub-78F), filed August 22, 1979. Applicant: WILLIS TRUCKING, INC., 3185 Columbia Road, Richfield, OH 44286. Representative: Paul F. Beery, 275 East State Street, Columbus, OH 43215. Transporting *iron and steel articles, and equipment, materials and supplies* used in the manufacture of iron and steel articles between Weirton, WV, on the one hand, and, on the other, points in NY, PA, OH, MI, IL, IN, KY, CT, MD and WI. (Hearing site: Columbus, OH.)

MC 60271 (Sub-11F), filed August 21, 1979. Applicant: HARPER TRUCK LINE, INC., P.O. Box 288, Monroe, LA 71201. Representative: Virginia Nolan (same address as applicant). Transporting *popcorn, canned goods, oil* in packages, *shortening* and *matches,* from Harvey, LA to points in AR, LA, and MS. (Hearing site: Monroe or Baton Rouge, LA.)

MC 61701 (Sub-17F), filed August 16, 1979. Applicant: MARX TRUCK LINE, INC., 220 Lewis Boulevard, Sioux City, IA 51107. Representative: Robert A. Wichser, P.O. Box 417, Sioux City, IA 51102. To operate as a *contract* carrier, by motor vehicle, over *irregular* routes, transporting: *Meats, meat products, meat byproducts and articles distributed by meat-packinghouses,* as described in Sections A and C of Appendix I to the report in *Descriptions in Motor Carrier Certificates,* 61 MCC 209 and 766 (except hides and commodities in bulk), between the facilities used by John Morrell & Co., at or near Estherville and Sioux City, IA, and Sioux Falls, SD, on the one hand, and points in IL, IA, IN, MN, MO, NE, SD and WI, on the other under continuing contract(s) with John Morrell & Co., of Chicago, IL. (Hearing site: Omaha, NE; Chicago, IL; Washington, DC.)

MC 77061 (Sub-21F), filed August 21, 1979. Applicant: SHERMAN BROS., INC, 29534 Airport Road (Box 706), Eugene, OR 97401. Representative: Russell M. Allen, 1200 Jackson Tower, Portland, OR 97205. Transporting *lumber and lumber mill products* from points in Shasta, Siskiyou and Tehama Counties, CA to points in OR. (Hearing site: Eugene, OR or Portland, OR.)

MC 82101 (Sub-18F), filed August 22, 1979. Applicant: WESTWOOD CARTAGE, INC., 62 Everett Street, Westwood, MA 02090. Representative: John P. Tynan, P.O. Box 777, Jupiter, FL 33458. Contract transporting *kitchen or bathroom cabinets, cabinet doors, moulding, boards, panels and brass, bronze or copper hardwear,* from Nashua, NH, to points in CA and NE, and *materials, equipment and supplies* used in the manufacture of the foregoing products in the reverse direction under continuing contract with Triangle Pacific Corp. of Nashua, NH. (Hearing site: Boston, MA or Washington, DC.)

MC 90870 (Sub-33F) filed August 20, 1979. Applicant: RIECHMANN ENTERPRISES, INC., Route 2, Box 137, Alhambra, IL 62001. Representative: Cecil L. Goettsch, 1100 Des Moines Building, Des Moines, IA 50309. Transporting *fiberglass* and *reinforced plastic products* between Edwardsville, IL, on the one hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Chicago, IL or Washington, DC.)

MC 95540 (Sub-1129F), filed August 16, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same as applicant). Transporting plastic articles and parts points in NE to points in FL, GA, NC, SC, NJ, AL, LA, MS, NY, VA, WV, MD, PA, NH, MA, DE, RI, CT, OH, TX, IL, MI, IN, CA, OR, AZ, WA, and DC. (Hearing site: Omaha, NE or Washigton, DC.)

MC 95540 (Sub-1130F), filed August 17, 1979. Applicant: WATKINS MOTOR LINES, INC., P.O. Box 1636, Lakeland, FL 33802. Representative: Benjy W. Fincher (same as applicant). Transporting *such commodities as are dealt in by grocery and food business houses;* between points in the US, restricted to the transportation of traffic originating at or destined to the facilities of Burger King. (Hearing site: Miami or Tampa, FL.)

MC 106001 (Sub-12F), filed August 12, 1979. Applicant: DENNIS TRUCKING COMPANY, INC., 6951 Norwitch Drive, Philadelphia, PA 19153. Representative: James W. Patterson, 1200 Western Savings Bank Building, Philadelphia, PA 19107. Transporting, *Iron and steel articles* from the facilities of National Wire Products Corporation at Baltimore, MD to points in CT, MA, NH, NY, PA, and VT. (Hearing site: Philadelphia, PA.)

MC 108341 (Sub-169F), filed August 22, 1979. Applicant: MOSS TRUCKING COMPANY, INC., P.O. Box 26125, Charlotte, NC 28213. Representative: Mr. Jack F. Counts, P.O. Box 26125, Charlotte, NC 28213. Transporting: (1) *Plywood, hardboard, particleboard, fibreboard and composition board, and (2) materials, equipment and supplies* used in the installation and distribution of commodities in (1) above (except commodities in bulk), from the facilities of or used by General Glass Imports Corp, at or near New York, NY, Philadelphia, PA, Baltimore, MD, Norfolk, VA, Wilmington, NC, Charleston, SC, Savannah, GA and Port Everglades, FL to points in the United States in and east of MN, IA, MO, AR and LA. (Hearing site: New York, NY or Washington, DC.)

MC 109821 (Sub-65F), filed August 22, 1979. Applicant: TAYNTON FREIGHT SYSTEM, INC., 40 Main St., Wellsboro, PA 16901. Representative: Dewey T. Whitford (same address as above). Transporting *general commodities* (except those of unusual value, classes A and B explosives, commodities in bulk, household goods as defined by the Commission, and those which require the use of special equipment), between the facilities of S. M. Flickinger Co. at Elmira, NY, on the one hand, and, on the other, points in MD, NJ, NY, and PA. (Hearing site: Philadelphia, PA or Washington, DC.)

MC 110380 (Sub-18F), filed August 22, 1979. Applicant: BERSCHENS OF MADISON, INC., P.O. Box 187, Verona, WI 53593. Representative: Rolfe E. Hanson, 121 West Doty Street, Madison, WI 53703. Transporting *iron and steel articles,* between points in WI, OH, WV, MN, PA, VA, TN, KY, IN, MI, IL, MO, IA, ND, SD, NE, and KS.

MC 111231 (Sub-282F), filed August 14, 1979. Applicant: JONES TRUCK LINES, INC., 610 East Emma Avenue, Springdale, AR 72764. Representative: Kim D. Mann, Suite 1010, 7101 Wisconsin Avenue, Washington, D.C. 20014. *Common carrier,* over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities which require the use of special equipment) (1) Between Baton Rouge, LA and Texarkana, AR from Baton Rouge over U.S. Hwy 190 to junction U.S. Hwy 71, then over U.S. Hwy 71 to Texarkana, and return over the same routes, serving no intermediate points except the junctions of LA Hwy 1 and U.S. Hwy 71 at or near Alexandria and Shreveport, LA for purposes of joinder only; (2) between junction U.S. Hwy 71 and LA Hwy 1 at or near Alexandria, LA and junction of U.S. Hwy 71 and LA Hwy 1 at or near Shreveport, LA over LA Hwy 1, serving no intermediate points and serving the termini for purposes of joinder only; and (3) between junction U.S. Hwy 71 and LA Hwy 1 at or near Shreveport, LA and Dallas, TX over Interstate Hwy 20, serving no intermediate points and serving the junction of U.S. Hwy 71 and LA Hwy 1 for purposes of joinder only. (Hearing site: Little Rock; Washington, D.C.

Note.—Applicant may already perform the service sought via New Orleans, LA and/or

Greenville, MS. This application is designed to remove these gateways and provide direct routes. Applicant intends to tack the authority sought at the termini with its existing regular-route authority.

MC 111401 (Sub-585F), filed August 14, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73701. Representative: Alvin J. Meiklejohn, Jr., 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting: (A) *Chemicals and petroleum and petroleum products,* in bulk, in tank vehicles, from points in LA to points in the U.S. (except AK and HI) and bulk (B) *COMMODITIES,* in tank vehicles, from points in the U.S. (except AK and HI) to points in AR, CO, KS, LA, MS, NM, OK and TX. (Hearing site: New Orleans, LA or Houston, TX.)

MC 111401 (Sub-587F), filed August 20, 1979. Applicant: GROENDYKE TRANSPORT, INC., P.O. Box 632, Enid, OK 73701. Representative: Alvin J. Meiklejohn, Jr., 1600 Lincoln Center, 1660 Lincoln Street, Denver, CO 80264. Transporting chemicals (in bulk, in tank vehicles), from Denver, CO to points in ID, MT, NV, ND, OR AND WA. (Hearing Site: Denver, CO or Albuquerque, NM.)

MC 112801 (Sub-243F), filed August 21, 1979. Applicant: TRANSPORT SERVICE CO. 15 Salt Creek Lane, Hinsdale, IL 60521. Representative: E. STEPHEN HEISLEY, 805 McLachlen Bank Building, 666 Eleventh Street, NW., Washington, DC 20001. Transporting *liquid chemicals* (in bulk, in tank vehicles) from Madison, IN and East Liverpool, OH, to points in IL, IN, IA, MI and WI. (Hearing site: Chicago, IL.)

MC 113271 (Sub-63F), filed August 23, 1979. Applicant: CHEMICAL TRANSPORT, P.O. Box 2644, Great Falls, MT 59403. Representative: Ray F. Koby, P.O. Box 2567, Great Falls, MT 59403. Transporting *acids, chemicals, metal and concentrates and metal residues,* in containers, from points in Lewis and Clark Counties, MT, to points in the US (except AK and HI). (Hearing site: Great Falls, MT.)

MC 114211 (Sub-418F), filed August 14, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *tubing and iron and steel articles,* between Conroe, TX, on the one hand, and, on the other, points in the US (except AK and HI), restricted to the transportation of shipments originating at or destined to the facilities of Fort Worth Pipe & Supply Division of Whittaker. (Hearing site: Houston or Beaumont, TX.)

MC 114211 (Sub-419F), filed August 15, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting (1) *Tractors* (except truck tractors), *and attachments, parts, and equipment designed for use with tractors* in mixed loads with tractors, from points in Harrison County, MS, to points in the US (except AK and HI); and (2) *Materials, equipment, and supplies* (except in bulk) used in the assembly and distribution of the commodities described in (1) above, and equipment designed for use with the articles described in (1) above, from points in the US (except AK and HI), to points in Harrison County, MS, restricted (2) above to the transportation of traffic destined to the facilities used by International Harvester Company in Harrison County, MS. (Hearing site: Chicago, IL.)

MC 114211 (Sub-420F), filed August 13, 1979. Applicant: WARREN TRANSPORT, INC., P.O. Box 420, Waterloo, IA 50704. Representative: Adelor J. Warren (same address as applicant). Transporting *Such commodities as are dealt in or used by agricultural equipment and industrial equipment dealers and manufacturers* (except commodities in bulk), between points in Acadia County, LA, on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Baton Rouge or Lafayette, LA.)

MC 115331 (Sub-512F), filed August 16, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, MO 63122. Transporting *lime, limestone, limestone products and high temperature bonding mortar* from the facilities of Pfizer, Inc., in Sandusky County OH to points in IN and IL. (Hearing site: Washington, DC.)

MC 115331 (Sub-515F), filed August 20, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, MO 63122. Transporting (1) *vegetable oils* from St. Louis, MO to points in MO, IL, IN, OH, MI, TN, CO, TX, and ID, and (2) *plastic articles* in bulk, from Terre Haute, IN to points in IA, IL, and MO. (Hearing site: St. Louis, MO or Washington, DC..)

MC 115331 (Sub-516F), filed August 20, 1979. Applicant: TRUCK TRANSPORT INCORPORATED, 29 Clayton Hills Lane, St. Louis, MO 63131. Representative: J. R. Ferris, 11040 Manchester Road, St. Louis, MO 63122. Transporting: (1) *aluminum ingots and zinc alloy ingots* (except commodities in bulk) from the facilities of Aluminum Smelting & Refining Co., Inc. and the facilities of Certified Alloys Co. at Maple Hts., OH to points in AL, CT, GA, KY, IA, IL, MN, MO, MI, NC, NJ, NY, SC, TN and WI; and (2) *materials, equipment and supplies* (except commodities in bulk) from the destination points in (1) above to the facilities of Aluminum Smelting & Refining Co., Inc. and the facilities of Certified Alloys Co. at Maple Hts., OH. (Hearing site: Washington, DC or St. Louis, MO.)

MC 155841 (Sub-734F), filed August 20, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same as applicant). Transporting: *Malt liquor, empty metal containers, and container lids (except in bulk),* between the facilities of the American Can Company or Joseph Schlitz Brewing Company, at or near Fairport and Rochester, NY, Milwaukee, WI, Memphis, TN, Tampa, FL, Longview, TX, and Winston-Salem, NC. (Hearing site: Milwaukee, WI or Washington, DC.)

MC 115841 (Sub-735F), filed August 20, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same as applicant). Transporting *paint, varnish, solvents, paint brushes, rollers, pans, and advertising material,* from Chicago, IL to points in AL, FL, GA, MS, NC, and TN. (Hearing site: Chicago, IL or Washington, DC.)

MC 115841 (Sub-736F), filed August 23, 1979. Applicant: COLONIAL REFRIGERATED TRANSPORTATION, INC., 9041 Executive Park Drive, Suite 110, Building 100, Knoxville, TN 37919. Representative: D. R. Beeler (same as applicant). Transporting: *Such commodities as are dealt in or used by manufacturers of containers* (except commodities in bulk, in tank vehicles), between the facilities used by Amoco Chemical Corporation in the United States, on the one hand, and, on the other, points in the United States (except AK and HI). (Hearing site: Chicago, IL or Washington, DC.)

MC 116110 (Sub-27F), filed August 20, 1979. Applicant: P. C. WHITE TRUCK LINE, INC., P.O. Box 1488, Dothan, AL 36301. Representative: Bruce E. Mitchell, 3390 Peachtree Road NE., Atlanta, GA 30326. Transporting (1) *synthetic resins, naval stores, and tall oil roducts,* from the facilities of Arizona Chemical Co. at or near Panama City, FL to points in the United States (except AL, HI, and CA); and (2) *materials, equipment and*

supplies used in the production and distribution of the commodities named above in the reverse direction. Restriction: Restricted in (1) and (2) above against the transportation of commodities in bulk.

MC 116300 (Sub-55F), filed August 16, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting: *drilling mud,* from Houston, TX, to Lafayette, LA. (Hearing site: New Orleans, LA.)

MC 116300 (Sub-56F), filed: August 22, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., P.O. Box 22567, Jackson, MS 39205. Transporting *salt,* from Jefferson Island, LA to points in KY. (Hearing site: New Orleans, LA.)

MC 116300 (Sub-57F), filed August 22, 1979. Applicant: NANCE AND COLLUMS, INC., P.O. Drawer J, Fernwood, MS 39635. Representative: Harold D. Miller, Jr., 17th Floor, Deposit Guaranty Plaza, P.O. Box 22567, Jackson, MS 39205. Transporting such commodities as are dealt in by malt beverage distributors, from the facilities, of Miller Brewing Company at or near Fort Worth, TX to points in Adams, Forrest, Hinds and Pike Counties, MS. (Hearing site: Jackson, MS.)

MC 116371 (Sub-18F), filed August 16, 1979. Applicant: LIQUID CARGO LINES LIMITED, P.O. Box 269, Clarkson, Ontario, Canada L5J 2Y4, Representative: Wilhemina Boersma, 1600 First Federal Building, 1001 Woodward Avenue, Detroit, MI 48226. Transporting *eggs,* in bulk, in tank vehicles, from Rock Island, IL to ports of entry in MI on the international boundary line between the United States and Canada on the Detroit and St. Clair Rivers and from Elizabeth, NJ to ports on entry in NY on the international boundary line between the United States and Canada on the Niagara River. (Hearing site: Buffalo, NY or Detroit, MI.)

MC 118130 (Sub-114F), filed August 14, 1979. Applicant: SOUTH EASTERN XPRESS, INC., P.O. Box 6459, Fort Worth, TX 76102. Representative: Billy R. Reid, 1721 Carl St., Fort Worth, TX 76103. Transporting *(1) such commodities* as are dealt in by grocery and food business houses and agricultural feed business houses and paste, (1) from the facilities of Ralston Purina Co. at or near Oklahoma City, OK to points in AR, AL, CO, LA, MS, TN and TX, and from the facilities of Ralston Purina Co. at or near Denver, CO to points in NM and TX; and (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities in (1) above (except commodities in bulk) in the reverse direction. (Hearing site: Oklahoma City, OK or Dallas, TX.)

MC 118370 (Sub-7F), filed August 21, 1979. Applicant: BANANA TRANSPORT, INC., 12712 North Oregon Ave., Tampa, FL 33612. Representative: John G. Hardeman, 618 United American Bank Bldg., Nashville, TN 37219. Transporting *(1) meats, meat products, 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 MCC 209 and 766 (except hides and commodities in bulk); and *(2) foodstuffs* in mixed loads with the commodities in (1) above (1) from the facilities of Oscar Mayer & Co. at or near Goodlettsville, TN to points in AL, FL and GA, and (2) from the facilities of Oscar Mayer & Co. at or near Beardstown, IL to the facilities of Oscar Mayer & Co. at Goodlettsville, TN and FL. (Hearing site: Nashville, TN or Washington, DC.)

MC 118570 (Sub-8F), filed August 14, 1979. Applicant: DEFAZIO EXPRESS, INC., 1028 Springbrook Avenue, Moosic, PA 18507. Representatives: Edward M. Alfano, 550 Mamaroneck Avenue, Harrison, NY 10528. *Contract carrier* transporting *such commodities as are dealt in by a manufacturer of carbonated beverages and materials, equipment and supplies used in the manufacture and distribution of carbonated beverages* (except commodities in bulk) from the facilities of Cantrell & Cochrane, Inc. at Elizabeth and Garfield, NJ, to points in Broome, Chemung, Otsego, and Tioga Counties, NY, under continuing contracts(s) with Cantrell & Cochrane, Inc. of Elmwood Park, NJ. (Hearing site: New York, NY.)

Note.—Dual operations may be involved.

MC 119700 (Sub-63F), filed August 17, 1979. Applicant: STEEL HAULERS, INC., 306 Ewing Avenue, Kansas City, MO 64125. Representative: Frank W. Taylor, Jr., Suite 600, 1221 Baltimore Avenue, Kansas City, MO 64105. Transporting *plastic pipe and fittings* from the facilities of Robintech, Inc., at Rolla, MO, to points in AR, IL, IN, IA, KY, MI, MN, MS, LA, OH, OK, TX and WI. (Hearing site: Kansas City or St. Louis, MO.)

MC 124111 (Sub-60F), filed August 23, 1979. Applicant: OHIO EASTERN EXPRESS, INC., 300 West Perkins Avenue, Sandusky, OH. 44870. Representative: David A. Turano, Suite 1800, 100 East Broad Street, Columbus, OH 43215. Transporting *meats, meat products, and meat byproducts,* as described in Section A of Appendix I to the Report in *Descriptions in Motor Carrier Certificates,* 61 M.C.C. 209 and 766 (except commodities in bulk), from the facilities of Selected Meats Company at or near Dayton and Lewisburg, OH to points in the United States in and east of WI, IL, KY, TN and MS.

MC 124211 (Sub-372F), filed August 15, 1979. Applicant: HILT TRUCK LINES, INC., P.O. Box 988, D. T. S., Omaha, NE 68101. Representative: Thomas L. Hilt (same address as applicants). Transporting (1) *chemicals, chemical compounds, anti-freeze, plastics and plastic products* (except in bulk) and, (2) *materials, equipment and supplies* used in the manufacture and distribution of the commodities described in (1) above (except commodities in bulk), between the facilities of Northern Petrochemical Company at or near Mankato, MN, Newark, OH, Clinton, MA Chicago, Morris, and Mapleton, IL, on the one hand, and, on the other, points in the US (except AK and HI). (Hearing site: Chicago, IL.)

MC 127651 (Sub-51F), filed May 9, 1979. Applicant: EVERETT G. ROEHL, INC., east 29th Street, Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *bituminous fibre and plastic products, bituminous fibre vaults and equipment, and accessories used in the installation of the named commodities* from the facilities of Bermico Co., at or near West Bent, WI to points in MN, IA, MO, IL, IN, MI, OH and KY. (Hearing site: Milwaukee, WI or Chicago, IL.)

MC 127651 (Sub-58F), filed August 15, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th Street, Box, 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *roofing materials* from Minneapolis, MN to points in WI. (Hearing site: Minneapolis, MN or Chicago, IL.)

MC 127651 (Sub-59F), filed August 17, 1979. Applicant: EVERETT G. ROEHL, INC., East 29th Street, P.O. Box 7, Marshfield, WI 54449. Representative: Richard A. Westley, 4506 Regent St., suite 100, Madison, WI 53705. Transporting *lumber and compressed wood products* between the facilities of Weyerhaeuser Company at or near Marshfield, and Independence, WI and St. Paul, MN; the facilities of Neumann Wood Processors, Inc. at or near

LaCrosse, WI; and the facilities of Robert Herbst & Associates at or near Elk Mound, WI, on the one hand, and, on the other hand, points in IL, IN, IA, MI, MN, MO, and WI. (Hearing site: Chicago, IL or Minneapolis, MN.)

MC 128290 (Sub-7F), filed August 17, 1979. Applicant: EARL HAINES, INC., P.O. Box 2557, Winchester, VA 22601. Representative: Bill R. Davis, Suite 101—Emerson Center, 2814 New Spring Rd., Atlanta, GA 30339. Transporting (1) *wood fiber mulch and wood cellulose insulation,* from High Point, NC, to points in KY, VA, WV, MD, DE, NJ, NY, PA, CT, RI, NH, VT, ME, OH, MA, TN, SC, GA, AL, FL, TX, MS, LA, AR, OK, MI, IL, and IN, and DC; and (2) *recycled cardboard* and *recycled newsprint* in the reverse direction and (3) *wood cellulose insulation,* from points in Baltimore County, MD to points in KY, VA, WV, MD, DE, NJ, NY, PA, CT, RI, NH, VT, ME, OH, MA, TN, NC, SC, GA, AL, FL, TX, MS, LA, AR, OK, MI, IL, and IN, and DC; and (4) *recycled newsprint* in the reverse direction. (Hearing site: Washington, DC.)

MC 128400 (Sub-1F), filed August 14, 1979. Applicant: ZINKE DRAY LINE, INC., 109 East Albert Street, Portage, Wisconsin 53901. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, Wisconsin 53705. Transporting of *general commodities* (except articles of unusual value, classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and those requiring special equipment) between Portage, WI, on the one hand, and, on the other hand, points in WI, restricted to the transportation of traffic having a prior or subsequent movement by rail. (Hearing site: Madison, WI or Chicago, IL.)

MC 134721 (Sub-6F), filed August 14, 1979. Applicant: GEORGE M. DZIAK, P.O. Box 3494, Spokane, Washington 99220. Representative: Donald A. Ericson, 708 Old National Bank, Spokane, Washington 99201. Transporting (1) *empty containers* between Seattle, Longview and Tacoma, WA, and Portland, OR, and (2) *general commodities* in containers (except household goods as defined by the Commission, commodities of unusual value, classes A and B explosives, petroleum products in bulk and motor vehicles) between Seattle, Tacoma, and Longview, WA, and Portland, OR, on the one hand, and on the other, points in WA west of the Cascade Mountains, and points in OR west of the Cascade Mountains. (Hearing site: Spokane or Seattle, WA.)

MC 135861 (Sub-54F), filed August 17, 1979. Applicant LISA MOTOR LINES, INC., P.O. Box 4550, Fort Worth, TX 76106. Representative: Billy R. Reid, 1721 Carl Street, Fort Worth, TX 76103. *Contract carrier* transporting confectinery from East Hempfield Township, (Lancaster County) PA, to point in AL, AR, LA, MS, OK, TN, and TX, under continuing contract(s) with Y & S Candies, Inc., Hershey Food Corporation, of Hershey, PA. (Hearing site: Dallas, TX or Fort Worth, TX.)

MC 136220 (Sub-83F), filed August 20, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. Transporting (1) *Clay,* in bulk in dump vehicles, from Little Rock, AR to Counce, TN, Naheola, AL, Bastrop and Springhill, LA; (2) *Flue dust,* in bulk in dump vehicles, from points in Tulsa County, OK to points in Cherokee County, KS; (3) *Dolomite,* in bulk in dump vehicles, from points in Washington and St. Francois Counties, MO to points in Morris County, TX; (4) *Lime,* in bulk in dump vehicles, from Cleburne, TX to points in Kay, Noble, Payne, Pawnee and Osage Counties, OK; and (5) *Spent Catalyst,* in bulk in dump vehicles, from Houston, TX to Walnut Ridge, AR. (Hearing site: Oklahoma City, OK or Dallas, TX.)

MC 136220 (Sub-84F), filed August 16, 1979. Applicant: SULLIVAN'S TRUCKING COMPANY, INC., P.O. Box 2164, Ponca City, OK 74601. Representative: G. Timothy Armstrong, 200 North Choctaw, P.O. Box 24, El Reno, OK 73036. Transporting: *Coke* in bulk, in dump vehicles, between points in AL, AR, GA, IL, IN, KS, LA, MD, MI, MO, NC, OH, OK, TN, TX, and WI. (Hearing site: Oklahoma City, OK or Kansas City, MO.)

MC 136981 (Sub-12F), filed August 21, 1979. Applicant: BLAIR CARTAGE, INC., 13658 Auburn Road, P.O. Box 52, Newbury, OH 44065. Representative: Lewis S. Witherspoon, 88 East Broad Street, Columbus, Ohio 43215. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting *litharge, nepheline synenite, soda ash, glass bulbs, glass rod and tubing, glassware, metal racks, cullet, electric lamps, batteries and battery chargers, lighting fixtures, holiday decorations, packaging materials, steel nestainers, lamp ballast, sand, potash, metals displays and advertising, borax and borax products, paints dolomite, lamp bases, compressed gases in cylinders, nitrate and electrical equipment and parts, materials and supplies* used in the manufacture and distribution of the forenamed commodities between points in AL, AR, CO, CT, DE, FL, GA, IA, IN, IL, KS, KY, LA, MA, MD, ME, MI, MN, MO, MS, NC, NE, NH, NJ, NV, NY, OH, OK, PA, RI, SC, TN, TX, UT, VA, VT, WI, WV, WY, DC, and ports of entry on the international boundary lines between the United States and Canada and the United States and Mexico, under continuing contracts with General Electric Company, of Nela Park, Cleveland, Ohio. (Hearing site: Cleveland, OH.)

Note.—Dual operations may be involved.

MC 138000 (Sub-52F), filed August 17, 1979. Applicant: ARTHUR H. FULTON, INC., P.O. Box 86, Stephens City, VA 22655. Representative: Edward N. Button, 1329 Pennsylvania Avenue, P.O. Box 1417, Hagerstown, MD 21740. Transporting *slag,* (except in bulk), from (1) Strasbury, VA, to Camden, NJ; and (2) from Camden, NJ, to Chelsea, MI. (Hearing site: Chelsea, MI.)

Note.—Dual operations may be involved.

MC 138621 (Sub-8F), filed August 20, 1979. Applicant: MOUW TRANSPORTATION, INC., 307 Maple Drive, Sibley, Iowa 51249. Representative: Samuel Rubenstein, 301 North Fifth Street, Minneapolis, MN 55403. Transporting *meats, meat products, 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), between the facilities of Lauridson Foods, Inc., at or near Britt, IA., on the one hand, and, on the other, points in the United States in and west of WI, IL, MO, AR and LA, restricted to the transportation of traffic originating at or destined to the named shipper facilities.

MC 140010 (Sub-16F), filed August 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 *contract carrier,* by motor vehicle, over irregular routes, transporting *such commodities as are dealt in or used by chemical manufacturers and materials, equipment and supplies* used in the conduct of such business (except commodities in bulk, in tank vehicles and except classes A and B explosures), between points in GA, AL, FL, NC, SC, TN, MS, LA and WV under continuing contracts with E. I. du Pont de Nemours & Company, Inc., restricted to the transportation of traffic originating at or destined to the facilities

of E. I. du Pont de Nemours & company, Inc. (Hearing site: Atlanta, GA.)

MC 140601 (Sub-16F), filed August 17, 1979. Applicant: BILLY FRANK d.b.a. FRANK BROS., 349 Abbott Avenue, Hillsboro, TX 76645. Representative: Charles E. Munson, P.O. Box 1945, Austin, TX 78767. *Contract carrier* transporting *bituminous fiber pipe and fittings and accessories for pipe* (except commodities in bulk) from the facilities of Bermico Co. at or near West Bend, WI to points in the United States (except AK and HI). (Hearing site: Dallas or Austin, TX.)

MC 141781 (Sub-20F), filed August 17, 1979. Applicant: LARSON TRANSFER & STORAGE CO., INC., 10700 Lyndale Avenue, South, Bloomington, MN 55420. Representative: Richard A. Westley, 4506 Regent Street, Suite 100, Madison, WI 53705. Transporting *lumber and compressed wood products* between the facilities of Weyerhaeuser Company at or near Marshfield, and Independence, WI and St. Paul, MN; the facilities of Neumann Wood Processors, Inc. at or near LaCrosse, WI; and the facilities of Robert Herbst & Associates at or near Elk Mound, WI, on the one hand, and on the other hand, points in IL, IN, IA, MI, MN, MO and WI. (Hearing site: Chicago, IL or Minneapolis, MN.)

MC 142310 (Sub-23F), filed August 21, 1979. Applicant: H. O. WOLDING, INC., Box 56, Nelsonville, WI 54458. Representative: Wayne W. Wilson, 150 East Gilman Street, Madison, WI 53703. Transporting: *Meats, meat products, 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 East St. Louis, IL to points in MN and WI. (Hearing site: Madison, WI, or Chicago, IL.)

MC 142601 (Sub-6F), filed August 16, 1979. Applicant: CECO TRANSPORT, INC., 5601 West 26th Street, Chicago, IL 60650. Representative: Daniel C. Sullivan, 10 South LaSalle Street, Suite 1600, Chicago, IL 60603. *Contract* carrier transporting *glass containers and closures for glass containers,* from Asheville, NC; Okmulgee, OK; El Monte, CA and points in Lake and Cook Counties, IL to points in the U.S. (except AK and HI) under continuing contract(s) with Ball Corporation, of Muncie, IN.

MC 143760 (Sub-4F), filed August 17, 1979. Applicant: POINTS WEST TRUCKING, INC., 20727 Santa Clara Street, Canyon Country, CA 91351. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. *Contract carrier* transporting *toilet preparations and pharmaceutical products* from the facilities of Interstate Cigar Company, Inc., at Westbury, NY, to Los Angeles, CA, under continuing contract(s) with Interstate Cigar Company, Inc., of Westbury, NY. (Hearing site: Los Angeles, CA.)

MC 144030 (Sub-5F), filed August 23, 1979. Applicant: DRUE CHRISMAN, INC., U.S. 50 West, P.O. Box 264, Lawrenceburg, IN 46025. Representative: Robert W. Loser II, 1101 Chamber of Commerce Bldg., Indianapolis, IN 46204. Transporting: (1) *barrel staves and heading,* from points in AR, IL, IN, MO, OH, PA, TN, and WV, to Louisville, KY, (2) *empty barrels,* from Memphis, TN, to points in IN and KY, and (3) *alcoholic liquors and wines,* in cases, from Lawrenceburg, IN and Louisville, KY, to points in CA and CO. (Hearing site: Louisville, KY, or Indianapolis, IN.)

MC 144621 (Sub-9F), filed August 21, 1979. Applicant: CENTURY MOTOR LINES, INC., P.O. Box 15246, Santa Ana, California 92705. Representative: Charles J. Kimball, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. Transporting *food, food products and food ingredients* (except in bulk, in tank vehicles), from the facilities of Archer Daniels Midland Company, at or near Decatur, IL to points in AL, FL, GA, and SC, restricted to the transportation of traffic originating at the named origin and destined to the named destinations. (Hearing site: Chicago, IL.)

Note.—Common control is involved. Dual operations are involved.

MC 144630 (Sub-27F), filed August 16, 1979. Applicant: STOOPS EXPRESS, INC., 2239 Malibu Court, Anderson, IN. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Transporting *automotive parts,* from points in IN and OH to the facilities of Chrysler Corporation at Newark, DE. (Hearing site: Detroit, MI.)

MC 144991 (Sub-2F), filed August 17, 1979. Applicant: KINGSWAY TRANSPORTS, INC., 123 Rexdale Boulevard, Rexdale, Ontario, Canada, M9W 1P3. Representative: S. Harrison Kahn, Suite 733 Investment Building, Washington, DC 20005. Common carrier over regular routes, transporting *general commodities* (except those of unusual value, Classes A and B explosives, household goods as defined by the Commission, commodities in bulk, and commodities requiring special equipment), (A) between Buffalo, NY and New York, NY, from Buffalo over Interstate Hwy 90 to its junction with Interstate Hwy 87 at or near Albany, NY, then over Interstate Hwy 87 to New York, NY, and return over the same route serving no intermediate points, and (B), between Buffalo, NY and New York, NY from Buffalo over Interstate Hwy 90 to Syracuse, NY; then from Syracuse over U.S. Hwy 81 to Scranton, PA; then from Scranton, PA over U.S. Hwy 380 and Interstate Hwy 80 to New York, NY, and return over the same route, serving no intermediate points. (Hearing site: New York, NY.)

MC 145070 (Sub-6F), filed August 20, 1979. Applicant: PROGRESSIVE PRODUCE CO., d.b.a. PATHFINDER TRUCKING, 1206 E. Sixth Street, Los Angeles, CA 90021. Representative: Milton W. Flack, 4311 Wilshire Blvd., Suite 300, Los Angeles, CA 90010. Transporting *textile and plastic bags, and packaging material* from the facilities of Friedman Bag Co., Inc., at Los Angeles, CA, to points in AZ, OR, NV, UT and WA. (Hearing site: Los Angeles, CA.)

MC 145441 (Sub-52F), filed August 21, 1979. Applicant: A.C.B. TRUCKING, INC., P.O. Box 5130, North Little Rock, AR 72119. Representative: E. Lewis Coffey (same as applicant). Transporting *such merchandise as in dealt in by discount, variety, and department stores* from points in NY in and east of U.S. Highway 15; CT, MA, NH, NJ, RI, Wilmington, DE, and points in PA on and east of U.S. Highway 15 to Little Rock, AR, restricted to the transportation of traffic destined to the facilities of Sterling Stores Co., Inc. (Hearing site: Little Rock, AR.)

MC 145531 (Sub-1F), filed August 16, 1979. Applicant: RAPID TRANSFER, INC., 3219 Airport Way South, Seattle, WA 98134. Representative: George R. LaBissoniere, 1100 Norton Building, Seattle, WA 98104. Transporting *general commodities* (except commodities in bulk, household goods as defined by the Commission, articles of unusual value, commodities which because of their size or weight require the use of special equipment, and Classes A and B explosives, between points in the Seattle Commercial Zone, restricted to the transportation of traffic having an immediately prior or subsequent movement by water. (Hearing site: Seattle, WA.)

MC 145640 (Sub-2F), filed May 3, 1979. Applicant: STEPHEN R. GRIDER, 15571 Victoria Avenue, White Rock, B.C. V4B 1H8 Canada. Representative: Stephen R. Grider, 15571 Victoria Ave., White Rock, B.C. V4B 1H8 Canada. Contract carrier transporting *brewer's grain,* from the ports of entry on the international boundary line between the United States and Canada at or near Lynden

and Sumas, WA, to points in that area of northwest WA bounded on the west by Interstate Hwy 5; on the south by WA Hwy 542; on the east by WA Hwy 542 and Silver Lake Road; and on the north by the international boundary line between the United States and Canada, under contract(s) with Miracle Feeds, a Division of Ogilvie Mills Ltd., of Delta, B.C. Canada. (Hearing site: Lynden, WA or Bellingham, WA.)

MC 145850 (Sub-5F), filed August 16, 1979. Applicant: MALCOLM HUMPHREYS, d.b.a. HUMPHREYS TRUCKING, Route 5, Box 685, Prattville, AL 36067. Representative: William P. Jackson, Jr., 3426 N. Washington Blvd., Post Office Box 1240, Arlington, VA 22210. To operate as a *contract carrier* by motor vehicle, over irregular routes, transporting (1) *prefabricated buildings,* knocked down, *and iron and steel articles* (except in bulk), from the facilities of OSI, Inc., at or near Montgomery, AL, to points in the United States (except AK and HI); and (2) *commodities* used in the manufacture, installation or distribution of prefabricated buildings, *and iron and steel articles* (except in bulk), in the reverse direction, under continuing contract(s) with OSI, Inc., of Montgomery, AL. (Hearing site: Montgomery, AL.)

MC 146050 (Sub-2F), filed August 22, 1979. Applicant: ALPHA OMEGA TRANSPORT, INC., 2308 N. Tryon St., Charlotte, NC 28206. Representative: Eric Meierhoefer, Suite 423, 1511 K St., N.W., Washington, DC 20005. Transporting (1) *hospital supplies, drugs, and health care products,* and (2) *materials and supplies used in the manufacture of the commodities in (1) above (except in bulk)* between the facilities of Abbott Laboratories, Inc. at or near Rocky Mount, NC, Altavista, VA, and North Chicago, IL, on the other hand, and, on the other, points in the U.S. (except AK and HI). (Hearing site: Charlotte, NC.)

MC 146481 (Sub-3F), filed August 13, 1979. Applicant: WOLF LEASING COMPANY, INC., P.O. Box 13297, Mobile, Alabama 36603. Representative: James David Mills, P.O. Box 2664, Mobile, Alabama 36601. Transporting *commodities,* which because of size or weight, require the use of special equipment, from points in Mobile County, AL and Tampa, FL to points in the U.S. (including AK but excluding HI). (Hearing site: Birmingham, AL.)

MC 146591 (Sub-3F), filed August 21, 1979. Applicant: JOE GILBERT GONZALES, P.O. Box 93, Dixon, New Mexico 82527. Representative: Charles M. Williams, 350 Capitol Life Center, 1600 Sherman Street, Denver, Colorado 80203. To operate as a *contract carrier,* by motor vehicle, over irregular routes, transporting (A) *feed and feed ingredients* (except in bulk, in tank vehicles), from the facilities of Feed Products, Inc., at or near Denver, CO to points in NM, OK, and TX, under continuing contract(s) with Feed Products, Inc. of Denver, CO and (B) (1)(a) *gypsum and gypsum products and* (b) *materials, equipment, and supplies* used in the manufacture, installation, and distribution of the commodities named in (a) (except in bulk), between the facilities of Western Gypsum Co., at or near Roserio, NM, on the one hand, and, on the other, points in CO, OK, TX, WY, KS, AZ, and CA, and (2) *starch* and points in TX to points in NM in both (1) and (2) above under continuing contract(s) with Western Gypsum Co, of Santa Fe, NM. (Hearing site: Denver, CO or Albuquerue, NM.)

MC 146991 (Sub-3F), filed August 16, 1979. Applicant: SILICA SAND TRANSPORT, INC., Box 208, Routes 47 & 71, Yorkville, Illinois 60560. Representative: Albert A. Andrin, 180 North La Salle Street, Chicago, Illinois 60601. Transporting *commodities, in bulk,* (a) between points in the United States in and east of ND, SD, NE, KS, OK, and TX, and (2) between points in the states named in (1) above, on the one hand, and, on the other, points in the United States west of ND, SD, NE, KS, OK, and TX, restricted in (1) and (2) to the transportation of traffic originating at or destined to the facilities of Owens-Illinois, Inc. (Hearing site: Chicago, IL or Washington, DC.)

MC 147050 (Sub-5F), filed August 14, 1979. Applicant: PETER HOLMAN TRUCKING, INCORPORATED, 3405 South Federal Highway, Fort Pierce, FL 33450. Representative: Dwight L. Koerber, Jr., 805 McLachlen Bank Building, 666 Eleventh Street, NW, Washington, DC 20001. Transporting (1) *plastic materials* (except commodities in bulk), from Jamesburg and Finderne, NJ, Monaca, PA, and Leominster, MA, to Anderson, SC and Miami, FL; (2) *plastic materials* (except commodities in bulk), from Anderson, SC to Miami, FL; and (3) *insulation materials and building materials* (except commodities in bulk) from Miami, FL and Anderson, SC to points in the United States in and east of MN, IA, MO, AR, and LA. (Hearing site: Miami, FL.)

MC 148000 (Sub-1F), filed August 23, 1979. Applicant: C. H. DREDGE & CO., INC., 918 South 2000 West, Syracuse, UT 84041. Representative: Bruce W. Shand, 430 Judge Building, Salt Lake City, UT 84111. 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, from the facilities of Evans Meat, Co., at or near Laveen, AZ to points in CA, CO, NM, OR, OK, TX, UT and WA. (Hearing site: Phoenix, AZ or Salt Lake City, UT.)

MC 148081 (Sub-1F), filed August 20, 1979. Applicant: CAPITAL FORD TRUCK SALES, INC., 290 University Avenue, Atlanta, Georgia 30310. Representative: Theodore M. Forbes, Jr., 4000 First National Bank Tower, Atlanta, Georgia 30303. Transporting *wrecked, disabled, stolen and repossessed trucks and trailers and* replacement vehicles for the named commodities between Atlanta, GA, on the one hand, and, on the other, points in AL, FL, IN, KY, LA, MD, MS, NC, SC, TN, TX, and VA, restricted to the use of wrecker or tow-truck equipment only. (Hearing site: Atlanta, GA.)

MC 148110F, filed August 17, 1979. Applicant: INMECO, INC., 906 Chamber of Commerce Bldg., Indianapolis, IN 46204. Representative: Donald W. Smith, P.O. Box 40248, Indianapolis, IN 46240. Contract carrier transporting *clay slip, moist clay, and materials and supplies* used in the manufacture and distribution of clay slip and moist clay, between the facilities of House of Ceramics, Inc., Excel, Inc., and Michigan Slip, Inc., at Memphis, TN, Jacksonville, FL, Talladega, AL, Bangor, MI, and Alton, IL, on the one hand, and, on the other, points in LA, TX, AR, KY, IN, TN, FL, GA, NC, SC, VA, AL, OH, MI, IL, MO, NY, NJ, PA, AL, OH, MI, IL, MO, NY, NJ, PA, WV, IA, WI, OK, MS, DE, MD, CT, and DC, under continuing contract(s) with House of Ceramics, Inc., of Memphis, TN. (Hearing site: Indianapolis, IN or Memphis, TN.)

MC 148111F, filed August 17, 1979. Applicant: CONVOY LEASING CORP., P.O. Box 648, Edison, NJ 08817. Representative: Arthur Liberstein, 888 Seventh Avenue, New York, NY 10019. *Contract carrier* transporting *aluminum and copper wire, cable and rods, electric cord sets, plastic pellets or granules, pipe and fittings for pipe sheet and strip steel and materials and supplies used in the manufacture and distribution of the above described commodities* (except commodities in bulk in tank vehicles), (1) between Jewett City, CT, Glen Dale, WV, New Brunswick, NJ and Sikeston, MO, and (2) between Jewett City, CT, Glen Dale, WV, New Brunswick, NJ and Sikeston, MO, on the one hand, and, on the other points in AL, AR, CT, DE, DC, FL, GA,

IL, IN, KY, LA, ME, MD, MI, MN, MS, MO, NH, NJ, NY, NC, OH, PA, RI, SC, TN, TX, VT, VA, WV AND WI, under continuing contract(s) with Triangle PWC, Inc., of New Brunswick, NJ. Hearing site: New York, NY.

MC 148121F, filed August 13, 1979. Applicant: DANIEL P. MATELSKE d.b.a. 4–D TRANSFER & TRUCKING, 14540 Indian Creek Trail, Middleburg Heights, Ohio 44130. Representative: James M. Burtch, 100 E. Broad Street, Columbus, Ohio 43215. Transporting *hardgoods* from the facilities of Independent Hardgoods, Inc., at Cleveland, OH, to points in PA, MI, IN, IL, WV, KY and MD. (Hearing site: Columbus, OH.)

MC 148151F, filed August 17, 1979. Applicant: RAY BALLEW & SONS, INC., 7810 Almeda-Genoa Road, Houston, Texas 77075. Representative: John W. Carlisle, 6746 De Moss, Suite 194, Houston, Texas 77074. Transporting *general commodities* (except classes A & B explosives) between Houston, Galveston, Texas City, Baytown, Beaumont, Port Arthur, Orange, La Porte, Port Lavaca, Corpus Christi, Bay City, Port O'Connor, Brownsville, and Port of Brownsville, TX and New Orleans, Baton Rouge and Lake Charles, LA, Restricted to the transportation of traffic having a prior or subsequent movement by water. (Hearing site: Houston, TX.)

MC 148240, filed August 20, 1979. Applicant: SHELBY WILLIAMS INDUSTRIES, INC., MADISON FURNITURE INDUSTRIES, DIVISION. Representative: Fred W. Johnson, Jr, P.O. Box 22628, Jackson, MS 39205. Transporting (1) *cotton piece goods* from Greensboro and Winston-Salem, NC, Lyman and Bethune, SC, Lindale and Trion, GA to Canton and Yazoo City, MS; and (2) *household appliances* from Alamogordo, NM to Canton, MS. (Hearing site: Jackson, MS or Washington D.C.)

Passengers

MC 148011F, filed August 22, 1979. Applicant: EDENFIELD STAGES, INC., 50 West Main Street, New Salem, PA 15468. Representative: John A. Pillar, 1500 Bank Tower, 307 Fourth Avenue, Pittsburgh, PA 15222. Transporting *passengers and their baggage,* in charter operations, beginning and ending at the City of Uniontown, the Boroughs of Dunbar, Masontown and South Connellsville, and the Townships of Dunbar, German, Menallen, North Union and South Union, in Fayette County, PA and extending to points in the United States (including AK but excluding HI) and *passengers and their baggage,* in special operations, beginning and ending at points in Fayette County, PA and extending to points in the United States (including AK but excluding HI). (Hearing site: Pittsburg, PA or Uniontown, PA.)

Agatha L. Mergenovich,

Secretary.

[FR Doc. 80–5820 Filed 2–25–80; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

National Institute of Justice

Solicitation for Draft Proposals on Grant/Cooperative Agreement To Support Two Phase Study of Impact of Community Environments on Supervised Offenders, Phase I

The National Institute of Justice announces a competitive research grant/cooperative agreement to support a two phase study of the impact of community environments on supervised offenders. In Phase I the research issue to be examined is whether parole outcomes appear to be influenced by community environments. If such an influence is established, the study will enter into Phase II in which the nature and relationship of community factors that appear to account for that influence will be examined.

The solicitation requests submissions of draft proposals rather than full, formal proposals. Full proposals will be requested from those applicants receiving favorable review by a peer review panel. In order to be considered, a draft proposal must be received by the National Institute of Justice no later than April 4, 1980. One grant/cooperative agreement for Phase I is expected to be awarded under this announcement. A maximum of $100,000 will be awarded for Phase I with an expected duration of 16 months. The decision to enter into Phase II and its funding level will be determined upon review of the Phase I results. To maximize competition, both profit makers and non-profit organizations may apply.

Additional information and copies of the solicitation may be obtained by sending a mailing label to: Solicitation Request, Community Environments and Their Impact on Supervised Offenders, National Criminal Justice Reference Service, Box 6000, Rockville, Maryland 20850.

Dated: February 11, 1980.

Harry M. Bratt,

Primary and Principal Assistant to the Acting Director, National Institute of Justice.

[FR Doc. 80–5682 Filed 2–25–80; 8:45 am]

BILLING CODE 4410–18–M

Office of the Attorney General

Proposed Consent Decree in Action To Enjoin Discharge of Water Pollutants by Homestake Mining Co., Lead, S. Dak.

In accordance with Departmental Policy, 28 C.F.R. § 50.7, 38 FR 19029, notice is hereby given that on February 12, 1980 a proposed consent decree in *United States and State of South Dakota* v. *Homestake Mining Company* (D. S.D., Civ. No. 78–5094), was lodged with the United States District Court for the District of South Dakota. The proposed consent decree requires Homestake to pay a civil penalty of $40,000 to the United States and make a payment of $350,000 to the State of South Dakota. In addition, the decree requires Homestake to research, develop and install an improved wastewater treatment system to treat the discharges from its Lead, South Dakota gold mining and milling facility.

The proposed consent decree may be examined at the office of the United States Attorney, Room 317, Federal Building and United States Courthouse, 515 Ninth Street, Rapid City, South Dakota 57701, and at the Pollution Control Section, Land and Natural Resources Division of the Department of Justice, Room 2644, Ninth and Pennsylvania Avenue, N.W., Washington, D.C. 20530. A copy of the proposed decree may be obtained in person or by mail from the Pollution Control Section, Land and Natural Resources Division of the Department of Justice.

The Department of Justice will receive written comments relating to the proposed consent decree for a period of thirty (30) days from the date of this notice (March 27, 1980). Comments should be addressed to the Assistant Attorney General, Land and Natural Resources Division, Department of Justice, Washington, D.C. 20530, and should refer to *United States and State of South Dakota* v. *Homestake Mining Company* (D. S.D., Civ. No. 78–5094, D.J. Ref. 90–5–1–1–1138. In requesting a copy, please enclose a check in the amount of one dollar (ten cents per page reproduction charge) payable to the Treasurer of the United States.

Angus Macbeth,

Deputy Assistant Attorney General, Land and Natural Resources Division.

[FR Doc. 80–5863 Filed 2–25–80; 8:45 am]

BILLING CODE 4410–01–M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

National Institute of Environemental Health Sciences
National Institute for Occupational Safety and Health

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

Jointly Sponsored Conference To Re-evaluate the Toxicology of Vinyl Chloride Monomer, Polyvinyl Chloride and Structural Analogues; Meeting

This Conference will be held to summarize the presently available information with respect to the following topics: (1) carcinogenesis bioassay of vinyl chloride monomer (VCN) and polyvinyl chloride (PVC); (2) toxicology studies of PVC; (3) morbidity and mortality studies of VCM and PVC workers; (4) industrial hygiene measurements of VCM and PVC in PVC operations; (5) reproduction effects of VCM; (6) community exposure to VCM and PVC; (7) carcinogenicity of some structural analogues of VCM; and (8) research needs and public health intervention.

The Conference will held on Thursday, March 20, from 8:30 a.m. to 5 p.m. and will continue on Friday, March 21, from 8:30 a.m. to 5 p.m. in the Masur Auditorium, Clinical Center, Building 10, National Institutes of Health, Bethesda, Maryland 20205. Individuals wishing to attend should give advance notice to:

1. Ms. Marlene Hamilton, Office of the Director, Division of Surveillance, Hazard Evaluations and Field Studies, National Institute for Occupational Safety and Health, 4676 Columbia Parkway, Cincinnati, Ohio 45226, Telephone: Commercial (513) 684–2427 FTS 684–2427.
2. Ms. Jolie Appel, Office of the Director, Carcinogen Identification and Classification, Occupational Safety and Health Administration, Room N36–62, 200 Constitution Avenue, N.W., Washington, D.C., Telephone: Commercial (202) 523–7111 FTS 523–7111.

Dated: February 6, 1980.

David P. Rall,

Director, National Institute of Environmental Health Sciences.

Anthony Robbins,

Director, CDC, National Institute for Occupational Safety and Health.

Eula Bingham,

Assistant Secretary for Labor, Occupational Safety and Health Administration.

Approved:

Dated: February 15, 1980.

Donald S. Fredrickson,

Director, National Institutes of Health.

[FR Doc. 80–5896 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–08–M

DEPARTMENT OF LABOR

Employment and Training Administration

Federal Committee on Apprenticeship; Public Meetings

Pursuant to section 10(a) of the Federal Advisory Committee Act (Pub. L. 92–463; 5 U.S.C. App. 1) of October 6, 1972, notice is hereby given that the Federal Committee on Apprenticeship will conduct the following open meetings as shown below:

(a) *FCA Subcommittee on Equal Apprenticeship Opportunity*
Date: March 12, 1980 *Time:* 9 a.m.–11:30 a.m.
Place: Conference Room N–5437, 200 Constitution Avenue NW., Washington, D.C.
Agenda: (1) Status Report on What's Happening with the AICs
(2) Overview of Human Resources Development Institute (HRDI) and the program for the Handicapped
(3) Status Report on the Bureau of Apprenticeship and Training/Women's Bureau Apprenticeship Task force
(4) Orientation of Apprentices

(b) *FCA Ad Hoc Subcommittee on CETA*
Date: March 12, 1980 *Time:* 9 a.m.–11 a.m.
Place: Conference Room N–5437, 200 Constitution Avenue NW., Washington, D.C.
Agenda: Discussion on "CETA—the View from Apprenticeship".

(c) *FCA Subcommittee on Research*
Date: March 12, 1980 *Time:* 11 a.m.–12 noon
Place: Conference Room N–5437, 200 Constitution Avenue NW., Washington, D.C.
Agenda: (1) Report on Department of Labor Research, Development and Evaluation Meeting—FY 80 Projects
(2) *Status Report:* FY 79 Projects
(3) *Project Operations Updates:*
(a) Evaluation of National Industry Apprenticeship Promotion Program
(b) Demonstration Project of Performance Based Career Development in Apprenticeable Health Care Occupations

(d) *FCA Subcommittee on Federal-State Relations*
Date: March 12, 1980 *Time:* 1:30 to 3:30 p.m.
Place: Conference Room N–5437, 200 Constitution Avenue NW., Washington, D.C.
Agenda: Continue Review of Recommendations to Effective State-Federal Coordination in the National Apprenticeship System as proposed by the LBJ School of Public Affairs Apprenticeship Project.

The FCA will hold a full open meeting on Thursday, March 13 from 9 a.m. to 4:30 p.m.; Friday, March 14, 1980, from 9 a.m. to 12 noon, at the National Association of Home Builders, 15th and M Streets, NW., Washington, D.C.

The agenda for the meeting on March 13 will include:
(1) Swearing in of New Members
(2) Remarks of FCA Chairperson:
(a) Follow-up on pending FCA Recommendations
(b) Review of the Agenda
(3) Continue discussion of Vocational Education Linkage
(a) *Panel:* Vocational Guidance and Counselling in Public Schools
(4) Film on Welding (Sheet Metal Workers International Union)
(5) Discussion: Identifying Apprenticeable Occupations
(6) *Report of Ad Hoc Subcommittee:* CETA—the View from Apprenticeship

The agenda for the meeting on March 14 will cover:
(1) Status Report on BAT Activities
(2) Status Report on Activities of State Apprenticeship Agencies/Councils
(3) FCA Subcommittee Reports and Other FCA Business

The agendas are subject to change due to time constraints and priority items which may come before the Committee between the time of this publication and the scheduled date of the FCA meeting.

Members of the public are invited to attend the proceedings. Any member of the public who wishes to file written data, views or arguments pertaining to the agenda may do so by furnishing it to the Executive Secretary at any time prior to the meeting. Thirty copies are needed for the members and for the inclusion in the minutes of the meeting.

Any member of the public who wishes to speak at this meeting should so indicate in a written statement, also the nature of the intended presentation and amount of time needed. The Chairperson will announce at the beginning of the meeting the extent to which time will permit the granting of such requests.

Communications to the Executive Secretary should be addressed as follows: Mrs. M. M. Winters, Bureau of Apprenticeship and Training, ETA, U.S. Department of Labor, 601 D Street NW., (Room 5434), Washington, D.C. 20213.

Signed at Washington, D.C. this 20th day of February 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training Administration.

[FR Doc. 80–5928 Filed 2–25–80; 8:45 am]

BILLING CODE 4510–30–M

Federal Advisory Council on Unemployment Insurance; Meeting

A meeting of the Federal Advisory Council on Unemployment Insurance will be held on March 18, 1980, from 9:00

A.M. to 5:00 P.M. and on March 19, from 8:30 A.M. to 12:30 P.M. The meeting will be held in Room S–4215 A & B, Labor Department Building, which is located at 200 Constitution Avenue, N.W., Washington, D.C.

The major business of the meeting will be a consideration of the kind of program, if any, which should be provided beyond 39 weeks of Unemployment Insurance benefits. Other agenda items will include, an update on unemployment insurance activities and current unemployment insurance legislation by the Unemployment Insurance Administrator and staff; the impact of the President's fiscal year 1981 Budget on the Unemployment Insurance Program, and the Process for Resolving Conformity and Compliance Issues.

Members of the public are invited to attend the proceedings. Written data, views or arguments pertaining to the business before the Council must be received by the Council's Executive Secretary prior to the meeting date. Twenty duplicate copies are needed for distribution to the members and for inclusion in the meeting minutes.

Telephone inquiries and communications concerning this meeting should be directed to: Morton Rosenbaum, Executive Secretary, Federal Advisory Council on Unemployment Insurance, Room 7000, Patrick Henry Building, 601 D Street, N.W., Washington, D.C. 20213, Telephone No. 202/376–7034.

Signed in Washington, D.C., this 19th day of February, 1980.

Ernest G. Green,

Assistant Secretary for Employment and Training.

[FR Doc. 80–5929 Filed 2–25–80; 8:45 am]

BILLING CODE 4510–30–M

Occupational Safety and Health Administration

Hawaii; Approval of State Standards

1. *Background.* Part 1953 of Title 29, Code of Federal Regulations prescribes procedures under section 18 of the Occupational Safety and Health Act of 1970 (hereinafter called the Act) by which the Regional Administrator for Occupational Safety and Health (hereinafter called Regional Administrator–OSHA) under a delegation of authority from the Assistant Secretary of Labor for Occupational Safety and Health (hereinafter called the Assistant Secretary) (29 CFR 1953.4) will review and approve standards promulgated pursuant to a State plan which has been approved in accordance with section 18(c) of the Act and 29 CFR Part 1902. On January 4, 1974, notice was published in the **Federal Register** (39 FR 1010) of the approval of the Hawaii plan and the adoption of Subpart Y to Part 1952 containing the decision.

The Hawaii plan provides for the adoption of State standards which are at least as effective as comparable Federal standards promulgated under section 6 of the Act. State standards comparable to Federal standard changes and State initiated standards continue to be adopted. Accordingly Hawaii has revised these standards and promulgated them in accordance with applicable State procedures.

Section 1952.310(a) of subpart Y sets forth the state's procedure for the adoption of at least as effective state standards. By a letter dated October 23, 1979 from Joshua C. Agsalud, Director—Department of Industrial Relations, to Gabriel J. Gilotti, Regional Administrator–OSHA Region IX; submitted proof documents for CPS #25, concerning the adoption of Federal Standard changes, and State initiated changes to 29 CFR Part 1910, and Part 1926.

These changes include minimal requirements of a hearing conservation program; travel limit to radial saws; and other items to reflect Federal OSHA changes.

These standard changes, which are contained in Hawaii Occupational Safety and Health Standards—Rules and Regulations—Revision, #5, were promulgated by the State after public hearings.

2. *Decision.* The State submission has been reviewed with the comparable Federal standards. It has been determinied that the State standards are at least as effective as the related Federal standards. The detailed standards comparison is available for review at the locations indicated below.

3. *Location of Supplement for Inspection and Copying.* A copy of the standard supplement along with the approved plan, may be inspected and copied during normal business hours at the following locations: Office of the Regional Administrator, Occupational Safety and Health Administration, 450 Golden Gate Avenue, Room 11349, San Francisco 94102; and the offices of the Department of Labor and Industrial Relations, Room 308, 825 Mililani Street, Honolulu, Hawaii 96813; and the Technical Data Center, Room N2439R, 3rd and Constitution Avenue, N.W., Washington, D.C. 20210.

4. *Public Participation.* Under § 1953.2(c) of this chapter, the Assistant Secretary may prescribe alternative procedures to expedite the review process or for other good cause which may be consistent with applicable laws. The Assistant Secretary finds that good cause exists for not publishing the supplement to the Hawaii plan as a proposed change and making the Regional Administrator's approval effective upon publication for the following reason.

The standards were adopted in accordance with the procedural requirements of State law which included public comment and further public participation would be repetitious.

This decision is effective February 26, 1980.

(Sec. 18, Pub. L. 91–596, 846 Stat. 1608 (29 U.S.C. 667))

Signed at San Francisco, California this 24th Day of January, 1980.

Gabriel J. Gillotti,

Regional Administrator.

[FR Doc. 80–5930 Filed 2–25–80; 8:45 am]

BILLING CODE 4510–26–M

LEGAL SERVICES CORPORATION

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93–355a, 88 Stat. 378, 43 U.S.C. 2996–2996*l*, as amended, Pub. L. 95–222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services Corporation of Alabama in Montgomery, Ala., to serve Bibb, Chambers, Chilton, Clay, Coosa, Fayette, Greene, Lamar, Marion, Pickens, Randolph, Sumter, Talladega, Tallapoosa, Tuscaloosa, Walker, and Winston Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Dan J. Bradley,

President, Legal Services Corporation.

[FR Doc. 80-5880 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of North Central Alabama in Huntsville, Alabama, to serve Cullman County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Dan J. Bradley,

President, Legal Services Corporation.

[FR Doc. 80-5881 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Legal Services of Northern Virginia in Arlington, Va., to serve Arlington, Fairfax, Loudoun and Prince William Counties and the cities of Alexandria, Falls Church and Fairfax.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at:

Legal Services Corporation, North Virginia Regional Office, 1730 North Lynn Street, Suite 600, Arlington, Va. 22209.

Dan J. Bradley,

President, Legal Services Corporation.

[FR Doc. 80-5882 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Rural Legal Services of Tennessee in Oak Ridge, Tennessee, to serve Macon County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Dan J. Bradley,

President, Legal Services Corporation.

[FR Doc. 80-5883 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty day prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

Central Mississippi Legal Services in Jackson, Mississippi, to serve Issaquena County.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, NE., 9th Floor, Atlanta, Ga. 30308.

Dan J. Bradley,

President, Legal Services Corporation.

[FR Doc. 80-5884 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f) provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the inititation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that is is considering that grant application submitted by:

Legal Services of South Central Tennessee in Columbia, Tennessee, to serve Bedford, Grundy, Hickman, Lawrence, Lewis, Marshall, Perry and Wayne Counties.

Interested persons are hereby invited to submited written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Dan J. Bradley,

President, Legal Service Corporation.

[FR Doc. 80-5885 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

Grants and Contracts

February 21, 1980.

The Legal Services Corporation was established pursuant to the Legal Services Corporation Act of 1974, Pub. L. 93-355a, 88 Stat. 378, 42 U.S.C. 2996-2996*l*, as amended, Pub. L. 95-222 (December 28, 1977). Section 1007(f)

provides: "At least thirty days prior to the approval of any grant application or prior to entering into a contract or prior to the initiation of any other project, the Corporation shall announce publicly * * * such grant, contract, or project * * *."

The Legal Services Corporation hereby announces publicly that it is considering the grant application submitted by:

West Tennessee Legal Services in Jackson, Tennessee, to serve Benton, Carroll, Crockett, Decatur, Dyer, Gibson, Hardin, Henry, Lake, McNairy, Obion and Weakley Counties.

Interested persons are hereby invited to submit written comments or recommendations concerning the above application to the Regional Office of the Legal Services Corporation at: Legal Services Corporation, Atlanta Regional Office, 615 Peachtree Street, N.E., 9th Floor, Atlanta, Ga. 30308.

Dan J. Bradley,

President, Legal Services Corporation.

[FR Doc. 80-5886 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-35-M

METRIC BOARD

Convening of the Machinery Sector of the American National Metric Council Meeting

The United States Metric Board (USMB) was established by the Metric Conversion Act of 1975 (Pub. L. 94-168) to coordinate the voluntary increasing use of the metric system. Section 6(3) of the Act directs the USMB to keep interested parties informed and to encourage broad participation in private sector metric activities.

Therefore, notice is hereby given that on March 11, 1980 at 10:00 a.m., the convening meeting of the American National Metric Council's (ANMC) Machinery Sector will take place at ANMC, 1625 Massachusetts Avenue, N.W., Washington, D.C. The ANMC is a private sector nonprofit organization.

The purpose of this meeting is to provide individuals and groups an opportunity to comment on the issues relating to metric conversion of the machinery sector, and to begin the process of planning "for an orderly and an economically beneficial transition to the metric system."

The meeting is open to the public. Persons who wish to attend or who wish additional information concerning this metric planning activity may contact Bill White, Assistant Program Manager at ANMC. Telephone (202) 232-4545.

Dated: February 19, 1980.

Malcolm E. O'Hagan,

Executive Director, United States Metric Board.

[FR Doc. 80-5729 Filed 2-25-80; 8:45 am]

BILLING CODE 6820-94-M

NUCLEAR REGULATORY COMMISSION

[Operating License R-31]

Catholic University of America; Director's Decision Under 10 CFR 2.206

By petition dated October 3, 1979, P. Kelly Fitzpatrick requested the Nuclear Regulatory Commission to suspend the license issued to Catholic University, to conduct an investigation and inspection of alleged violations of the operating license and to issue a show cause order why the license should not remain suspended pending a thorough review of the licensee's operations. Notice of receipt of this petition was published in the **Federal Register** on November 1, 1979 (44 FR 62970).

An inspection and investigation of activities under the license held by Catholic University was conducted. Based on the findings of that investigation, set forth in Investigation Report No. 50-77/79-02, I have concluded that the allegations raised in the petition are either unsubstantiated in fact or not violations of Commission requirements. Consequently, the requests to suspend Catholic University's license and to issue a show cause order are denied.

A copy of this determination will be placed in the Commission's Public Document Room at 1717 H Street, N.W., Washington, D.C. 20555.

Dated at Bethesda, Maryland this 20th day of February 1980.

For the Nuclear Regulatory Commission.

Victor Stello, Jr.,

Director, Office of Inspection and Enforcement.

[FR Doc. 80-5903 Filed 2-25-80; 8:45 am]

BILLING CODE 7590-01-M

[Dockets Nos. 50-295 SP and 50-304 SP]

Commonwealth Edison Co., Zion Station, Units 1 and 2; Proposed Amendment To Permit Storage Pool Modification Assignment of Atomic Safety and Licensing Appeal Board

Notice is hereby given that, in accordance with the authority conferred by 10 CFR § 2.787(a), the Chairman of the Atomic Safety and Licensing Appeal Panel has assigned the following panel members to serve as the Atomic Safety and Licensing Appeal Board for this spent fuel proceeding.

Thomas S. Moore, Chairman
Dr. John H. Buck
Dr. W. Reed Johnson

Dated: *February 20, 1980*

C. Jean Bishop,

Secretary to the Appeal Board.

[FR Doc. 80-5902 Filed 2-25-80; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-367]

Northern Indiana Public Service Co., Bailly Generating Station, Nuclear 1, Construction Permit Extension; Order Shifting Site of Prehearing Conference

In order to accommodate the expected attendance at the special prehearing conference scheduled to begin at 9:30 a.m. on March 12, 1980, the site of the conference has been shifted to the Farm Bureau Insurance Bldg., 1304 East Evans Avenue, Valparaiso, Indiana 46383.

Dated at Bethesda, Maryland, this 20th day of February, 1980.

For the Atomic Safety and Licensing Board.

Herbert Grossman,

Chairman.

[FR Doc. 80-5901 Filed 2-25-80; 8:45 am]

BILLING CODE 7590-01-M

OFFICE OF PERSONNEL MANAGEMENT

Privacy Act of 1974; Cancellation of a System of Records

AGENCY: Office of Personnel Management.

ACTION: Notice; cancellation of a system of records.

SUMMARY: The purpose of this notice is to announce cancellation of an existing system of records, OPM/CENTRAL-12, Federal Automated Career System (FACS) Records. This action results from discontinuance of this referral program and, as all records were maintained by the Office of Personnel Management, has no impact on any agency system of records.

EFFECTIVE DATE: February 26, 1980.

FOR FURTHER INFORMATION CONTACT: William H. Lynch, Work Force Records Management Branch, Agency Compliance and Evaluation (202) 254-9778.

SUPPLEMENTARY INFORMATION: The notice of this system of records appeared in the **Federal Register** of May 29, 1979 (44 FR 30839) as a proposed OPM/CENTRAL-14 system of records. It was adopted as proposed, except for a

change in its numerical identification (OPM/CENTRAL–12), by **Federal Register** notice of October 19, 1979 (44 FR 60450). Records in this system were maintained only by the Office and related to current and former Federal employees in certain job series in the general field of personnel work. This system functioned by referring current and former Federal employees, with experience in these job series, to Federal agencies having vacancies in these areas. The purpose of the referral was to identify potential candidates for the vacancies. Records in this system include demographic and biographic data about the individuals, information about academic and work experience, and self appraisal forms.

Due to the number of newly mandated program requirements placed on the Office by the Civil Service Reform Act, it has become necessary for the Office to continually make critical analysis of its expenditures of resources. While this program proved to be a worthwhile program that should continue, it is one of several activities that did not rank high enough to win continued funding. Manual records have been or will soon be destroyed by burning, while automated records have been or will be erased from storage media. The cancellation of an existing system of records requires no advance report or public comment period and, therefore, this system is cancelled effective the date of this notice.

Office of Personnel Management.

Beverly M. Jones,

Issuance System Manager.

Therefore OPM/CENTRAL–12, Federal Automated Career System (FACS) Records, is removed and the number is reserved.

OPM/CENTRAL–12 (Reserved)

[FR Doc. 80–5959 Filed 2–25–80; 8:45 am]

BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 11052; 812–4502]

Barclays Bank Ltd.; Application Exempting Applicant From All Provisions of the Act

February 15, 1980.

Notice is hereby given that Barclays Bank Limited ("Applicant"), c/o Paul B. Ford, Jr., Esq., Simpson Thacher & Bartlett, One Battery Park Plaza, New York, New York 10004, filed an application on July 9, 1979, and amendments thereto on January 14, 1980 and February 4, 1980, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a bank registered in England as a company limited by shares having been incorporated under the United Kingdom Companies Act of 1862 to 1890. According to the application, Applicant and its subsidiaries constitute the largest United Kingdom based banking group and one of the largest banking groups in the world, in terms of deposits and total assets. The application represents that Applicant and its subsidiaries had total assets of approximately $47.7 billion and deposits of approximately $41.2 billion as of December 31, 1978. Applicant states that it had issued and outstanding approximately 231 million ordinary shares converted into stock and held by 133,454 shareholders. The stock is listed for trading on The Stock Exchange, London.

According to the application, Applicant directly engages in retail and commercial banking, operates as one of four major United Kingdom clearing banks, and either directly or through United Kingdom subsidiaries, also engages in consumer finance, credit card operations, equipment leasing, merchant banking, factoring, trust activities and provides related financial services. The application also states that Applicant and its subsidiaries are principally engaged in retail and wholesale banking activities. The registered office of Applicant is located at 54 Lombard Street, London, England EC3P 3AH.

Applicant represents that it and its subsidiaries in the United Kingdom are subject to regulatory supervision by the Bank of England, the government-owned central bank of the United Kingdom. The application states that Applicant files regular detailed reports with the Bank of England, which are designed in part to assess Applicant's liquidity and exposure to asset-related and other risks. The application also represents that Applicant and its subsidiaries conduct commercial banking business in 75 different countries and most of its operations are subject to the reserve requirements and controls imposed by the central banks and other authorities in those countries. According to the application, Applicant is registered as a bank holding company pursuant to the Bank Holding Company Act of 1956, under which the Board of Governors of the Federal Reserve System regulates the types of activities in which a foreign bank holding company may engage in the United States and requires the filing of annual reports. In addition, Applicant states that the activities of its subsidiary operating in the United States are supervised and examined pursuant to the laws of New York, Massachusetts, Illinois, Pennsylvania, California, and Georgia, and are subject to the laws of the Virgin Islands.

According to the application, Applicant proposes to issue and sell unsecured prime quality commercial paper notes in minimum denominations of $100,000 in the United States. Applicant represents that the notes will be offered and sold to institutional and other comparable investors and not to the general public. Applicant states that such commercial paper will provide an alternate source of supply of United States dollars which will supplement United States dollars currently obtained by Applicant from other sources. The application states that the notes will constitute a direct obligation of Applicant, ranking on a *pari passu* basis with all depositors and all other unsecured unsubordinated indebtedness of Applicant, and will be superior to rights of equity shareholders. Applicant plans to sell the notes without registration under the Securities Act of 1933 (the "1933 Act"), in reliance upon an opinion of its United States counsel that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for certain short term commercial paper by Section 3(a)(3) thereof. Applicant states that it will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant further represents that the presently proposed issue of securities and any future public issue of securities shall have received prior to issuance one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating agencies, and that Applicant will advise in writing its United States counsel in connection with preparation of its opinion regarding exemption under the 1933 Act, that such rating has been received. Applicant undertakes to ensure that each offeree of the notes will be provided with a memorandum describing its business and containing its most recent publicly available financial statements. Applicant states that the memorandum will also include

a description of material differences between United States and United Kingdom generally accepted accounting principles. Applicant represents that the memorandum will be at least as comprehensive as memoranda which are customarily used in connection with the issuance of commercial paper in the United States. In the event of subsequent offerings, Applicant states that such memorandum will be updated periodically and at least annually to reflect material changes in its financial position. Applicant further states that in the case of a future public offering of long-term debt securities in the United States, it will file a registration statement under the 1933 Act prior to offering such securities and will not sell such securities until the registration statement has been declared effective by the Commission. Applicant also undertakes that it will comply with the prospectus delivery requirements of 1933 Act in offering and selling such securities. In the case of any offering of long-term debt securities in the United States not requiring registration under the 1933 Act, Applicant undertakes to provide to any offeree to whom it offers such securities in the United States a memorandum at least as comprehensive in its description of Applicant as memoranda customarily used in such offerings of long-term debt securities in the United States. Applicant states that such memorandum will also include a description of material differences between United States and United Kingdom generally accepted accounting principles, and will be updated at the time of subsequent offering to reflect material changes in Applicant's financial position. Applicant states that any future offerings of securities in the United States will be debt securities. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its compliance with its undertaking regarding disclosure memoranda.

Applicant represents that in connection with the issuance of the notes or any future securities, it will appoint an agent to accept service of process in any action based on the securities issued and instituted in any state or federal court by the holder thereof. Applicant further represents that it will accept jurisdiction in any state or federal court located in New York in any action based on the securities instituted by the holder. Applicant states that the appointment of agent for service of process and the acceptance of jurisdiction shall be irrevocable until the amounts due or to become due on the securities have been paid.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Applicant states that there is uncertainty as to whether it would be considered an investment company as defined under the Act.

Section 6(c) of the Act 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 provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant submits that it is subject to comprehensive supervision and regulation comparable in effect to the United States laws and regulations applicable to United States banking institutions. As a bank registered in the United Kingdom and subject to such regulations, Applicant argues that it is different from the type of institution Congress intended the Act to regulate. In addition, Applicant states that purchasers of its securities in the United States would have the benefit of United States securities laws and that such purchasers would be at no greater risk than purchasers of other large, well-regulated issuers. Applicant also asserts that if it were required to comply with the Act it would effectively be denied access to the United States capital market. Applicant concludes that granting an exemptive order pursuant to Section 6(c) of the Act would be necessary and 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 March 11, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–5841 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 11051; 812–4501]

Barclays Bank International Ltd.; Application Exempting Applicant From All Provisions of the Act

February 15, 1980.

Notice is hereby given that Barclays Bank International Limited ("Applicant"), c/o Paul B. Ford, Jr., Esq., Simpson Thacher & Bartlett, One Battery Park Plaza, New York, New York 10004, filed an application on July 9, 1979, and amendments thereto on January 14, 1980, and February 4, 1980, for an order of the Commission pursuant to Section 6(c) of the Investment Company Act of 1940 ("Act") exempting Applicant from all provisions of the Act. All interested persons are referred to the application on file with the Commission for a statement of the representations contained therein, which are summarized below.

Applicant states that it is a subsidiary of Barclays Bank Limited, one of the major United Kingdom commercial banks, and is a bank registered in England as a company limited by shares under the United Kingdom Companies Act of 1948. According to the

application, Applicant and its subsidiaries had total assets of approximately $25.2 billion and deposits of approximately $21.5 billion as of September 30, 1978. Applicant states that the operating income of Applicant and its subsidiaries is derived principally from interest on loans, overdrafts and placing funds with banks in connection with Eurocurrency liquidity management, facilitation of international money transfer and documentary credit business with correspondent banks.

The application states that Applicant and its subsidiaries are principally engaged in retail and wholesale banking activities. According to the application, Applicant and its subsidiaries currently operate in seventy-five countries throughout the world and form the largest United Kingdom-based international banking group. Applicant states that its registered business office is located at 54 Lombard Street, London, England EC3P 3AH.

Applicant represents that it is subject to regulatory supervision by the Bank of England, the government-owned central bank of England. Applicant also states that it files regular detailed reports with the Bank of England, which are designed in part to assess Applicant's liquidity and exposure to asset-related and other risks. According to the application, most of the operations of Applicant and its subsidiaries conducted in seventy-five different countries are subject to reserve requirements and controls imposed by central banks and other authorities in those countries. Applicant also represents that it is registered as a bank holding company pursuant to the Bank Holding Company Act of 1956, under which the Board of Governors of the Federal Reserve System regulates the types of activities in which a foreign bank holding company may engage in the United States and requires the filing of annual reports. In addition, Applicant states that it is supervised and examined pursuant to the laws of New York, Massachusetts, Illinois, Pennsylvania, California, and Georgia, and is subject to the laws of the Virgin Islands, because it conducts business in those jurisdictions.

According to the application, Applicant proposes to issue and sell unsecured prime quality commercial paper notes in minimum denominations of $100,000 in the United States. Applicant represents that the notes will be offered and sold to institutional and other comparable investors and not to the general public. Applicant states that such commercial paper will provide an alternate source of supply of United States dollars which will supplement United States dollars currently obtained by Applicant from other sources. The application states that the notes will constitute a direct obligation of Applicant, ranking on a *pari passu* basis with all depositors and all other unsecured unsubordinated indebtedness of Applicant, and will be superior to rights if equity shareholders. Applicant plans to sell the notes without registration under the Securities Act of 1933 (the "1933 Act"), in reliance upon an opinion of its United States counsel that the offering will qualify for an exemption from the registration requirements of the 1933 Act provided for certain short term commercial paper by Section 3(a)(3) thereof. Applicant states that it will not proceed with its proposed offering until it has received such an opinion letter. Applicant does not request Commission review or approval of such opinion letter and the Commission expresses no opinion as to the availability of any such exemption. Applicant further represents that the presently proposed issue of securities and any future public issue of securities shall have received prior to issuance one of the three highest investment grade ratings from at least one of the nationally recognized statistical rating agencies, and that Applicant will advise in writing its United States counsel in connection with preparation of its opinion regarding exemption under the 1933 Act, that such rating has been received. Applicant undertakes to ensure that each offeree of the notes will be provided with a memorandum describing its business and containing its most recent publicly available financial statements. Applicant states that the memorandum will also include a description of material differences between United States and United Kingdom generally accepted accounting principles. Applicant represents that the memorandum will be at least as comprehensive as memoranda which are customarily used in connection with the issuance of commercial paper in the United States. In the event of subsequent offerings, Applicant states that such memorandum will be updated periodically and at least annually to reflect material changes in its financial position. Applicant further states that in the case of a future public offering of long-term debt securities in the United States, it will file a registration statement under the 1933 Act prior to offering such securities and will not sell such securities until the registration statement has been declared effective by the Commission. Applicant also undertakes that it will comply with the prospectus delivery requirements of 1933 Act in offering and selling such securities. In the case of any offering of long-term debt securities in the United States not requiring registration under the 1933 Act, Applicant undertakes to provide to any offeree to whom it offers such securities in the United States a memorandum at least as comprehensive in its description of Applicant as memoranda customarily used in such offerings of long-term debt securities in the United States. Applicant states that such memorandum will also include a description of material differences between United States and United Kingdom generally accepted accounting principles, and will be updated at the time of subsequent offering to reflect material changes in Applicant's financial position. Applicant states that any future offerings of securities in the United states will be debt securities. Applicant consents to having any order granting the relief requested under Section 6(c) of the Act expressly conditioned upon its complicance with its undertaking regarding disclosure memoranda.

Applicant represents that in connection with the issuance of the notes or any future securities, it will appoint an agent to accept service of process in any action based on the securities issued and instituted in any state or federal court by the holder thereof. Applicant further represents that it will accept jurisdiction in any state of federal court located in New York in any action based on the securities instituted by the holder. Applicant states that the appointment of agent for service of process and the acceptance of jurisdiction shall be irrevocable until the amounts due or to become due on the securities have been paid.

Section 3(a)(3) of the Act defines investment company to mean "any issuer which is engaged or proposes to engage in the business of investing, reinvesting, owning, holding, or trading in securities, and owns or proposes to acquire investment securities having a value exceeding 40 per centum of the value of such issuer's total assets (exclusive of Government securities and cash items) on an unconsolidated basis." Applicant states that there is uncertainty as to whether it would be considered an investment company as defined under the Act.

Section 6(c) of the Act 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 provision under the Act or any rule or regulation thereunder, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Applicant requests an order pursuant to Section 6(c) of the Act exempting it from all provisions of the Act. Applicant submits that it is subject to comprehensive supervision and regulation comparable in effect to the United States laws and regulations applicable to United States banking institutions. As a bank registered in the United Kingdom and subject to such regulations, Applicant argues that it is different from the type of institution Congress intended the Act to regulate. In addition, Applicant states that purchasers of its securities in the United States would have the benefit of United States securities laws and that such purchasers would be at no greater risk than purchasers of other large, well-regulated issuers. Applicant also asserts that if it were required to comply with the Act it would effectively be denied access to the United States capital market. Applicant concludes that granting an exemptive order pursuant to Section 6(c) of the Act would be necessary and 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 March 11, 1980 at 5:30 p.m., submit to the Commission in writing a request for a hearing on the matter accompanied by a statement as to the nature of his interest, the reason for such request, and the issues, if any, of fact or law proposed to be controverted, or he may request that he be notified if the Commission shall order a hearing thereon. Any such communication should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request shall be served personally or by mail upon Applicant(s) at the address(es) stated above. Proof of such service (by affidavit, or in case of an attorney-at-law, by certificate) shall be filed contemporaneously with the request. As provided by Rule 0–5 of the rules and regulations promulgated under the Act, an order disposing of the application will be issued as of course following said date unless the Commission thereafter orders a hearing upon request or upon the Commission's own motion. Persons who request a hearing, or advice as to whether a hearing is ordered, will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–5842 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

[File Nos. 2–43097 (22–7067) etc.]

Chrysler Financial Corp.; Application and Opportunity for Hearing

February 20, 1980.

In the Matter of Chrysler Financial Corporation File Nos. 2–43097 (22–7067), 2–49615 (22–7714), 2–56398 (22–8854), 2–58322 (22–9149), 2–59061 (22–9229), 2–59629 (22–9310), Trust Indenture Act of 1939, Section 310(b)(1)(ii).

Notice is hereby given that Chrysler Financial Corporation has filed an application under clause (ii) of Section 310(b)(1) of the Trust Indenture Act of 1939 (the "Act") for a finding by the Securities and Exchange Commission that the successor trusteeship of United States Trust Company of New York ("U.S. Trust") under certain existing indentures of Chrysler Financial Corporation which are qualified under the Act, is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualfiy U.S. Trust from acting as Trustee under any such indenture.

Section 310(b) of the Act provides in part that, if a trustee under an indenture qualified under the Act has or shall acquire any conflicting interest, it shall, within 90 days after ascertaining that it has such conflicting interest, either eliminate such conflicting interest or resign. Subsection (1) of such Section provides, in effect, that with certain exceptions a trustee under a qualified indenture shall be deemed to have a conflicting interest if such trustee is trustee under another indenture under which any other securities of the same issuer are outstanding. However, under clause (ii) of Subsection (1), there shall be excluded from the operation of this provision another indenture under which other securities of the issuer are outstanding if the issuer shall have sustained the burden of proving, on application to the Commission and after opportunity for hearing, that trusteeship under such qualified indenture and such other indenture is not so likely to involve a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify such trustee from acting as trustee under either of such indentures.

The Applicant alleges that:

1. Chrysler Financial Corporation, a Michigan corporation has outstanding on September 30, 1979 the following described securities in the following principal amounts, issued under trust indentures dated as of the following dates with the following indenture trustees, which were filed under the following file and exhibit numbers and which were declared effective for registration under the Securities Act of 1933 and for qualification under the Trust Indenture Act of 1939 on the following dates, the terms and conditions of each of the said indentures being incorporated in the application by reference;

Description	Principal amount	As of date of indenture	Indenture trustee	File and exhibit No.	Effective date
7 70% debentures due 1992	$60,000,000	Mar. 1, 1972	The Chase Manhattan Bank, N.A.	2–43097, exhibit 4–A	Mar. 7, 1972.
Medium-term notes due from 9 months to 5 years from date of issue	33,800	Dec. 1, 1973	Manufacturers Hanover Trust Co.	2–49615, exhibit 2–A	Dec. 12, 1973.
10% notes due 1981	125,000,000	June 15, 1976	Manufacturers Hanover Trust Co.	2–56398, exhibit 2–A	June 15, 1976.
Medium-term notes due from 9 months to 5 years from date of issue	9,459,000	June 1, 1977	Manufacturers Hanover Trust Co.	2–59061, exhibit 2–A	June 30, 1977.
8⅜% notes due 1984	50,000,000	Sept. 1, 1977	Bank of America National Trust & Savings Association.	2–59629, exhibit 2–A	Aug. 30, 1977.

2. Each of the above-named indenture trustees has notified Chrysler Financial Corporation of its intention to resign as

indenture trustee under the indenture set forth next to its name above and, subject to the receipt by Chrysler Financial Corporation of an affirmative order in respect of its application, United States Trust Company of New York ("U.S. Trust") has agreed to act as successor indenture trustee under each of the above-described indentures, to become effective upon execution of appropriate documentation by Chrysler Financial Corporation, U.S. Trust and the respective trustees.

3. Each of the indenture described in paragraph 1 above contains the provisions required by Section 310(b) of the Trust Indenture Act of 1939.

4. The terms of the indentures described in paragraph 1 above vary as to interest rates and maturity, and the indenture relating to the 7.70% Debentures Due 1992 provides for a sinking fund, with various redemption dates and redemption prices.

5. The indentures described in paragraph 1 above are wholly unsecured and no event of default, as defined, has occurred under any of such indentures.

6. The Company had outstanding as of September 30, 1979, $125,000,000 principal amount of 8⅞% Notes Due 1982 which were issued under an indenture dated as of March 15, 1977 between Chrysler Financial Corporation and U.S. Trust, as Indenture Trustee (the "U.S. Trust Indenture"), a copy of which indenture is incorporated in the application by reference and was filed as Exhibit 2–A to Registration Statement on Form S–7 (File No. 2–58322), which was declared effective by the Commission on March 23, 1977, for registration under the Securities Act of 1933 and for the qualification of said indenture under the Trust Indenture Act of 1939.

7. The terms of the U.S. Trust Indenture vary from the Indentures described in paragraph 1 hereof as to interest rates and maturity, and do not provide for a sinking fund as does the indenture relating to the 7.7% Debentures Due 1992.

8. Under the terms of the U.S. Trust Indenture and the indentures described in paragraph 1 hereof, each ranks equally, *pari passu*, with the other senior debt of Chrysler Financial Corporation.

9. Each of the indentures described in paragraph 1 hereof and the U.S. Trust Indenture provide that any event of default or any event which with notice or lapse of time or both would constitute such an event of default, under any obligation for borrowed money of Chrysler Financial Corporation which results in the indebtedness becoming due prior to its stated maturity constitutes an event of default thereunder, and the Trustee under each such indenture has the right to declare all of the securities outstanding thereunder due and payable immediately.

10. For this reason, if Chrysler Financial Corporation should default on its obligations under the U.S. Trust Indenture and the Trustee accelerates payment of the indebtedness thereunder, there would exist an event of default under all of the indentures described in paragraph 1 above and the Trustee under each could accelerate payment of the indebtedness thereunder. Conversely, if Chrysler Financial Corporation should default on its obligations under any one of the indentures described in paragraph 1 above and the Trustee accelerates payment of the indebtedness thereunder, there would exist an event of default under all of the other indentures and the U.S. Trust Indenture, and the Trustee under each could accelerate payment of the indebtedness thereunder.

11. Because of the cross-default provisions described in paragraghs 9 and 10 above, if an event of default occurs under any one of the indentures, including the U.S. Trust Indenture and the Trustee accelerates payment thereunder, this will constitute a default under the provisions of each of the other indentures, including the U.S. Trust Indenture, and the Trustee under each could accelerate payment of the indebtedness thereunder.

12. Each of the indentures requires the Trustee to use the same degree of care and skill in the exercise of its right and power as a prudent man under the circumstances. Further, the Trustee is not relieved from liability for its own negligent action, negligent failure to act or its own willful misconduct. Thus, there cannot realistically be either a race of diligence or a studied delay which, in any case, might result in holders of any one issue of securities being favored or prejudiced as against holders of the other issues of securities.

13. Such differences as exist between the U.S. Trust Indenture and the other indentures are not so likely to involve the U.S. Trust in a material conflict of interest as to make it necessary in the public interest or for the protection of investors to disqualify U.S. Trust from acting as indenture trustee under each of the other indentures.

Chrysler Financial Corporation has waived notice of hearing, any right to a hearing fn connection with matters referred to in the application, and any and all right to specify procedures under the Rules of Practice of the Commission with respect to the application.

For a more detailed account of the matter of fact and law asserted, all persons are referred to said application, which is a public document on file in the offices of the Commission at the Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

Notice is further given that any interested person may, not later than March 17, 1980, submit to the Commission his views or any substantial facts bearing on this application or the desirability of a hearing thereon. Any such communication or request should be addressed: Secretary, Securities and Exchange Commission, 500 North Capitol Street, NW., Washington, D.C. 20549, and should state briefly the nature of the interest of the person submitting such information or requesting the hearing, the reasons for such requests, and the issues of fact and law raised by the application which he desires to controvert. Persons who request the hearing or advice as to whether the hearing is ordered will receive all notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof. At any time after such date, an order granting the application may be issued upon request or upon the Commission's own motion.

For the Commission, by the Division of Corporation Finance, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80–5840 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 21440; 70–6423]

Hartford Electric Light Co.; Proposed Issuance and Sale of First Mortgage Bonds and Exception From Competitive Bidding

February 15, 1980.

Notice is hereby given that The Hartford Electric Light Company ("HELCO"), Selden Street, Berlin, Connecticut 06109, a wholly-owned subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("ACT"), designating Section 6(b) of the Act and Rule 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the application-declaration, which is summarized

below, for a complete statement of the proposed transaction.

HELCO proposes to issue and sell at private sale to institutional investors up to $20,000,000 principal amount of its—% First Mortage Bonds, 1980 Series, due March 1, 1990 ("Bonds"). The terms of the Bonds are being negotiated directly with the proposed purchasers. HELCO presently has a commitment from one insitutional investor for the purchase of $10,000,000 principal amount of the Bonds and is presently attempting to obtain commitments from other institutional investors for the purchase of all or a portion of the remaining $10,000,000 uncommitted principal amount of Bonds. HELCO will file by amendment the exact principal amount of Bonds to be sold, a complete list of the purchasers thereof and the interest rate to be borne by the Bonds, which rate is being negotiated directly with prospective purchasers and will not be in excess of 13.875% or less than 13.35% per annum. The Bonds will be sold at 100% of the principal amount thereof.

The Bonds will be issued under the First Mortgage Indenture and Deed of Trust dated as of January 1, 1958, between HELCO and the First National Bank of Boston, Successor Trustee, as heretofore supplemented and amended by various indentures supplemental thereto, and as to be further supplemented by a Seventeenth Supplemental Mortgage Indenture to be dated as of March 1, 1980, setting out the terms of the Bonds. The terms are expected to include provisions that no Bond shall be redeemed (1) for any purpose prior to March 1, 1985; or (2) at any time on or after March 1, 1985 if such redemption is for the purpose of or in anticipation of refunding such Bond through the use, directly or indirectly, of borrowed funds or a preferred stock issue (a) at an effective cost to HELCO (computed in accordance with generally accepted financial principles) less than the interest rate of the bonds, or (b) having a weighted average life to maturity less than that of the Bonds, except that on and after March 1, 1988 up to one-half of the initial aggregate principal amount of the Bonds may be redeemed pursuant to one or more such refundings. HELCO has stated that the purchaser is unwilling to purchase the Bonds in the absence of the aforesaid redemption and refunding protection.

The net proceeds from the sale of the Bonds will be used to repay an equal principal amount of short-term borrowings, estimated to total approximately $73,900,000 at the time of such sale, which were incurred to finance HELCO's construction program. HELCO's 1980 construction program expenditures are estimated to total $66,400,000, which includes $2,200,000 for nuclear fuel. In addition to the sale of the Bonds and internal cash generation, the Company expects to effect additional preferred stock (and possibly additional first mortgage bond) financing in 1980 to finance the completion of its 1980 construction program and to meet bond maturity and sinking fund requirements of $12,715,000 in 1980.

A statement of the fees, commissions and expenses to be incurred in connection with the proposed transaction will be filed by amendment. The proposed issuance and sale of Bonds by HELCO is subject to the jurisdiction of the Connecticut Division of Public Utility Control. It is stated that no other state commission and no federal commission, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 14, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicant-declarant at the above-stated address, and proof of service (by affidavit or, in case of attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as filed or as it may be amended, may be granted and permitted to become effective as provided in Rule 23 of the General Rules and Regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-5843 Filed 2-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21439; 70-6417]

Middle South Services, Inc. and Middle South Utilities, Inc.; Proposal by Service Company Subsidiary To Make Short-Term Bank Borrowings; Guarantee of Repayment by Holding Company

February 15, 1980.

Notice is hereby given that Middle South Utilities, Inc. ("Middle South"), a registered holding company, and its service company subsidiary, Middle South Services, Inc. ("Services"), 225 Baronne Street, New Orleans, Louisiana 70112, have filed a joint declaration with this Commission pursuant to the Public Utility Holding Company Act of 1935 ("Act"), designating Sections 6(a), 7 and 12(b) of the Act and Rules 45 and 50(a)(2) promulgated thereunder as applicable to the proposed transaction. All interested persons are referred to the declaration, which is summarized below, for a complete statement of the proposed transaction.

In connection with the performance of its functions as a subsidiary service company for the Middle South Utilities System ("System"), Services has undertaken a project together with an outside consulting engineering firm leading to the development of a standard design, both conceptually and in detail, for future coal-fired electric generating stations for the System during the late 1980's. Expenditures for this project through 1981 are currently estimated to total approximately $28,500,000, including $25,400,000 allocable to consultant fees and $3,100,000 allocable to in-house costs. Through 1979, approximately $9,000,000 of costs have been incurred, including $7,200,000 and $1,700,000 allocable to consultant fees and in-house costs, respectively.

To provide Services with funds for continuing its work on the coal-fired project and for the repayment at or prior to maturity of up to $10,000,000 of bank borrowings previously incurred, primarily for this undertaking (HCAR No. 20536), Services will enter into a line of credit with First National Bank of Commerce, New Orleans, Louisiana ("Bank"), under which Services proposes to borrow through December 31, 1981 up to an aggregate principal amount of $30,000,000 outstanding at any one time.

To effect the proposed borrowings under the line of credit, Services will deliver to the Bank an unsecured master promissory note ("Note"), which Note shall evidence the obligation of Services to pay the amount of the line of credit ($30,000,000) or, if less, the aggregate

unpaid principal amount of all loans made to Services under the line of credit, plus interest thereon as set forth below. The date and amount of each loan made under the line of credit, and the date and amount of each payment of principal of the loans made thereunder, shall be recorded by the Bank on a schedule annexed to the Note. The Note will (i) be payable to the order of the Bank, (ii) be dated on or about the date of the Commission's order in this File ("Effective Date"), (iii) be stated to mature on December 31, 1981 and (iv) bear interest, payable quarterly and at maturity, on the unpaid principal amount thereof at a rate per annum equal to one hundred two percent (102%) of the prime commercial rate (15¼ percent per annum on January 25, 1980) of The Chase Manhattan Bank (N.A.) in effect from time to time for 90-day unsecured commercial loans to corporate commercial customers of the highest credit rating, with adjustments in the interest rate to be made effective automatically on the effective date of any change in said prime rate. Services will have the right to prepay the unpaid principal amount of the Note, in whole or in part, at any time without penalty or premium.

In connection with the proposed borrowings, Services will agree to pay the Bank a fee for the period from the Effective Date to and including December 31, 1981 or earlier termination of the line of credit computed at the rate of ½ of 1% per annum on the average daily unused portion of the available line of credit. There is no requirement that Services maintain compensating balances with the Bank in connection with the proposed borrowings under the line of credit. Based upon the prime commercial rate of The Chase Manhattan Bank (N.A.) in effect on January 25, 1980, the cost of money to Services in respect of the proposed borrowings as of that date would be 15.56% per annum.

As sole stockholder of the outstanding common stock of Services and as an inducement to the Bank to arrange for Services this $30,000,000 line of credit, Middle South will guarantee the payment by Services of the unpaid principal amount of, and interest on, the Note and the performance by Services of its obligations under its line of credit with the Bank.

The fees, commissions and expenses to be incurred in connection with the proposed transaction are estimated at $6,000, including legal fees of $4,000. It is stated that no state or federal regulatory authority, other than this Commission, has jurisdiction over the proposed transaction.

Notice is further given that any interested person may, not later than March 13, 1980, request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by the filing which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the declarants at the above-stated address, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the declaration, as filed or as it may be amended, may be permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advise as to whether a hearing is ordered will receive any notices or orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-5734 Filed 2-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 21441; 70-5961]

National Fuel Gas Co. et al.

Proposed Transactions Related to the Organization of a New Subsidiary Company To Engage in the Underground Storage of Gas for Nonaffiliated Utilities

February 15, 1980.

In the matter of National Fuel Gas Co, 30 Rockefeller Plaza, New York, New York 10020; National Fuel Gas Supply Corporation, 308 Seneca Street, Oil City, Pennsylvania 16301; National Gas Storage Corporation, 10 Lafayette Square, Buffalo, New York 14203.

Notice is hereby given that National Fuel Gas Company ("National"), a registered holding company, and two of its subsidiary companies, National Fuel Gas Supply Corporation ("Supply Corporation") and National Gas Storage Corporation ("Storage Corporation"), have filed an amended application-declaration with this Commission pursuant to the Public Utility Holding Cmpany Act of 1935 ("Act"), designating Sections 6(a), 7, 9(a), 10, 11, and 12 of the Act and Rules 43 and 45 promulgated thereunder as applicable to the following proposed transactions. All interested persons are referred to the amended application-declaration, which is summarized below, for a complete statement of the proposed transactions.

National, the holding company, performs financing and administrative functions on behalf of its subsidiaries but is not engaged in the transmission or distribution of natural gas. It has no material assets except for the securities of its subsidiaries. Supply Corporation, a Pennsylvania corporation, is engaged in the interstate production, purchase, storage, transportation, and sale of natural gas at wholesale. It owns and operates an integrated gas pipeline supply network extending from the southwestern part of Pennsylvania to the New York-Canadian border. Approximately 98% of the natural gas produced and purchased by Supply is sold to National Fuel Gas Distribution Corporation ("Distribution Corporation"), a wholly owned public-utility subsidiary of National. Supply Corporation also supplies natural gas at wholesale and renders gas storage service to certain nonaffiliated utilities. Storage Corporation was incorporated on June 9, 1976, under the Transportation Corporations Law of the State of New York. Storage Corporation has no assets or liabilities and no securities outstanding. It has been formed by National to engage in the storage of gas and related activities upon consumation of the transactions described below.

A notice was issued in this proceeding on February 14, 1977 (HCAR No. 19884); however, the filing was never completed and no order was issued. The companies have now filed an amendment to the application-declaration which restates entirely the original filing.

It is proposed that Storage Corporation will issue securities and acquire from Supply Corporation assets necessary to develop underground gas storage and related transportation facilities in Southwestern New York and adjoining northwestern Pennsylvania having an aggregate top gas storage capacity of approximately 23.5 billion cubic feet ("BCF"). Initial construction is being carried out by Supply Corporation in expectation of transferring partially completed facilities to Storage Corporation as of April 1, 1980. The total cost of development for Storage

Corporation's facilities is estimated to exceed $68,000,000 over the period of preliminary development and the two to three-year construction period. Storage Corporation will render gas storage service to non-affiliated utilities. These utilities will utilize Storage Corporation's service so that they may continue to deliver gas to high priority residential and commercial customers during the winter months when demand is high, from supplies stored over the summer months when gas is relatively more plentiful. Normally, gas is stored during the months of April through October, and withdrawn from storage for use during the months of November through March ("Storage Year").

It is stated that Supply Corporation has extensive experience in underground gas storage operations and owns rights in several areas which may be developed for gas storage purposes. Supply Corporation currently operates, independently or in conjunction with certain of its suppliers, 31 underground gas storage areas within the National Fuel Gas System. It is proposed that Storage Corporation will acquire from Supply Corporation (i) one of the existing developed storage areas and (ii) partially constructed facilities and leasehold interests at two undeveloped areas.

The developed area is known as the East Independence Pool and has an estimated top gas storage capacity capability of 3.3 BCF. This capacity is in excess of the system's internal needs for the foreseeable future and may therefore be transfered to Storage Corporation to serve non-affiliated utilities without adversely affecting existing customers of the System. The two partially constructed undeveloped areas are known as the West Independence and Beech Hill pools and have respective estimated top gas storage capacity capabilities of 8.2 and 12.0 BCF.

In order for Storage Corporation to complete development of the underground gas storage facilities and render storage service to customers, the applicants-declarants intend to capitalize Storage Corporation through the following transactions. The transactions would be consummated as of April 1, 1980, or as soon thereafter as possible ("Closing Date"), with the exception of transactions (A)(1) and (A)(2) below, which would be consummated in advance of the Closing Date.

A. Transactions Taking Place Before the Closing Date

(1) National proposes to issue and sell from time to time during the period from the date of the Commission's order authorizing this transaction through the Closing Date, its unsecured short-term notes to The Chase Manhattan Bank, N.A. ("Chase"), pursuant to a Letter Agreement between Chase and National, in an aggregate principal amount not to exceed $4.7 million at any one time outstanding. The notes will mature within twelve months from their date of issue, will bear interest payable quarterly at the prime commercial rate of Chase in effect from time to time, and will be prepayable, in whole or in part, at any time without penalty.

National has informally agreed with Chase to maintain average balances of 20% of the average loans outstanding; however, the average balances maintained for normal operating needs are sufficient to cover these amounts. Assuming an average balance of 20% were required, the effective cost of money, based on a 15.25% prime rate, would be 19.0625%. There will be no commitment fee nor any closing or related costs in connection with National's borrowings from Chase.

National proposes to use the proceeds of such short-term borrowings to acquire for cash from time to time, prior to the Closing Date, up to $4.7 million aggregate principal amount at any one time outstanding of short-term unsecured notes from Supply Corporation.

(2) In exchange for equal cash consideration, Supply Corporation will issue from time to time to National, during the period commencing with the authorization by the Commission of this transaction and ending with the Closing Date, up to $4.7 million aggregate principal amount of short-term unsecured notes. Each such note will be dated the date and bear the effective interest rate of related short-term notes of National issued to Chase, noted above. Each short-term note of Supply Corporation issued pursuant to this transaction will mature within twelve months of its date of issue with interest payable quarterly until the principal amount is paid in full. Supply Corporation will have the option to prepay any note issued prusuant to this transaction at any time, in whole or in part, without penalty or premium. Supply Corporation will use the proceeds of these notes for construction expenditures during 1980 for gas storage facilities which are proposed to be transferred to Storage Corporation. On the Closing Date, Storage Corporation will assume Supply Corporation's indebtedness to National represented by the aggregate amount of notes outstanding pursuant to this transaction, as partial consideration for the transfer by Supply Corporation to Storage Corporation of its interest in construction work in progress at the storage facilities, as described below under transaction (B)(1)(b).

B. Transactions Taking Place on or After the Closing Date

(1) *Supply Corporation.* (B)(1)(a) In exchange for 25 shares of Storage Corporation common stock, no par value, Supply Corporation will convey to Storage Corporation all of the right, title, and interest of Supply Corporation existing as of June 1, 1976, in facilities at East Independence and unimproved leasehold interests at West Independence and Beech Hill. The 25 shares of common stock of Storage Corporation will be entered on the books of Supply Corporation at the net book value of the facilities and leasehold interests transferred as determined by original cost less accumulated depreciation, amortization, and depletion, if any, to the date of transfer, as they appear on the books of Supply Corporation. Assuming that the transfers occur as of April 1, 1980, the facilities and leasehold interests at the respective storage areas are expected to have net book values approximating $2,965,000, $47,000, and $6,000, for an estimated total of $3,018,000.

(B)(1)(b) In exchange for the assumption by Storage Corporation of indebtedness to National represented by (i) Supply Corporation's $5 million 9.6% promissory note due December 31, 1980, (ii) Supply Corporation's $4.9 million prime interest rate promissory note due December 31, 1980, (iii) Supply Corporation's $17.5 million 8.7% promissory note due December 31, 1980, and (iv) up to $4.7 million aggregate principal amount of short term unsecured notes described in transaction (A)(2) above, together in each case with accrued interest payable at the time of assumption, Supply Corporation will convey to Storage Corporation all of Supply Corporation's right, title, and interest in construction work in progress representing improvements, materials, and preliminary development at the three storage areas. As of April 1, 1980, such improvements, materials, and preliminary development are expected to aggregate approximately $32,100,000.

(b)(1)(c) Supply Corporation will transfer to National as a dividend, all of the 25 shares of common stock of Storage Corporation which it will receive pursuant to transaction (B)(1)(a) above.

2. *Storage Corporation.* (B)(2)(a) As consideration for the assests to be acquired from Supply Corporation

indicated in transaction (B)(1)(a), Storage Corporation will issue 25 shares of its fully paid and non-assessable common stock, no par value, to Supply Corporation. The entire consideration received for such shares shall constitute stated capital of Storage Corporation and shall be valued at the net book value of the assests acquired as they appear on the books of Supply Corporation as determined by original cost less accumulated depreciation, amortization, and depletion, if any, to the date of transfer.

(B)(2)(b) As consideration for assests to be acquired from Supply Corporation indicated in transaction (B)(1)(b) above, Storage Corporation will assume the indebtedness of Supply Corporation to National represented by a $5.0 million 9.6% promissory note due December 31, 1980, a $4.9 million prime interest rate promissory note due December 31, 1980, a $17.5 million 8.7% promissory note due December 31, 1980, and up to $4.7 million aggregate principal amount of short-term unsecured notes described in transaction (A)(2) above, together in each case with accrued interest payable to the time of assumption of the indebtedness.

(B)(2)(c) As consideration for the cancellation by National of the $5.0 million 9.6% note, the $4.9 million prime interest rate note, and the $17.5 million 8.7% note assumed by Storage Corporation under transaction (B)(2)(b) above, Storage Corporation will issue to National the following: (i) 75 shares of its fully paid and non-assessable common stock, no par value. These shares will be entered on the books of Storage Corporation, representing $9.1 million of stated capital, and will be deemed to have been issued in return for cancellation of a $9.1 million portion of the Storage Corporation's indebtedness to National. (ii) 320,000 shares of its cumulative preferred stock, 9.6% Series ($25 par value). These shares will be entered on the books of National at $8.0 million and will be deemed to have been received in return for the cancellation of an $8.0 million portion of Storage Corporation's indebtedness to National. (iii) $10.3 million aggregate principal amount of its serial unsecured notes. These notes will bear interest at $8.7% which is equal to the effective cost of capital incurred by National in connection with the 1977 Debentures, rounded to the next highest ⅛ of 1%. The notes will have maturities corresponding to sinking fund payment dates for the 1977 Debentures and will have principal amounts equal to sinking fund requirements on the proportion of the proceeds of the 1977 Debentures which Storage Corporation receives. These notes will be deemed to have been received in return for the cancellation of a $10.3 million portion of Storage Corporation's indebtedness to National.

(B)(2)(d) In exchange for equal cas consideration, Storage Corporation will issue from time to time to National, during the period commencing with the Closing Date and ending December 31, 1980, up to $14 million aggregate principal amount of short-term unsecured notes. Each such note will be dated the date and bear the effective interest rate of related short-term notes of National issued to Chase, for which authorization is requested pursuant to transaction (B)(3)(d) below. Each short-term note of Storage Corporation issued pursuant to this transaction will mature within twelve months of its date of issue with interest payable quarterly until the principal amount is paid in full. Storage Corporation will have the option to prepay any note issued pursuant to this transaction at any time, in whole or in part, without penalty or premium. Storage Corporation will use the proceeds of these notes for its construction program. Repayment of these notes is expected to be made from the proceeds of a financing to be done as soon as may be practicable.

3. *National.* (B)(3)(a) In consideration of the assumption by Storage Corporation of up to $32.1 million aggregate indebtedness of Supply Corporation to National as indicated in transaction (B)(2)(b) above, National will released Supply Corporation from all liability under such indebtedness.

(B)(3)(b) National will acquire 25 shares of Storage Corporation common stock, no par value, as a dividend from Supply Corporation as described in transaction (1)(a) above. National will enter these shares on its books at the same value as appears on the books of Supply Corporation at the time of transfer.

(B)(3)(c) As described in transaction (B)(2)(c) above, as consideration for the cancellation by National of the $5.0 million 9.6% note, the $4.9 million prime interest rate note, and the $17.5 million 8.7% note assumed by Storage Corporation under transaction (B)(2)(b) above, National will acquire from Storage Corporation the following: (i) 75 shares of Storage Corporation common stock, no par value. These shares will be valued at $9.1 million on the books of National and will be deemed to have been received in return for the cancellation of a $9.1 million portion of Storage Corporation's indebtedness to National. (ii) 320,000 shares of Storage Corporation's cumulative preferred Stock, 9.6% Series ($25 par value), having an aggregate par value of $8.0 million. This preferred stock will be entered on the books of National at $8.0 million and will be deemed to have been received in return for the cancellation of an $8.0 million portion of Storage Corporation's indebtedness to National. (iii) $10.3 million aggregate principal amount of the serial unsecured notes of Storage Corporation. These notes will be entered on the books of National at $10.3 million and will be deemed to have been received in return for the cancellation of a $10.3 million portion of Storage Corporation's indebtedness to National.

(B)(3)(d) National will issue and sell from time to time during the period from the closing Date through December 31, 1980, its unsecured short-term notes to Chase in an aggregate principal amount not to exceed $14 million at any one time outstanding. These notes will be subject to the same terms and conditions as those applying to the notes which National proposes to issue and sell to Chase prior to the Closing Date, pursuant to transaction (A)(1) above.

(B)(3)(e) National will use the proceeds of the short-term borrowings to acquire for cash from time to time prior to December 31, 1980, up to $14 million aggregate principal amount at any one time outstanding of short-term notes from Storage Corporation, as described in transaction (B)(3)(d) above.

Applicants-declarants believe the proposed storage project is in the public interest, because, among other things, it will assist public utilities in their effort to minimize curtailments of gas deliveries to their high priority residential and commercial customers during periods of high demand. The project will also develop a valuable asset of the National Fuel Gas System and is expected to provide a stable source of income.

The fees and expenses to be incurred in connection with the proposed transactions are to be filed by amendment.

It is represented that the requisite authorization of the proposed transactions has been or will be obtained from the Federal Energy Regulatory Commission and that no other state or federal commission, other than this Commission, has jurisdiction over the proposed transactions.

The applicants-declarants have requested that, in order to alleviate excessive paper work, they be permitted to file Rule 24 certificates related to short-term borrowings as soon after each quarter as practicable and that the time for filing the certificate respecting transactions other than short-term

borrowings be extended to 60 days after consummation of such transactions to permit preparation of financial statements and schedules of total fees and expenses.

Notice is further given that any interested person may, not later than March 13, 1980 request in writing that a hearing be held on such matter, stating the nature of his interest, the reasons for such request, and the issues of fact or law raised by said application-declaration which he desires to controvert; or he may request that he be notified if the Commission should order a hearing thereon. Any such request should be addressed: Secretary, Securities and Exchange Commission, Washington, D.C. 20549. A copy of such request should be served personally or by mail upon the applicants-declarants at the above-stated addresses, and proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. At any time after said date, the application-declaration, as amended or as it may be further amended, may be granted and permitted to become effective as provided in Rule 23 of the general rules and regulations promulgated under the Act, or the Commission may grant exemption from such rules as provided in Rules 20(a) and 100 thereof or take such other action as it may deem appropriate. Persons who request a hearing or advice as to whether a hearing is ordered will receive any notices and orders issued in this matter, including the date of the hearing (if ordered) and any postponements thereof.

For the Commission, by the Division of Corporate Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-5844 Filed 2-25-80; 8:45 am]

BILLING CODE 8010-01-M

[File No. 1-4596]

Grow Group, Inc.; Application To Withdraw From Listing and Registration

February 20, 1980.

The above named issuer has filed an application with the Securities and Exchange Commission pursuant to Section 12(d) of the Securities Exchange Act of 1934 (the "Act") and Rule 12d2-2(d) promulgated thereunder, to withdraw the specified security from listing and registration on the American Stock Exchange, Inc. ("Amex").

The reasons alleged in the application for withdrawing this security from listing and registration include the following:

1. The common stock of Grow Group, Inc. (the "Company") has been listed for trading on the Amex since January 26, 1962 and on the New York Stock Exchange, Inc. ("NYSE") since March 21, 1977. Since such listing on the NYSE, the Company's common stock has been dually listed for trading on both the Amex and NYSE.

2. For the 12-month period ended November 30, 1979, an aggregate of 773,300 shares of the Company's common stock was traded on the NYSE, while an aggregate of 6,000 shares were traded on the Amex (with no shares being reported as being traded on the Amex in January, July, August and September, 1979).

3. As a result of this disparity, the Company determined that the direct and indirect costs and the possibility of market fragmentation do not justify maintaining listings of the shares on both the Amex and the NYSE.

This application relates solely to withdrawal of the common stock from listing and registration on the Amex and shall have no effect upon the continued listing of such stock on the NYSE. The Amex has posed no objection in this matter.

Any interested person may, on or before March 10, 1980, submit by letter to the Secretary of the Securities and Exchange Commission, Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the Exchange and what terms, if any, should be imposed by the Commission for the protection of investors. An order granting the application will be issued after the date mentioned above, on the basis of the application and any other information furnished to the Commission, unless it orders a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

[FR Doc. 80-5949 Filed 2-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16592; File No. SR-NSCC-77-5]

National Securities Clearing Corp., Proposed Rule Change by Self-Regulatory Organization

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934, 14 U.S.C. 78s(b)(1), as amended by Pub. L. No. 94-29, 16 (June 4, 1975), notice is hereby given that on February 6, 1980, the above-mentioned self-regulatory organization filed with the Securities and Exchange Commission an amendment to a proposed rule change as follows: Statement of Terms of Substance of the Proposed Rule Change.

The National Securities Clearing Corporation and the Cincinati Stock Exchange, Inc. have entered into an interface agreement dated December 24, 1979.

On or before April 1, 1980, or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the above-mentioned self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons desiring to make written submissions should file 6 copies thereof with the Secretary of the Commission, Securities and Exchange Commission, Washington, D.C. 20549. Copies of the filing with respect to the foregoing and of all written submissions will be available for inspection and copying in the Public Reference Room, 1100 L Street, N.W., Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number referenced in the caption above and should be submitted on or before March 18, 1980.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 20, 1980.

[FR Doc. 80-5951 Filed 2-25-80; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-16591; File Nos. 4-196, 4-273, 4-274, 4-267]

Proposed Filing of Amendments to the NASD/BSE, NASD/CSE, NASD/MSE, and NASD/PSE Plans; Program for Allocating Regulatory Responsibilities

In Securities Exchange Act Release No. 15191 (September 26, 1978),[1] the

[1] 43 FR 46093 (October 5, 1978). Originally approved for 270 days, the Commission subsequently extended the period of provisional

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Commission approved on a provisional basis the plans for allocating regulatory responsibilities (the "allocation plans") filed pursuant to Rule 17d–2 (17 CFR 240.17d–2) by the National Association of Securities Dealers, Inc. ("NASD") in conjunction with the Boston Stock Exchange, Inc. ("BSE"), Cincinnati Stock Exchange, Inc. ("CSE"), Midwest Stock Exchange, Inc. ("MSE"), and the Pacific Stock Exchange, Inc. ("PSE") (with the NASD, the "parties").[2] The Commission conditioned its further consideration of these plans on, among other things, the filing of certain amendments to them.

The amendments to the allocation plans filed by the NASD in conjunction with each of the exchanges will apply to each member of the applicable exchange which is now or is in the future designated to be inspected for compliance with applicable financial responsibility rules (a "designated member") by the NASD pursuant to Rule 17d–1 (17 CFR 240.17d–1) under the Securities Exchange Act of 1934.

The amendment to the allocation plan filed by the NASD and the BSE provides that, should a dispute arise between the parties concerning their obligations under the plan, such dispute shall be settled by arbitration in accordance with the rules of the American Arbitration Association.

The amendment to the allocation plan filed by the NASD and the CSE provides the identical arbitration clause as that submitted by the NASD and the BSE as noted above.

The amendment to the allocation plan filed by the NASD and the MSE provides the following: (1) an explanation of certain terms used in the plan and a description of the regulatory responsibilities of the NASD under the plan; (2) the NASD shall be responsible for reviewing and taking action on customer complaints; (3) the NASD shall review the advertising of dual members in accordance with applicable NASD rules; (4) the NASD and MSE shall not be restricted in conducting special examinations of dual members; (5) should a dispute arise between the parties concerning their obligations under the plans, the parties shall submit to arbitration; and (6) the NASD will impose no charge for their responsibilities to the MSE under this plan for at least three years beginning September 16, 1977, without giving the MSE notice and opportunity to terminate the agreement.

The amendment to the allocaiton plan filed by the NASD and the MSE provides the following: (1) an explanation of certain terms used in the plans and a description of the regulatory responsibilities of the NASD under the plan; (2) the NASD shall be responsible for reviewing and taking action on customer complaints; (3) the NASD shall review the advertising of dual members in accordance with applicable NASD rules, provided that that portion of the PSE rules which requires that advertisements by PSE member firms refer to the PSE when reference is made to membership in any securities exchanges shall remain in effect as to dual members subject to the plan; (4) the NASD and PSE shall not be restricted in conducting special examinations of dual members; (5) should a dispute arise between the parties concerning their obligations under the plans, the parties shall submit to arbitration; and (6) the PSE agrees to pay the NASD a quarterly fee.

In order to assist the Commission in determining whether to approve these plans amended as described herein and to relieve the BSE, CSE, MSE, and PSE of the responsibilities which would be assigned to the NASD, interested persons are invited to submit written data, views and arguments concerning the submissions within thirty (30) days of the date of publication of this notice in the **Federal Register.** Persons wishing to comment should file six (6) copies thereof with the Secretary of the Commission, 500 North Capitol Street, Washington, D.C. 20549. Reference should be made to file Nos. 4–196, 4–273, 4–274, 4–267.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

George A. Fitzsimmons,

Secretary.

February 20, 1980.

[FR Doc. 80–5950 Filed 2–25–80; 8:45 am]

BILLING CODE 8010–01–M

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approval until January 1, 1980, in Securities Exchange Act Release No. 15941 (June 21, 1979). Because certain amendments to the plans and supplementary material had not been completed, the Division of Market Regulation, pursuant to delegated authority, extended the period of provisional approval until April 5, 1980, in Securities Exchange Act Release No. 16462 (January 2, 1980).

[2] The Commission has published notice of the terms of these plans in Securities Exchange Act Release No. 14094 (October 25, 1977), 42 FR 57197 (1977).

[Release No. 34–16593; File No. S7–822]

Impact of the Antibribery Prohibitions in Section 30A of the Securities Exchange Act of 1934

AGENCY: Securities and Exchange Commission.

ACTION: Request for public comment.

SUMMARY: The Securities and Exchange Commission is requesting public comment from issuers and other interested persons regarding the impact and operation of Section 30A of the Securities Exchange Act of 1934. That provision, which was enacted as part of the Foreign Corrupt Practices Act, prohibits registered issuers from using any means or instrumentality of interstate commerce in furtherance of any corrupt offer, payment, gift, promise to pay or give, or authorization of any payment or gift to foreign officials and certain other persons. The Commission is seeking to understand and evaluate any questions or concerns which may have arisen since the enactment of Section 30A.

DATE: Comments should be received by the Commission before the close of business on June 30, 1980.

ADDRESSES: Comments must be submitted in triplicate to George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549. Comment letters should refer to File No. S7–822. Unless confidential treatment is granted (see note 28, *infra*), all comments received will be available for public inspection and copying in the Commission's Public Reference Room, 1100 L Street, N.W., Washington, D.C. 20549.

FOR FURTHER INFORMATION CONTACT: Nicholas Gimbel, Office of the General Counsel (202–272–2438), Securities and Exchange Commission, 500 North Capitol Street, Washington, D.C. 20549.

SUPPLEMENTARY INFORMATION:

I. Origin and Structure of Section 30A of the Securities Exchange Act

Two years ago, after extensive study of the issues surrounding illegal or improper payments emanating from American corporations in connection with their overseas business,[1] Congress

[1] *See, e.g.,* S. Rep. No. 95–114, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 95–640, 95th Cong., 1st Sess. (1977); H.R. Rep. No. 95–831, 95th Cong., 1st Sess. (1977); S. Rep. No. 94–1031, 94th Cong., 2d Sess. (1976); *Hearings on Political Contributions to Foreign Governments Before the Subcommittee on Multinational Corporations of the Senate Committee on Foreign Relations,* 94th Cong., 1st Sess., Pt. 12 (1975); *Hearings on the Activities of American Multinational Corporations Abroad Before the Subcommittee on International Economic Policy of the House Committee on International Relations,* 94th Cong., 1st Sess. (1975); *Prohibiting Bribes to Foreign Officials, Hearing Before the Committee on Banking, Housing and Urban Affairs,* U.S. Senate, 94th Cong. 2d Sess. (1976); *Foreign Payments Disclosure, Hearings Before the Subcommittee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce,* House of Representatives, 94th Cong., 2d Sess. (1976); *Foreign Corrupt Practices and Domestic and Foreign Investment Disclosure,*

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enacted the Foreign Corrupt Practices Act of 1977.[2] The Senate Committee in which the legislation originated described the Act as a "strong antibribery law" and recommended its passage because of the need "to bring these corrupt practices to a halt and to restore public confidence in the integrity of the American business system."[3] The legislative history makes clear that Congress viewed corporate bribery of foreign officials as unwise from a business standpoint,[4] unethical, inimical to the principles of free and fair competition, and a threat to the conduct of the Nation's foreign policy.[5]

In contrast, the Commission's interest in improper corporate payments was premised on concerns grounded in the federal securities laws. From the Commission's perspective, the problem was analyzed principally as one of disclosure—whether questionable payments and related recordkeeping practices were appropriately disclosed to investors under existing law. The Commission's experience with these issues also served to focus attention on the broader question of whether improper payments were symptomatic of weaknesses in the corporate accountability mechanisms which undergird the disclosure requirements of the federal securities laws.[6]

The Foreign Corrupt Practices Act addressed both the issue of specific questionable foreign payments and the broader problem of strengthening corporate accountability mechansims. First, pursuant to the Commission's recommendations,[7] Section 102 of the Act amended Section 13(b) of the Securities Exchange Act of 1934 to require issuers subject to the registration and reporting provisions of that Act "to make and keep books, records and accounts which, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the issuer."[8] Further, the Act requires such issuers to "devise and maintain a system of internal accounting controls sufficient to provide reasonable assurances" that certain specified objectives are attained.[9] The Commission has implemented these "accounting provisions" through rulemaking designed to prohibit individuals from falsifying corporate records or misleading accountants[10] and the filing of several enforcement actions.[11] In addition, the Commission is considering a proposal which, if adopted, would require annual management reports to shareholders concerning the issuer's systems of internal accounting controls.[12]

Second, Sections 103 and 104 of the Foreign Corrupt Practices Act—provisions which the Commission recognized as raising broad national issues committed to Congress' judgment[13]—created direct prohibitions against certain payments to the officials of foreign governments. Section 30A of the Securities Exchange Act of 1934,[14] enacted by Section 103 of the Foreign Corrupt Practices Act, applied these prohibitions to any issuer which has a class of securities registered pursuant to Section 12 of the Securities Exchange Act, or is required to file reports under Section 15(d), and to any officer, director, employee, or agent of such issuer, or any shareholder acting on behalf of such issuer. These persons are prohibited from using the mails, or any means or instrumentality of interstate commerce, corruptly in furtherance of an offer, payment, or promise to give anything of value to any foreign official, any foreign political party or official thereof or any candidate for foreign political office, or any other person, where the reporting company has reason to know that the payment will accrue to any foreign official, foreign political party or official thereof, or any candidate for foreign political office.[15] Such payments are unlawful if made for the purpose of influencing any act, decision, or failure to act of a foreign official, foreign political party or official thereof, or candidate for foreign political office, or inducing such an official or party to influence any act or decision of such foreign government or instrumentality. In addition, the statute is applicable only if the payment was made in order to assist a reporting company in obtaining, retaining, or directing business to any person.

The Foreign Corrupt Practices Act also amended Section 32 of the Securities Exchange Act to create special penalties applicable to violations of this prohibition. Violations of Section 30A are punishable by a fine of up to $10,000, imprisonment for up to five years, or both, in the case of an individual, and a fine up to $1 million in the case of a corporation.[16] Amended Section 32 also provides that a fine levied upon any officer, director, stockholder, employee, or agent of an issuer shall not be paid, directly or indirectly, by such issuer.

Similarly, Section 104 of the Act, which is not part of the federal securities laws, enacted parallel prohibitions applicable to any "domestic concern," other than an entity covered by Section 30A, or any officer, director, employee, or agent of such domestic concern, or any stockholder thereof acting of its behalf.[17] This provision contains the same prohibitions and penalties as are applicable to reporting companies and their officers, employees, and agents under the Securities Exchange Act.

Section 30A is subject to Commission enforcement and implementation in the same manner as are other provisions of the Securities Exchange Act; like other sections of the Act, the Department of Justice is responsible for any criminal prosecutions under Section 30A. The

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Hearing Before the Committee on Banking, Housing and Urban Affairs, U.S. Senate, 95th Cong., 1st Sess. (Mar. 16, 1977); *Unlawful Corporate Payments Act of 1977, Hearings Before the Committee on Consumer Protection and Finance of the Committee on Interstate and Foreign Commerce*, House of Representatives, 95th Cong., 1st Sess. (1977).

[2] Pub. L. 95–213, 91 Stat. 1494.

[3] S. Rep. No. 95–114, *supra* note 1, at 4; *accord* 13 Weekly Compilation of Presidential Documents 1909 (Dec. 21, 1977).

[4] *See* S. Rep. No. 95–114, *supra* note 1, at 4–5; H.R. Rep. No. 95–640, *supra* note 1, at 4–5.

[5] *See* S. Rep. No. 95–114, *supra* note 1, at 4–5; H.R. Rep. No. 95–640, *supra* note 1, at 5.

[6] *See generally* Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices Submitted to the Committee on Banking, Housing and Urban Affairs, United States Senate (May 12, 1976), *reprinted in* 642 CCH Fed. Sec. L. Rep., Pt. II (May 19, 1976).

[7] *Id.* at 66.

[8] Section 13(b)(2)(A) of the Securities Exchange Act of 1934, 15 U.S.C. 78m(b)(2)(A).

[9] *Id.*, Section 13(b)(2)(B), 15 U.S.C. 78m(b)(2)(B).

[10] *See* Securities Exchange Release No. 15570 (Feb. 15, 1979), 16 SEC Docket 1143, 44 FR 10964, adopting Securities Exchange Act Rules 13b2–1 and 13b2–2, 17 CFR 240.13b2–1 and 13b2–2.

[11] *SEC v. Wyoming coal*, Civil Action No. C79–312 (D. Wyo., filed Oct. 15, 1979); *SEC v. Marlene Industries Corp.*, 79 Civ. 1959 (S.D.N.Y., filed Apr. 16, 1979); *SEC v. International Systems & Controls Corp.*, Civil Action No. 79–1760 (D.D.C., filed July 9, 1979); *SEC v. Page Airways, Inc.*, Civil Action No. 78–0656 (D.D.C. filed Apr. 11, 1978); *SEC v. Aminex Resources Corp.*, Civil Action No. 78–0410 (D.D.C., filed Mar. 9, 1978).

[12] *See* Securities Exchange Act Release No. 15772 (Apr. 30, 1979), 17 SEC Docket 421 (May 15, 1979), 44 FR 26702.

[13] "The Commission believes that the question whether there should be a general statutory prohibition against the making of certain kinds of foreign payments presents a broad issue of national policy * * *. In this context the purposes of the federal securities laws, while important, are not the only or even the overriding consideration, and we believe that the issue should be considered separately from the federal securities laws."—Report of the Securities and Exchange Commission on Questionable and Illegal Corporate Payments and Practices, *supra* note 5, at 61–62.

[14] 15 U.S.C. 78dd–1. The text of this prohibition, and its companion penalty provisions, are set forth in the Appendix to this release.

[15] A foreign official is "any officer or employee of a foreign government or any department, agency or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency or instrumentality." The term does not, however, include employees "whose duties are essentially ministerial or clerical." Section 30A(b), 15 U.S.C. 78dd–1(b).

[16] Section 32(c) of the Securities Exchange Act of 1934, 15 U.S.C. 78ff(c).

[17] 15 U.S.C. 78dd–1.

prohibition in Section 104 of the Foreign Corrupt Practices Act is, on the other hand, enforced exclusively by the Department of Justice, which may bring either civil or criminal proceedings under that provision. Since the enactment of Section 30A, the Commission has filed one civil injunctive action to enjoin violations of the antibribery prohibitions.[18] The Department has brought civil [19] and criminal [20] actions alleging violations of Section 104.[21]

II. Nature of the Commission's Inquiry

During the two years that Sections 103 and 104 of the Foreign Corrupt Practices Act have been in effect, it has been publicly reported that U.S. corporations are experiencing difficulty in conducting their operations as a result of questions concerning the applicability of the new antibribery prohibitions.[22] In that connection, some commentators have raised concerns about the meaning and scope of certain of the operative provisions of the statute, such as the requirement that payments be made "corruptly"; the effect of the phrase "obtaining or retaining business"; the scope of the definition of "foreign officials"; and the exclusion of "facilitating" or grease payments reflected in that definition.[23]

The Commission has no empirical evidence concerning the actual impact of the Act upon affected persons, the extent to which any uncertainty concerning its applicability has influenced the willingness or ability of Commission registrants to engage in foreign commerce, or whether issuers have refrained from specific conduct—despite a good faith belief in its legality—because of unwillingness to risk violating the federal securities laws. Section 30A is, of course, supported by an extensive legislative record which sheds light on many of the issues which have been raised.[24] Nonetheless, press comments indicate that registrants may believe that there are genuine areas of uncertainty and may therefore be reluctant to engage in some legitimate forms of foreign trade. The Commission is seeking, through this release, to obtain information concerning these matters.

In response to questions similar to the ones described above concerning the applicability of the new antibribery prohibition, the Department of Justice has proposed a new "business review procedure" pursuant to which companies engaged in foreign commerce may obtain advance advice from the Department.[25] In addition, Assistant Attorney General Philip B. Heymann has announced certain priorities which will guide the Department in selecting cases for prosecution under the Act.[26] Although the Commission is not participating in the Department's business review procedure,[27] the Commission is, of course, interested in reviewing the Department's experience with that procedure. The Commission is not, however, seeking comments concerning the business review procedure or other issues which relate solely to the Department's discharge of its responsibilities under the Act.

III. Request for Comment

The Commission is soliciting comment concerning the impact of Section 30A and any impediments which it presents to legitimate foreign commerce. The Commission is also interested in determining what steps issuers have taken to comply with the new Act, whether there are recurring questions or concerns with respect to the interpretation of Section 30A, and what impact, if any, uncertainty concerning the Act may be having on competition in foreign markets. The Commission wishes to understand the questions which some persons have raised and to determine whether there are any steps which the Commission should take, consonant with the public interest and the concerns of registrants, to better administer the elements of the antibribery prohibition which fall within its jurisdiction.

It must be stressed that the Commission is not inviting views concerning whether the underlying objective of the Act—to prohibit payment of bribes to foreign officials in connection with obtaining or retaining business for U.S. issuers—ought to be reconsidered; that is a matter which, of course, is exclusively within Congress' discretion. Rather, the objectives of the Commission's inquiry are to determine whether there is substance to the concerns which have been voiced regarding the impact and construction of Section 30A. After analyzing the comments received in this proceeding, the Commission will consider whether there is further action which it should take to address these matters.

The Commission invites public comment on the issues set forth in this release and on the experience of the business community and its professional advisors in applying Section 30A of the Securities Exchange Act to concrete facts. In order to be of maximum utility to the Commission, comments should be as specific as possible and reflect actual experience under the Act. All comments should be received by June 30, 1980, and must be filed, in triplicate, with George A. Fitzsimmons, Secretary, Securities and Exchange Commission, 500 North Capital Street, Washington, D.C. 20549. Submissions should refer to file number S7–822 and, unless confidential treatment is authorized,[28] will be

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[18] *Securities and Exchange Commission* v. *Katy Industries*, Civil Action No. C78–3476 (N.D. Ill., filed Aug. 30, 1978).

[19] *See, e.g., United States* v. *Roy J. Carver, et ano.*, Civil Action No. 79–1768 (S.D. Fla., filed Apr. 9, 1979).

[20] *See, e.g., United Stated* v. *Kenny International Corp.*, Criminal No. 79–00372 (D.D.C., filed Aug. 2, 1979).

[21] In addition, the Department has, as noted below, instituted a business review procedure.

[22] *See generally*, Taubman, "Second Look at Bribery Law," New York Times, May 29, 1979, Section D at p. 1; Landauer, "Antibribery Law Uncertainties Persist," Wall Street Journal, May 30, 1979, at 12. *See also Foreign Corrupt Practices Act, Hearing before the Subcommittee on Oversight and Investigations of the Committee on Interstate and Foreign Commerce*, U.S. House of Representatives, 96th Cong., 1st Sess. (June 14, 1979).

[23] *See, e.g.*, Baruch, *The Foreign Corrupt Practices Act*, 57 Harv. Bus. Rev. 32 (1979); McCoy & Griffin, *Illegal Payments Abroad: Congress' Response*, Legal Times of Washington, Oct. 30, 1978, at 8–10; Sprow & Benedict, *The Foreign Corrupt Practices Act of 1977: Some Practical Problems and Suggested Procedures*, 1 Corporation L. Rev. 357 (1978); Estey & Marston, *Pitfalls (and Loopholes) in the Foreign Bribery Law*, Fortune, Oct. 9, 1978, at 182; Best, *The Foreign Corrupt Practices Act*, 11 Rev. of Securities Reg. 975 (1978); Jensen, *Antibribery Law Has Some Teeth*, New York Times, Dec. 25, 1977, Section 4 at p. 2.

[24] Some of the significant components of that record are cited in note 1, *supra*.

[25] *See* Heymann, "The Justice Department's Proposed Program to Provide Advice to Businesses in Connection with Foreign Payments," An Address Delivered at the Pierre Hotel, New York, New York (Nov. 8, 1979).

[26] *Id.*

[27] Although the Commission is sensitive to the need for law enforcement officials to consider the impact of newly enacted laws, such as Section 30A, on affected persons, the Commission is concerned that determinations as to the applicability of Section 30A to particular fact patterns would, in many cases, turn on judgments concerning motivation and intent. Since subjective questions of this nature do not easily lend themselves to guidance on the basis of a written description of the proposed transaction, the Commission stated, in Securities Exchange Act Release No. 14478 (Feb. 16, 1978), 14 SEC Docket 180, 183, 43 FR 7752, 7754, that it would not give advice concerning the applicability of the Foreign Corrupt Practices Act to particular transactions. That policy remains in force at the present time. The Commission invites comment, however, concerning its position in this regard.

[28] The Commission recognizes that comments may, in some cases, reflect confidential business information not appropriate for public dissemination. Those wishing to make application for confidential treatment of any part of their submission should state that fact prominently on the first page or cover sheet thereof. *See* Section 23(a)(3) of the Securities Exchange Act of 1934, 15 U.S.C. 78w(a)(3); Rule 24b–2, 17 CFR 240.24b–2. In addition, where issuers have information concerning specific experience in applying the Act to concrete fact situations, but are reluctant to identify themselves in a comment letter—even if confidential—the Commission will consider submissions made by counsel relating the experiences of clients but without identifying the client involved.

available for inspection and copying at the Commission's Public Reference Room, 1100 L Street, NW., Washington, D.C.

By the Commission.

George A. Fitzsimmons,

Secretary.

February 21, 1980.

Appendix

Foreign Corrupt Practices by Issuers

Sec. 30A. (a) It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of this title or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

(1) Any foreign official for purposes of —

(A) Influencing any act or decision of such foreign official in his official capacity, including a decision to fail to perform his official functions; or

(B) Inducing such foreign official to use this influence with a foreign government of instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

(2) Any foreign political party or official thereof or any candidate for foreign political office for purposes of—

(A) Influencing any act or decision of such party, official, or candidate in its or his official capacity, including a decision to fail to perform its or his official functions; or

(B) Inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

(3) Any person, while knowing or having reason to know that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

(A) Influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, including a decision to fail to perform his or its official functions; or

(B) Inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

(b) As used in this section, the term "foreign official" means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of such government or department, agency, or instrumentality. Such term does not include any employee of a foreign government or any department, agency, or instrumentality thereof whose duties are essentially ministerial or clerical.

Penalties

Sec. 32. * * *

(c)(1) Any issuer which violates section 30A(a) of this title shall, upon conviction, be fined not more than $1,000,000.

(2) Any officer or director of an issuer, or any stockholder acting on behalf of such issuer, who willfully violates section 30A(a) of this title shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(3) Whenever an issuer is found to have violated section 30A(a) of this title, any employee or agent of such issuer who is a United States citizen, a national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder of such issuer), and who willfully carried out the act or practice constituting such violation shall, upon conviction, be fined not more than $10,000, or imprisoned not more than five years, or both.

(4) Whenever a fine is imposed under paragraph (2) or (3) of this subsection upon any officer, director, stockholder, employee, or agent of an issuer, such fine shall not be paid, directly or indirectly, by such issuer.

[FR Doc. 80-5952 Filed 2-25-80; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supplement to Department Circular Public Debt Series—No. 8-80]

Treasury Notes of Series P-1982; Interest Rate

February 21, 1980.

The Secretary of the Treasury announced on February 20, 1980, that the interest rate on the notes designated Series P-1982, described in Department Circular—Public Debt Series—No. 8-80, dated February 14, 1980, will be 13⅞ percent. Interest on the notes will be payable at the rate of 13⅞ percent per annum.

Paul H. Taylor,

Fiscal Assistant Secretary.

Supplementary Statement

The announcement set forth above does not meet the Department's criteria for significant regulations and, accordingly, may be published without compliance with the Departmental procedures applicable to such regulations.

[FR Doc. 80-5947 Filed 2-25-80; 8:45 am]

BILLING CODE 4810-40-M

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

DEPARTMENT OF THE TREASURY

[Notice 80-4]

Health Hazards Related to Alcoholic Consumption; Information Required To Furnish a Joint Agency Report to the President and the Congress as Required by Pub. L. 96-180

AGENCIES: Department of Health, Education, and Welfare and Department of the Treasury.

ACTION: Notice with invitation to comment.

SUMMARY: Congress has instructed the Department of Health, Education, and Welfare and the Department of the Treasury to prepare jointly a report for the President and the Congress by June 1, 1980. This report is in response to Public Law (Pub. L.) 96-180, the "Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act Amendments of 1979." The report will address the following issues:

(1) The extent and nature of birth defects associated with alcohol consumption by pregnant women;

(2) The extent and nature of other health hazards associated with alcoholic beverages; and

(3) The actions which should be taken by the Federal government under the Federal Alcohol Administration Act and the Federal Food, Drug, and Cosmetic Act with respect to informing the general public of such health hazards.

DATE: Written comments must be received by March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Michael Dressler, Special Operations Branch, Bureau of Alcohol, Tobacco and Firearms, [202] 566-7591.

SUPPLEMENTARY INFORMATION:

I. Public Participation

In order to prepare a comprehensive report for the President and the Congress, the Assistant Secretary for Health of the Department of Health, Education, and Welfare and the Assistant Secretary for Enforcement and Operations of the Department of the Treasury are requesting all interested parties to submit, in writing, brief comments summarizing views or opinions on health hazards related to alcohol consumption and actions that

should be taken to warn the public of these health hazards. Materials submitted in response to the Bureau of Alcohol, Tobacco and Firearms (ATF) Notice on Fetal Alcohol Syndrome, published January 16, 1978, or the Senate Subcommittee hearings on Alcohol Labeling and Fetal Alcohol Syndrome on January 31, 1978 or the hearings on Health Warnings for Alcoholic Beverages and Related Issues on September 14, 1979 should not be submitted. All of these comments and research data are currently being reviewed by the staffs of HEW and Treasury.

It is requested that the comments be in a summary format. The summary should identify the name of the commenter and organization represented. If you believe there are relatively recent research findings not previously presented, you may submit summaries of these studies which include the individuals or group conducting the research, approximate length, date completed or date commenced if not completed, results of the study and name of professional journal(s) in which the study has been published.

Of particular interest would be information relating to:

(1) On-going or recently completed studies on Fetal Alcohol Syndrome.

(2) Any current research data on health problems associated with alcoholic beverage consumption.

(3) Any current research data on health problems associated with food or drugs containing alcohol. (Example: cough syrup or food extracts).

(4) Current research data on health problems associated with alcohol consumption in conjunction with the use of drugs. (Example: painkilling drugs, tranquilizers, etc.).

(5) Studies which measure the effectiveness of different approaches to alerting the public regarding health hazards associated with a product.

ADDRESS: Forward written comments, in duplicate, to: Chief, Trade and Consumer Affairs Division, Bureau of Alcohol, Tobacco and Firearms, 1200 Pennsylvania Avenue NW., P.O. Box 385, Washington, D.C. 20044.

Approved: February 22, 1980.

Richard J. Davis,

Assistant Secretary (Enforcement and Operations).

Julius B. Richmond,

Assistant Secretary for Health.

[FR Doc. 80-6147 Filed 2-25-80; 11:33 am]

BILLING CODE 4810-31-M

Sunshine Act Meetings

Federal Register
Vol. 45, No. 39
Tuesday, February 26, 1980

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-272; Feb. 21, 1980]

CIVIL AERONAUTICS BOARD.

TIME AND DATE: 9 a.m., February 28, 1980.

PLACE: Room 1027 (Open)—Room 1011 (Closed), 1825 Connecticut Avenue NW., Washington, D.C. 20428.

SUBJECT:

1. Ratification of Items adopted by notation.

2. Termination of Special Recurrent Reporting Requirements of Various U.S. and Foreign Air Carriers, Various Docket Numbers Listed in the Appendix of the Proposed Order. (BDA, BIA, OEA, OC)

3. Dockets 36418 and 37528, Petition for Partial Stay of Orders 79-12-158 and 80-1-55; Applications of Alaska Northwest Properties, Inc., and MTA, Inc., for a Disclaimer of Jurisdiction or, in the alternative, for Section 408 Approval. (BCP)

4. Revision of Board-prescribed airline counter signs and ticket notices. (BCP, BDA, BIA, OGC, OEA)

5. Docket 33112, Texas International-National Acquisition Case and Enforcement Investigation. (OGC)

6. Docket 36595, Competitive Marketing Investigation, Motion of the International Air Transport Association for Consolidation and Interim Approval of new cargo agency resolutions; Docket 35986, Petition of the Department of Defense for an Order to Show Cause why the ATC agreement prohibiting agency commissions and government travel should not be lifted. (OGC)

7. Docket 32602, Revision of Part 312 procedures implementing the National Environmental Policy Act. (OGC, BDA, OEA)

8. Dockets 34650 and 35464; Petitions by the State of Arizona and the Four Corners Regional Commission to amend the Board's Essential Air Service Procedures in Part 325. (OGC, BDA)

9. Docket 36848, Petition of several shippers for rulemaking to amend the Board's embargo rule, Part 228, and to clarify airlines' duty to carry. (OGC, BDA)

10. Docket 33113—statutory notice required for tariff filing, Docket 36202—rules and policies for requests to file tariffs on less than statutory notice. (OGC, BDA)

11. Draft Notice of Proposed Rulemaking for one-day special tariff permission on fare decreases; draft order denying exemption request of Western Air Lines, Docket 36804. (OGC, BDA)

12. Docket 36294, Applicability of denied boarding compensation payments to extra-section flights; reduction of exceptions from DBC payment requirements, and other miscellaneous changes. (OGC, BCP, OEA, BCA)

13. Dockets 37194, 37284, 37309, and 37570; applications of Braniff, World, Southwest, and Republic, respectively, for an exemption to permit the offer of free or reduced-rate air transportation in settlement of passenger complaints. (Memo #9498, BDA)

14. Docket 37119, *Salt Lake City/Burbank Show-Cause Proceeding*—Applications of USAir and Western for nonstop authority. (BDA)

15. Docket 37565, Petition of Cardinal/Air Virginia for advance compensation for losses in providing essential air service at Danville, Virginia. (BDA)

16. Dockets 36228 and 36230, United's notices to terminate service at Modesto and Stockton. (BDA)

17. Dockets 29745 and 30327, Applications of Wright and USAir dismissed as stale. (Memo #9496, BDA)

18. Dockets 36365 and 36553, CF Air Freight, Inc.; and Profit Airlines, Inc.—certification as section 418 all-cargo air carriers. (BDA, OGC, BCP)

19. Docket 37123, Application of Transportes Aereos Nacionales, S.A. for exemption to operate limited Fifth Freedom turnaround cargo service between Miami and Belize. (BIA)

20. IATA agreement closing, with some increases, the rates structure between most points in Area 3 (Asia, Australasia, Pacific) and Area 2 (Europe, Middle East, Africa) through September 1980. (BIA)

21. Docket 37076, *United States-Central America Show Cause Proceeding;* Dockets 35542, 36185, 36974, 33369, 35929, 36977, 32616, 36472, 37173, 31146, 37233, 36716, 37179, 31137, 36629, 36832, 29780, 31170, 36177, 36373: applications of Air Florida, Airlift, American, Braniff, Continental, DHL, Eastern, Evergreen, Northwest, Pan American, Piedmont, Republic, Texas International, Transamerica, Trans-Americas and Western for Central America authority. (BIA, OGC, BALJ)

22. Docket 37286, Application of Saudi Arabian Airlines Corporation for amendment of its foreign air carrier permit to add Houston, Texas and to coterminalize its U.S. points. (BIA, OGC, BALJ)

23. Docket 37306, Application of Societe Anonyme Belge d'Exploitation de la Navigation Aerienne (SABENA) for amendment of its foreign air carrier permit to add the coterminal points Detroit and Chicago. (BIA, OGC, BALJ)

24. Imposition of requirement to obtain prior approval for Third and Fourth Freedom charter flights. (BIA, OGC)

25. Request of the Department of State for Board action that would require aeroflot Soviet Airlines to obtain Board approval before operating any chater or extra section flights. (BIA, OGC, BCP)

STATUS: Open (Items 1-24). Closed (Item 25).

PERSON TO CONTACT: Phyllis T. Kaylor, the Secretary, (202) 673-5068.

SUPPLEMENTARY INFORMATION: Public disclosures, particularly to foreign governments, of opinions, evaluations, and strategies relating to the issues could seriously compromise the ability of the United States Delegation to achieve agreements which would be in the best interest of the United States. Accordingly, the following Members have voted that the meeting on this subject would involve matters the premature disclosure of which would be likely to significantly frustrate implementation of proposed agency action within the meaning of the exemption provided under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that any meeting on this item should be closed:

Chairman, Marvin S. Cohen
Member, Elizabeth E. Bailey
Member, Gloria Schaffer

Persons Expected To Attend

Board Members.—Chairman, Marvin S. Cohen; Member, Richard J. O'Melia; Member, Elizabeth E. Bailey; and Member, Gloria Schaffer.

Assistants to Board Members.—Mr. David Kirstein, Mr. James L. Deegan, and Mr. Stephen H. Lachter.

Managing Director.—Mr. Cressworth Lander.

Executive Assistant to the Managing Director.—Mr. John R. Hancock.

Bureau of International Aviation.—Mr. Daniel M. Kasper, Mr. Anthony M. Largay, Mr. Ivars V. Mellups, and Mr. Donald L. Litton.

Office of the General Counsel.—Ms. Mary McInnis Schuman, Mr. Michael Schopf, and Mr. Peter B. Schwarzkopf.

Office of Economic Analysis.—Mr. Robert H. Frank and Mr. David Sibley.

Bureau of Consumer Protection.—Mr. Reuben B. Robertson, Mr. John T. Golden, and Ms. Eleanor R. Minsky.

Office of the Secretary.—Mrs. Phyllis T. Kaylor and Ms. Deborah A. Lee.

General Counsel Certification

I certify that this meeting may be closed to the public under 5 U.S.C. 552b(c)(9)(B) and 14 CFR Section 310b.5(9)(B) and that the meeting may be closed to public observation:

Michael Schopf,

Deputy General Counsel.

[S-379-80 Filed 2-22-80; 4:03 pm]

BILLING CODE 6320-01-M

2

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, February 28, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Closed Commission Meeting following open meeting which is scheduled to commence at 9:30 a.m.

Agenda, Item No., and Subject

Complaints and Compliance—1—Field investigation into the operation of Radio Station KLSN(FM), Brownwood, Texas, licensed to GBE, Inc.

Assignment and Transfer—1—Application to assign WMIL(FM), Waukesha, Wisconsin from Stebbins Communications, Inc., to WMIL, Inc., whose sister subsidiary has had a license renewal application denied following hearings (exceptions pending).

Hearing—1—Petition for Reconsideration of the Commission's denial of an application for review of the Review Board's action in the Gainesville, Florida, new FM proceeding (Docket Nos. 20622-24).

Hearing—2—Petition for Special Relief (distress sale) in the Willimantic, Connecticut, FM renewal proceeding (BC Docket No. 79-103).

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632-7260.

Issued: February 22, 1980

[S-377-80 Filed 2-22-80; 3:49 pm]

BILLING CODE 6712-01-M

3

FEDERAL COMMUNICATIONS COMMISSION.

TIME AND DATE: 9:30 a.m., Thursday, February 28, 1980.

PLACE: Room 856, 1919 M Street NW., Washington, D.C.

STATUS: Open Commission Meeting.

MATTERS TO BE CONSIDERED:

Agenda, Item No., and Subject

Hearing—1—Request that the Commission terminate the stay issued in the Washington, D.C. subscription television authorization proceeding (Docket Nos. 20859-20861).

General—1—Title: Notice of Proposed Rule Making to implement those provisions of the 1974 Safety of Life at Sea (SOLAS) Convention concerning radio equipment carried by compulsorily fitted radiotelephone and radiotelegraph vessels. Summary: The FCC will consider adopting technical standards and operational requirements affecting vessels subject to the SOLAS Convention and the Communications Act of 1934, as amended. The proposed regulations are given in the Appendix attached to the Notice and in documents referenced therein.

General—2—Title: Allocation of research funds for the UHF Comparability Task Force. Summary: The Commission is being asked to approve funding for two research projects: Channel Coverage Maps and Receiving Antenna Field Study. The first of these will allow estimates to be made of the population able to receive various types of television service. The second project will continue work involved in determining the type and quality of television receiving antenna systems in use by the public. These projects will be used to assist the work of the UHF Comparability Task Force.

General—3—Title: Notice of Proposed Rule Making to implement changes in the frequencies, operating procedures and other criteria relating to radiotelephony in the band 4000-23000 kHz in the maritime mobile service adopted at the World Maritime Administrative Radio Conference, Geneva, 1974. Summary: The FCC is proposing to finalize the frequencies now assigned in the temporary assignment plan and make changes which will re-define the classes of stations to separate radiotelegraphy and radiotelephony stations and define the radiotelephony stations by the frequency band assigned. There will be a temporary requirement for coast stations to submit utilization data on all frequencies assigned to assist us in evaluating the frequency assignments to satisfy the operational requirements of the maritime mobile service.

Private Radio—1—Title: Application for Review submitted by RE/MAX SUBURBAN, INC. Summary: The FCC has before it RE/MAX Suburban, Inc.'s request to review and reverse the decision of the Chief of the Private Radio Bureau that the system is a shared radio facility within the meaning of the Commission's rules and policies. At the moment, RE/MAX is operating an interconnected facility under a temporary authority granted by the Bureau. If the Bureau's decision on this matter is affirmed, RE/MAX's system may not be used by its sales associates except in accordance with the Commission's cooperative sharing rules, and may not be interconnected. If the Bureau is reversed, and the Commission grants RE/MAX's application, it will be allowed to continue to use the facility until 1984.

Private Radio—2—Title: Eligibility of OAS for licensing in the General Mobile Radio Service.

Common Carrier—1—Title: Second Report and Order in Docket No. 20490 to amend Parts 21 and 43 of the Commission's Rules. Summary: This Report and Order pertains to the amendment of the Commission's Rules dealing with the exemption of Multipoint Distribution Service (MDS) radio applications from a procedural requirement of prior state certification.

Common Carrier—2—Title: Application for Review of an Order by Chief, Common Carrier Bureau rejecting Western Union's tariff revisions filed under its Transmittal No. 7369. Summary: The Commission will consider an Application for Review of an Order by Chief, Common Carrier Bureau rejecting Western Union's tariff revisions filed under its transmittal No. 7369 for failure to comply with the requirements of Section 61.38 of the Commission's Rules.

Common Carrier—3—Title: Petitions seeking amendment of Part 68 of the Commission's Rules. Summary: The Commission is considering petitions filed by American Telephone and Telegraph Company and Communications Certification Laboratory which seek to amend Part 68 of the Rules to include certain private line services. The petitions propose technical and procedural rule changes which would permit direct connection of customer-provided premises equipment to such lines.

Common Carrier—4—Title: Docket No. 21039, Amendment of Part 21 (now Part 22) of the Rules to reflect the availability of land mobile channels in the 470-512 MHz band. Summary: Metropolitan RCC Corporation filed a Petition for Reconsideration of the Commission's October 16, 1978 order (69 FCC 2d 1555). The issues raised include: (1) Whether to increase the number of mobile units initially authorized to operate and whether to increase the maximum traffic loading permissible. (2) Whether to reinstate a time cutoff rule for filing applications. (3) Whether to modify some technical requirements previously adopted.

Common Carrier—5—Title: Petition and application of Sugar Land Telephone Company for waiver of Commission's telephone—CATV cross-ownership rules and for permission to build and operate facilities for the provision of CATV service within its telephone service area. Summary: The Commission is considering Sugar Land Telephone Company's request for waiver of the telephone—CATV cross-ownership rules so that it might construct and operate a CATV system within its telephone service area. Issues under consideration include whether the telephone company has shown sufficient cause for granting of a waiver.

Common Carrier—6—Title: Memorandum Opinion and Order in *Adoption of Rules for the Regulation of Cable Television Pole Attachments* (CC Docket 78-144). Summary: In its *Second Report* in the above matter the Commission adopted substantive rules for resolving cable television pole attachment complaints. Six parties have petitioned for reconsideration of this decision. Among the issues to be considered are whether the Commission erred in its determinations: 1) that the safety space between electric and

communications lines is usable space, no part of which is occupied by CATV; 2) specifying 13.5 feet as a rebuttable figure for usable pole space; and 3) requiring the application of an interstate factor in the rate formula.

Common Carrier—7—Title: Interim Procedures for One-Way Signaling Service Applications at Frequencies 43.22 and 43.58 MHz. Summary: Commission will consider whether to adopt interim procedure for the acceptance and processing of applications for one-way signaling service at frequencies 43.22 and 43.58 MHz.

Common Carrier—8—Title: Amended application of the Communications Satellite Corporation, et al. to construct 14/11 GHz diversity earth station facilities at Lenox, West Virginia for operations with Intelsat V satellites (File No. 291–CSG–P–78). Summary: This application has been amended with additional technical information pursuant to the Commission's previous decision in *Communications Satellite Corporation, et al.*, 69 FCC 2d 1540 (1978), to authorize a single 14/11 GHz facility at Etam, West Virginia and to defer action on the diversity facilities at Lenox until this additional information had been submitted. The policy issue to be considered by the Commission is whether or not the additional investment in diversity facilities is justified by the resulting improvement in communications link performance.

Common Carrier—9—Title: American Communication Systems, Inc. Summary: The FCC is considering whether to order American Communication Systems, Inc., to show cause why its Public Mobile Radio Services license should not be modified to delete two locations in Atlanta, Georgia, where severe television interference has been reported.

Common Carrier—10—Title: New York Telephone Company Exchange System Access Line Terminal Charge for FX and CCSA Service, N.Y. P.S.C. Tariff No. 800—Telephone. Summary: The New York Telephone Company filed a tariff revision with the New York Public Service Commission, which became effective February 1, 1980 and provides for an Exchange System Access Line Terminal Charge. This charge applies to the New York local exchange portion of foreign exchange (FX) and Common Control Switching Arrangement (CCSA) services subscribed to by customers located in other states, and, moreover, increases the cost of interstate private line services. The Commission received a joint petition for relief filed by General Electric Company and the New York Council of Retail Merchants and a petition for declaratory ruling and expedited relief filed by Aeronautical Radio, Inc. The question before the Commission is whether a surcharge on the exchange portion of FX and CCSA services which applies to interstate customers only must be filed with this Commission.

Common Carrier—11—Title: The Western Union Telegraph Company (Western Union) Transmittal Nos. 7546 and 7549. Summary: The Commission will consider several petitions seeking rejection or, alternatively, suspension and investigation of proposed revisions to Western Union Tariff F.C.C. No. 261, Satellite Transmission Services. The revisions provide for rate structure and rate level changes for occasional video channel and associated transponder services.

Assignment and Transfer—1—Title: Application (BALH–790413HS) for the voluntary assignment of the license of station WMIL (FM), Waukesha, Wisconsin, from Stebbins Communications, Inc, to WMIL, Inc. Summary: The Commission will consider the qualifications of the applicants except with respect to matters pending in the license renewal proceeding involving the proposed assignee's commonly-owned radio station, WMJX, Miami, Florida (Docket No. 20826.) The matters involved in those renewal proceedings will be considered by the Commission today at its closed agenda meeting.

Assignment and Transfer—2—Title: (1) Application for assignment of license of KWRB–TV, Riverton, Wyoming from Joseph P. Ernst and Mildred V. Ernst to Hi Ho Broadcasting Corporation of Wyoming; (2) Informal objection filed by Patricia Oliver; and (3) Petition to deny filed by Strang Telecasting, Inc. Summary: The application for assignment of KWRB–TV, Riverton, Wyoming, has been opposed by two parties, (1) Patricia Oliver questions the qualifications of two of the buyer's stockholders, David M. Antoniak and F. Francis D'Addario. She says that Mr. Antoniak has made misrepresentations to the Commission concerning his other business interests and that Mr. D'Addario has criminal associations. (2) Strang Telecasting, Inc., which has sued the seller in the Wyoming state courts that the buyer used unfair means to persuade the licensee to sign a contract of sale, that the employment of a principal of the buyer as salesman at the station has resulted in a transfer of control prior to Commission consent, and that a petition filed by the buyer against strang's application to purchase KTUX–TV, Rock Springs, Wyoming is a "strike" petition—one filed solely for the purpose of delay.

Renewal—1—Title: Petition for Reconsideration of the renewal of the licenses of Stations: KJR, KISW–FM Seattle, Washington; KJRB, Spokane, Washington; KXL, KXL–FM, Portland, Oregon; the transfer of Stations KEZE and KEZE–FM, both of Spokane, Washington; by Vincent Hoffart. Summary: On May 24, 1979, the Commission rejected a petition to deny the renewal and transfer application of these stations by Vincent Hoffart. Mr. Hoffart filed for reconsideration of this order alleging new evidence of both old and current violations of the Commission's rules by the licensee, Kaye-Smith Enterprises. Commission considers whether this "evidence", the licensee's initiation of an abuse of process action against the petitioner and its failure to report and alleged discrimination action warrant reconsiderations.

Renewal—2—Title: Talton Broadcasting Company's application for renewal of license for station WHBB–AM, Selma, Alabama. Summary: Station WHBB was granted a short-term renewal which expired on October 1, 1979. The Agenda Item considers logging information submitted by licensee in support of its request for a full term renewal as well as the station's current EEO program.

Aural—1—Title: Application by River Bend Broadcasting Co., licensee of AM Station KAGY, Port Sulphur, Louisiana, for authority to relocate its main studio to Belle Chasse, Louisiana. Summary: KAGY seeks to relocate its main studio outside its community of license. Because the proposed location is at a site other than the KAGY transmitter site, this proposal is grantable only upon a showing of "good cause" under the Commission's Rules.

Television—1—Title: Motion for Declaratory Ruling and Petition to Refrain From Acceptance for Filing; applications for new UHF TV station on channel 17, Des Moines, Iowa. Summary: Applicants for new UHF TV station in Des Moines, Iowa, seek to require existing VHF station to accommodate UHF antenna on its tower. Station refuses. Applicants assert economic reasons, but do not claim site is unique. Question is whether economic reasons are sufficient to require VHF station to lease space on tower.

Broadcast—1—Petition for Reconsideration of Commission Order of December 5, 1979, which granted a temporary stay of the divestiture requirement of Section 73.35 of the Commission's Rules, filed by Owosso Broadcasting Company, Inc. In the Second Report and Order in Docket 18110, the Commission adopted rules requiring licensees in certain egregious situations to divest themselves of either a daily newspaper or commonly owned broadcast facility. Five parties sought a waiver of the requirement, which was denied by the Commission in October, 1979. Those five parties subsequently sought a stay of the January 1, 1980 divestiture deadline and on December 5, 1979, the Commission released an Order granting a stay until June 1, 1980. Petitioner seeks reconsideration of that Order.

Broadcast—2—Petitions for Reconsideration of the Commission's October 25, 1979, denial of requests for waiver of the divestiture requirement contained in Sections 73.35, 73.240, and 73.636 of the Commission's Rules. In 1975, the Commission adopted rules relating to multiple ownership. Among those rules was a requirement that in certain egregious cases, divestiture of a newspaper or commonly owned broadcasting facility would have to take place by January 1, 1980. This requirement was upheld by the United States Supreme Court. Five parties petitioned for waiver of those rules and these requests were denied by the Commission on October 25, 1979. Three of those petitioners, Anniston Broadcasting Company, WALB–TV, Inc., and Owosso Broadcasting Company, Inc., have filed petitions seeking reconsideration of that decision. (On December 5, 1979, the Commission granted a temporary stay of the divestiture requirement until June 1, 1980.)

Broadcast—3—Title: Proposal to require commercial broadcast renewal applicants and noncommercial educational television applicants to consult with all significant elements in their communities. The Commission will consider a proposed amendment to the *Primer on Ascertainment of Community Problems by Commercial Broadcast Renewal Applicants* and the *Primer on Ascertainment of Community Problems by Noncommercial Educational Broadcast Applicants.* The proposal recommended amending language appearing in the *Primers* to indicate that commercial radio and television renewal applicants and noncommercial television applicants have a responsibility to insure that all significant elements which are readily accessible within their communities are ascertained whether or not they are one of the nineteen categories on the checklist. As to other elements which may be significant in a community but not readily accessible, it was proposed that they too should be ascertained if their existence were brought to the attention of the applicant.

Broadcast—4—RM–3402: Petition to require commercial television stations to install, operate and/or control earth station facilities for the reception of programming distributed via domestic communications satellite facilities. RM–3244: Petition to prohibit delivery of broadcast matter to foreign stations. RM–3178: Petition of Lewel Broadcasting, Inc. WDRK(FM), to revoke or amend the Commission's policy on minority ownership of broadcasting facilities. RM–3243: Petition to prohibit identification of elected public officials appearing in public service announcements. RM–2583: Proposed amendment of Section 73–621 of the Commission's Rules and Regulations relating to the use of the production facilities of noncommercial TV stations. RM–3375; RM–3459: Petitions for adoption of guidelines and procedures to assure compliance by petitioners to deny with Section 309(d)(1) of the Communications Act and for institution of an inquiry under Section 403 of the Communications Act to determine whether petitioners are abusing the petition to deny process.

Broadcast—5—Notice of Proposed Rule Making modifying the FM broadcast station rules to increase the number of commercial FM broadcast assignments available for FM stations. The Notice addresses the petitions filed by George W. Phillips of Laurinburg Broadcasting Company (RM–2587), Serge Bergen (RM–3226); and the National Telecommunications and Information Administration (RM–3367), dealing with whether (1) Class A stations should be allowed to operate on Class B–C channels and (2) whether additional classes of FM stations should be adopted.

Broadcast—6—Notice of Proposed Rule Making concerning the Commission's policies and procedures for amendment of the FM Table of Assignments, Section 73.202(b) of the rules.

This meeting may be continued the following work day to allow the Commission to complete appropriate action.

Additional information concerning this meeting may be obtained from Edward Dooley, FCC Public Affairs Office, telephone number (202) 632–7260.

Issued: February 22, 1980.

[S–378–80 Filed 2–22–80; 3:49 pm]

BILLING CODE 6712–01–M

4

FEDERAL DEPOSIT INSURANCE CORPORATION.

Pursuant to the provisions of subsection (e)(2) of the "Government in the Sunshine Act" (5 U.S.C. 552b(e)(2)), notice is hereby given that at its open meeting held at 1:00 p.m. on Wednesday, February 20, 1980, the Corporation's Board of Directors determined, on motion of Chairman Irvine H. Sprague, seconded by Director William M. Isaac (Appointive), concurred in by Director John G. Heimann (Comptroller of the Currency), that Corporation business required the withdrawal from the agenda for consideration at the meeting, on less than seven days' notice to the public, of a memorandum and resolution regarding a final amendment to FDIC's regulations implementing the Depository Institution Management Interlocks Act (12 C.F.R. Part 348).

The Board further determined, by the same majority vote, that no earlier notice of the change in the subject matter of the meeting was practicable.

Dated: February 20, 1980.

Federal Deposit Insurance Corporation.

Hoyle L. Robinson,

Executive Secretary.

[S–370–80 Filed 2–21–80; 4:09 pm]

BILLING CODE 6714–01–M

5

[FR No. 306]

FEDERAL ELECTION COMMISSION.

PREVIOUSLY ANNOUNCED DATE AND TIME: Thursday, February 21, 1980, 10 a.m.

CHANGE IN MEETING: Due to extraordinary circumstances, the Commission held an executive session following the regular open session to discuss a compliance matter.

[FR No. 347]

PREVIOUSLY ANNOUNCED DATE AND TIME: Tuesday, February 26, 1980, 10 a.m.

CHANGE IN MEETING: The following has been added to this closed session: Audit matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Fred Eiland, Public Information Officer, telephone: 202–523–4065.

Marjorie W. Emmons,

Secretary to the Commission.

[S–373–80 Filed 2–22–80; 2:43 pm]

BILLING CODE 6715–01–M

6

FEDERAL ENERGY REGULATORY COMMISSION.

TIME AND DATE: 3 p.m., February 22, 1980.

PLACE: 825 North Capitol Street NE., Washington, D.C. 20426.

STATUS: Closed.

MATTERS TO BE CONSIDERED: Docket No. EL78–43, City of Bountiful, Utah; Utah Power & Light Company; City of Santa Clara, California; and Pacific Gas & Electric Company.

CONTACT PERSON FOR MORE INFORMATION: Kenneth F. Plumb, Secretary, telephone (202) 357–8400.

[S–372–80 Filed 2–22–80; 2:43 pm]

BILLING CODE 6450–85–M

7

FEDERAL MARITIME COMMISSION.

TIME AND DATE: 9 a.m., February 22, 1980.

PLACE: Hearing Room 1, 1100 L Street NW., Washington, D.C. 20573.

STATUS: Open.

MATTER TO BE CONSIDERED: 1. Docket No. 79–92—Matson Navigation Company—Proposed 6.66 Percent Bunker Surcharge Increase in Tariffs FMC–F Nos. 164, 165, 166, and 167—procedural schedule.

CONTACT PERSON FOR MORE INFORMATION: Francis C. Hurney, Secretary (202) 523–5725.

[S–374–80 Filed 2–22–80; 2:59 pm]

BILLING CODE 6730–01–M

8

[USITC SE–80–12A]

INTERNATIONAL TRADE COMMISSION.

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: 45 FR 11297, February 20, 1980.

PREVIOUSLY ANNOUNCED TIME AND DATE OF THE MEETING: 10 a.m., Wednesday, February 27, 1980.

CHANGES IN THE MEETING: Commissioners Bedell, Alberger, Moore, Stern, and Calhoun determined by unanimous consent that Commission business requires the rescheduling of the meeting of February 27, 1980, from 10 a.m., to 1:15 p.m., on the same date and

affirmed that no earlier announcement of the change in the schedule was possible, and directed the issuance of this notice at the earliest practicable time.

CONTACT PERSON FOR MORE INFORMATION: Kenneth R. Mason, Secretary (202) 523–0161.

[S–371–80 Filed 2–22–80; 11:13 am]

BILLING CODE 7020–02–M

9

NUCLEAR REGULATORY COMMISSION.

TIME AND DATE: Week of February 25.

PLACE: Commissioners conference room, 1717 H Street NW., Washington, D.C.

STATUS: Open/closed.

MATTERS TO BE CONSIDERED:

Monday, February 25 (Revised)

10 a.m.

1. Discussion of Siting Policy Issues (approximately 1½ hours), rescheduled from February 22 public meeting).

2 p.m.

1. Continuation of Briefing on Action Plan (tentative) (approximately 2 hours, public meeting, continued from February 20, replaces briefing on Sequoyah which is postponed).

Wednesday, February 27

10 a.m.

1. Continuation of Briefing on Action Plan (approximately 2 hours), continued from February 25, public meeting).

Thursday, February 28

2 p.m.

1. Briefing on Nuclear Material Accounting and Inventory Difference Evaluations (approximately 1 hour, public meeting).
2. Affirmation Session (approximately 10 minutes, public meeting): (a) No Significant Hazards Consideration (tentative); (b) Atlantic Research Corporation; (c) TMI Unit One Proceeding; Prehearing Conference Orders; (d) Duke Power; Transport of Spent Fuel; (e) Performance Testing for Personnel Dosimetry; (f) Surry Steam Generator Order; (g) License Fees for Material Packaging Review; and (h) Request for Proceeding in Diablo Canyon.

Friday, February 29

2 p.m.

1. Discussion of Section 401 of the ERA and Its Impact Upon the Employment Practices of NRC Licensees and License Applicants (approximately 1 hour, public meeting).
2. Discussion of Management-Organization and Internal Personnel Matters (approximately 2 hours, closed—exemptions 2 and 6).

CONTACT PERSON FOR MORE INFORMATION: Walter Magee (202) 634–1410.

Dated: February 21, 1980.

Roger M. Tweed,

Office of the Secretary.

[S–376–80 Filed 2–22–80; 3:49 pm]

BILLING CODE 7590–01–M

10

POSTAL SERVICE.

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. 552b), hereby gives notice that it intends to hold a meeting at 9:00 a.m. on Tuesday, March 4, 1980, in the Benjamin Franklin Room, 11th Floor, Postal Service Headquarters, 475 L'Enfant Plaza, S.W., Washington, D.C. 20260. Except as indicated in the following paragraphs, the meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, Louis A. Cox, at (202) 245–4632.

On February 6, 1980, the Board of Governors of the United States Postal Service voted to close to public observation portions of its meeting scheduled for March 4, 1980. Each of the members of the Board (except Mr. Allen, who was absent) voted in favor of partially closing this meeting, which is expected to be attended by the following persons: Governors Wright, Hardesty, Allen, Camp, Ching and Sullivan; Postmaster General Bolger; Deputy Postmaster General Conway; Senior Assistant Postmaster General Finch; and Secretary of the Board Cox.

A portion of the meeting to be closed will consist of a continuation of the discussion of the Postal Service's possible strategies concerning future postal ratemaking, which was commenced at the Board's December meeting and continued at its January and February meetings.

The other portion of the meeting to be closed is to involve a discussion concerning adjustments in the compensation of certain officers of the Postal Service. The Board is of the opinion that public access to this discussion would be likely to disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy, not only in regard to the privacy of the officials immediately affected, but also in regard to the privacy of others whose comparative performance might be discussed.

Agenda

1. Minutes of the previous meeting.
2. Remarks of the Postmaster General.
   (In keeping with its consistent practice, the Board's agenda provides this opportunity for the Postmaster General to inform the members of miscellaneous current developments concerning the Postal Service. He might report, for example, the appointment or assignment of a key official, or the effect on postal operations of unusual weather or a major strike in the transportation industry. Nothing that requires a decision by the Board is brought up under this item.)
3. Report on Testimony to Legislative Committees.
   (Mr. Horgan, Assistant Postmaster General, Government Relations Department, will report on recent and anticipated Postal Service Testimony before the cognizant Congressional Committees in the light of the requirement enacted by the Postal Reorganization Act Amendments of 1976 that the Postal Service should appear by not later than March 15 of each year before these Committees "to submit information which any such committee considers necessary to determine the amount of funds to be appropriated for the operation of the Postal Service, and to present testimony and respond to questions with respect to [the Postal Service's budget and Annual Comprehensive Statement].")
4. Report on Law Department.
   (Mr. Cox, General Counsel, will brief the Board on developments in the Law Department.)
5. Capital Investment Projects:

a. Proposed Relocation of the Postal Service Research and Development Laboratories.
   (The Board will resume consideration of a proposal for the new Research and Development Laboratories building. The Board did not complete its consideration of this matter at its meeting of February 6, 1980.)

b. Procurement of subcompact delivery vehicles.
   (Mr. Hagburg, Assistant Postmaster General, Delivery Services Department, will present a proposal for capital investment for the purchase of 4,994 subcompact vehicles.)

c. Procurement of expanded ZIP Retrofit Kits.
   (Mr. Benson, Senior Assistant Postmaster General, Operations Group, will present a proposal for the procurement of expanded ZIP Retrofit (EZR) kits for letter-sorting machines.)

6. Compensation Adjustments for Certain Officers.
   (Under section 3.4 of the Bylaws of the Board of Governors, the board is to approve adjustments in the compensation of officers of the Postal Service. The Board will consider compensation adjustments for certain

officers under the Postal Career Executive Service program. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

7. Discussion of Postal Service Ratemaking Strategy.

(The Board will discuss Postal Service ratemaking plans. As stated above in the Notice of Meeting, the part of the meeting that will be devoted to this matter will be closed to the public.)

Louis A. Cox,

Secretary.

[S-375-80 Filed 2-22-80; 3:22 pm]

BILLING CODE 7710-12-M

federal register

Tuesday
February 26, 1980

Part II

Department of Health, Education, and Welfare

Food and Drug Administration

Classification of Obstetrical and Gynecological Devices

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

Food and Drug Administration

21 CFR Part 884

[Docket No. 78N-1106]

Obstetrical and Gynecological Devices; General Provisions Applicable to Classification

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule regarding general provisions applicable to the classification of obstetrical and gynecological devices. The preamble to this rule responds to general comments received on the proposals regarding classification of obstetrical and gynecological devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of April 3, 1979 (44 FR 19894), FDA published a proposed regulation containing general provisions applicable to the classification of obstetrical and gynecological devices. The preamble to the regulation described the development of the proposed regulations classifying obstetrical and gynecological devices and the activities of the Obstetrical and Gynecological Device Classification Panel, and FDA advisory committee that makes recommendations to FDA concerning the classification of obstetrical and gynecological devices. FDA also published in that issue of the **Federal Register** individual proposed regulations to classify 69 obstetrical and gynecological devices. FDA provided a period of 60 days for interested persons to submit written comments on these proposals.

Comments on Classification Proposals

Elsewhere in this issue of the **Federal Register**, FDA is issuing final regulations classifying a number of individual obstetrical and gynecological devices. FDA is responding to specific comments regarding the classification of individual obstetrical and gynecological devices in the final regulations for these devices.

In response to some comments, FDA is making minor changes in the identifications or in the names of some devices in the final regulations in order to clarify the regulations or to show that the regulations apply only to the obstetrical and gynecological uses of the devices. The regulations are:

Section	Device	Docket No.
884.2050...	Obstetric data analyzer	78N-1124
884.4260...	Hygroscopic *Laminaria* cervical dilator	78N-1147
884.5300...	Condom	78N-1163
884.5425...	Scented menstrual pad	78N-1169
884.5900...	Therapeutic vaginal douche apparatus	78N-1173
884.5960...	Genital vibrator for therapeutic use	78N-1176

These changes should eliminate the ambiguity that prompted some of the comments.

FDA is also making some minor changes in the final regulations to clarify the identification of several devices.

No comments were received on proposed § 884.1 (21 CFR 884.1), which concerns general provisions for all obstetrical and gynecological devices. Accordingly, FDA is promulgating § 884.1 with a change: the agency is adding an explanation that references in Part 884 to other regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21 of the Code of Federal Regulations, unless otherwise noted.

List of Obstetrical and Gynecological Devices

The following is a list of obstetrical and gynecological devices being classified in final regulations published elsewhere in this issue of the **Federal Register**. The list shows the section in the Code of Federal Regulations under which the regulation classifying the device is being codified, the docket number of the classification regulation, and the classification of each device.

Section	Device	Docket No.	Class
Subpart B—Obstetrical and Gynecological Diagnostic Devices			
884.1050	Endocervical aspirator	78N-1107	II
884.1060	Endometrial aspirator	78N-1108	III
884.1100	Endometrial brush	78N-1109	III
884.1175	Endometrial suction curette and accessories	78N-1110	II
884.1185	Endometrial washer	78N-1111	III
884.1300	Uterotubal carbon dioxide insufflator and accessories	78N-1112	II
884.1425	Perineometer	78N-1113	II
884.1550	Amniotic fluid sampler (amniocentesis tray)	78N-1114	II
884.1560	Fetal blood sampler	78N-1115	II
884.1600	Transabdominal amnioscope (fetoscope) and accessories	78N-1116	III
884.1630	Colposcope	78N-1117	II
884.1640	Culdoscope and accessories	78N-1118	II
884.1660	Transcervical endoscope (amnioscope) and accessories	78N-1119	II
884.1690	Hysteroscope and accessories	78N-1120	II
884.1700	Hysteroscopic insufflator	78N-1121	II
884.1720	Gynecologic laparoscope and accessories	78N-1122	II
884.1730	Laparoscopic insufflator	78N-1123	II
Subpart C—Obstetrical and Gynecological Monitoring Devices			
884.2050	Obstetric data analyzer	78N-1124	III
884.2225	Obstetric-gynecologic ultrasonic imager	78N-1125	II
884.2600	Fetal cardiac monitor	78N-1126	II
884.2620	Fetal electroencephalographic monitor	78N-1127	III
884.2640	Fetal phonocardiographic monitor and accessories	78N-1128	II
884.2660	Fetal ultrasonic monitor and accessories	78N-1129	II
884.2675	Fetal scalp circular (spiral) electrode and applicator	78N-1130	II
884.2685	Fetal scalp clip electrode and applicator	78N-1131	III
884.2700	Intrauterine pressure monitor and accessories	78N-1132	II
884.2720	External uterine contraction monitor and accessories	78N-1133	II
884.2740	Perinatal monitoring system and accessories	78N-1134	II
884.2900	Fetal stethoscope	78N-1135	I
884.2960	Obstetric ultrasonic transducer and accessories	78N-1136	II

Section	Device	Docket No.	Class
	Subpart D—Obstetrical and Gynecological Prosthetic Devices		
884.3200	Cervical drain	78N-1137	II
884.3575	Vaginal pessary	78N-1138	II
884.3650	Fallopian tube prosthesis	78N-1140	II
884.3900	Vaginal stent	78N-1141	II
	Subpart E—Gynecological Surgical Devices		
884.4100	Endoscopic electrocautery and accessories	78N-1142	III
884.4120	Gynecologic electrocautery and accessories	78N-1143	II
884.4150	Bipolar endoscopic coagulator-cutter and accessories	78N-1144	III
884.4160	Unipolar endoscopic coagulator-cutter and accessories	78N-1145	II
884.4250	Expandable cervical dilator	78N-1146	III
884.4260	Hygroscopic *Laminaria* cervical dilator	78N-1147	II
884.4270	Vibratory cervical dilator	78N-1148	III
884.4340	Fetal vacuum extractor	78N-1149	II
884.4400	Obstetric forceps	78N-1150	II
884.4500	Obstetric fetal destructive instrument	78N-1151	II
884.4520	Obstetric-gynecologic general manual instrument	78N-1152	I
884.4530	Obstetric-gynecologic specialized manual instrument	78N-1153	II
884.4550	Gynecologic surgical laser	78N-1154	II
884.4900	Obstetric table and accessories	78N-1155	II
	Subpart F—Obstetrical and Gynecological Therapeutic Devices		
884.5050	Metreurynter-balloon abortion system	78N-1156	III
884.5070	Vacuum abortion system	78N-1157	II
884.5100	Obstetric anesthesia set	78N-1158	II
884.5150	Nonpowered breast pump	78N-1159	I
884.5160	Powered breast pump	78N-1160	II
884.5225	Abdominal decompression chamber	78N-1162	III
884.5250	Cervical cap	78N-1161	II
884.5300	Condom	78N-1163	II
884.5350	Contraceptive diaphragm and accessories	78N-1164	II
884.5360	Contraceptive intrauterine device (IUD) and introducer	78N-1165	III
884.5380	Contraceptive tubal occlusion device (TOD) and introducer	78N-1166	III
884.5390	Perineal heater	78N-1167	II
884.5400	Menstrual cup	78N-1168	II
884.5425	Scented menstrual pad	78N-1169	II
884.5435	Unscented menstrual pad	78N-1170	I
884.5460	Scented menstrual tampon	78N-1171	II
884.5470	Unscented menstrual tampon	78N-1172	II
884.5900	Therapeutic vaginal douche apparatus	78N-1173	II
884.5920	Vaginal insufflator	78N-1174	I
884.5940	Powered vaginal muscle stimulator for therapeutic use	78N-1175	III
884.5960	Genital vibrator for therapeutic use	78N-1176	II

Patient Information

FDA is considering requiring the development and dissemination of information for patients and consumers about the uses, benefits, and risks of medical devices. For example, patient information has already been required or approved by FDA for intrauterine devices and hearing aids. In addition, the Bureau of Radiological Health is conducting a consumer education program on x-rays that includes posters on the effects of radiation during pregnancy and the distribution of x-ray record cards.

FDA believes that patient information is needed if: (1) There is a choice among alternatives of which the patient should be aware; (2) There are substantial risks or discomforts associated with the product; (3) The cost of the product is significant; (4) There is a need for the patient to adhere strictly to a specific treatment regimen; and (5) There is substantial public or professional controversy about the device or its related procedures.

FDA can require that manufacturers make medical device information available to providers for their use and the use of their patients through the premarket approval or standards-setting processes as well as the general control provisions of the Federal Food, Drug, and Cosmetic Act. The mechanisms available to FDA to provide patient information for devices include: (1) Labeling for restricted and nonrestricted devices; (2) Patient and provider information; and (3) Consumer and patient education programs.

FDA has tentatively identified several obstetrical and gynecological devices for which the patient information may be required. Other obstetrical and gynecological devices may be identified in the future, after the criteria for selection of devices needing patient information have been further refined. The devices that have been identified so far are listed below:

Device	*Docket No.*
1. Transabdominal amnioscopes (fetoscope) and accessories	78N-1116
2. Obstetric-gynecologic ultrasonic imagers	78N-1125
3. Perinatal monitoring systems and accessories.	78N-1134
4. Vaginal pessary	78N-1138
5. Vaginal stent	78N-1141
6. Contraceptive diaphragm and accessories	78N-1164
7. Contraceptive intrauterine device (IUD) and introducer[1]	78N-1165
8. Contraceptive tubal occlusion device (TOD) and introducer	78N-1166
9. Powered vaginal muscle stimulator for therapeutic use	78N-1175

[1] Although patient information is presently required for this device under § 801.427, additional specific patient information may be developed.

Guidelines on Demonstration of Safety and Effectiveness

FDA sometimes develops guidelines for particular products concerning the type of information necessary to demonstrate safety and effectiveness. In cooperation with FDA, the Obstetrical and Gynecological Device Classification Panel has developed guidelines for the obstetrical and gynecological devices listed below:

Device	*Docket No.*
1. Endoscopic electrocautery and accessories	78N-1142
2. Bipolar coagulator-cutter and accessories	78N-1144

Device	Docket No.
3. Fetal scalp clip electrode and applicator	78N-1131
4. Contraceptive tubal occlusion device and introducer	78N-1166
5. Contraceptive intrauterine device (IUD) and introducer	78N-1165
6. Hysteroscopic sterilization device (an investigational device)	

A copy of these guidelines can be obtained upon request from the contact person for this regulation.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.1), Chapter I of Title 21 of the Code of Federal Regulations is amended by adding new Part 884, Subpart A, to read as follows:

PART 884—OBSTETRICAL AND GYNECOLOGICAL DEVICES

Subpart A—General Provisions

Sec.

884.1 Scope.

Authority: Secs. 513 and 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 701(a)).

Subpart A—General Provisions

§ 884.1 Scope.

(a) This part sets forth the classification of obstetrical and gynecological devices intended for human use.

(b) The identification of a device in a regulation in this part is not a precise description of every device that is, or will be, subject to the regulation. A manufacturer who submits a premarket notification submission for a device under Part 807 may not show merely that the device is accurately described by the section title and identification provision of a regulation, but shall state why the device is substantially equivalent to other devices, as required by § 807.87.

(c) To avoid duplicative listings, an obstetrical and gynecological device that has two or more types of uses (e.g., use both as a diagnostic device and as a therapeutic device), is listed in the subpart representing one use of the device, rather than in two or more subparts.

(d) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5745 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1107]

Obstetrical and Gynecological Devices; Classification of Endocervical Aspirators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endocervical aspirators into class II (performance standards). The effects of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19898) a proposed regulation to classify endocervical aspirators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 by adding new Subpart B and new § 884.1050, to read as follows:

Subpart B—Obstetrical and Gynecological Diagnostic Devices

§ 884.1050 Endocervical aspirator.

(a) *Identification.* An endocervical aspirator is a device designed to remove tissue from the endocervix (mucous membrane lining the canal of the cervix of the uterus) by suction with a syringe, bulb and pipette, or catheter. This device is used to evaluate endocervical tissue to detect malignant and premalignant lesions.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5746 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1108]

Obstetrical and Gynecological Devices; Classification of Endometrial Aspirators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endometrial aspirators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices,

the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19899) a proposed regulation to classify endometrial aspirators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classifying this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1060, to read as follows:

§ 884.1060 Endometrial aspirator.

(a) *Identification.* An endometrial aspirator is a device designed to remove materials from the endometrium (the mucosal lining of the uterus) by suction with a syringe, bulb and pipette, or catheter. This device is used to study endometrial cytology (cells).

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5747 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1109]

Obstetrical and Gynecological Devices; Classification of Endometrial Brushes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endometrial brushes into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19900) a proposed regulation to classify endometrial brushes into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1100, to read as follows:

§ 884.1100 Endometrial brush.

(a) *Identification.* An endometrial brush is a device designed to remove samples of the endometrium (the mucosal lining of the uterus) by brushing its surface. This device is used to study endometrial cytology (cells).

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5748 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1110]

Obstetrical and Gynecological Devices; Classification of Endometrial Suction Curettes and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endometrial suction curettes and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19901) a proposed regulation to classify endometrial suction curettes and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1175, to read as follows:

§ 884.1175 Endometrial suction curette and accessories.

(a) *Identification.* An endometrial suction curette is a device used to remove material from the uterus and from the mucosal lining of the uterus by scraping and vacuum suction. This device is used to obtain tissue for biopsy or for menstrual extraction. This generic type of device may include catheters, syringes, and tissue filters or traps.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5749 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1111]

Obstetrical and Gynecological Devices; Classification of Endometrial Washers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endometrial washers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19902) a proposed regulation to classify endometrial washers into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1185, to read as follows:

§ 884.1185 Endometrial washer.

(a) *Identification.* An endometrial washer is a device used to remove materials from the endometrium (the mucosal lining of the uterus) by washing with water or saline solution and then aspirating with negative pressure. This device is used to study endometrial cyctology (cells).

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)).)

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5750 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1112]

Obstetrical and Gynecological Devices; Classification of Uterotubal Carbon Dioxide Insufflators and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying uterotubal carbon dioxide insufflators and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the acitivities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19903) a proposed regulation to classify uterotubal carbon dioxide insufflators and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change. However, certain statements in the sections of the proposal describing the "Summary of reasons for recommendation" and "Risks to health" presented by the device are no longer considered appropriate. Because FDA has determined that an electrical system is not an accessory to this device, the references to "electrical standards" and "risk of electrical shock" are not applicable to this device and should be considered deleted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1300, to read as follows:

§ 884.1300 Uterotubal carbon dioxide insufflator and accessories.

(a) *Identification.* A uterotubal carbon dioxide insufflator and accessories is a device used to test the patency (lack of obstruction) of the fallopian tubes by pressurizing the uterus and fallopian tubes and filling them with carbon dioxide gas.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5751 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1113]

Obstetrical and Gynecological Devices; Classification of Perineometers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying perineometers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19904) a proposed regulation to classify perineometers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of this device.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1425, to read as follows:

§ 884.1425 Perineometer.

(a) *Identification.* A perineometer is a device consisting of a fluid-filled sack for intravaginal use that is attached to an external manometer. The devices measure the strength of the perineal muscles by offering resistence to a patient's voluntary contractions of these muscles and is used to diagnose and to correct, through exercise, uninary incontinence or sexual dysfunction.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5752 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1114]

Obstetrical and Gynecological Devices; Classification of Amniotic Fluid Samplers (Amniocentesis Trays)

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying amniotic fluid samplers (amniocentesis trays) into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19905) a proposed regulation to classify amniotic fluid samplers (amniocentesis trays) into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1550, to read as follows:

§ 884.1550 Amniotic fluid sampler (amniocentesis tray).

(a) *Identification.* An amniotic fluid sampler is a device used for amniocentesis (transabdominal aspiration of fluid from the amniotic sac). The sampler consists of disposable instruments, drapes, specimen containers, and other accessories on a tray.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5753 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1115]

Obstetrical and Gynecological Devices; Classification of Fetal Blood Samplers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal blood samplers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken

under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposal regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19906) a proposed regulation to classify fetal blood samplers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1560, to read as follows:

§ 884.1560 Fetal blood sampler.

(a) *Identification.* A fetal blood sampler is a device used to obtain fetal blood transcervically through an endoscope by puncturing the fetal skin with a short blade and drawing blood into a heparinized tube. The fetal blood pH is determined and used in the diagnosis of fetal distress and fetal hypoxia.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5754 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 884

[Docket No. 78N–1116]

Obstetrical and Gynecological Devices; Classification of Transabdominal Amnioscopes (Fetoscopes) and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying transabdominal amnioscopes (fetoscopes) and accessories into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982 or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19907) a proposed regulation to classify transabdominal amnioscopes (fetoscopes) and accessories into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1600, to read as follows:

§ 884.1600 Transabdominal amnioscope (fetoscope) and accessories.

(a) *Identification.* A transabdominal amnioscope is a device designed to permit direct visual examination of the fetus by a telescopic system via abdominal entry. The device is used to ascertain fetal abnormalities, to obtain fetal blood samples, or to obtain fetal tissue. This generic type of device may include the following accessories: trocar and cannula, instruments used through an operating channel or through a separate cannula associated with the amnioscope, light source and cables, and component parts.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5755 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 884

[Docket No. 78N–1117]

Obstetrical and Gynecological Devices; Classification of Colposcopes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying colposcopes into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification

procedures, and the activities of the Obstetrical and Gynecological Devices Classification Panel. FDA also published in that issue of the Federal Register (44 FR 19909) a proposed regulation to classify colposcopes into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1630, to read as follows:

§ 884.1630 Colposcopes.

(a) *Identification.* A colposcope is a device designed to permit direct viewing of the tissues of the vagina and cervix by a telescopic system located outside the vagina. It is used to diagnose abnormalities and select areas for biopsy. This generic type of device may include a light source, cables, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5756 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1118]

Obstetrical and Gynecological Devices; Classification of Culdoscopes and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying culdoscopes and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 29, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 19910) a proposed regulation to classify culdoscopes and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change. However, a statement in the section of the proposal describing the "Risks to Health" presented by the device is no longer considered appropriate. The risk to health from burns should be considered deleted because the device itself cannot cause burns.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 Subpart B by adding new § 884.1640, to read as follows:

§ 884.1640 Culdoscope and accessories.

(a) *Identification.* A culdoscope is a device designed to permit direct viewing of the organs within the peritoneum by a telescopic system introduced into the pelvic cavity through the posterior vaginal fornix. It is used to perform diagnostic and surgical procedures on the female genital organs. This generic type of device may include trocar and cannula, instruments used through an operating channel, scope preheaters, light source and cables, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5757 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1119]

Obstetrical and Gynecological Devices; Classification of Transcervical Endoscopes (Amnioscopes) and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying transcervical endoscopes (amnioscopes) and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the Federal Register of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the Federal Register (44 FR 19911) a proposed regulation to classify transcervical endoscopes (amnioscopes) and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is

amending Part 884 in Subpart B by adding new § 884.1660, to read as follows:

§ 884.1660 Transcervical endoscope (amnioscope) and accessories.

(a) *Identification.* A transcervical endoscope is a device designed to permit direct viewing of the fetus and amniotic sac by means of an open tube introduced into the uterus through the cervix. The device may be used to visualize the fetus or amniotic fluid and to sample fetal blood or amniotic fluid. This generic type of device may include obturators, instruments used through an operating channel, light sources and cables, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5758 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1120]

Obstetrical and Gynecological Devices; Classification of Hysteroscopes and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying hysteroscopes and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19912) a proposed regulation to classify hysteroscopes and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1690, to read as follows:

§ 884.1690 Hysteroscope and accessories.

(a) *Identification.* A hysteroscope is a device used to permit direct viewing of the cervical canal and the uterine cavity by a telescopic system introduced into the uterus through the cervix. It is used to perform diagnostic and surgical procedures other than sterilization. This generic type of device may include obturators and sheaths, instruments used through an operating channel, scope preheaters, light sources and cables, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5759 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1121]

Obstetrical and Gynecological Devices; Classification of Hysteroscopic Insufflators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying hysteroscopic insufflators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug, Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19913) a proposed regulation to classify hysteroscopic insufflators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly the proposed regulation is being adopted without change. However, a statement concerning measurement standards in the section of the proposal describing the "Summary of Reasons for Recommendation" is clarified as follows: "The Panel believes that standards are necessary to ensure accuracy of controls and indicators for pressure and flow rate."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1700, to read as follows:

§ 884.1700 Hysteroscopic insufflator.

(a) *Identification.* A hysteroscopic insufflator is a device designed to distend the uterus by filling the uterine cavity with a liquid or gas to facilitate viewing with a hysteroscope.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William E. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5760 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1122]

Obstetrical and Gynecological Devices; Classification of Gynecologic Laparoscopes and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying gynecologic laparoscopes and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19914) a proposed regulation to classify gynecologic laparoscopes and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the regulation is being adopted without change. However, certain statements in the sections of the proposal describing the "Summary of reasons for recommendation," the "Summary of data on which the recommendation is based," and "References" need clarification.

In the section, "Summary of reasons for recommendation," the sentence, "The Panel recommends thermal insulation of the device assembly to prevent burns from unsafe heat dissipation" should be considered deleted. Another sentence, "The Panel also states that the use of the device is contraindicated for cardiac or pulmonary patients, in the presence of diaphragmatic hernia, bowel obstruction or abdominal mass and during the second or third trimester of pregnancy," should read as follows: "The Panel also states that the use of the device is contraindicated in severe cardiac or pulmonary patients, in the presence of large diaphragmatic hernia and in bowel obstruction, and during the third trimester of pregnancy."

In the section, "Summary of data on which the recommendation is based," the statement concerning the risk of burn and electric shock associated with the endoscopic light source is inappropriate and should be considered deleted. Only fiber optic (cold light) lenses are now used as a light source in laparoscopy. Therefore, reference number 3 should also be considered deleted.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1720, to read as follows:

§ 884.1720 Gynecologic laparoscope and accessories.

(a) *Identification.* A gynecologic laparoscope is a device used to permit direct viewing of the organs within the peritoneum by a telescopic system introduced through the abdominal wall. It is used to perform diagnostic and surgical procedures on the female genital organs. This generic type of device may include: trocar and cannula, instruments used through an operating channel, scope preheater, light source and cables, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5761 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1123]

Obstetrical and Gynecological Devices; Classification of Laparoscopic Insufflators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying laparoscopic insufflators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19915) a proposed regulation to classify laparoscopic insufflators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change. However, a statement concerning measurement standards in the section of the preamble describing the "Summary of Reasons for Recommendation" is clarified as follows: "The Panel believes that standards are necessary to ensure accuracy of controls and indicators for pressure and flow rate."

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.1730, to read as follows:

§ 884.1730 Laparoscopic insufflators.

(a) *Identification.* A laparoscopic insufflator is a device used to facilitate the use of the laparoscopie by filling the peritoneal cavity with gas to distend it.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5762 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1124]

Obstetrical and Gynecological Devices; Classification of Obstetric Data Analyzers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric data analyzers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19916) a proposed regulation to classify obstetric data analyzers into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

The one comment received on the proposal stated that an obstetric data analyzer replaces the judgment of a physician with a series of automatic electronic circuits that indicate clinical diagnosis.

The agency agrees with this comment and is making minor changes to clarify the identification of the device. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2050, to read as follows:

§ 884.2050 Obstetric data analyzer.

(a) *Identification.* An obstetric data analyzer (i.e., fetal status data analyzer) is a device used during labor to analyze electronic signal data obtained from fetal and maternal monitors and to indicate clinical diagnosis of fetal well-being. This generic type of device may include signal analysis and display equipment, electronic interfaces for other equipment, and power supplies and component parts.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5763 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1125]

Obstetrical and Gynecological Devices; Classification of Obstetric-Gynecologic Ultrasonic Imagers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric-gynecologic ultrasonic imagers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19893), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19917) a proposed regulation to classify obstetric-gynecologic ultrasonic imagers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 by adding new Subpart C and § 884.2225, to read as follows:

Subpart C—Obstetrical and Gynecological Monitoring Devices

§ 884.2225 Obstetric-gynecologic ultrasonic imager.

(a) *Identification.* An obstetric-gynecologic ultrasonic imager is a device designed to transmit and receive ultrasonic energy into and from a female patient by pulsed echoscopy. This device is used to provide a visual representation of some physiological or artificial structure, or of a fetus, for diagnostic purposes during a limited period of time. This generic type of device may include the following: signal analysis and display equipment, electronic interfaces for other equipment, patient and equipment supports, coupling gel, and component parts. This generic type of device does not include devices used to monitor the changes in some physiological condition over long periods of time.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5764 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1126]

Obstetrical and Gynecological Devices; Classification of Fetal Cardiac Monitors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal cardiac monitors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19919) a proposed regulation to classify fetal cardiac monitors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change in the identification of this device to clarify that the regulation applies only to the abdominal electrocardiography modality of fetal heart rate monitoring. Other modalities, such as phonocardiograms, doppler ultrasound monitors, or fetal scalp electrodes, are classified in regulations published elsewhere in this issue of the **Federal Register.**

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2600, to read as follows:

§ 884.2600 Fetal cardiac monitor.

(a) *Identification.* A fetal cardiac monitor is a device used to ascertain fetal heart activity during pregnancy and labor. The device is designed to separate fetal heart signals from maternal heart signals by analyzing electrocardiographic signal (electrical potentials generated during contraction and relaxation of heart muscle) obtained from the maternal abdomen with external electrodes. This generic type of device may include an alarm that signals when the heart rate crosses a preset threshold. This generic type of device includes the "fetal cardiotachometer (with sensors)" and the "fetal electrocardiographic monitor."

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5765 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1127]

Obstetrical and Gynecological Devices; Classification of Fetal Electroencephalographic Monitors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal electroencephalographic monitors into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19920) a proposed regulation to classify fetal electroencephalographic monitors into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2620, to read as follows:

§ 884.2620 Fetal electroencephalographic monitor.

(a) *Identification.* A fetal electroencephalographic monitor is a device used to detect, measure, and record in graphic form (by means of one or more electrodes placed transcervically on the fetal scalp during labor) the rhythmically varying electrical skin potentials produced by the fetal brain.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5766 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1128]

Obstetrical and Gynecological Devices; Classification of Fetal Phonocardiographic Monitors and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal phonocardiographic monitors and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19921) a proposed regulation to classify fetal phonocardiographic monitors and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2640, to read as follows:

§ 884.2640 Fetal phonocardiographic monitor and accessories.

(a) *Identification.* A fetal phonocardiographic monitor is a device designed to detect, measure, and record fetal heart sounds electronically, in graphic form, and noninvasively, to ascertain fetal condition during labor. This generic type of device includes the following accessories: signal analysis and display equipment, patient and equipment supports, and other component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5767 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1129]

Obstetrical and Gynecological Devices; Classification of Fetal Ultrasonic Monitors and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal ultrasonic monitors and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19922) a proposed regulation to classify fetal ultrasonic monitors and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2660, to read as follows:

§ 884.2660 Fetal ultrasonic monitor and accessories.

(a) *Identification.* A fetal ultrasonic monitor is a device designed to transmit and receive ultrasonic energy into and from the pregnant woman, usually by means of continuous wave (doppler) echoscopy. The device is used to represent some physiological condition or characteristic in a measured value over a period of time (e.g., perinatal monitoring during labor) or in an immediately perceptible form (e.g., use of the ultrasonic stethoscope). This generic type of device may include the following accessories: signal analysis and display equipment, electronic interfaces for other equipment, patient and equipment supports, and component parts. This generic type of device does not include devices used to image some relatively unchanging physiological structure or interpret a physiological condition, but does include devices which may be set to alarm automatically at a predetermined threshold value.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5768 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1130]

Obstetrical and Gynecological Devices; Classification of Fetal Scalp Circular (Spiral) Electrodes and Applicators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal scalp circular (spiral) electrodes and applicators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19924) a proposed regulation to classify fetal scalp circular (spiral) electrodes and applicators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2675, to read as follows:

§ 884.2675 Fetal scalp circular (spiral) electrode and applicator.

(a) *Identification.* A fetal scalp circular (spiral) electrode and applicator is a device used to obtain fetal electrocardiogram during labor and delivery. It establishes electrical contact between fetal skin and an external monitoring device by a shallow subcutaneous puncture of fetal scalp tissue with a curved needle or needles. This generic type of device includes nonreusable spiral electrodes and reusable circular electrodes.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5769 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1131]

Obstetrical and Gynecological Devices; Classification of Fetal Scalp Clip Electrodes and Applicators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal scalp clip electrodes and applicators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19925) a proposed regulation to classify fetal scalp clip electrodes and applicators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2685, to read as follows:

§ 884.2685 Fetal scalp clip electrode and applicator.

(a) *Identification.* A fetal scalp clip electrode and applicator is a device designed to establish electrical contact between fetal skin and an external monitoring device by means of pinching skin tissue with a nonreusable clip. This device is used to obtain a fetal electrocardiogram. This generic type of device may include a clip electrode applicator.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5770 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1132]

Obstetrical and Gynecological Devices; Classification of Intrauterine Pressure Monitors and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying intrauterine pressure monitors and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of

the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19926) a proposed regulation to classify intrauterine pressure monitors and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change to clarify the identification of the device. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2700, to read as follows:

§ 884.2700 Intrauterine pressure monitor and accessories.

(a) *Identification.* An intrauterine pressure monitor is a device designed to detect and measure intrauterine and amniotic fluid pressure with a catheter placed transcervically into the uterine cavity. The device is used to monitor intensity, duration, and frequency of uterine contractions during labor. This generic type of device may include the following accessories: signal analysis and display equipment, patient and equipment supports, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5771 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1133]

Obstetrical and Gynecological Devices; Classification of External Uterine Contraction Monitors and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying external uterine contraction monitors and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19927) a proposed regulation to classify external uterine contraction monitors and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change in the identification of the device to clarify that this device, which indirectly measures uterine activity, can indicate only relative pressure of the contractions. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2720, to read as follows:

§ 884.2720 External uterine contraction monitor and accessories.

(a) *Identification.* An external uterine contraction monitor (i.e., the tokodynamometer) is a device used to monitor the progress of labor. It measures the duration, frequency, and relative pressure of uterine contractions with a transducer strapped to the maternal abdomen. This generic type of device may include an external pressure transducer, support straps, and other patient and equipment supports.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5772 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1134]

Obstetrical and Gynecological Devices; Classification of Perinatal Monitoring Systems and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying perinatal monitoring systems and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19928) a proposed regulation to classify perinatal monitoring systems and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes in the identification of the device. FDA has deleted from the identification the words stating that the device is used to assess the well-being of the mother during pregnancy, labor, and delivery, because the primary purpose of the perinatal monitoring system is to assess the well-being of the fetus. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart B by adding new § 884.2740, to read as follows:

§ 884.2740 Perinatal monitoring system and accessories.

(a) *Identification.* A perinatal monitoring system is a device used to show graphically the relationship between maternal labor and the fetal heart rate by means of combining and coordinating uterine contraction and fetal heart monitors with appropriate displays of the well-being of the fetus during pregnancy, labor, and delivery. This generic type of device may include any of the devices subject to §§ 884.2600, 884.2640, 884.2660, 884.2675, 884.2700, and 884.2720. This generic type of device may include the following accessories: central monitoring system and remote repeaters, signal analysis and display equipment, patient and equipment supports, and component parts.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5773 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1135]

Obstetrical and Gyneocological Devices; Classification of Fetal Stethoscopes

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal stethoscopes into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19931) a proposed regulation to classify fetal stethoscopes into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2900, to read as follows:

§ 884.2900 Fetal stethoscope.

(a) *Identification.* A fetal stethoscope is a device used for listening to fetal heart sounds. It is designed to transmit the fetal heart sounds not only through sound channels by air conduction, but also through the user's head by tissue conduction into the user's ears. It does not use ultrasonic energy. This device is designed to eliminate noise interference commonly caused by handling conventional stethoscopes.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5774 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1136]

Obstetrical and Gynecological Devices; Classification of Obstetric Ultrasonic Transducers and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric ultrasonic transducers and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44

FR 19931) a proposed regulation to classify obstetric ultrasonic transducers and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart C by adding new § 884.2960, to read as follows:

§ 884.2960 Obstetric ultrasonic transducer and accessories.

(a) *Identification.* An obstetric ultrasonic transducer is a device used to apply ultrasonic energy to, and to receive ultrasonic energy from, the body in conjunction with an obstetric monitor or imager. The device converts electrical signals into ultrasonic energy, and vice versa, by means of an assembly distinct from an ultrasonic generator. This generic type of device may include the following accessories: coupling gel, preamplifiers, amplifiers, signal conditioners with their power supply, connecting cables, and component parts. This generic type of device does not include devices used to generate the ultrasonic frequency electrical signals for application.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5775 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1137]

Obstetrical and Gynecological Devices; Classification of Cervical Drains

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cervical drains into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19933) a proposed regulation to classify cervical drains into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 by adding new Subpart D and new § 884.3200, to read as follows:

Subpart D—Obstetrical and Gynecological Prosthetic Devices

§ 884.3200 Cervical Drains.

(a) *Identification.* A cervical drain is a device designed to provide an exit channel for draining discharge from the cervix after pelvic surgery.

(b) *Classification.* Class II (performance standards).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5776 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1138]

Obstetrical and Gynecological Devices; Classification of Vaginal Pessaries

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vaginal pessaries into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19934) a proposed regulation to classify vaginal pessaries into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart D by adding new § 884.3575, to read as follows:

§ 884.3575 Vaginal pessary.

(a) *Identification.* A vaginal pessary is a removable structure placed in the vagina to support the pelvic organs and is used to treat conditions such as uterine prolapse (falling down of uterus), uterine retroposition (backward displacement), or gynecologic hernia.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5777 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1140]

Obstetrical and Gynecological Devices; Classification of Fallopian Tube Prostheses

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fallopian tube prostheses into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19935) a proposed regulation to classify fallopian tube prostheses into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546; (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart D by adding new § 884.3650, to read as follows:

§ 884.3650 Fallopian tube prosthesis.

(a) *Identification.* A fallopian tube prosthesis is a device designed to maintain the patency (openness) of the fallopian tube and is used after reconstructive surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5778 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1141]

Obstetrical and Gynecological Devices; Classification of Vaginal Stents

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vaginal stents into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Devices Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19936) a proposed regulation to classify vaginal stents into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart D by adding new § 884.3900, to read as follows:

§ 884.3900 Vaginal stent.

(a) *Identification.* A vaginal stent is a device used to enlarge the vagina by stretching, or to support the vagina and to hold a skin graft after reconstructive surgery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5779 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1142]

Obstetrical and Gynecological Devices; Classification of Endoscopic Electrocautery and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying endoscopic electrocautery and accessories into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket

approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19937) a proposed regulation to classify endoscopic electrocautery and accessories into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 by adding new Subpart E and new § 884.4100, to read as follows:

Subpart E—Obstetrical and Gynecological Surgical Devices

§ 884.4100 Endoscopic electrocautery and accessories.

(a) *Identification.* An endoscopic electrocautery is a device used to perform female sterilization under endoscopic observation. It is designed to coagulate fallopian tube tissue with a probe heated by low-voltage energy. This generic type of device may include the following accessories: electrical generators, probes, and electrical cables.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5780 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1143]

Obstetrical and Gynecological Devices; Classification of Gynecologic Electrocautery and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying gynecologic electrocautery and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19938) a proposed regulation to classify gynecologic electrocautery and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4120, to read as follows:

§ 884.4120 Gynecologic electrocautery and accessories.

(a) *Identification.* A gynecologic electrocautery is a device designed to destroy tissue with high temperatures by tissue contact with an electrically heated probe. It is used to excise cervical lesions, perform biopsies, or treat chronic cervicitis under direct visual observation. This generic type of device may include the following accessories: an electrical generator, a probe, and electrical cables.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5781 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1144]

Obstetrical and Gynecological Devices; Classification of Bipolar Endoscopic Coagulator-Cutters and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying bipolar endoscopic coagulator-cutters and accessories into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19939) a proposed regulation to classify bipolar endoscopic coagulator-cutters and accessories into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4150, to read as follows:

§ 884.4150 Bipolar endoscopic coagulator-cutters and accessories.

(a) *Identification.* A bipolar endoscopic coagulator-cutter is a device used to perform female sterilization and other operative procedures under endoscopic observation. It destroys tissue with high temperatures by directing a high frequency electrical current through tissue between two electrical contacts of a probe. This generic type of device may include the following accessories: an electrical generator, probes, and electrical cables.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5782 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1145]

Obstetrical and Gynecological Devices; Classification of Unipolar Endoscopic Coagulator-Cutters and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying unipolar endoscopic coagulator-cutters and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19940) a proposed regulation to classify unipolar endoscopic coagulator-cutters and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is adopted without change. However, FDA adds the following statement to the section of the proposal setting forth the "Risks to Health" presented by the device due to burns: "Even when the recommended electrical requirements for this device are followed, the nonconductive sleeve of the scope is dangerous and should not be used." This caution is based on reported cases of bowel burns from devices having nonconductive sleeves.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4160, to read as follows:

§ 884.4160 Unipolar endoscopic coagulator-cutter and accessories.

(a) *Identification.* A unipolar endoscopic coagulator-cutter is a device designed to destroy tissue with high temperatures by directing a high frequency electrical current through the tissue between an energized probe and a grounding plate. It is used in female sterilization and in other operative procedures under endoscopic observation. This generic type of device may include the following accessories: an electrical generator, probes and electrical cables, and a patient grounding plate. This generic type of device does not include devices used to perform female sterilization under hysteroscopic observation.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5783 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1146]

Obstetrical and Gynecological Devices; Classification of Expandable Cervical Dilators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying expandable cervical dilators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19941) a proposed regulation to classify expandable cervical dilators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change in the identification of the device. FDA has substituted the words "the cervical os" in place of "the cervix" because the function of the device is to stretch the cervical os in order to gain access to the uterine cavity. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4250, to read as follows:

§ 884.4250 Expandable cervical dilator.

(a) *Identification.* An expandable cervical dilator is an instrument with two handles and two opposing blades used manually to dilate (stretch open) the cervical os.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5784 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 884

[Docket No. 78N–1147]

Obstetrical and Gynecological Devices; Classification of Hygroscopic Laminaria Cervical Dilators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying hygroscopic *Laminaria* cervical dilators into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaning the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19942) a proposed regulation to classify hygroscopic-laminaria (*Laminaria*) cervical dilators into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

The one comment received on this proposal pointed out that the identification for hygroscopic-laminaria cervical dilators did not include the seaweed variety, *Laminaria* japonica, which is also used in manufacturing hygroscopic *Laminaria* cervical dilators.

The agency agrees with this comment and is making minor changes in the identification of the hygroscopic *Laminaria* cervical dilator to make it clear that it includes cervical dilators made from the seaweed, *Laminaria* japonica. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4260, to read as follows:

§ 884.4260 Hygroscopic Laminaria cervical dilator.

(a) *Identification.* A hygroscopic *Laminaria* cervical dilator is a device designed to dilate (stretch open) the cervical os by cervical insertion of a conical and expansible material made from the root of a seaweed (*Laminaria* digitata or *Laminaria* japonica). The device is used to induce abortion.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5785 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

21 CFR Part 884

[Docket No. 78N–1148]

Obstetrical and Gynecological Devices; Classification of Vibratory Cervical Dilators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vibratory cervical dilators into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of

April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19943) a proposed regulation to classify vibratory cervical dilators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes in the identification of the device by substituting the words "to dilate the cervical os" in place of "to enlarge the cervix" because the function of the device is to stretch the cervical os in order to gain access to the uterine cavity. FDA also has clarified that this device is not to be used during labor when a viable fetus is desired or anticipated. Accordingly, the proposed regulation is being adoped with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4270, to read as follows:

§ 884.4270 Vibratory cervical dilators.

(a) *Identification.* A vibratory cervical dilator is a device designed to dilate the cervical os by stretching it with a power-driven vibrating probe head. The device is used to gain access to the uterus or to induce abortion, but is not to be used during labor when a viable fetus is desired or anticipated.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 State. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5786 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1149]

Obstetrical and Gynecological Devices; Classification of Fetal Vacuum Extractors

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying fetal vacuum extractors into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19944) a proposed regulation to classify fetal vacuum extractors into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, to clarify the function of the device, FDA has made a minor change in the identification of the device. With respect to the section of the proposal describing the "Risks to health" presented by the device, FDA adds that improper application of the device may cause injuries to the cervix and vagina, as well as fetal trauma.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4340, to read as follows:

§ 884.4340 Fetal vacuum extractor.

(a) *Identification.* A fetal vacuum extractor is a device used to facilitate delivery. The device enables traction to be applied to the fetal head (in the birth canal) by means of a suction cup attached to the scalp and is powered by an external vacuum source. This generic type of device may include the cup, hosing, vacuum source, and vacuum control.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5787 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1150]

Obstetrical and Gynecological Devices; Classification of Obstetric Forceps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric forceps into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19945) a proposed regulation to classify obstetric forceps into class II (performance standards). A period of 60

days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E. by adding new § 884.4400, to read as follows:

§ 884.4400 Obstetric forceps.

(a) *Identification.* An obstetric forceps is a device consisting of two blades, with handles, designed to grasp and apply traction to the fetal head in the birth passage and facilitate delivery.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5788 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1151]

Obstetrical and Gynecological Devices; Classification of Obstetric Fetal Destructive Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric fetal destructive instruments into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19893), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19946) a proposed regulation to classify obstetric fetal destructive instruments into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4500, to read as follows:

884.4500 Obstetric fetal destructive instrument.

(a) *Identification.* An obstetric fetal destructive instrument is a device designed to crush or pull the fetal body to facilitate the delivery of a dead or anomalous (abnormal) fetus. This generic type of device includes the cleidoclast, cranioclast, craniotribe, and destructive hook.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5789 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1152]

Obstetrical and Gynecological Devices; Classification of Obstetric-Gynecologic General Manual Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric-gynecologic general manual instruments into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19946) a proposed regulation to classify obstetric-gynecologic general manual instruments into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify these devices. However, FDA has made minor changes to clarify the identification of the uterine clamp and the fiberoptic metal vaginal speculum by accurately describing their functions. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4520, to read as follows:

§ 884.4520 Obstetric-gynecologic general manual instrument.

(a) *Identification.* An obstetric-gynecologic general manual instrument is one of a group of devices used to perform simple obstetric and gynecologic manipulative functions. This generic type of device consists of the following:

(1) An episiotomy scissors is a cutting instrument, with two opposed shearing

blades, used for surgical incision of the vulvar orifice for obstetrical purposes.

(2) A fiberoptic metal vaginal speculum is a metal instrument, with fiberoptic light, used to expose and illuminate the interior of the vagina.

(3) A metal vaginal speculum is a metal instrument used to expose the interior of the vagina.

(4) An umbilical scissors is a cutting instrument, with two opposed shearing blades, used to cut the umbilical cord.

(5) A uterine clamp is an instrument used to hold the uterus by compression.

(6) A uterine packer is an instrument used to introduce dressing into the uterus or vagina.

(7) A vaginal applicator is an instrument used to insert medication into the vagina.

(8) A vaginal retractor is an instrument used to maintain vaginal exposure by separating the edges of the vagina and holding back the tissue.

(9) A gynecological fibroid hook is an instrument used to exert traction upon a fibroid.

(10) A pelvimeter (external) is an instrument used to measure the external diameters of the pelvis.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5790 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1153]

Obstetrical and Gynecological Devices; Classification of Obstetric-Gynecologic Specialized Manual Instruments

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric-gynecologic specialized manual instruments into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19948) a proposed regulation to classify obstetric-gynecologic specialized manual instruments into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of the fixed cervical dilator, gynecological surgical forceps, gynecological cerclage needle, uterine sound, gynecological biopsy forceps, and fiberoptic nonmetal vaginal speculum. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4530, to read as follows:

§ 884.4530 Obstetric-gynecologic specialized manual instrument.

(a) *Identification.* An obstetric-gynecologic specialized manual instrument is one of a group of devices used during obstetric-gynecologic procedures to perform manipulative diagnostic and surgical functions (e.g., dilating, grasping, measuring, and scraping), where structural integrity is the chief criterion of device performance. This type of device consists of the following:

(1) An amniotome is an instrument used to rupture the fetal membranes.

(2) A circumcision clamp is an instrument used to compress the foreskin of the penis during circumcision of a male infant.

(3) an umbilical clamp is an instrument used to compress the umbilical cord.

(4) A uterine curette is an instrument used to scrape and remove material from the uterus.

(5) A fixed-size cervical dilator is any of a series of bougies of various sizes used to dilate the cervical os by stretching the cervix.

(6) A uterine elevator is an instrument inserted into the uterus used to lift and manipulate the uterus.

(7) A gynecological surgical forceps is an instrument with two blades and handles used to pull, grasp, or compress during gynecological examination.

(8) A cervical cone knife is a cutting instrument used to excise and remove tissue from the cervix.

(9) A gynecological cerclage needle is a looplike instrument used to suture the cervix.

(10) A hook-type contraceptive intrauterine device (IUD) remover is an instrument used to remove an IUD from the uterus.

(11) A gynecological fibroid screw is an instrument used to hold onto a fibroid.

(12) A uterine sound is an instrument used to determine the depth of the uterus by inserting it into the uterine cavity.

(13) A cytological cervical spatula is a blunt instrument used to scrape and remove cytological material from the surface of the cervix or vagina.

(14) A gynecological biopsy forceps is an instrument with two blades and handles used for gynecological biopsy procedures.

(15) A uterine tenaculum is a hooklike instrument used to seize and hold the cervix or fundus.

(16) An internal pelvimeter is an instrument used within the vagina to measure the diameter and capacity of the pelvis.

(17) A nonmetal vaginal speculum is a nonmetal instrument used to expose the interior of the vagina.

(18) A fiberoptic nonmetal vaginal speculum is a nonmetal instrument, with fiberoptic light, used to expose and illuminate the interior of the vagina.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5791 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1154]

Obstetrical and Gynecological Devices; Classification of Gynecologic Surgical Lasers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying gynecologic surgical lasers into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19949) a proposed regulation to classify gynecologic surgical lasers into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4550, to read as follows:

§ 884.4550 Gynecologic surgical laser.

(a) *Identification.* A gynecologic surgical laser is a continuous wave carbon dioxide laser designed to destroy tissue thermally or to remove tissue by radiant light energy. The device is used only in conjunction with a colposcope as part of a gynecological surgical system. A colposcope is a magnifying lens system used to examine the vagina and cervix.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5792 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1155]

Obstetrical and Gynecological Devices; Classification of Obstetric Tables and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric tables and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19950) a proposed regulation to classify obstetric tables and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

The one comment received on this proposal suggested that the Panel recommendation of use of a manual override of power monitors would not enhance the safety or effectiveness of powered obstetric tables and that a requirement of a manual override would increase the cost of the device without increasing patient or physician benefit.

The agency is not proposing any standards in this regulation. The agency will consider this issue at the time performance standards for obstetric tables and accessories are developed. Accordingly, the proposed regulation is being adopted without any change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart E by adding new § 884.4900, to read as follows:

§ 884.4900 Obstetric table and accessories.

(a) *Identification.* An obstetric table is a device with adjustable sections designed to support a patient in the various positions required during obstetric and gynecologic procedures. This generic type of device may include the following accessories: patient equipment, support attachments, and cabinets for warming instruments and disposing of wastes.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5793 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1156]

Obstetrical and Gynecological Devices; Classification of Metreurynter-Balloon Abortion Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying metreurynter-balloon abortion systems into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of that device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness

tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19951) a proposed regulation to classify metreurynter-balloon abortion systems into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made a minor change in the identification of this device, by clarifying that the extraction of the inflated device from the uterus causes dilation of the cervical os. Accordingly, the proposed regulation is being adopted with this change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 by adding new Subpart F and new § 884.5050, to read as follows:

Subpart F—Obstetrical and Gynecological Therapeutic Devices

§ 884.5050 Metreurynter-balloon abortion system.

(a) *Identification.* A metreurynter-balloon abortion system is a device used to induce abortion. The device is inserted into the uterine cavity, inflated, and slowly extracted. The extraction of the balloon from the uterus causes dilation of the cervical os. This generic type of device may include pressure sources and pressure controls.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5794 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1157]

Obstetrical and Gynecological Devices; Classification of Vacuum Abortion Systems

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vacuum abortion systems into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19952) a proposed regulation to classify vacuum abortion systems into class II (performance standards). A period of 60 days was provided for interested persons to submit written commments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5070, to read as follows:

§ 884.5070 Vacuum abortion system.

(a) *Identification.* A vacuum abortion system is a device designed to aspirate transcervically the products of conception or menstruation from the uterus by using a cannula connected to a suction source. This device is used for pregnancy termination or menstrual regulation. This type of device may include aspiration cannula, vacuum source, and vacuum controller.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371 (a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5795 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

CFR Part 884

[Docket No. 78N–1158]

Obstetrical and Gynecological Devices; Classification of Obstetric Anesthesia Sets

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying obstetric anesthesia sets into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposal regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification

procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19953) a proposed regulation to classify obstetric anesthesia sets into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5100, to read as follows:

§ 884.5100 Obstetric anesthesia set.

(a) *Identification.* An obstetric anesthesis set is an assembly of antiseptic solution, needles, needle guides, syringes, and other accessories, intended for use with an anesthetic drug. This device is used to administer regional blocks (e.g., paracervical, uterosacral, and pudendal) that may be used during labor, delivery, or both.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 317(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5796 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1159]

Obstetrical and Gynecological Devices; Classification of Nonpowered Breast Pumps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying nonpowered breast pumps into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19954) a proposed regulation to classify nonpowered breast pumps into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5150, to read as follows:

§ 884.5150 Nonpowered breast pump.

(a) *Identification.* A nonpowered breast pump is a manual suction device used to express milk from the breast.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5797 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1160]

Obstetrical and Gynecological Devices; Classification of Powered Breast Pumps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administraion (FDA) is issuing a final rule classifying powered breast pumps into class II (performance standards). the effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER FURTHER INFORMATION CONTACT: Lillian L. Yin; Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19955) a proposed regulation to classify powered breast pumps into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371 (a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5160, to read as follows:

§ 884.5160 Powered breast pump.

(a) *Identification.* A powered breast pump in an electrically powered suction device used to express milk from the breast.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5798 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1162]

Obstetrical and Gynecological Devices; Classification of Abdominal Decompression Chambers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying abdominal decompression chambers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19957) a proposed regulation to classify abdominal decompression chambers into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. The one comment that was received on the proposal objected to classifying the device into class III because the device would not be available for those who wish to use it.

The agency disagrees with the comment. Classifying a device into class III does not necessarily mean the device will be more difficult to obtain. Each manufacturer of a device classified into class III will have at least 30 months after the effective date of the final regulation classifying the device into class III to submit to FDA an application for approval of the manufacturer's device. Manufacturers may continue marketing the device during the 30-month period. If a manufacturer's application is approved, the manufacturer may continue to market the device indefinitely. FDA believes that 30 months is sufficient time for a manufacturer to document the safety and effectivenes of its device and to submit an application for approval. Nor does classification into class III prevent the manufacturer from distributing the device for investigational use, to collect safety and effectiveness data.

Persons who disagree with the classification of a device may petition for reclassification under Subpart C of Part 860 (21 CFR Part 860).

2. The comment also stated that, in addition to relieving pain, the device provides other benefits such as improved fetal oxygenation during late pregnancy and reduced incidence of toxemia. The comment further stated that the use of the device does not present risk of supine hypotension described in the proposed regulation because the patient is elevated to a 45-degree angle during use of the device. In addition, the comment stated that in 20 years of use, there have been no reports of illness or injury; therefore, the benefits from the device outweigh the risks.

The agency does not believe that adequate data exist to substantiate the above claims or to determine the device's risk/benefit ratio. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5225, to read as follows:

§ 884.5225 Abdominal decompression chamber.

(a) *Identification.* An abdominal decompression chamber is a hoodlike device used to reduce pressure on the pregnant patient's abdomen for the relief of abdominal pain during pregnancy or labor.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory affairs.

[FR Doc. 80-5799 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1161]

Obstetrical and Gynecological Devices; Classification of Cervical Caps

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying cervical caps into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19956) a proposed regulation to classify cervical caps into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment objected to classifying cervical caps into class II (performance standards) and suggested that this device be classified into class I.

Several other comments stated there have been no reported cases of adverse tissue reaction or trauma associated with the use of the device.

For the reasons given in the proposal, FDA believes that the device is appropriately classified into class II. The comments did not submit any additional data or information not considered by FDA before publishing the proposal.

2. Several comments stated that cervical caps should be available for contraceptive use. Some of these comments requested that more clinical studies be conducted to support the safety and effectiveness of cervical caps for contraceptive use; a few also requested that FDA fund the clinical studies.

The agency is not aware that cervical caps were in commercial distribution in the United States for contraceptive use before May 28, 1976, the enactment date of the Medical Device Amendments. Accordingly, the cervical cap for contraceptive use is classified into class III (premarket approval) by section 513(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360c(f)). Unless the device is reclassified or is the subject of an approved application for premarket approval, cervical caps may be used only as investigational contraceptive devices to collect data on safety and effectiveness. Because available data are insufficient, the agency agrees with the comments that suggested that clinical studies be conducted to determine the safety and effectiveness of cervical caps for contraceptive use. FDA encourages interested persons to conduct these clinical studies. However, the agency does not customarily fund studies intended to evaluate investigational devices.

3. Several comments requested that high priority be given to the establishment of performance standards for contraceptive use of cervical caps.

The agency has proposed that cervical caps used for collection of menstrual flow or to aid in artificial insemination be classified into class II. However, this device cannot be commercially distributed for contraceptive purposes until there are sufficient data to support the device's safety and effectiveness for such a purpose and until the device is reclassified or is the subject of an approved application for premarket approval. FDA explained the procedure used to assign priorities for the development of performance standards for class II devices, in the **Federal Register** of April 3, 1979 (44 FR 19896). Further explanation of FDA device standards policy is provided in documents published in the **Federal Register** of February 1, 1980 (45 FR 7474).

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5250, to read as follows:

§ 884.5250 Cervical cap.

(a) *Identification.* A cervical cap is a flexible cuplike receptacle that fits over the cervix to collect menstrual flow or to aid artificial insemination. This generic type of device is not for contraceptive use.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5800 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1163]

Obstetrical and Gynecological Devices; Classification of Condoms

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying condoms into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that isssue of the **Federal Register** (44 FR 19957) a proposed regulation to classify condoms into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment objected to the proposal to classify condoms into class II because the risks to health presented by the device are insignificant. The comment suggested that these devices be classified into class I.

FDA disagrees with the comment. For the reasons given in the proposal, FDA believes that condoms are appropriately classified into class II. The comment did not submit any additional data or information not already considered by the agency before publishing the proposal.

2. Another comment complained of occasional breakage of condoms and suggested that FDA require manufacturers to warn the user of occasional condom breakage. This comment also objected to the Panel's recommendation that FDA assign a low priority to the development of standards for these devices.

FDA agrees that condom breakage is an inherent problem associated with manufacturing practices. The agency believes that compliance with the good manufacturing practice regulations (21 CFR Part 820) and performance standards will reduce this problem to a minimum. The agency has already explained the procedure used to establish priorities for standards development for class II devices in the **Federal Register** of April 3, 1979 (44 FR 19896) and believes that, at this time, there is no need to disagree with the Panel's recommendation on this matter.

Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))), and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5300, to read as follows:

§ 884.5300 Condom.

(a) *Identification.* A condom is a sheath which completely covers the penis with a closely fitting membrane. The condom is used for contraceptive and for prophylactic purposes (preventing transmission of venereal

disease). The device may also be used to collect semen to aid in the diagnosis of infertility.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5801 Filed 2-25-80; 8:45 am]

BILLING CODE: 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1164]

Obstetrical and Gynecological Devices; Classification of Contraceptive Diaphragms and Accessories

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying contraceptive diaphragms and accessories into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19958) a proposed regulation to classify contraceptive diaphragms and accessories into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

The one comment that was received on the proposal objected to the proposed classification of contraceptive diaphragms and accessories into class II because the risks to health presented by the device are insignificant. The comment suggested that these devices be classified into class I.

FDA disagrees with the comment. For the reasons given in the proposal, FDA believes that these devices need to be subject to a performance standard to assure their safety and effectiveness. The comment did not submit any additional data or information not considered by FDA before publishing the proposal. Accordingly, the proposed regulation is being adopted with a minor clarification of the device identification.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5350, to read as follows:

§ 884.5350 Contraceptive diaphragm and accessories.

(a) *Identification.* A contraceptive diaphragm is a closely fitting membrane placed between the posterior aspect of the pubic bone and the posterior vaginal fornix. The device covers the cervix completely and is used with a spermicide to prevent pregnancy. This generic type of device may include an introducer.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5802 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1165]

Obstetrical and Gynecological Devices; Classification of Contraceptive Intrauterine Devices (IUD) and Introducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying contraceptive intrauterine devices (IUD) and introducers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19959) a proposed regulation to classify contraceptive intrauterine devices (IUD) and introducers into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. However, FDA has made minor changes to clarify the identification of this device. Accordingly, the proposed regulation is being adopted with these changes.

To aid readers, FDA also has added a reference to the labeling requirements for contraceptive IUD's in 21 CFR 801.427.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5360, to read as follows:

§ 884.5360 Contraceptive intrauterine device (IUD) and introducer.

(a) *Identification.* A contraceptive intrauterine device (IUD) is a device used to prevent pregnancy. The device is placed high in the uterine fundus with a string extending from the device through the cervical os into the vagina.

This generic type of device includes the introducer, but does not include contraceptive IUD's that function by drug activity, which are subject to the new drug provisions of the Federal Food, Drug, and Cosmetic Act (see § 310.502).

(b) *Classification.* Class III (premarket approval).

(c) *Labeling.* Labeling requirements for contraceptive IUD's are set forth in § 801.427.

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5803 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1166]

Obstetrical and Gynecological Devices; Classification of Contraceptive Tubal Occlusion Devices (TOD) and Introducers

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying contraceptive tubal occlusion devices (TOD) and introducers into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19961) a proposed regulation to classify contraceptive tubal occlusion devices (TOD) and introducers into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5380, to read as follows:

§ 884.5380 Contraceptive tubal occlusion device (TOD) and introducer.

(a) *Identification.* A contraceptive tubal occlusion device (TOD) and introducer is a device designed to close a fallopian tube with a mechanical structure, e.g., a band or clip on the outside of the fallopian tube or a plug or valve on the inside. The devices are used to prevent pregnancy.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5804 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1167]

Obstetrical and Gynecological Devices; Classification of Perineal Heaters

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying perineal heaters into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19962) a proposed regulation to classify perineal heaters into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5390, to read as follows:

§ 884.5390 Perineal heater.

(a) *Identification.* A perineal heater is a device designed to apply heat directly by contact, or indirectly from a radiant source, to the surface of the perineum (the area between the vulva and the anus) and is used to soothe or to help heal the perineum after an episiotomy (incision of the vulvar orifice for obstetrical purposes).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

Willam F. Randolph,

Acting Associate Commission for Regulatory Affairs.

[FR Doc. 80-5805 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1168]

Obstetrical and Gynecological Devices; Classification of Menstrual Cups

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying menstrual cups into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19963) a proposed regulation to classify menstrual cups into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5400, to read as follows:

§ 884.5400 Menstrual cup.

(a) *Identification.* A menstrual cup is a receptacle placed in the vagina to collect menstrual flow.

(b) *Classification.* Class II (performance standards).

Effective date: This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540-546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5806 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

21 CFR Part 884

[Docket No. 78N-1169]

Obstetrical and Gynecological Devices; Classification of Scented Menstrual Pads

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying scented menstrual pads into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK-470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301-427-7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19964) a proposed regulation to classify scented or deodorized menstrual pads into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment objected to classifying scented menstrual pads as devices on the grounds that these pads are not within the definition of "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)). The comment argued that there is no therapeutic intent or claim made for menstrual pads, that they are intended only to absorb menstrual flow, and that they are not intended to have any effect upon the structure or any function of the body. The comment conceded, however, that sterile menstrual pads sold to hospitals for use in medically indicated conditions are devices.

FDA disagrees with the comment's belief that scented menstrual pads are not devices. It is the agency's judgment that menstrual pads, by virtue of their intended purpose of collecting menstrual or other vaginal fluids, affect a function of the body, and therefore are within the act's definition of "device." This position is consistent with that taken by the agency in a letter dated February 11, 1977, from its Chief Counsel to a manufacturer of menstrual pads (Ref. 1).

2. A second comment argued that even if scented menstrual pads are devices, the long history of safe use of the pads justifies their exemption from the general controls applicable to devices. The comment specifically urged that manufacturers of these products be exempt from: (1) registration, listing, and premarket notification requirements, (2) recordkeeping and reporting requirements, and (3) good manufacturing practice requirements.

FDA disagrees with the comment. The agency believes that granting the exemptions suggested by the comment would not be in the public interest, that compliance with the requirements from which exemptions are suggested is necessary for protection of the public health, and that compliance is not unduly burdensome for manufacturers.

3. Another comment pointed out that the absorbent material most commonly used in scented deodorized menstrual pads is not cotton, but wood pulp. Therefore, the comment recommended that, in the identification, the word "cotton" be replaced by the word "cellulosic".

FDA agrees that the most commonly used material in scented menstrual pads is wood pulp. Both wood pulp and cotton are essentially cellulosic materials. To reflect accurately the materials used in these products, the agency is replacing the word "cotton" with the word "cellulosic" in the identification.

4. FDA has changed the name of the device to delete the word "deodorized," so that the device is now called the "scented menstrual pad." FDA has made this change and similar changes in the identification of the device because present commercial products actually are only scented, and are not deodorized. Menstrual pads treated with an antimicrobial agent or other drug would be regulated as drugs, not

devices. FDA has clarified that the regulation also applies to sterile scented menstrual pads for medically indicated conditions, such as those used in hospitals.

5. The agency believes that biocompatibility standards are necessary for scented menstrual pads to ensure adequate regulation of fragrance materials that may be added to these pads. A woman may use menstrual pads several days each month for most of the 30 to 40 years in which she menstruates. During this time the pads contact the woman's skin and labial mucosa, both of which may readily absorb fragrance materials, some of which may have adverse effects (Ref. 2). Some fragrance materials may cause local irritation, allergic reactions such as allergic contact dermatitis, or other toxic reaction. Friction from the pads may aggravate these adverse effects. Although FDA does not have evidence of serious injuries to women from these risks, there is cause for concern about widespread incidence of minor injuries associated with the use of scented menstrual pads, in view of their extensive use and the possibility that manufacturers may use fragrances having a potential for adverse effects. Biocompatibility standards are necessary to reduce substantial risks to users by regulating the fragrance materials added to scented menstrual pads. As stated in the regulation classifying unscented menstrual pads published elsewhere in this issue of the **Federal Register**, a manufacturer that adds new fragrance materials or makes other modifications of scented menstrual pads which makes the device not substantially equivalent to those scented menstrual pads in commercial distribution before enactment of the 1976 amendments is required to submit premarket notification to FDA under section 510(k) of the act (21 U.S.C. 360(k)) and Subpart E of Part 807 of the regulations. The modified device also is classified into class III (premarket approval) by section 513(f) of the act (21 U.S.C. 360c(f)).

Accordingly, the proposed regulation is being adopted with these changes.

Reference

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Letter from Chief Counsel, FDA, to a manufacturer of menstrual pads.

2. Fingl, E. and D. M. Woodbury, "General Principles," *in* "The Pharmacological Basis of Therapeutics," 5th Edition, edited by Goodman, L. S., and A. Gilman, the MacMillan Co., New York, p. 8, 1975.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5425, to read as follows:

§ 884.5425 Scented menstrual pad.

(a) *Identification.* A scented menstrual pad is a device that is a pad made of cellulosic or synthetic material which is used to absorb menstrual or other vaginal discharge. It has scent (i.e., fragrance materials) added for aesthetic purposes. This generic type of device includes sterile scented menstrual pads used for medically indicated conditions, but does not include menstrual pads treated with added antimicrobial agents or other drugs.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: February 15, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5807 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1170]

Obstetrical and Gynecological Devices; Classification of Unscented Menstrual Pads

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying unscented menstrual pads into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19964) a proposed regulation to classify untreated menstrual pads into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment objected to classifying untreated menstrual pads as devices on the grounds that these pads are not within the definition of "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)). The comment argued that there is no therapeutic intent or claim made for menstrual pads, that they are intended only to absorb menstrual flow, and that they are not intended to have any effect upon the structure or any function of the body.

FDA disagrees with the comment's belief that menstrual pads are not devices. It is the agency's judgment that menstrual pads, by virtue of their intended purpose of collecting menstrual or other vaginal fluids, affect a function of the body, and therefore are within the act's definition of "device." This position is consistent with that taken by the agency in a letter dated February 11, 1977, from its Chief Counsel to a manufacturer of menstrual pads (Ref. 1).

2. A second comment argued that even if untreated menstrual pads are devices, the long history of safe use of the pads justifies their exemption from general controls applicable to devices. The comment specifically urged that manufacturers of these products be exempt from: (1) registration, listing, and premarket notification requirements, (2) recordkeeping and reporting requirements, and (3) good manufacturing practice requirements.

FDA disagrees with the comment. The agency believes that granting the exemptions suggested would not be in the public interest, that compliance with the requirements from which exemptions are suggested is necessary for protection of the public health, and that compliance is not unduly burdensome for manufacturers.

3. Another comment pointed out that the absorbent material most commonly used in untreated menstrual pads is not cotton, but wood pulp. Therefore, the comment recommended that in the

definition the word "cotton" be replaced by the word "cellulosic."

FDA agrees that the most commonly used material in untreated menstrual pads is wood pulp. Both wood pulp and cotton are essentially cellulosic materials. To reflect accurately the materials used in these products, the agency is replacing the word "cotton" with the word "cellulosic" in the identification.

4. FDA has changed the identification to change the term "untreated" to "unscented" in the name of the device and its identification and to clarify that the regulation also applies to sterile unscented menstrual pads for medically indicated conditions, such as those used in hospitals.

5. For the reasons discussed in a regulation classifying scented menstrual pads into class II published elsewhere in this issue of the **Federal Register**, FDA is concerned about the toxicity of some fragrance materials added to scented menstrual pads because of the possibility that these fragrance materials may be absorbed into the skin or labial mucosa and some fragrance materials may cause local irritation, allergic reactions such as allergic contact dermatitis, or other toxic reactions. Because potentially harmful materials other than fragrance materials may be used in the manufacture of unscented menstrual pads, it can be argued that unscented menstrual pads also should be classified into class II. However, the number of consumer complaints and adverse reaction reports that FDA has received concerning unscented menstrual pads is relatively low. For this reason, FDA cannot now justify classifying into class II those unscented menstrual pads that are subject to this classification regulation, namely, unscented menstrual pads consisting only of materials in use before enactment of the Medical Device Amendments of 1976. Under the premarket notification procedures under section 510(k) of the act (21 U.S.C. 360(k)) and Subpart E of Part 807 of the regulations (21 CFR Part 807 Subpart E), manufacturers of all unscented menstrual pads are required to notify FDA before they make a modification of the device, if this modification makes the device not substantially equivalent to the unscented menstrual pads in commercial distribution before enactment of the 1976 amendments. The modified device also is in class III (premarket approval) by virtue of section 513(f) of the act (21 U.S.C. 360c(f)).

FDA will consider reclassifying unscented menstrual pads into class II if it learns, through premarket notifications, consumer complaints, adverse reaction reports, or other sources, that the materials used in unscented menstrual pads present sufficient risk to consumers to justify this action.

Accordingly, the proposed regulation is being adopted with these changes.

Reference

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons, from 9 a.m. to 4 p.m., Monday through Friday.

1. Letter from Chief Counsel, FDA, to a manufacturer of menstrual pads.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5435 to read as follows:

§ 884.5435 Unscented menstrual pad.

(a) *Identification.* An unscented menstrual pad is a device that is a pad made of cellulosic or synthetic material which is used to absorb menstrual or other vaginal discharge. This generic type of device includes sterile unscented menstrual pads used for medically indicated conditions, but does not include menstrual pads treated with scent (i.e., fragrance materials) or those with added antimicrobial agents or other drugs.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: February 15, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5808 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1171]

Obstetrical and Gynecological Devices; Classification of Scented Menstrual Tampons

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying scented menstrual tampons into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19965) a proposed regulation to classify scented menstrual tampons into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment suggested that tampons do not meet the definition of "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

FDA disagrees with the comment. It is the agency's judgment that menstrual tampons, by virtue of their intended purpose of collecting menstrual and other vaginal fluids, affect a function of the body, and therefore are within the act's definition of "device." This position is consistent with that taken by the agency in a letter dated February 11, 1977, from its Chief Counsel to the attorneys for a manufacturer of menstrual tampons (Ref. 5).

2. One comment urged that manufacturers of these devices be exempt from the requirements in the good manufacturing practice (GMP) regulation (21 CFR Part 820). The comment argued that scented menstrual tampons have been on the market for several years and have been proven to be safe.

FDA disagrees with the comment. The agency believes that granting an exemption from the requirements of the GMP regulation would not be in the public interest, that compliance with the requirements from which exemption is suggested is necessary for the protection of the public health, and that

compliance is not unduly burdensome for manufacturers.

3. One comment objected to the Panel's recommendation that the proper size of the tampons for young girls be specified in the labeling, because the age of the girl is not the only factor that affects the size of the vagina. The comment proposed that labeling should advise all users about the proper size of tampons. The comment also objected to the Panel's recommendation to display prominently on the package a cautionary statement, "discontinue use if sensitivity or irritation occurs." The comment believes it unnecessary that this statement appear prominently on the package, if it appears somewhere in the product's labeling.

FDA partially agrees with the comment. The agency agrees with the comment with respect to the labeling needed to inform all users about the proper size of tampons. However, the agency believes that specific labeling requirements, including the need for warnings on labeling for tampons, should be considered when performance standards are developed for scented menstrual tampons. A separate regulation concerning labeling of these devices may be developed, if necessary.

4. Several comments argued that difficult removal and pressure necrosis result from consumer misuse and not from swelling of the device or use of tampons of improper size.

The agency disagrees with these comments. FDA is aware that cervical necrosis is more prevalent with super-absorbent tampons, which have greater swelling capacity than regular tampons. FDA believes that regular use of tampons of improper size may result in difficult removal of the device and cervical ulceration.

5. One comment suggested that FDA should have included "difficult removal" of tampons in the list of "risks to health" presented by the device. The comment stated that difficult removal is caused by lack of anchor strength rather than lack of wet strength of the tampon string as stated in the proposed regulation. The comment also stated that breakage of tampon strings may be controlled by compliance with the good manufacturing practice regulation.

FDA partially agrees with the comment. The agency believes that difficult removal of tampons should be considered among the "risks to health" presented by tampons. The agency believes that difficult removal may be due to the lack of anchor strength as well as the lack of wet strength of the tampon string. However, the agency believes that the problem of string breakage may be controlled by performance standards for menstrual tampons as well as by compliance with the device good manufacturing practice regulation.

6. FDA has changed the name of the device to delete the word "deodorized," so that the device is now the "scented menstrual tampon." FDA made this change because present commercial products are only scented and are not deodorized. Tampons treated with an antimicrobial agent or other drug would be regulated as drugs, not as devices. FDA also has changed the identification of the device to clarify this matter. Because the device is made from both cotton and wood pulp that are cellulosic materials, FDA has changed the identification to show the device is made from "cellulosic" rather than "cotton" materials.

7. Two comments objected to classifying scented menstrual tampons into class II and recommended that they be classified into class I. The comments also argued that the recommended biocompatibility standards are overly conservative.

The agency disagrees with the comments suggesting that the device be classified into class I. Biocompatibility and material standards are necessary for menstrual tampons to ensure adequate regulation of fragrance materials or other materials that may be added to tampons to affect their aesthetic acceptability, absorbency, or other properties. These materials may cause excessive drying of the mucosal surface of the vagina, leading to microulcerations and making removal difficult. Chronic production of these ulcerations could cause clinically obvious lesions of the vagina. Some fragrance materials or other materials used in tampons may cause local irritation, allergic reactions such as allergic contact dermatitis, or other toxic reaction, because mucosal surfaces readily absorb materials (Ref. 1). Because a woman may use menstrual tampons several days each month for most of the 30 to 40 years in which she menstruates, she is exposed to the risks of excessive drying of the mucosal surface and the absorption of harmful materials from tampons for an extended time. Reports and published data in medical journals confirm that vaginal ulceration, laceration, and irritation may be caused by menstrual tampons (Refs. 2 and 3). Even if few women experience serious injuries from menstrual tampons, there is cause for concern about widespread incidence of minor injuries associated with use of these products, in view of their extensive use and the possibility that manufacturers may add materials having a potential for adverse effects. FDA has received numerous letters from consumers expressing concern about risks to their health from the addition of harmful materials to tampons (Ref. 4). Biocompatibility and material standards are necessary to reduce risks to consumers by regulating all materials used in the manufacture of menstrual tampons. As stated in the regulation classifying unscented menstrual pads published elsewhere in this issue of the **Federal Register**, a manufacturer that adds new fragrance materials or makes other modifications of scented menstrual tampons which make the device not substantially equivalent to those scented menstrual tampons in commercial distribution before enactment of the 1976 amendments is required to submit premarket notification to FDA under section 510(k) of the act (21 U.S.C. 360(k)) and Subpart E of Part 807 of the regulations. The modified device also is classified into class III (premarket approval) by section 513(f) of the act (21 U.S.C. 360(f)).

Accordingly, the proposed regulation is being adopted with these changes.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Fingl, E., and Woodbury, D. M., "General Principles," *in* "The Pharmacological Basis of Therapeutics," 5th Edition, edited by Goodman, L. S., and A. Gilman, the MacMillan Co., New York, p. 8, 1975.

2. Colins, R. K., "Tampon-induced vaginal lacerations," *The Journal of Family Practice*, 9:127–128, (1979).

3. Barret, K. F., et al., "Tampon-induced vaginal or cervical ulceration," *American Journal of Obstetrics and Gynecology*, 127:332–333, (1977).

4. Letters from consumers expressing concern about chemicals added to tampons.

5. Letter from Chief Counsel, FDA, to attorneys for a manufacturer of menstrual tampons.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5460, to read as follows:

§ 884.5460 Scented menstrual tampon.

(a) *Identification.* A scented menstrual tampon is a device that is a plug made of cellulosic or synthetic material that is inserted into the vagina and used to absorb menstrual or other

vaginal discharge. It has scent (i.e., fragrance materials) added for aesthetic purposes. This generic type of device does not include menstrual tampons treated with added antimicrobial agents or other drugs.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: February 15, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5809 Filed 2-25-80: 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1172]

Obstetrical and Gynecological Devices; Classification of Unscented Menstrual Tampons

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying unscented menstrual tampons into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19966) a proposed regulation to classify untreated menstrual tampons into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment suggested that tampons do not meet the definition of "device" in section 201(h) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(h)).

FDA disagrees with the comment. It is the agency's judgment that menstrual tampons, by virtue of their intended purpose of collecting menstrual or other vaginal fluids, affect a function of the body, and therefore are within the act's definition of "device". This position is consistent with that taken by the agency in a letter dated February 11, 1977, from its Chief Counsel to the attorneys for a manufacturer of menstrual tampons (Ref. 5).

2. One comment urged that manufacturers of these devices be exempt from the good manufacturing practice (GMP) regulation (21 CFR Part 820). The comment argued that tampons have been on the market for several years and have been proven to be safe.

FDA disagrees with the comment. The agency believes that granting an exemption from the requirements of the GMP regulation would not be in the public interest, that compliance with the requirements from which exemption is suggested is necessary for the protection of the public health, and that compliance is not unduly burdensome for manufacturers.

3. One comment objected to the Panel's recommendation that the proper size of tampons for young girls be specified in the labeling, because age of the girl is not the only factor that affects the size of the vagina. The comment proposed that labeling advise all users about the proper size of tampons. The comment also objected to the Panel's recommendation that manufacturers display prominently on the package a cautionary statement, "discontinue use if sensitivity or irritation occurs." The comment believes it unnecessary that this statement appear prominently on the package if it appears somewhere in the product's labeling.

FDA partially agrees with the comment. The agency agrees with the comment with respect to the labeling needed to inform all users about the proper size of tampons. However, the agency believes that specific labeling requirements, including the need for warnings on labeling for tampons, should be considered when performance standards are developed for unscented menstrual tampons. A separate regulation concerning labeling of these devices may be developed, if necessary.

4. Several comments argued that difficult removal and pressure necrosis result from consumer misuse and not from swelling of the device or use of tampons of improper size.

The agency disagrees with these comments. FDA is aware that cervical necrosis is more prevalent with super-absorbent tampons, which have greater swelling capacity than regular tampons. FDA believes that regular use of tampons of improper size may result in difficult removal of the device and cervical ulceration.

5. One comment pointed out that the statement requiring proper sterilization of tampons in the classification proposal is erroneous.

FDA agrees with the comment. This statement should be considered deleted.

6. One comment suggested that FDA should have included "difficult removal" of tampons in the list of "risks to health" presented by the device. The comment stated that difficult removal is caused by lack of anchor strength rather than lack of wet strength of the tampon string as stated in the proposed regulation. The comment also stated that breakage of tampon strings may be controlled by compliance with the good manufacturing practice regulation.

FDA partially agrees with the comment. The agency believes that difficult removal of tampons should be considered among the "risks to health" presented by tampons. The agency believes that difficult removal may be due to the lack of anchor strength as well as the lack of wet strength of the tampon string. However, the agency believes that the problem of string breakage may be controlled by performance standards for menstrual tampons as well as by compliance with the device good manufacturing practice regulation.

7. Because the device is made from both cotton and wood pulp that are cellulosic materials, FDA has changed the identification to show the device is made from "cellulosic" rather than "cotton" materials. FDA also has changed the term "untreated" to "unscented" in the name of the device and its identification.

8. Two comments objected to classifying untreated menstrual tampons into class II and recommended that they be classified into class I. The comments also argued that the recommended biocompatibility standards are overly conservative.

The agency disagrees with the comments suggesting that the device be classified into class I. Biocompatibility and material standards are necessary for menstrual tampons to ensure adequate regulation of the materials that may be added to tampons to affect their aesthetic acceptability, absorbency, or other properties. These materials may cause excessive drying of the mucosal surface of the vagina, leading to microulcerations and making removal difficult. Chronic production of these

ulcerations could cause clinically obvious lesions of the vagina. Some materials used in tampons may cause local irritation, allergic reactions such as allergic contact dermatitis, or other toxic reaction, because mucosal surfaces readily absorb materials (Ref. 1). Because a woman may use menstrual tampons several days each month for most of the 30 to 40 years in which she menstruates, she is exposed to the risk of absorption of harmful materials from tampons for an extended time. Reports and published data in medical journals confirm that vaginal ulceration, laceration, and irritation may be caused by menstrual tampons (Refs. 2 and 3). Even if few women experience serious injuries from menstrual tampons, there is cause for concern about widespread incidence of minor injuries associated with use of these products, in view of their extensive use and the possibility that manufacturers may add materials having a potential for adverse effects. FDA has received numerous letters from consumers expressing concern about risks to their health from the addition of harmful materials to tampons (Ref. 4). Biocompatibility and material standards are necessary to reduce risks to consumers by regulating all materials used in the manufacturer of menstrual tampons. As stated in the regulation classifying unscented menstrual pads published elsewhere in this issue of the **Federal Register**, a manufacturer that adds materials or makes other modifications of unscented menstrual tampons which makes the device not substantially equivalent to those unscented menstrual tampons in commercial distribution before enactment of the 1976 amendments is required to submit premarket notification to FDA under section 510(k) of the act (21 U.S.C. 360(k)) and Subpart E of Part 807 of the regulations. The modified device also is classified into class III (premarket approval) by section 513(f) of the act (21 U.S.C. 360c(f)).

Accordingly, the proposed regulation is being adopted with these changes.

References

The following information has been placed in the office of the Hearing Clerk (HFA–305), Food and Drug Administration, Rm. 4–65, 5600 Fishers Lane, Rockville, MD 20857, and may be seen by interested persons from 9 a.m. to 4 p.m., Monday through Friday.

1. Fingl, E., and Woodbury, D. M., "General Principles," in "The Pharmacological Basis of Therapeutics," 5th Edition, edited by Goodman, L. S. and A. Gilman, the MacMillan Co., New York, p. 8, 1975.

2. Colins, R. K., "Tampon-induced vaginal lacerations, *The Journal of Family Practice*, 9:127–128, (1979).

3. Barret, K. F., et al., "Tampon-induced vaginal or cervical ulceration, "*American Journal of Obstetrics and Gynecology*, 127: 332–333, 1977.

4. Letters from consumers expressing concern about chemicals added to tampons.

5. Letter from Chief Counsel, FDA, to attorneys for a manufacturer of menstrual tampons.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat, 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5470, to read as follows:

§ 884.5470 Unscented menstrual tampon.

(a) *Identification.* An unscented menstrual tampon is a device that is a plug made of cellulosic or synthetic material that is inserted into the vagina and used to absorb menstrual or other vaginal discharge. This generic type of device does not include menstrual tampons treated with scent (i.e., fragrance materials) or those with added antimicrobial agents or other drugs.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: February 15, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80–5810 Filed 2–25–80; 8:45 am]

BILLING CODE 4110–03–M

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21 CFR Part 884

[Docket No. 78N–1173]

Obstetrical and Gynecological Devices; Classification of Therapeutic Vaginal Douche Apparatus

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying therapeutic vaginal douche apparatus into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19967) a proposed regulation to classify vaginal douche kits into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

The one comment received said that vaginal douche kits intended to cleanse the vagina are not devices, but are cosmetics. The comment also said that FDA's proposal to classify douche kits intended to cleanse the vagina as class II devices is contrary to the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(i)).

FDA agrees with the comment. The agency has changed the name and identification of the device to clarify that this regulation is intended to classify only the douche apparatus when packaged without solutions and when the apparatus is intended and labeled for use in the treatment of medical conditions. Douche apparatus packaged in a kit with douche solutions, or douche solutions packaged separately, are either drugs or cosmetics, depending upon the intended use and labeling accompanying the products. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5900, to read as follows:

§ 884.5900 Therapeutic vaginal douche apparatus.

(a) *Identification.* A therapeutic vaginal douche apparatus is a device that is a bag or bottle with tubing and a nozzle. The apparatus does not include douche solutions. The apparatus is intended and labeled for use in the treatment of medical conditions except it is not for contraceptive use. After filling the therapeutic vaginal douche

apparatus with a solution, the patient uses the device to direct a stream of solution into the vaginal cavity.

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5811 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1174]

Obstetrical and Gynecological Devices; Classification of Vaginal Insufflators

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying vaginal insufflators into class I (general controls). The effect of classifying a device into class I is to require that the device meet only the general controls applicable to all devices. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19968) a proposed regulation to classify vaginal insufflators into class I (general controls). A period of 60 days was provided for interested persons to submit written comments to FDA.

No written comments have been received regarding the proposed regulation to classify this device. Accordingly, the proposed regulation is being adopted without change.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5920, to read as follows:

§ 884.5920 Vaginal insufflator.

(a) *Identification.* A vaginal insufflator is a device used to treat vaginitis by introducing medicated powder from a hand-held bulb into the vagina through an open speculum.

(b) *Classification.* Class I (general controls).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5812 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1175]

Obstetrical and Gynecological Devices; Classification of Powered Vaginal Muscle Stimulators for Therapeutic Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying powered vaginal muscle stimulators for therapeutic use into class III (premarket approval). The effect of classifying a device into class III is to require each manufacturer of the device to submit to FDA a premarket approval application that includes information concerning safety and effectiveness tests for the device. Each application must be submitted to FDA on or before September 30, 1982, or 90 days after promulgation of a separate regulation requiring premarket approval of the device, whichever occurs later. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910, 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological Device Classification Panel. FDA also published in that issue of the **Federal Register** (44 FR 19969) a proposed regulation to classify powered vaginal muscle stimulators into class III (premarket approval). A period of 60 days was provided for interested persons to submit written comments to FDA.

The one comment received on the proposal stated that FDA should classify both powered vaginal muscle stimulators and genital vibrators (Docket No. 78N–1176) into class III. FDA had proposed that the latter device be classified into class II (44 FR 19970). The comment suggested that the health hazards of both devices are very similar.

The agency disagrees with the comment that both devices should be classified into class III. The health hazards from both devices are, in fact, different. In the case of powered vaginal muscle stimulators, the hazards arise from the direct application of electrical energy to the vaginal muscles. However, in the case of genital vibrators, the electrical energy is not applied directly to the body, and, hence, the electrical hazards are indirect. The greater risk presented by the powered vaginal muscle stimulators justifies its classification into class III. The indirect electrical risk presented by genital vibrators for therapeutic use justifies their classification into class III, but not their classification into class II.

FDA has changed the name and identification of the device to clarify that the regulation applies only to powered vaginal muscle stimulators intended and labeled for therapeutic use as specified in the regulation. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5940, to read as follows:

§ 884.5940 Powered vaginal muscle stimulator for therapeutic use.

(a) *Identification.* A powered vaginal muscle stimulator is an electrically powered device designed to stimulate directly the muscles of the vagina with pulsating electrical current. This device is intended and labeled for therapeutic use in increasing muscular tone and

strength in the treatment of sexual dysfunction. This generic type of device does not include devices used to treat urinary incontinence.

(b) *Classification.* Class III (premarket approval).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

Willam F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5813 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

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21 CFR Part 884

[Docket No. 78N-1176]

Obstetrical and Gynecological Devices; Classification of Genital Vibrators for Therapeutic Use

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is issuing a final rule classifying genital vibrators for therapeutic use into class II (performance standards). The effect of classifying a device into class II is to provide for the future development of one or more performance standards to assure the safety and effectiveness of the device. This action is being taken under the Medical Device Amendments of 1976.

EFFECTIVE DATE: March 27, 1980.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Bureau of Medical Devices (HFK–470), Food and Drug Administration, Department of Health, Education, and Welfare, 8757 Georgia Ave., Silver Spring, MD 20910. 301–427–7555.

SUPPLEMENTARY INFORMATION: FDA published in the **Federal Register** of April 3, 1979 (44 FR 19894), a proposed regulation explaining the development of the proposed regulations classifying obstetrical and gynecological devices, the medical device classification procedures, and the activities of the Obstetrical and Gynecological device Classification Panel. FDA also published in the issue of the **Federal Register** (44 FR 19970) a proposed regulation to classify genital vibrators for therapeutic use into class II (performance standards). A period of 60 days was provided for interested persons to submit written comments to FDA.

1. One comment suggested that vibrators are used to cure chronic leg muscle cramps.

The genital vibrators subject to this regulation do not include devices used to treat chronic leg muscle cramps. Devices used to treat leg muscle cramps are subject to proposed regulations on physical therapy muscle relaxers (Docket No. 78N–1252, 44 FR 50524), or physical therapy pulsators (Docket No. 78N–1266, 44 FR 50536). These proposed regulations were published in the **Federal Register** of August 28, 1979.

2. Two comments suggested suggested that FDA should not waste Federal tax money to regulate genital vibrators. One of these comments also suggested that there is not sufficient information with which to write a standard that addresses the effectiveness of genital vibrators to increase muscle tone.

FDA is required by law to regulate all medical devices. The agency believes that only those genital vibrators for which therapeutic claims are made are subject to the definition of "devices" in the Federal Food, Drug, and Cosmetic Act. However, no manufacturer has yet registered with the agency to market genital vibrators for therapeutic use. The agency believes sufficient information exists to develop performance standards on electrical safety and biocompatibility.

FDA has changed the name and identification of the device to clarify that the regulation applies only to genital vibrators intended and labeled for therapeutic use as specified in the regulation. Accordingly, the proposed regulation is being adopted with these changes.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a))) and under authority delegated to him (21 CFR 5.1), the Commissioner of Food and Drugs is amending Part 884 in Subpart F by adding new § 884.5960, to read as follows:

§ 884.5960 Genital vibrator for therapeutic use.

(a) *Identification.* A genital vibrator for therapeutic use is an electrically operated device intended and labeled for therapeutic use in the treatment of sexual dysfunction or as an adjunct to Kegel's exercise (tightening of the muscles of the pelvic floor to increase muscle tone).

(b) *Classification.* Class II (performance standards).

Effective date. This regulation shall be effective March 27, 1980.

(Secs. 513, 701(a), 52 Stat. 1055, 90 Stat. 540–546 (21 U.S.C. 360c, 371(a)))

Dated: January 23, 1980.

William F. Randolph,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 80-5814 Filed 2-25-80; 8:45 am]

BILLING CODE 4110-03-M

federal register

Tuesday
February 26, 1980

Part III

Environmental Protection Agency

Hazardous Waste Management: Overview and Definitions; Generator Regulations; Transporter Regulations

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 260

[FRL 1395-7]

Hazardous Waste Management; Overview and Definitions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended, provides for the development and implementation of a comprehensive program to protect human health and the environment from the improper management of hazardous waste. A fundamental premise of the statute is that human health and the environment will best be protected by careful management of the transportation, treatment, storage, and disposal of hazardous waste, in accordance with standards developed under the Act. In today's **Federal Register**, the Environmental Protection Agency is publishing several documents setting in motion a series of events which will culminate in full implementation of the hazardous waste control program. This document sets forth definitions of words and phrases which appear in the subsequent Parts as well as general guidance for the use of these regulations and provisions which are generally applicable to all Parts.

DATES: Effective date: August 26, 1980. Compliance date: Six months after the promulgation of 40 CFR Part 261.

ADDRESSES: The official docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street SW., Washington, D.C., and is available for viewing from 9:00 am to 4:00 pm Monday through Friday, excluding holidays.

For information on the implementation of these regulations, contact your EPA Regional Office.

FOR FURTHER INFORMATION CONTACT: Harry W. Trask, Office of Solid Waste, (WH-563), U.S. Environmental Protection Agency, Washington D.C. 20460. (202) 755-9150.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is issued under the authority of sections 2002(a) and 3001 through 3006 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 ("RCRA" or the "the Act"), 42 U.S.C. § 6912(a) and 6921 through 6925.

II. Background

Subtitle C of the Act establishes a federal program to provide comprehensive regulation of hazardous waste. When fully implemented, this program will provide "cradle-to-grave" regulation of hazardous wastes. The Act directs EPA, after developing appropriate criteria, to identify the characteristics of hazardous waste and to list particular wastes as hazardous. (Section 3001.) To regulate the transportation and handling of the wastes so identified or listed, EPA is directed to establish standards for generators and transporters of hazardous waste which are to ensure, among other things, proper recordkeeping and reporting, the use of a manifest system to track shipments of hazardous waste, the use of proper labels and containers and the delivery of the waste to properly permitted treatment, storage, and disposal facilities. (Sections 3002, 3003). In order to obtain a permit, these latter facilities—whether on the site of generation or off-site—must meet federal standards concerning, among other things, location, design, construction, operation, and closure. (Section 3004, 3005).

EPA is today promulgating in final form elsewhere in this issue of the **Federal Register** regulations which set forth standards applicable to generators and transporters of hazardous waste (Parts 262 and 263). These regulations were proposed as Part 250 at 43 FR 18506, April 28, 1978 and 43 FR 58946, December 18, 1978. As proposed, these regulations contained definitions pertinent to the specific standards set forth in each section.

A Public Notice establishing procedures for filing a notification of hazardous waste activity is also being published today. Other regulations, which are to be promulgated within the next several months, will identify and list hazardous wastes, and establish standards and permit requirements for hazardous waste management facilities. These regulations taken together, will form the nucleus of the federal program to regulate hazardous waste.

III. Organization of the Regulations

The overall organization of the regulations pertaining to the regulation of hazardous waste is straightforward. Part 260 will provide definitions of words and phrases which appear in the subsequent Parts. In addition, Part 260 will provide general guidance for the use of these regulations, and set forth provisions which are generally applicable to all Parts. Part 261 will identify characteristics of hazardous waste and list particular wastes as hazardous. Parts 262 and 263 set forth standards applicable to generators and transporters of hazardous waste respectively; and Parts 264 and 265 will establish standards (interim and final) for facilities that treat, store, or dispose of hazardous waste. Parts 122, 123, and 124 will set forth procedures for obtaining a permit. Part 123 will establish standards for determining equivalence of State hazardous management programs.

IV. Definitions

The Act defines a number of terms, many of which apply to the management of hazardous waste. These definitions, which appear at section 1004 of the Act and which have not been modified for purposes of these regulations, are not repeated in this regulation. The definitions being published today pertain to the regulations establishing standards applicable to generators and transporters of hazardous waste. When other Subtitle C regulations are promulgated, this Part will be amended to include additional definitions.

Two terms, which are important to the regulations in Parts 262 and 263, are not included in the definitions published today. The definition of "hazardous waste" and "hazardous waste generator" are being necessarily deferred until the promulgation of Part 261. This regulation will provide the testing methods which may be used for determining whether a particular waste is hazardous and it will also list specific wastes as hazardous. Furthermore, Part 261, in determining which wastes are hazardous will also determine which persons are subject to regulation as generators of hazardous waste. Part 261, for example, will determine whether a person's generation of a small quantity of hazardous waste will subject that person to the requirements of Part 262.

Most of the terms defined herein are not controversial. These definitions include the terms: authorized representative, EPA identification number, international shipment, person, transporter, transportation, and water (bulk shipment). The definitions are included to provide guidance to persons using these regulations.

Several of these terms are briefly explained here:

"Authorized representative" has been defined in the same manner as that phrase appears in EPA's permit regulations [40 CFR 122.5(b)(1) as revised at 44 FR 32854, 32903 (June 7, 1979)]. This representative, who is the

person responsible for the overall operation of the installation, is the person who must, among other things, sign the Annual and Exception Reports of the generator.

"Manifest" as defined in Section 1004(12) of the Act stated that the manifest was a "form". EPA has decided, for reasons discussed in the background documents supporting Section 262, that a more flexible shipping document was desirable. Accordingly, EPA has defined manifest as the "shipping document" which is originated and signed by the generator and which contains information required by Part 262.

"Person", for the purposes of these regulations, has been defined to include the phrase "Federal Agency" as that phrase is defined in the Act. With the addition of the phrase "federal agency," the definition of "person" in this regulation is broader than the definition of "person" in the Act. Section 6001 of the Act requires all federal entities to be subject and comply with all federal, state, local and interstate requirements, both substantive and procedural. Therefore, the definition of person in this regulation allows EPA to refer to "any person" rather than the cumbersome term "any person or Federal Agency" when stating a requirement applicable to everyone.

"Water (bulk shipment)" is defined to distinguish bulk shipments from other water shipments. The definition is adopted from the Secretary of Transportation's delegation to the Commandant of the Coast Guard of regulatory authority over bulk transportation of hazardous materials. (49 CFR 1.47).

The proposed regulations defined "on-site" as "on the same or geographically contiguous property. Two or more pieces of property which are geographically contiguous and are divided by public or private right(s)-of-way are considered a single site." In the proposed regulations, if treatment, storage or disposal of hazardous waste occurred on the site of generation, the generator did not have to use a manifest for the transportation of that waste and he did not have to comply with the requirements respecting the use of labels, containers, marking and placarding. The manner in which on-site was defined, therefore, was of central importance in determining the responsibilities of generators.

Most commenters urged EPA to adopt an expansive definition of on-site which would relieve the generator of the transportation requirements of the Act. Several commenters stated that EPA should simply apply a radius to determine whether disposal occurred on-site, they suggested distances up to 50 miles as appropriate. Other commenters argued that the requirement that the properties be contiguous was unduly restrictive and suggested alternatives. These included that the properties be in "close proximity," or that the properties be connected by private rights-of-way. Another commenter stated that, if the properties were divided by a natural barrier, they should be considered a single site in the same manner as properties divided by roads.

EPA's response to each of these comments stems from its position that if hazardous waste is transported upon public highways, the manifest and transportation requirements apply fully. These requirements are designed to safeguard human health and the environment in the transportation of hazardous waste, regardless of the distance that the waste is being transported. To reflect this position and in partial response to the comments, the final regulation has been revised to include as "on-site" non-contiguous property owned by the generator which is connected by a "right-of-way which he controls and to which the public does not have access." The definition, however, retains within the ambit of "on-site" two properties divided by private or public rights-of-way. Merely crossing the public right-of-way to gain access to property under the control of the generator does not create the same dangers to the public that transportation upon public highways entails.

In the proposed regulation, the word "spill" was defined to mean "any accidental discharge of a hazardous waste onto or into the land or water." Generators were required to provide information on the manifest on the manner in which spills of their hazardous waste were to be handled and transporters were to undertake certain actions in the event of a spill and to file reports on spills. Owners and operators of treatment, storage, and disposal facilities were to have contingency plans which detailed their preparedness and plans to handle spills of hazardous waste.

A variety of comments were received on the definition of spill. Many of these concerned the relationship between this RCRA definition and that contained in section 311 of the Clean Water Act concerning discharges of hazardous substances into the navigable waters. Commenters urged, among other things, that EPA define the word "discharge" for RCRA purposes, that EPA should extend the definition of "spill" to include intentional as well as accidental spills, and, that specific exclusions should be incorporated in the definition of spill to provide for discharges or spills permitted by Federal environmental statutes.

In the definition and regulations, EPA has adopted the term "hazardous waste discharge", which is defined as "the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste onto or into the land or water or a material listed in 40 CFR 261.33 which because it is discharged becomes a hazardous waste." The word "spill" is not used in the Parts 262 or 263. The definition of hazardous waste discharge is consistent with the definition of "discharge" in section 311 of the Clean Water Act. Inclusion of intentional as well as accidental discharges is consistent with Section 311. The threat to human health and the environment posed by intentional discharges is the same as that posed by accidental ones. EPA has determined that both types of discharges require transporters to take immediate action to minimize the dangers associated with the waste, to clean up the waste, and to file reports. The definition of hazardous waste discharge now includes commercial chemical products or other materials listed in 40 CFR 261.33 which become hazardous waste materials when they are discharged. Inclusion of these materials in this definition makes applicable the transportation regulations on discharges.

Substantive issues concerning, for example, coordination of RCRA's discharge provisions and those of other environmental statutes, notably the Clean Water Act, are dealt with in regulations implementing particular sections of the Act and supporting documents thereto.

IV. Economic and Environmental Impacts

In accordance with Executive Orders 12044 and 11821 as amended by Executive Order 11949, OMB Circular A–107 and EPA policy as stipulated in 39 FR 37419 (October 21, 1974), draft analyses of economic and environmental impacts have been prepared for all of Subtitle C, Hazardous Waste Management. The final Environmental Impact Statement will be available following the promulgation of the regulation implementing Section 3001 of the Act.

Dated: February 19, 1980.

Douglas M. Costle,

Administrator.

Title 40 CFR is amended by adding a new Part 260 to read as follows:

PART 260—HAZARDOUS WASTE MANAGEMENT: OVERVIEW AND DEFINITIONS

Subpart A—Definitions

Sec.
260.10 Definitions.

Subpart B—General

[Reserved]

Authority: Sections 2002(a), 3001 through 3010, Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. §§ 6912(a), 6921 through 6930).

Subpart A—Definitions

§ 260.10 Definitions.

When used in the regulations set forth in Parts 261, 262, 263, 264, and 265 of this title, the following terms have the meanings given below:

(a) "Authorized Representative" means the person responsible for the overall operation of the installation, e.g., plant manager, superintendent or person of equivalent responsibility.

(b) "EPA identification number" means the unique number assigned by EPA to each generator, transporter, and treatment, storage, or disposal facility.

(c) "Hazardous waste discharge" means the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying or dumping of hazardous waste or a material listed in 40 CFR 261.33 which, because it is discharged, becomes a hazardous waste, onto or into the land or water.

(d) "International shipment" means the transportation of hazardous waste into or out of the jurisdiction of the United States.

(e) "Manifest" means the shipping document originated and signed by the generator which contains the information required by Subpart B of 40 CFR Part 262.

(f) "Manifest document number" means the serially increasing number assigned to the manifest by the generator for recording and reporting purposes.

(g) "On-site" means the same or geographically contiguous property which may be divided by public or private right(s)-of-way. Non-contiguous property owned by the generator but connected by a right-of-way which he controls and to which the public does not have access is also considered on-site property.

(h) "Person" means an individual, trust, firm, joint stock company, corporation, partnership, association, State, municipality, commission, political subdivision of a State, interstate body, or Federal agency.

(i) "Transporter" means a person engaged in the off-site transportation of hazardous waste by air, rail, highway or water.

(j) "Transportation" means the movement of hazardous waste by air, rail, highway or water.

(k) "United States" means the 50 States, District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(l) "Water (bulk shipment)" means the bulk transportation of hazardous waste which is loaded or carried on board a vessel without containers or labels.

Subpart B—General [Reserved]

[FR Doc. 80-5953 Filed 2-25-80; 8:45 am]
BILLING CODE 6560-01-M

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40 CFR Part 262

[Docket No. 3002 (FRL 1395-8)]

Standards Applicable to Generators of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Resource Conservation and Recovery Act, as amended, seeks to promote the protection of human health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act establishes a national program to improve solid waste management, including the control of hazardous waste, the promotion of resource conservation and recovery, and the establishment of environmentally sound solid waste disposal practices.

This document establishes standards for generators of hazardous waste. The regulation requires a generator of solid waste to determine if his waste is a hazardous waste. Generators must prepare manifests for all shipments of hazardous waste that are sent to off-site treatment, storage, or disposal facilities. For these shipments, generators must also package, label, mark, and placard the waste according to EPA/DOT regulations.

Additionally, generators are required to keep records, report those shipments which do not reach the facility designated on the manifest and submit an annual summary of their activities.

DATES: Effective date: August 26, 1980. Compliance date: Six months after the promulgation of 40 CFR Part 261.

ADDRESSES: The official docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding holidays.

For information on implementation of these regulations, contact your EPA Regional Office.

FOR FURTHER INFORMATION CONTACT: Harry W. Trask, Office of Solid Waste, (WH-563), U.S. Environmental Protection Agency, Washington, D.C. 20460. (202) 755-9150.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is issued under authority of sections 2002(a), 3001, 3002, 3003, 3004 and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 ("RCRA" or "the Act"), 42 U.S.C. 6912(a), 6921, 6922, 6923, 6924, 6925.

II. Background

This regulation was published in the **Federal Register** in proposed form for public review and comment on December 18, 1978 as 40 CFR Part 250, Subpart B (43 FR 58969 *et seq.*). The Agency held five public hearings and received a substantial number of written comments on the proposal. The public comment period closed on March 16, 1979. After consideration of the views of the public, the Agency promulgates this regulation in final form.

In this preamble, some of the more significant issues raised during the public comment period are discussed, along with revisions made on the basis of those comments. Background documents which address comments received by EPA have been prepared and are part of the official docket for this regulation.

The objectives of RCRA are to promote the protection of human health and the environment and to conserve valuable material and energy resources. In order to accomplish this, the Act establishes a national program to improve solid waste management, including the control of hazardous waste, the promotion of resource conservation and recovery, and the establishment of environmentally sound solid waste disposal practices. This program is to be carried out through a cooperative effort among Federal, State, and local governments and private enterprise.

Subtitle C of the Act fosters these objectives by providing for the identification of hazardous wastes, the establishment of a "cradle to grave"

hazardous waste tracking system, and the development of standards and permit requirements for the treatment, storage, and disposal of hazardous waste. In addition, Subtitle C provides for interim and final authorization of States to administer the hazardous waste program in lieu of EPA.

Section 3002 requires the Administrator to promulgate regulations establishing standards applicable to generators of hazardous waste, including requirements regarding:

1. A manifest system to assure that hazardous waste is designated for delivery at a permitted treatment, storage, or disposal facility;
2. Use of appropriate containers for hazardous waste and labeling of containers used for storage, transport, or disposal of hazardous waste;
3. Recordkeeping to identify the quantities, constituents, and disposition of hazardous waste generated, and submission of reports to the Administrator (or authorized State agency) setting out quantities and disposition of hazardous waste; and,
4. Furnishing information on general chemical composition to persons transporting, treating, storing, or disposing of hazardous waste.

III. Implementation

The following is a brief summary of how the hazardous waste control system will operate with respect to generators. Persons who generate solid waste must determine whether their wastes are hazardous. The first step is to determine if the waste is excluded from regulation by Part 261. The next step is to consult the lists of hazardous waste set forth in Part 261. If the waste is not listed, the person must make the determination for each of the characteristics in Part 261 by either testing the waste (using the procedures in Part 261) or by applying known information about the characteristics of the waste based on the process or materials used.

Generators must, prior to transporting, treating, storing or disposing of any hazardous waste, obtain an EPA identification number. This number will be assigned by the Agency upon receipt of the generator's hazardous waste notification under section 3010. Generators who did not notify under section 2010 within 90 days of promulgation of regulations implementing section 3001 (e.g., new generators) may obtain an EPA identification number by submitting EPA form 8700–12 to the Administrator.

Generators who treat, store, or dispose of hazardous waste on-site must comply with the requirement to determine whether their wastes are hazardous and a few general requirements of these parts such as recordkeeping. In general, these generators do not have to comply with the other requirements of this Part, because their treatment, storage and disposal activities (including reporting) are regulated under sections 3004 and 3005 of the Act. Generators who ship hazardous waste off-site must prepare a manifest; comply with DOT pre-transportation regulations regarding packaging, keep records on each shipment, report missing shipments to the Agency, and file an Annual Report summarizing the previous calendar year's activities.

Before offering hazardous waste for off-site transportation, a generator is responsible for complying with appropriate DOT hazardous materials transportation regulations which EPA has adopted. These requirements include using DOT proper shipping description and appropriately packaging, labeling, marking, and placarding the waste. The generator must also prepare a manifest which includes his name, address and EPA identification number as well as that of the designated facility and the name and EPA identification number of each transporter. One treatment, storage or disposal facility permitted to handle the specific waste must be designated. The generator may also designate an alternate facility to be used in the event an emergency precludes delivery to the primary facility. The manifest also must include the DOT proper shipping description, the volume of waste shipped and the type and number of containers used.

The manifest consists of at least the number of copies which will provide one copy for the generator, each transporter, the designated facility and another copy which the designated facility will return to the generator. Before releasing the waste to the initial transporter, the generator must sign the manifest, certifying that all the requirements for transportation have been met. He must also obtain the transporter's signature and date of signature indicating that he has accepted the load described on the manifest on that particular day. The generator retains a copy of the manifest and gives the initial transporter the remaining copies.

The transporter carries the manifest with the waste to the designated facility. If delivery to the designated facility is impossible and no alternate facility was designated, or if it is impossible to deliver the waste to either the primary or the alternate facility, the transporter must contact the generator for further instructions. The generator may either designate another permitted facility or instruct the transporter to return the waste to the generator.

Upon delivery of the hazardous waste to the designated facility, the owner or operator will sign and date the manifest to indicate that the facility has accepted the waste, and will give one signed copy to the transporter and keep one copy. These copies must be kept by the transporter and the facility for three years from the date of acceptance of the waste by the initial transporter.

The owner or operator of the designated facility is required to return a signed copy of the manifest to the generator within 30 days of receipt of the waste. If the generator has not received the signed manifest from the designated facility within 35 days of acceptance by the initial transporter, the generator must contact the transporter and/or the designated facility to determine the status of the load and the manifest. If within 45 days of acceptance by the initial tranporter the generator has not received the signed copy, he must file an Exception Report with the Regional Administrator. The Exception Report consists of a copy of the manifest and a cover letter which describes the generator's efforts to locate the load and the manifest. In the case where the generator is assured that the hazardous waste has been delivered but the manifest was lost, the generator is still required to submit the Exception Report, noting in the cover letter that the shipment arrived and the manifest was lost. If a facility other than the primary or alternate designated facility returns the manifest, an Exception Report must be filed.

The generator must keep a copy of the manifest and all Exception Reports for at least three years from the date of acceptance by the initial transporter.

Each generator who ships hazardous waste off-site must file an Annual Report covering the previous year's activities on EPA form 8700–13 no later than March 1. The Annual Report lists the transporters and facilities used by the generator for the treatment, storage or disposal of hazardous waste and the quantity of each waste that each facility received. The generator must include the DOT hazard class and EPA waste description for each waste.

This Part also establishes special requirements for international shipment of hazardous waste and provides for the temporary (90 day) accumulation of hazardous waste without a permit. Each of these provisions is discussed in detail below.

IV. Organization of the Regulation

After reviewing the comments regarding clarity and organization of the proposed regulation, EPA decided to change the format of the regulation. EPA believes that these changes clarify the duties and responsibilities of the generator, and therefore, will assist the generator in understanding the requirements of this regulation.

The first change in format involves restructuring the numbering system of the entire regulation. The proposed regulation was patterned on the outline of requirements identified by section 3002 of the Act, and was ordered accordingly. The final regulation has been reorganized to progress logically in the order in which the generator must act. EPA believes that the final regulation will be easier to understand and follow in its new format.

The final regulation has also been assigned a new Code of Federal Regulations Part number. All of the proposed Subtitle C regulations were assigned to 40 CFR Part 250. Standards for Generators was Subpart B of that Part. In the final version, each of the former Subparts has been assigned a Part number. Standards Applicable to Generators of Hazardous Waste is now 40 CFR Part 262. Similarly, Identification and Listing of Hazardous Waste (section 3001) will be published as 40 CFR Part 261, and Standards Applicable to Transporters of Hazardous Waste (section 3003) will be Part 263. Standards for Treatment, Storage, and Disposal Facilities (section 3004) will appear in Parts 264, 265, and 266.

Additional restructuring of the proposed Subpart involved moving provisions which are more properly addressed in other Parts of the final rule. For example, the small quantity generator and waste oil provisions have been moved to Part 261 because these standards are more closely associated with waste characterization than with the generator's duties and responsibilities. The proposed regulation allowed generators of waste oil to enter assumption of duties contracts with transporters. The assumption of duties provision was developed expressly for the purpose of reducing the administrative burden for the large number of generators of waste oil, many of whom generate small amounts. This provision has been deleted from the regulation because it does not address possible contractual arrangements by which parties may delegate to another person certain undertakings. Such delegation, however, does not relieve the principal party (here the generator) from the responsibility of satisfying his statutory obligations.

Similarly, the manner in which retailers who generate hazardous waste will be subject to these regulations will be set forth in Part 261. In addition, the proposed generator regulations did not prescribe the specific steps a solid waste generator must take to determine whether his waste is hazardous. This determination was included in the proposed section 3001 regulations. Since this determination is one of the major responsibilities of the generator, the requirement for making this determination is now contained in this Part.

Because the Agency has not, at this time, determined what quantities of hazardous waste may be exempted from this regulation, the presumption of quantity generated for civil enforcement actions (§ 250.27(b) of the proposal) does not appear in this regulation.

The confidentiality provisions of each of the proposed rules have been consolidated in Part 260. These provisions will be promulgated at the same time as the sections 3001 and 3004 regulations.

The promulgation of regulations implementing sections 3001, 3004, and 3005 may affect the duties and responsibilities of generators. EPA will, if necessary, amend these regulations to reflect the provisions of those regulations at the time they are promulgated.

V. Definitions

As proposed, the definitions applicable to generator standards were included with the generator regulations in Subpart B, and definitions applicable to other Subparts were located in those Subparts. However, because many of the definitions apply to all the Subtitle C regulations, EPA decided to publish all of the definitions together in a separate Part, 40 CFR Part 260. Certain of these definitions which are necessary to understand this regulation are promulgated in today's **Federal Register**.

VI. Final Regulations

Part 262 is divided into five subparts: Subpart A, General; Subpart B, The Manifest; Subpart C, Pre-Transport Requirements; Subpart D, Recordkeeping and Reporting; and Subpart E, Special Conditions.

Subpart A includes general requirements applicable to every generator of hazardous waste. Subpart B sets forth the requirements of the manifest system, the central element of the hazardous waste tracking system. Subpart C includes requirements for pre-transport preparation of hazardous waste and for short term on-site accumulation without a permit. Recordkeeping and reporting requirements, which constitute another essential element of the hazardous waste tracking system, are found in Subpart D. Finally, Subpart E covers international shipments of hazardous waste and farmers whose only hazardous waste is from pesticides.

A. General

1. *Purpose, Scope and Applicability.*— This section of the proposed rule covered many diverse subjects. It included requirements for State authorization to operate the hazardous waste management program, exemptions from the regulations for farmers, retailers, and households, and identification of generator responsibilities in specific situations (e.g., on-site versus off-site disposal). Several commenters suggested that the broad scope of this section would lead to confusion. In order to clarify the section, the final regulation has been reorganized. As discussed earlier, some of the provisions of this section were moved to Part 261 while others can be found in other sections of this Part. The final regulation in this section requires a generator who ships wastes off-site to comply with all of the requirements of this Part. Generators who treat, store, or dispose of their wastes on-site are required to comply only with certain sections of this Part (e.g., primarily those dealing with the determination of whether or not a waste is a hazardous waste).

Generators who engage in on-site treatment, storage, or disposal will be required to comply with the treatment, storage, and disposal standards promulgated pursuant to section 3004 and to obtain a permit pursuant to section 3005. The section 3004 standards will establish recordkeeping and reporting requirements and ensure adequate protection for human health and the environment at the entire facility. Requiring these on-site treaters, storers, and disposers to comply with all of these Part 262 regulations for generators would be duplicative and provide no increased protection for human health and the environment.

2. *Hazardous Waste Determination.*— This section establishes the procedure for determining whether a solid waste is a hazardous waste. A person who generates a solid waste must determine whether that waste is hazardous. The first step that the person should take is to determine if the waste is excluded from regulation under Part 261. The next step is to review the lists of hazardous waste set forth in Part 261. Even if his

waste is listed as hazardous waste, however, the person will have an opportunity to demonstrate pursuant to the procedures set forth in Part 261 that his waste is in fact not hazardous.

If the waste is not listed as hazardous, the person must then determine whether it is hazardous by either determining that it meets one or more of the characteristics of hazardous waste set forth in Part 261 or by applying his knowledge of the waste based on the processes or materials used. Part 261 will set forth test protocols and other methods for evaluating wastes for the specified characteristics of hazardous waste (e.g., corrosivity, ignitability) which will allow a person to determine conclusively whether his waste is hazardous. If on the basis of his review of the materials or processes used, the generator is certain about the nature of the waste, he may declare that it is either hazardous or nonhazardous.

The revised regulation is considerably simpler in its operation than the proposed rule. The proposed regulation had required those persons who knew or had reason to believe their waste was hazardous to determine whether the waste was hazardous by (a) examining the list of hazardous wastes; (b) testing the waste for EPA's characteristics in accordance with specified methods; or, (c) declaring that the waste was hazardous. The proposed regulations also required submission to EPA of data supporting that determination. In addition, generators were directed to retest nonhazardous waste annually and also whenever significant changes in process materials occurred. The principal changes in the final regulation are: (a) allowing declarations of nonhazardous waste; and (b) deleting entirely matters collateral to the determination, e.g., submission of data and requirements for retesting.

The deletion of the phrase persons who "know or have reason to believe" is not of great practical significance. The person who had no reason to believe his wastes were hazardous in the proposed regulation also has the basis to declare the waste nonhazardous. The revised final rule simply requires that this belief be based on an objective review of the materials and processes involved in the generation of the waste.

Several commenters stated that the Act imposes no obligation on generators to test their waste for characteristics of hazardous waste. In the view of the commenters, the only way that a waste can be considered hazardous for regulatory purposes is by EPA listing the particular waste as hazardous, pursuant to section 3001(b). Therefore, it was their position that the principal statutory role that characteristics of hazardous wastes, identified pursuant to section 3001(b), were to play was to aid EPA in determining the wastes it should list. EPA disagrees that this interpretation of the Act. It is the position of the Agency that the inclusion of hazardous wastes in the regulatory system by reason of identified characteristics is appropriate. The role of characteristics in identifying hazardous wastes pursuant to section 3001(b) will be fully discussed in the material supporting the regulations implementing section 3001. In light of EPA's position on the role of hazardous waste characteristics, it is wholly appropriate for the Agency to require persons to evaluate their wastes in accordance with the characteristics. Generation of a hazardous waste and failure to comply with the regulations promulgated under Subtitle C of the Act may subject that person to the imposition of substantial civil and criminal penalties.

Several commenters felt that the cost of testing, coupled with potential penalties, would lead to declaring nonhazardous wastes as hazardous, thus overburdening the limited capacity of the system. A 'good faith' provision would, in their view, cut against this tendency by forgiving persons who decided not to test certain hazardous wastes.

The final rule responds to these comments in part by allowing increased flexibility to persons in determining whether their wastes are hazardous. A person may declare his waste hazardous or nonhazardous, but this must be based on his knowledge of the materials and processes involved. A person need not test to determine a waste nonhazardous, as required in the proposed rule, rather he may review the processes and materials used in the generation of that waste. If the review does not reveal evidence that the waste is hazardous, the person may declare the waste nonhazardous. This revision accomodates, in part, the concern of the commenters that the capacity of the system might be overburdened by the inclusion of nonhazardous wastes.

The Agency has, however, rejected the suggestion that a "good faith" mistake provision should be included in the regulation to excuse inadvertent mistakes in the determination of whether a waste is hazardous. The determination is the crucial, first step in the regulatory system, and the generator must undertake this responsibility seriously. The declaration provided for in the regulation must be based on factors which are subject to objective review. A deliberate or negligent oversight, for example overlooking the presence of hazardous substances in the feedstock, would not support the declaration. A good faith mistake provision would, in certain circumstances, excuse a generator's failure to determine if a waste was hazardous if that error was caused by his negligence. EPA does not believe that inclusion of such a provision would be prudent. There is no requirement in the final regulations for periodic retesting or reevaluation; therefore, a negligent determination may have a long-term effect, allowing hazardous wastes to escape the stringent regulation that is necessary to protect human health and the environment. Second, inclusion of the provision would convert the determination into a subjective standard which would make enforcement of the provision difficult. EPA believes that retention of an objective standard better serves the Act's objectives. Prosecutorial discretion will suffice to protect persons who, despite all conscientious efforts, erred in the determination. It should also be noted that under section 3008 criminal sanctions pertain only to the knowing commission of certain acts. Persons may test their wastes pursuant to the test protocols and and methods set forth in Part 261. This will allow the generator to determine conclusively whether his wastes have one or more of the characteristics of hazardous waste.

The deletion of the retesting requirements that were contained in the proposed regulations does not, of course, relieve a generator of solid waste from his continuing responsibility to know whether his wastes are hazardous. If there is a significant change in the materials, processes, or operation which indicate the waste has become hazardous, the generator must repeat the determination. EPA recognizes the potential burden that this places on certain manufacturers whose products, processes and wastes change frequently, for example chemical speciality producers or other batch-type producers. This burden is created, however, by the Act which demands special attention and care for the handling and management of hazardous wastes. Those persons whose wastes are sometimes hazardous and sometimes nonhazardous have the same obligation as any other generator to ensure that all their hazardous wastes are managed in accordance with the requirements of Subtitle C and regulations implementing those statutory provisions.

Several commenters stated that allowing declarations of the hazardous

nature of a waste was unwise because that would prevent the generator from providing proper information to subsequent handlers of the waste. This fear is, however, unfounded. The declaration which the regulation allows only pertains to determining whether the waste is subject to Subtitle C regulation. The manner of determining does not affect the operation of the other regulations. It does not relieve the generator of his responsibility to complete the manifest, use proper labels, containers and placards, or satisfy the reporting and recordkeeping requirements. All of these requirements call for the generator to have accurate knowledge of the waste. A declaration of the hazardous nature of the waste therefore demands that the generator have, or obtain prior to the effective date of the regulations, knowledge of the waste and its hazardous properties.

3. *EPA Identification Numbers.*—The final version of these regulations does not differ significantly from the proposal with respect to the requirements that every generator of hazardous waste obtain an EPA identification number before transporting, treating, storing, or disposing of hazardous waste.

This section also requires that generators offer their hazardous waste only to transporters, treaters, storers, or disposers who have received an EPA identification number, to assure that all hazardous waste is handled by such transporters and treatment, storage, and disposal facilities. This will assist EPA in identifying persons handling hazardous waste and will ensure that all transporters of hazardous waste are aware of relevant EPA and DOT regulations.

This section also provides the means by which generators who did not file a Notification of Hazardous Waste Activity under section 3010 of the Act during the initial 90 day notification period may obtain an EPA identification number. The same form is used for this and the section 3010 notification.

This section does not relieve a generator handling hazardous waste at the time of promulgation of 40 CFR Part 261 from the statutory obligation to file a Notification of Hazardous Waste Activity within 90 days of that promulgation. Timely submission of the notification is particularly important for those generators who engage in on-site treatment, storage, or disposal of hazardous wastes. Unless they notify EPA of their hazardous waste activity within the 90-day period these facilities will be ineligible for interim status pursuant to section 3005. Continued operation of a treatment, storage, or disposal facility without interim status or a permit after the effective date of the section 3001 regulations is unlawful.

B. Manifest

Congress intended that the manifest play a central role in EPA's hazardous waste management system:

> The manifest system is intended to serve as a check against such practices [roadside dumping]. Originating with the generator, moving through the transportation stage, registered at an approved disposal site for the treatment, storage or disposal of such hazardous waste and returned to the generator, the manifest will give to each party in the chain of handling a record. It will also provide the Administrator with a clear record of the movement and final disposition of waste originating at any specific site. Such records will greatly assist the Administrator, or state, where appropriate, in its enforcement of the hazardous waste regulations. H.R. Rep. No. 1491, 94th Cong., 2d Sess. 27 (Sept. 9, 1976) (herein "H.R. Rep.")

As developed by EPA, the manifest serves three principal objectives in ensuring the proper management of hazardous wastes that are transported off the site of generation. First, it serves as a tracking device which creates clear lines of accountability among the participants in the hazardous waste system. In doing so, it becomes one of the primary links between the various actors, serving as one avenue of communication. Second, it, together with the other EPA and DOT transportation requirements, serves to protect human health and the environment during the transportation of hazardous waste by providing information on the waste to persons handling the waste and to emergency response personnel. Third, the manifest provides the principal basis for EPA's recordkeeping and reporting requirements.

An important consideration in developing the manifest system was to promote consistency with the requirements of DOT which regulates the transportation of hazardous materials. Consistency will not only minimize the potential burden of compliance on the regulated community, but more importantly it will also enhance in-transit safety by avoiding duplicative or inconsistent regulations which might hinder the performance of emergency response personnel.

1. *The manifest's role in EPA's hazardous waste tracking system.*—As discussed above, the operation of the manifest creates accountability for handling of the waste from the site of its generation to the site of its ultimate disposition. Each person who accepts and transports the waste will be identified on the manifest and, with limited exceptions, the signature of each person will also be on the manifest, signifying acceptance of the waste.

The final regulation adopts one change which is designed to increase the tightness of this control system. The proposed regulation would have allowed the generator to designate any number of facilities on the manifest, leaving the transporter free to select any one of them. In practice, allowing the generator to list numerous facilities would enable the transporter to select the disposal facility, and his choice could be made on the basis of cost or convenience. The Agency decided to restrict this flexibility in the final regulation. One problem addressed by RCRA was that generators frequently do not take responsibility for their wastes, but select waste haulers purely on the basis of price, without consideration of the ultimate disposal of the waste. The Agency believes that one way to address this problem is to limit the activities of the waste hauler to the transportation of wastes and to make the generator responsible for determining where the waste will be disposed of and ensuring that it gets there. Therefore, this section has been revised to require the generator to designate one facility on the manifest. Further, the generator must ascertain that the designated facility is permitted to accept his particular waste. The permit for the particular facility may allow a site to handle only certain types of wastes; for example, a facility may not be permitted to handle volatile wastes. Requiring the generator to determine that the facility is permitted to handle the waste being shipped increases the likelihood that the waste will receive proper disposal, storage, or treatment.

The final regulation allows the generator to list on the manifest an alternate facility. If the transporter is unable to deliver the waste to the designated facility because circumstances (e.g., labor strike, fire, or other emergency) prevent delivery, the transporter may deliver the waste to the alternate facility. This facility must, of course, be permitted to handle the waste.

If it is impossible to deliver the waste to either of the facilities designated on the manifest, the transporter must contact the generator who must either designate another facility or instruct the transporter to return the waste. The transporter must revise the manifest in accordance with the generator's instructions.

EPA believes that in practice most generators will have contracted with specific facilities to handle their waste and that there will be substantial

communication between these parties on the quantities and nature of the wastes being shipped to the facility. EPA has, at this time, chosen not to formalize the type of contact and communication required between the generator and the owner/operator of the facility. However, EPA is presently considering, and may soon propose, a regulation that will require prior notification to the owner/operator of the facility of shipments of hazardous waste in order to ensure delivery. Such a regulation would, EPA anticipates, simply be incorporating responsible business practices.

2. *Flexibility of the Manifest Document.*—In the proposed regulations, EPA did not set forth a required form for the manifest (a suggested format was included for illustrative purposes), but rather stated the required information must accompany the waste. This approach, in the Agency's view, would allow the regulated community to adapt its present practices, notably DOT's requirements for shipping papers, to accommodate the new EPA requirements. For the transportation of hazardous materials, DOT does not require a specific form, but rather requires each transport vehicle to carry required information.

A number of commenters, however, urged the creation of a uniform national manifest form. It was suggested that differing requirements among States might result in confusion and compliance difficulties for interstate transportation of hazardous waste. Commenters also stated that a national form would be simpler to use. Other commenters, however, felt that EPA should retain the flexibility of the proposed rule, particularly because of the interest of the States to adapt the manifest requirements to their own special needs and interests.

In the final regulations, EPA decided to retain the flexible approach of the proposed regulation. The information requirements of the manifest have been revised and the manifest will, in most situations, be able to serve as the shipping paper required by DOT's hazardous materials transportation regulations. Creation of a separate form in addition to DOT's shipping paper would have drastically increased the administrative burden imposed on the regulated community with no increase in the protection of human health and the environment in transportation of hazardous waste. Furthermore, creation of a single form, satisfying both EPA's and DOT's information requirements, was rejected as too rigid an approach to account satisfactorily for all transportation practices. Nothing precludes industry from developing their own forms. Because the use of a single form would not increase the protection of human health and the environment, EPA chose to retain the flexibility of the manifest format.

The issue of State manifest requirements will be addressed by regulations implementing section 3006 of the Act, which will set forth the minimum requirements a State hazardous waste management program must meet to be equivalent or substantially equivalent to the EPA program. It is important to note in this respect that DOT has the authority to preempt shipping paper requirements which are inconsistent with its regulations, so the final decision on State manifest requirements may rest with DOT.

3. *Information Required on the Manifest.*—Section 262.21 lists the information that generators are required, at a minimum, to provide on the manifest. This information is less extensive than that contained in the proposed regulation. The information is essentially that which is necessary to identify accurately the persons handling the waste, and the type and quantity of the waste. This simplified manifest will greatly reduce the burden placed on the transportation industry and enhance the flexibility of the system. Most importantly, EPA has determined that this basic information, together with the other transportation requirements of DOT and EPA, are sufficient to safeguard human health and environment during transportation. The information needed for in-transit safety and for handling discharges will come not only from the manifest but also from the labeling, marking, and placarding requirements of DOT's and EPA's regulations.

The proposed regulation would have required the use of an EPA shipping description and hazard class if DOT had no specific proper shipping name or hazard class for the particular waste. In the final regulation, the manifest must only contain the DOT proper shipping description (which includes, among other things, the shipping name and hazard class). EPA determined that requiring the addition of EPA's nomenclature would not increase the protection of human health and the environment during the transportation of hazardous waste. The DOT nomenclature, with which emergency response personnel and the transportation industry are already familiar, provide adequate in-transit protection to human health and the environment. The use of two systems of nomenclature on one document would not increase this protection, and might reduce it by creating confusion for emergency response personnel. Accordingly, that requirement has been deleted from the final regulation.

The proposed regulation required that the generator either describe on the manifest what immediate actions should be taken in the event of a discharge of hazardous waste or provide a 24-hour telephone number where additional information could be obtained. In addition, the proposal required that the telephone number of the National Response Center be listed. On this point, a variety of comments were received. Many of these stated that the proposed requirements were confusing and unclear, others said that the requirements were duplicative or inconsistent with other regulatory provisions under the Hazardous Materials Transportation Act and the Clean Water Act, and others argued that more information concerning spill response would provide greater protection for human health and the environment.

In response to these comments and in cooperation with DOT, EPA decided to delete any specific requirement for including discharge response information on the manifest. DOT requires transporters to be aware of and comply with DOT spill response procedures, and to know the toll-free telephone number of the U.S. Coast Guard's National Response Center. DOT has proposed regulations which would adopt a hazardous materials identification number which, when used with an accompanying manual, will key emergency personnel to the proper response to the discharge of hazardous material. Upon adoption, these regulations will be applicable to transporters of hazardous waste. (The hazardous materials identification number will appear on the manifest and on each container.) The manifest will include the generator's telephone number. This will enable the transporter and emergency personnel to obtain further information on the appropriate steps to take in the event of a spill. EPA has determined that adequate protection of human health and the environment will be provided by compliance with DOT regulations.

In the final regulations, two other changes in the information requirements for the manifest have been made from the proposed regulations. First, in the proposed regulation, only English units of measure were listed. A number of commenters suggested that metric units

should also be permitted. EPA agrees, and has not specified which units of measure are to be used on the manifest. Second, the number and type of containers were not requirements of the proposed regulation. This information will contribute significantly to the ability of transporters and the designated facility to track the waste, and to note readily any discrepancies between the quantities reported on the manifest and delivered to the designated facility, without placing a significant burden on the transporter.

The proposed regulation allowed a single manifest to be used for multiple shipments on the same day provided that the shipment was from the same generator, transported by the same transporter, and delivered to the same permitted facility. The waste shipped on this manifest would have had to have the same shipping description and hazard class. The comments received on this issue suggested expanding the time in which a single manifest may be used for multiple shipments, and relaxing the conditions for use of the single manifest. Among the recommendations were extending the time period beyond one day, allowing the transporter to pick up the waste of several generators, and allowing wastes of different hazard classes to be included on a single manifest. Other commenters felt that the proposed provision was administratively infeasible.

EPA has decided that because of other changes in the regulation, the provision allowing a single manifest for multiple shipments was unnecessary and, accordingly, the Agency has not included the provision in final regulation. Based on changes made in the content of the manifest and the fact that the original copy does not have to accompany the waste, EPA does not believe that there are any significant administrative benefits in using a single manifest for multiple shipments. The quantity of hazardous waste in each vehicle would have had to be individually entered on the single manifest under the proposed rule, and there is little if any additional burden in requiring the same individual entry on a separate manifest (the rest of which may be mechanically reproduced).

C. Pre-Transport Requirements

1. *Labeling, Marking, Placarding.*—The proposed regulations stated that generators who ship hazardous waste off-site must label and mark the packages and offer the appropriate placard to the transporter in accordance with DOT regulations. This provision has not been substantively changed in the final regulation. In addition, the generator must mark each package with his name and address, the manifest document number, and the words "Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency." Generators may develop and use a single marking as long as it includes all the information required by DOT and EPA. Any container of 110 gallons or less capacity used in the transportation of hazardous waste off-site must be marked. DOT's regulations are being amended to remove the exemption for combustible liquids if they contain hazardous waste. DOT's marking requirements apply generally to containers of this size.

2. *Accumulation Time.*—The proposed rule required that hazardous waste awaiting shipment be placed in DOT containers or in permanent storage facilities complying with the Section 3004 technical requirements for storage. The rule also noted that storage for more than 90 days required a permit pursuant to the section 3005 regulations. The proposal reflected the Agency's effort to balance the Congressional desire not to interfere with the generator's production processes with the need to provide adequate protection to human health and the environment.

Commenters on the proposed rule stressed the opinion that a period of longer than 90 days should be allowed either on a case-by-case basis or generally—and that the container standards were too stringent. EPA rejected both of these comments and has retained the basic approach in the proposed requirements in the final regulation. In the course of developing these regulations, EPA learned that most wastes are removed from the site of generation within 90 days and that, for most industries, this time period will not be disruptive. Those persons who typically accumulated waste for longer periods are, in the Agency's view, storing wastes, and therefore, should have storage permits.

In the regulations promulgated today, EPA has not allowed for the accumulation of hazardous wastes in storage tanks meeting the technical standards of the Part 264 and 265 regulations. The regulations implementing section 3004 are presently being developed and will be forthcoming. EPA intends to amend the Part 262 regulations to allow the use of storage tanks for accumulation at the time Parts 264 and 265 are promulgated. In the proposed regulation, EPA solicited comments on whether contingency plans should be required. EPA is also deferring action on this possible inclusion pending promulgation of Parts 264 and 265.

With respect to comments concerning the stringency of container standards, the Agency also disagrees. The rule applies only to hazardous wastes that are to be shipped off-site. At some point these wastes will require the use of DOT containers, and therefore, the use of such containers before shipment is not unreasonable.

There is a new requirement in the regulation: The generator must clearly mark on the container the date upon which accumulation began. Accumulation may last for not more than ninety days from the initiation of the period, unless the generator has a storage permit. If the accumulation is for on-site treatment, storage, or disposal, the generator will be required to comply with the standards established under 40 CFR Parts 264 and 265 and to obtain a permit in accordance with 40 CFR Part 122.

D. Subpart D: Recordkeeping and Reporting

1. *Recordkeeping.*—The proposed regulation required the generator who ships his waste off-site to keep a signed copy of each manifest for a period of three years from the date of acceptance of the waste by the initial transporter. Generators who treat, store, or dispose of their waste on-site would follow the applicable requirements for treatment, storage, or disposal facilities. The comments received on this requirement suggested various lengths of record retention, varying from a year to 25 years.

The Agency decided to adopt the proposed requirement. Generators are required to keep a copy of the manifest for a period of three years from the date of acceptance of the waste by the initial transporter. This time period, (which is the same as the ICC requirement for interstate shipment of commodities), provides a sufficient period for the Agency's enforcement and implementation purposes.

A provision which was originally part of the regulations proposed under section 3001, requiring generators to keep records of the determination that a waste is a hazardous waste made pursuant to § 262.11 has been made a part of this regulation. This is consistent with the decision to include all the major obligations of generators in this Part. These records must be retained for at least three years after the generator no longer handles the waste.

A final provision of the regulation extends the retention period for

recordkeeping during an enforcement action regarding the regulated activity. This provision, adopted from the proposed consolidated regulations, ensures that in such actions all records potentially relevant will be preserved (44 FR 34244, June 14, 1979).

2. *Annual Reports.*—The proposed regulation required generators to submit an Annual Report within thirty days of the end of the calendar year. The regulations set forth the information required in this report. The informational requirements have remained basically unchanged in the final regulation, but a new form has been developed. There has been, however, one change. In the Annual Report, generators must supply both the DOT hazard class and the EPA listed wastes or characteristics. EPA's implementation of its program is dependent upon accumulation of information on waste management practices according to the section 3001 waste definitions. Similarly, the DOT hazard class, which is readily available from the manifest, is needed to evaluate and monitor transportation practices. This change, however, means that the manifest cannot be used to prepare all of the information in the Annual Report. The due date of the report has been changed to March 1 to allow adequate time for the return of all manifests for waste shipped during the calendar year.

Many commenters objected to the certification statement contained in the proposed regulation, suggesting that the qualifying phrase "to the best of my knowledge" should be inserted. EPA has responded to the commenters' underlying concern that the generator's authorized representative would not, in many cases, have the requisite knowledge to certify the truth, accuracy, and completeness of the report. In the final regulations, Annual Reports must be certified by the generator or his authorized representative as true, accurate, and complete based on the signer's personal familiarity with information and upon his personal inquiry of those responsible for obtaining the information. This approach recognizes the limits of the signer's knowledge but also responds to the administrative need for accurate and complete data.

3. *Exception Reporting.*—In the proposed regulation, generators who shipped their waste off-site were required to submit a quarterly report of exceptions for all shipments of hazardous waste for which the original manifest had not been returned. The report would contain a description of the efforts the generator made to locate the missing movement or manifest, as well as information on the quantity and type of waste by name and common code. In addition, in the proposed rule, EPA specifically requested comments on alternate approaches to the reporting requirement for unreturned manifests. The comments received on this issue were diverse, with persons suggesting reporting periods ranging from almost immediately to more than a year as the time period necessary to satisfy the Act's objectives.

In considering the comments, EPA decided that the statutory goal of protection of human health and the environment is better served by requiring an Exception Report, not for a fixed reporting period, but rather for each missing manifest. When a generator has not received a signed manifest from the designated facility within a reasonable time, there is cause for concern—the hazardous waste may have been lost, mismanaged or illegally dumped. If so, the Agency wants to be alerted to this possibility at the earliest possible time. Requiring a report each time a manifest has not been returned within 45 days from the date of acceptance by the initial transporter informs EPA at an early date of possible problems. A quarterly reporting system would, in some cases, double the length of time before EPA would be informed.

Several commenters argued that the proposed rule placed too much responsibility on the generator, requiring him to report possible violations of the Act, and to ensure the operation of the manifest system. However, the Act, to a large degree, relies upon the generator to ensure the operation of the system: he initiates the manifest, properly labels the waste, uses appropriate containers, and furnishes information to others handling the waste. If these responsibilities are not successfully fulfilled, the Act cannot be satisfactorily implemented. Reporting on unreturned manifests is an equally essential task, and one properly assigned to the generator, who is in the best position to monitor the tracking system. Congress clearly anticipated that such a system would be developed: "It is expected that there will be developed a process whereby those receiving hazardous wastes will notify the shipper of such wastes that such wastes have been received so that the system will be self-policing." H.R. Rep. at 28. The generator is the person who produced the waste, and, in many cases, profited from doing so, and he properly bears a prime responsibility for ensuring that it is adequately managed. The final rule has been clarified to set forth exactly what the generator must do. After thirty-five days from the date of acceptance by the initial transporter, if the generator has not received the manifest from the permitted facility, he is to contact the transporter, and/or if necessary the permitted facility, to determine the status or location of the hazardous waste and the manifest. If he has not received the manifest within 45 days of shipment, he must submit an Exception Report. This report consists of a copy of the manifest for the movement in question and a cover letter which describes the efforts taken to locate the waste and manifest and the results of these efforts.

4. *Additional Reporting.*—A new reporting section states that the Administrator may, as he deems necessary, require generators to file additional reports on the quantities and disposition of the wastes identified or listed pursuant to section 3001. This recognizes that as the Subtitle C program evolves, EPA may develop needs for new information and may require new reports from generators. If necessary, additional reports will be subject to rulemaking procedures and review by the Office of Management and Budget pursuant to the Federal Reports Act.

E. Subpart E: Special Conditions

1. *International Shipments.*—A separate section in the final regulation has been provided for international shipments in order to clarify the requirements of the generator who ships his waste outside the United States. These requirements essentially parallel the requirements for domestic shipments. Generators who make international shipments are required to initiate the manifest, use proper labels and containers, offer placards, and comply with the recordkeeping and reporting requirements of the Act. Because EPA has no authority over foreign facilities, two adjustments have been made. First, a generator sending his waste to a foreign facility must alert the Administrator four weeks prior to the initial shipment to that facility in each reporting year. EPA will then take action necessary to notify the foreign government in accordance with international treaties or agreements.

Second, the Exception Report requirements have been revised to reflect the special circumstances involved in international shipment. The proposal required that every international shipment be reported in the Quarterly Report, but this will not be necessary with the transporter returning the manifest. The transporter who takes the waste outside the United States

must, in the final rule, return a copy of the manifest to the generator within 30 days of acceptance of the waste by the initial transporter. The generator must file an Exception Report if he has not received the manifest within 45 days. Also the generator must require the foreign consignee of the waste to confirm that he has received the waste. If the generator does not receive this confirmation within 90 days of acceptance of the waste by the initial transporter, he must file an Exception Report. The proposal required a Quarterly Report that listed every international shipment, but this will not be necessary with the transporter returning the manifest.

2. *Requirements for Farmers.*— Farmers generating any amount of waste pesticides from their own use which is hazardous waste are exempted from the requirements of this Part provided they dispose of these waste pesticides in an environmentally sound manner on their own farm. Further, this exception also requires that the pesticide container be triple rinsed after it has been emptied and the rinsate be disposed of in accordance with the label instructions. If the label does not contain disposal instructions, the farmer may not dispose of the pesticide or the rinsate on his property. Disposal of this hazardous waste, like others, must be done in accordance with Subtitle C regulations. However, farmers may be excluded from the regulations pursuant to the small quantity provision of Part 261. *Use* of pesticide residues and rinsate (i.e., their application as a pesticide in accordance with FIFRA regulations) is not disposal of the pesticide, and therefore, does not subject the user to these hazardous waste regulations. Farmers generating other hazardous waste are required to comply with all the applicable provisions of this Part.

VII. OMB Review

Under the Federal Reports Act of 1942, the Office of Management and Budget (OMB) reviews reporting requirements in proposed forms and regulations in order to minimize the reporting burden on respondents and the cost to the government. EPA submitted Form 8700–12 implementing section 3010 notification requirements to OMB on December 6, 1979. Reporting requirements implementing sections 3002 and 3003 were submitted on February 4, 1980.

In the course of OMB's preliminary review, OMB staff raised no objection to the form itself. OMB has, however, stated that it cannot complete its review of these requirements until the Administrator of EPA has made decisions regarding the coverage of the RCRA program under Subtitle C and OMB has had an opportunity to review the reporting burden of the entire regulatory program.

VII I. Regulatory Analysis

In accordance with Executive Orders 12044 and 11821 as amended by Executive Order 11949, OMB Circular A–107 and EPA policy as stipulated in 39 FR 37419 (October 21, 1974), draft analyses of economic and environmental impacts have been prepared for all of Subtitle C, Hazardous Waste Management. The final Environmental Impact Statement will be available following promulgation of 40 CFR Part 261.

Dated: February 19, 1980.

Douglas M. Costle,

Administrator.

Title 40 CFR is amended by adding a new Part 262 to read as follows:

PART 262—STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE

Subpart A—General

Sec.

262.10 Purpose, scope, and applicability.
262.11 Hazardous waste determination.
262.12 EPA identification numbers.

Subpart B—The Manifest

262.20 General requirements.
262.21 Required information.
262.22 Number of copies.
262.23 Use of the manifest.

Subpart C—Pre-Transport Requirements

262.30 Packaging.
262.31 Labeling.
262.32 Marking.
262.33 Placarding.
262.34 Accumulation time.

Subpart D—Recordkeeping and Reporting

262.40 Recordkeeping.
262.41 Annual reporting.
262.42 Exception reporting.
262.43 Additional reporting.

Subpart E—Special Conditions

262.50 International shipments.
262.51 Farmers.
Appendix—Form. Annual Report (EPA Form 8700–13).

Authority: Secs. 2002(a), 3001, 3002, 3003, 3004, and 3005, Solid Waste Disposal Act, as amended by Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. 6912(a), 6921, 6922, 6923, 6924, 6925).

Subpart A—General

§ 262.10 Purpose, scope, and applicability.

(a) These regulations establish standards for generators of hazardous waste.

(b) A generator who treats, stores, or disposes of hazardous waste must only comply with the following sections of this Part: § 262.11 for determining whether or not he has a hazardous waste, § 262.12 for obtaining an EPA identification number, § 262.40 (c) and (d) for Recordkeeping, § 262.43 for additional reporting and if applicable, § 262.51 for Farmers.

(c) Any person who imports hazardous waste into the United States must comply with the standards applicable to generators established in this Part.

(d) A farmer who generates waste pesticides which are hazardous waste and who complies with all of the requirements of § 262.51 is not required to comply with other standards in this Part or 40 CFR Parts 122, 264, or 265 with respect to such pesticides.

(e) A person who generates a hazardous waste as defined by 40 CFR Part 261 is subject to the compliance requirements and penalties prescribed in Section 3008 of the Act if he does not comply with the requirements of this Part.

Note.—A generator who treats, stores, or disposes of hazardous waste on-site must comply with the applicable standards and permit requirements set forth in 40 CFR Parts 264, 265, and 266 and Part 122.

§ 262.11 Hazardous waste determination.

A person who generates a solid waste, as defined in 40 CFR 261.2, must determine if that waste is a hazardous waste using the following method:

(a) He should first determine if the waste is excluded from regulation under 40 CFR 261.4.

(b) He must then determine if the waste is listed as a hazardous waste in Subpart D of 40 CFR Part 261.

Note.—Even if the waste is listed, the generator still has an opportunity under 40 CFR 261.39 to demonstrate to the Administrator that the waste from his particular facility or operation is not a hazardous waste.

(c) If the waste is not listed as a hazardous waste in Subpart D of 40 CFR Part 261, he must determine whether the waste is identified in Subpart C of 40 CFR Part 261 by either:

(1) Testing the waste according to the methods set forth in Subpart C of 40 CFR Part 261, or according to an equivalent method approved by the administrator under 40 CFR 261.44; or

(2) Applying knowledge of the hazard characteristic of the waste in light of the materials or the processes used.

§ 262.12 EPA identification numbers.

(a) A generator must not treat, store, dispose of, transport, or offer for transportation, hazardous waste without having received an EPA identification number from the Administrator.

(b) A generator who has not received an EPA identification number may obtain one by applying to the Administrator using EPA form 8700–12. Upon receiving the request the Administrator will assign an EPA identification number to the generator.

(c) A generator must not offer his hazardous waste to transporters or to treatment, storage, or disposal facilities that have not received an EPA identification number.

Subpart B—The Manifest

§ 262.20 General requirements.

(a) A generator who transports, or offers for transportation, hazardous waste for off-site treatment, storage, or disposal must prepare a manifest before transporting the waste off-site.

(b) A generator must designate on the manifest one facility which is permitted to handle the waste described on the manifest.

(c) A generator may also designate on the manifest one alternate facility which is permitted to handle his waste in the event an emergency prevents delivery of the waste to the primary designated facility.

§ 262.21 Required information.

(a) The manifest must contain all of the following information:

(1) A manifest document number;

(2) The generator's name, mailing address, telephone number, and EPA identification number;

(3) The name and EPA identification number of each transporter;

(4) The name, address, and EPA identification number of the designated facility and an alternate facility, if any;

(5) The description of the waste(s) (e.g., proper shipping name, etc.) required by regulations of the U.S. Department of Transportation in 49 CFR 172.101, 172.202, and 172.203;

(6) The total quantity of each hazardous waste by units of weight or volume, and the type and number of containers as loaded into or onto the transport vehicle.

(b) The following certification must appear on the manifest: "This is to certify that the above named materials are properly classified, described, packaged, marked, and labeled and are in proper condition for transportation according to the applicable regulations of the Department of Transportation and EPA."

§ 262.22 Number of copies.

The manifest consists of at least the number of copies which will provide the generator, each transporter, and the owner or operator of the designated facility with one copy each for their records and another copy to be returned to the generator.

§ 262.23 Use of the manifest.

(a) The generator must:

(1) Sign the manifest certification by hand; and

(2) Obtain the handwritten signature of the initial transporter and date of acceptance on the manifest; and

(3) Retain one copy, in accordance with § 262.40(a).

(b) The generator must give the transporter the remaining copies of the manifest.

(c) For shipment of hazardous waste within the United States solely by railroad or solely by water (bulk shipments only), the generator must send three copies of the manifest dated and signed in accordance with this section to the owner or operator of the designated facility. Copies of the manifest are not required for each transporter.

Note.—See Part 263.20(e) for special provisions for rail or water (bulk shipment) transporters who deliver hazardous waste by rail or water to the designated facility.

Subpart C—Pre-Transport Requirements

§ 262.30 Packaging.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must package the waste in accordance with the applicable Department of Transportation regulations on packaging under 49 CFR Parts 173, 178, and 179.

§ 262.31 Labeling.

Before transporting or offering hazardous waste for transportation off-site, a generator must label each package in accordance with the applicable Department of Transportation regulations on hazardous materials, under 49 CFR 172.

§ 262.32 Marking.

(a) Before transporting or offering hazardous waste for transportation off-site, a generator must mark each package of hazardous waste in accordance with the applicable Department of Transportation regulations on hazardous materials under 49 CFR 172;

(b) Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must mark each container of 110 gallons or less used in such transportation with the following words and information displayed in accordance with the requirements of 49 CFR 172.304:

"Hazardous Waste—Federal Law Prohibits Improper Disposal. If found, contact the nearest police or public safety authority or the U.S. Environmental Protection Agency.
Generator's Name and
Address————————.
Manifest Document
Number————————."

§ 262.33 Placarding.

Before transporting hazardous waste or offering hazardous waste for transportation off-site, a generator must offer the initial transporter the appropriate placards according to Department of Transportation regulations for hazardous materials under 49 CFR Part 172, Subpart F.

§ 262.34 Accumulation time.

(a) A generator may accumulate hazardous waste on-site without a permit for 90 days or less, provided that:

(1) All such waste is shipped off-site in 90 days or less;

(2) The waste is placed in containers which meet the standards of § 262.30;

(3) The date upon which each period of accumulation begins is clearly marked and visible for inspection on each container;

(4) Each container is properly labeled and marked according to § 262.31 and 262.32.

(b) A generator who accumulates hazardous waste for more than 90 days is an operator of a storage facility and is subject to the requirements of 40 CFR Part 264 and 265 and the permit requirements of 40 CFR Part 122.

Subpart D—Recordkeeping and Reporting

§ 262.40 Recordkeeping.

(a) A generator must keep a copy of each manifest signed in accordance with § 262.23(a) for three years or until he receives a signed copy from the designated facility which received the waste. This signed copy must be retained as a record for at least three years from the date the waste was accepted by the initial transporter.

(b) A generator must keep a copy of each Annual Report and Exception Report for a period of at least three years.

(c) A generator must keep records of any test results, waste analyses, or other determinations made in accordance with § 262.11 for at least three years from the date that the waste was last sent to on-site or off-site treatment, storage, or disposal.

(d) The periods of retention referred to in this section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

§ 262.41 Annual reporting.

(a) A generator who ships his hazardous waste off-site must submit Annual Reports:

(1) On EPA form 8700–13, according to the instructions on the form (See the Appendix to this Part);

(2) To the Regional Administrator for the Region in which the generator is located;

(3) No later than March 1 for the preceeding calendar year.

(b) Any generator who treats, stores, or disposes of hazardous waste on-site must submit an Annual Report covering those wastes in accordance with the provisions of 40 CFR Parts 264, 265, and 266 and 40 CFR 122.

§ 262.42 Exception reporting.

(a) A generator who does not receive a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 35 days of the date the waste was accepted by the initial transporter must contact the transporter and/or the owner or operator of the designated facility to determine the status of the hazardous waste.

(b) A generator must submit an Exception Report to the EPA Regional Administrator for the Region in which the generator is located if he has not received a copy of the manifest with the handwritten signature of the owner or operator of the designated facility within 45 days of the date the waste was accepted by the initial transporter. The Exception Report must include:

(1) A legible copy of the manifest for which the generator does not have confirmation of delivery;

(2) A cover letter signed by the generator or his authorized representative explaining the efforts taken to locate the hazardous waste and the results of those efforts.

§ 262.43 Additional reporting.

The Administrator, as he deems necessary under section 2002(a) and section 3002(6) of the Act, may require generators to furnish additional reports concerning the quantities and disposition of wastes identified or listed in 40 CFR Part 261.

Subpart E—Special Conditions

§ 262.50 International shipments.

(a) Any person who exports hazardous waste to a foreign country or imports hazardous waste from a foreign country into the United States must comply with the requirements of this Part and with the special requirements of this section.

(b) When shipping hazardous waste outside the United States the generator must:

(1) Notify the Administrator in writing four weeks before the initial shipment of hazardous waste to each country in each calendar year. The waste must be identified by its EPA hazardous waste identification number and its DOT shipping description;

(2) Require that the foreign consignee confirm the delivery of the waste in the foreign country. A copy of the manifest signed by the foreign consignee may be used for this purpose;

(3) Meet the requirements under § 262.21 for the manifest, except that:

(i) In place of the name, address, and EPA identification number of the designated facility, the name and address of the foreign consignee must be used;

(ii) The generator must identify the point of departure from the United States through which the waste must travel before entering a foreign country.

(c) A generator must file an Exception Report, if:

(1) He has not received a copy of the manifest signed by the transporter stating the date and place of departure from the United States within 45 days from the date it was accepted by the initial transporter; or

(2) Within 90 days from the date the waste was accepted by the initial transporter, the generator has not received written confirmation from the foreign consignee that the hazardous waste was received.

(d) When importing hazardous waste, a person must meet all requirements of § 262.21 for the manifest except that:

(1) In place of the generator's name, address and EPA identification number, the name and address of the foreign generator and the importer's, name, address and EPA identification number must be used.

(2) In place of the generator's signature on the certification statement, the U.S. importer or his agent must sign and date the certification and obtain the signature of the initial transporter.

§ 262.51 Farmers.

A farmer disposing of waste pesticides from his own use which are hazardous wastes is not required to comply with the standards in this Part or other standards in 40 CFR Parts 122, 264 or 265 for those wastes provided he triple rinses each emptied pesticide container in accordance with Part 260 and disposes of the pesticide residues on his own farm in a manner consistent with the disposal instructions on the pesticide label.

BILLING CODE 6560-01-M

APPENDIX - FORM

Please print or type with ELITE type *(12 characters per inch)*.

GSA No. 12345-XX
Form Approved OMB No. 158-R00XX

EPA U.S. ENVIRONMENTAL PROTECTION AGENCY
HAZARDOUS WASTE REPORT

PLEASE PLACE LABEL IN THIS SPACE

I. TYPE OF HAZARDOUS WASTE REPORT

TYPE A: GENERATOR – OFF-SITE SHIPMENTS ONLY

THIS REPORT IS FOR THE YEAR ENDING DEC. 31,

TYPE B: RESERVED

TYPE C: RESERVED

INSTRUCTIONS: You may have received a preprinted label attached to the front of this pamphlet; affix it in the designated space above—left. If any of the information on the label is incorrect, draw a line through it and supply the correct information in the appropriate section below. If the label is complete and correct, leave Sections II, III, and IV below blank. If you did not receive a preprinted label, complete all sections. "Installation" means a single site where hazardous waste is generated, treated, stored and/or disposed of. Please refer to the specific instructions for generators or facilities before completing this form. The information requested herein is required by law *(Section 3002/3004 of the Resource Conservation and Recovery Act)*.

II. INSTALLATION'S EPA I.D. NUMBER

F | T/A | 1

III. NAME OF INSTALLATION

IV. INSTALLATION MAILING ADDRESS

STREET OR P.O. BOX

3

CITY OR TOWN | ST. | ZIP CODE

4

V. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER

5

CITY OR TOWN | ST. | ZIP CODE

6

VI. INSTALLATION CONTACT

NAME *(last and first)* | PHONE NO. *(area code & no.)*

2

VII. TRANSPORTATION SERVICES USED *(for Type A reports only)*

List the EPA Identification Numbers for those transporters whose services were used during the reporting year represented by this report.

VIII. CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

A. PRINT OR TYPE NAME

B. SIGNATURE

C. DATE SIGNED

EPA Form 8700-13 (2-80)

Please print or type with ELITE type *(12 characters per inch)*.

GSA No. 12345-XX
Form Approved OMB No. 158-R00XX

EPA

U.S. ENVIRONMENTAL PROTECTION AGENCY
HAZARDOUS WASTE REPORT *(continued)*
(Collected under the authority of Section 3002 of RCRA.)

FOR OFFICIAL USE ONLY *(Items 1 and 2)*

1. DATE RECEIVED
2. TYPE OF REPORT

IX. GENERATOR'S EPA I.D. NUMBER

XI. FACILITY NAME *(specify)*

XII. FACILITY ADDRESS *(specify street or P.O. box no., city, state, & zip code)*

X. FACILITY'S EPA I.D. NUMBER

XIII. WASTE IDENTIFICATION

LINE NUMBER	A. WASTE DESCRIPTION — 1. GENERATOR'S DESCRIPTION OF WASTE	2. DOT HAZARD CLASS	3. EPA HAZARDOUS WASTE NUMBER *(see instructions)*	B. AMOUNT OF WASTE	C. UNIT OF MEASURE *(enter code)*
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					

XIV. COMMENTS *(enter information by line number — see instructions)*

EPA Form 8700-13A (2-80)

BILLING CODE 6560-01-C

PAGE _____ OF _____

General Instructions—Hazardous Waste Report

Important: Read All Instructions Before Completing This Form.

Section I.— Type of Hazardous Waste Report:

Type A: Generator—Off-site Shipments Only. For generators who ship their waste off-site, fill in the four boxes with the reporting year for this report (e.g., 1984).

Type B: [Reserved].

Type C: [Reserved].

Section II. thru Section VI.—Installation I.D. Number, Name of Installation, Installation Mailing Address, Location of Installation and Installation Contact:

If you received a preprinted label from EPA, attach it in the space provided and leave sections II through VI blank. If there is an error or omission on the label, cross out the incorrect information and fill in the appropriate item(s). If you did not receive a preprinted label, complete items I through VI.

Section VII.—Transportation Services Used (For Type A Reports Only):

List the EPA Identification Numbers for those transporters whose services were used during the reporting year represented by this report.

Section VIII.—Certification:

The authorized representative of the installation completing this report must review the report, read the certification, and sign and date the certification where indicated. The printed or typed name of the authorized representative must also be included where indicated.

Note.—Since more than one page is required for each report, indicate the number of each sheet in the lower right corner where indicated and indicate the total number of pages.

Type–A Report—Instructions

Hazardous Waste Annual Report for generators who ship their hazardous waste off-site.

Important: Read All Instructions Before Completing This Form.

Section IX.—Generator's Identification Number:

Enter your EPA identification number.

Section X.—Facility Identification Number:

Enter the EPA identification number of the facility to which you sent the waste described below in section XIII (a separate sheet must be used for each facility to which you sent hazardous waste.)

Section XI.—Facility Name:

Enter the name of the facility corresponding to the facility EPA identification number in Section X.

Section XII. Facility Address:

Enter the address of the facility corresponding to the facility EPA identification number in Section X.

Section XIII.—Waste Information:

All information in this section must be entered by line number. Each line entry will describe each waste as shipped to the facility identified in Section X above.

Section XIII–A–1—Waste Description: Generator's Description.

On each line, enter the description which you believe best describes each waste. (The description may use the process or function which best describes the source of the hazardous waste).

Section XIII–A–2—Waste Description: DOT Hazard Class.

Enter the two digit code from Table 1 which corresponds to the DOT hazard class of the waste described on this line in Section XIII–A–1. (If the waste described under XIII–A–1 has been shipped under more than one DOT hazard class, use a separate line for each DOT hazard class.

Section XIII–A–3—Waste Description: EPA Hazardous Waste Number.

For each line, enter the four digit EPA Hazardous Waste Number from Table 2 [1] which identifies the waste.

If the waste has several EPA listed wastes, enter the four digit EPA Hazardous Waste Numbers which identify each listed waste included in that waste.

Four spaces are provided. If more are needed:

(1) Enter the first three as described above;

(2) Enter 0000 in the lower right boxes of Section XIII–A–3 on this line;

(3) Enter additional EPA Hazardous Waste Numbers under Section XIV—Comments.

If the waste described on this line is not a listed waste in Table 2,[1] but meets one or more of the characteristics determined by you as required by § 262.11 under the Standards Applicable to generators (Part 262), enter the EPA Hazardous Waste Number(s) from Table 3 [1] which identifies the waste described on this line. If more than four spaces are required, follow the same procedure described above.

Section XIII–B—Amount of Waste:

Enter the amount of this waste you shipped to the facility identified in Section X and include the weight of containers if left at the treatment, storage, or disposal facility. If more than 999,999,999 units of the waste were shipped during the reporting period:

(1) Enter 999999999 in the boxes provided;

(2) In Section XIV—Comments, enter the line number, "Section XIII–B", and the correct amount (including the unit of measure).

Section XIII–C—Unit of Measure:

Enter the unit of measure code for the quantity of waste described on this line. Units of measure which must be used in this report and the appropriate codes are:

Unit of measure	Code
Pounds	P
Short tons	T
Kilograms	K
Tonnes	M

If shipments were made in any other units they must be converted into the one of the required units of measure taking into account the appropriate density or specific gravity of the waste.

Table 1

DOT Hazard class	Code
Combustible	1
Corrosive	2
Etiologic Agent	3
Explosive A	4
Explosive B	5
Flammable Gas	6
Flammable Liquid	7
Flammable Solid	8
Irritating Agent	9
Non-Flammable Gas	10
Organic Peroxide	11
ORM-E	12
Oxidizer	13
Poison A	14
Poison B	15
Radioactive	16

[1] Table 2 and Table 3 will be included in these instructions at the time Part 261 is promulgated.

[FR Doc. 80–5954 Filed 2–25–80; 8:45 am]

BILLING CODE 6560–01–M

40 CFR Part 263

[Docket No. 3003; FRL 1396–1]

Standards Applicable to Transporters of Hazardous Waste

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: Section 3003 of the Resource Conservation and Recovery Act requires the EPA Administrator, after consultation with the Secretary of Transportation and the States, to promulgate regulations establishing standards applicable to transporters of hazardous waste, as are necessary to protect human health and the environment.

This document establishes standards applicable to any person who transports hazardous waste which requires a manifest under the provisions of 40 CFR

Part 262. The regulation requires that each transporter obtain an EPA identification number, comply with the manifest system initiated in 40 CFR Part 262, deliver the entire quantity of hazardous waste to the designated treatment, storage, or disposal facility, and keep records of the transportation of hazardous waste. Additionally, each transporter is to take certain actions in the event of a discharge of hazardous waste during transit.

DATES: Effective date: August 26, 1980. Compliance date: Six months after promulgation of 40 CFR Part 261.

ADDRESS: The official docket for this regulation is located in Room 2711, U.S. Environmental Protection Agency, 401 M Street S.W., Washington, D.C., and is available for viewing from 9:00 a.m. to 4:00 p.m. Monday through Friday, excluding holidays.

For information on implementation of these regulations, contact the EPA Regional Offices.

FOR FURTHER INFORMATION CONTACT: Harry W. Trask, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, Washington, D.C. 20460. (202) 755–9150.

SUPPLEMENTARY INFORMATION:

I. Authority

This regulation is issued under the authority of Sections 2002(a), 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 ("RCRA" or "the Act"), 42 U.S.C. §§ 6912(a), 6922, 6923, 6924, 6925.

II. Background

This regulation was published in the **Federal Register** in proposed form for public review and comment on April 28, 1978 43 FR 18506 as 40 CFR Part 250. The Agency held six public hearings to discuss the proposed regulation, one of which was a joint hearing with the Department of Transportation (DOT), and received a substantial number of written comments on the proposal. The public comment period was held open for nearly eleven months to allow for review of this regulation in conjunction with other regulations proposed under RCRA. After consideration of the views of the public, the Agency hereby promulgates this regulation in final form.

On May 25, 1978, DOT published in the **Federal Register** a proposal to amend its regulations on transportation of hazardous materials, (43 FR 22626). A joint EPA–DOT public hearing was held, and DOT participated in the five other EPA public hearings. The DOT proposal was the result of joint development with EPA of transportation standards necessary to protect human health and the environment from hazardous wastes. EPA worked with DOT extensively, and the two agencies' final rules are interrelated. EPA incorporates in this regulation or in 40 CFR Part 262, DOT's rules on labeling, marking, packaging, placarding, and discharge reporting, and DOT, in its final rule, will incorporate EPA's manifest requirements and expand its list of hazardous materials to include hazardous wastes which require a manifest.

In this preamble, the more significant issues raised before EPA during the public comment period are discussed, along with revisions made on the basis of those comments. Background documents which address the major comments received by EPA have been prepared and are part of the official docket for this regulation. This preamble also includes a brief explanation of how the regulation will be implemented.

The objectives of the Act are to promote the protection of human health and the environment and to conserve valuable material and energy resources. In order to acomplish this, the Act sets forth a national program to improve solid waste management, including control of hazardous wastes, resource conservation, resource recovery, and establishment of environmentally sound solid waste disposal practices. This is to be carried out through a cooperative effort among Federal, State and local governments and private enterprise.

Subtitle C of the Act fosters these objectives by providing for identification of hazardous wastes, establishment of a "cradle to grave" hazardous waste tracking system, and development of standards and permit reguirements for the treatment, storage, and disposal of hazardous waste. The Act establishes a permit system for facilities engaged in the treatment, storage, or disposal of hazardous wastes. In addition, Subtitle C provides for interim and final authorization of States to administer the hazardous waste program in lieu of EPA.

Section 3003 requires the Administrator, after consultation with the Secretary of Transportation and the States, to promulgate regulations establishing standards applicable to transporters of hazardous waste, as are necessary to protect human health and the environment. These standards include, but are not limited to, requirements respecting (1) recordkeeping concerning transportation of hazardous wastes, their source and delivery points; (2) transportation of such wastes only if properly labeled; (3) compliance with the manifest system established under 40 CFR Part 262; and (4) transportation of all hazardous waste only to permitted treatment, storage, or disposal facilities designated by the shipper on the manifest. These regulations, taken together with EPA's standards for generators (Part 262) and the DOT regulations on transportation of hazardous materials, fulfill those requirements.

Regulations implementing section 3001 will be promulgated in the next few months. Resolution of some of the issues being considered under those regulations, such as condolidation of small quantities of hazardous wastes, may require amendment of these regulations. Any necessary amendment will be promulgated at the same time as the section 3001 regulation.

III. Implementation

The following is a brief summary of how the hazardous waste manifest system will operate with respect to transporters of hazardous waste.

A. Basic Operation of the Manifest System

Every transporter of hazardous waste must obtain from the Administrator an EPA identification number. Each transporter who notifies EPA under section 3010 during the 90-day period following promulgation of regulations implementing section 3001 will receive an EPA identification number. A transporter who did not notify during that period (e.g., a new business) is required by this regulation to obtain an EPA identification number. After the effective date of the section 3002 and 3003 regulations, generators are prohibited from offering hazardous wastes to a transporter who does not have an EPA identification number. The generator is responsible for the preparation of a hazardous waste manifest in accordance with 40 CFR Part 262, Standards Applicable to Generators of Hazardous Waste. The manifest contains the name, address, and EPA identification number of the generator and the designated treatment, storage, or disposal facility to which the waste is to be delivered, and the name and EPA identification number of each transporter. The generator may designate an alternate permitted facility to which the waste may be taken in the event of an emergency. In addition, the manifest includes the DOT proper shipping description and the quantity of waste shipped.

In the simplest case, in which only one transporter is involved, the generator prepares the shipment for transportation. He then prepares the

manifest, which consists of four copies (one each for the generator, transporter, and designated facility and another copy which the designated facility will return to the generator). The generator then signs the certification and obtains the transporter's signature and date of signature on all copies of the manifest. Signatures may be handwritten, carbon copies, or photocopies. The generator retains a copy and the transporter takes the rest.

The transporter carries the manifest with the waste to the facility designated on the manifest. If delivery to the designated facility is impossible and no alternate was designated or if it is impossible to deliver the waste to both the primary and alternate facilities, the transporter must contact the generator for further instructions.

Upon delivery of the hazardous waste to the designated facility, the owner or operator signs and dates the manifest to indicate acceptance of the waste. He returns one copy to the transporter. This copy must be kept by the transporter for three years from the date the initial transporter accepted the waste. The designated facility then returns one signed copy to the generator and retains the remaining copy as its record.

If more than one transporter is involved, an additional copy of the manifest must be prepared by the generator for each additional transporter. The initial transporter must deliver the entire quantity of waste to the designated subsequent transporter and must obtain that transporter's signature and date of delivery on the manifest. A copy will be kept as a record by the Initial transporter, and the remaining copies will continue to accompany the waste. The subsequent transporter must deliver the entire quantity of waste to the designated facility or next designated transporter, according to the instructions on the manifest. Until the signature of the designated facility or subsequent transporter is obtained, the waste will be considered to be in the custody of the transporter who last signed the manifest.

If the generator is sending a portion of a shipment to one facility and the remainder of the shipment to another facility, he must prepare two manifests.

B. Rules for Transportation by Rail and Bulk Shipment by Water

Special provisions are established if hazardous waste is delivered by rail or water (bulk shipment) transporters to the designated facility. (Bulk shipment by water is any movement where the waste is not placed in individual packages or containers but is instead loaded into the vessel or barge in bulk.) In these instances, each rail or water (bulk shipment) transporter is not required to carry the manifest. Instead, a standard waybill or other shipping document which contains all the manifest information except EPA identification numbers, generator certification, and signatures may accompany the waste. The discussion which follows will, for the sake of simplicity, refer only to rail transporters, but these procedures apply equally to bulk transportation by water.

The initial rail transporter must sign and date the manifest. The generator, if the shipment is solely by rail, or the transporter who delivered the waste to the initial rail transporter then forwards three copies to the designated facility.

The waste may be transferred between two rail transporters as prescribed on the manifest without obtaining the accepting transporter's signature. The final rail transporter, however, is required to obtain the signature of the owner or operator of the designated facility and date of delivery, either on the manifest (which has been forwarded to the facility) or on the shipping paper. If the shipping paper is signed, it must be attached to the manifest and returned by the designated facility to the generator indicating delivery. The initiating and intermediate rail transporters are required to keep a copy of their shipping paper for three years. The delivering rail transporter must retain a copy of the manifest or shipping paper bearing the signature of the owner or operator of the designated facility for three years from the date of acceptance of the waste by the initial transporter.

C. Requirements in the Event of a Discharge

A transporter is responsible for cleaning up any hazardous waste discharge which occurs during transportation. In the event of an emergency, the requirement for an EPA identification number and compliance with the manifest system may be temporarily suspended by authorities at the scene of the discharge. When an emergency no longer exists, all requirements of these regulations will once again be in effect. In certain cases as required by DOT, the transporter must telephone the National Response Center and supply information on the discharge. Further, a written report of each discharge must be made to DOT in accordance with its regulations. DOT will forward a copy of that report to EPA.

IV. Final Regulations

A. Scope

These regulations establish standards which apply to any person transporting hazardous waste requiring a manifest under 40 CFR Part 262 within the United States, its territories or possessions. They do not apply to on-site transportation of hazardous waste, e.g., when a generator transports hazardous waste on his property.

Transporters are cautioned that in certain circumstances they may be required to comply with standards for generators in Part 262, including manifest preparation. Such circumstances include importation of hazardous waste from abroad and mixing hazardous waste of different DOT proper shipping descriptions or hazard classes into a single container. Any persons, including a transporter who discharges a commercial chemical product or material listed in Part 261 may become a generator of the discharged material and any residue, contaminated soil, water or other debris resulting from the clean-up of that discharge.

A transporter may be required to obtain a permit in accordance with 40 CFR Parts 264, 265 and 122 for the treatment or storage of hazardous waste at transportation terminals. Transporters who currently engage in treatment or storage operations must notify EPA in accordance with section 3010 within 90 days of promulgation of 40 CFR Part 261 and must submit Part A of the facility permit application within six months of such promulgation. Continued operation of an existing storage facility is dependent upon satisfying these two statutory obligations.

B. Organization

The proposed regulations were patterned on the outline of requirements identified by section 3003 of the Act and were ordered accordingly. The final regulations have been reorganized to progress logically, in the order in which the transporter must act. EPA believes that the final regulation will be easier to understand and follow in its new format.

The final regulation has also been assigned a new Code of Federal Regulations Part number. All of the proposed Subtitle C regulations were assigned to 40 CFR Part 250. Standards for Transporters were Subpart C of that Part. In the final version, each of the former Subparts has been assigned a Part number. Standards Applicable to Transporters of Hazardous Waste is now 40 CFR Part 263. Similarly, Waste Characterization (section 3001) will be

published as 40 CFR Part 261, and Generator Standards (section 3002) will be part 262. Standards for Treatment, Storage and Disposal Facilities (section 3004) will appear in Parts 264, 265 and 266.

C. Definitions

As proposed, the definitions applicable to transporter standards were included with the transporter regulations in Subpart C, and definitions applicable to other subparts were located therein. However, since many of the definitions apply to all the Subtitle C regulations, EPA decided to publish all of the definitions together in a separate part, 40 CFR Part 260. Published elsewhere in this issue of the FR. Many of the definitions necessary to understanding this regulation are promulgated elsewhere in today's **Federal Register.**

D. Outline of Final Regulation

Part 263 is divided into three Subparts: Subpart A, General; Subpart B, Compliance with the Manifest System and Recordkeeping; and Subpart C, Hazardous Waste Discharges.

Subpart A includes general requirements applicable to every transporter of hazardous waste and to every shipment of hazardous waste. Subpart B relates to the manifest and recordkeeping requirements of the hazardous waste tracking system. Subpart C applies to discharges of hazardous waste during transportation.

E. Subpart A

1. EPA Identification Numbers

The final version of these regulations does not differ significantly from the proposal with respect to the requirement that each transporter of hazardous waste obtain an EPA identification number before transporting hazardous waste.

The intent of this section is to assure that all hazardous waste is carried by transporters who have been assigned EPA identification numbers. This will assist EPA in tracking hazardous waste movements and will insure that all transporters of hazardous waste are aware of relevant EPA and DOT regulations. This section also provides the means by which transporters who did not file Notifications of Hazardous Waste Activity under section 3010 of the Act during the initial 90-day notification period may obtain an EPA identification number. The same form is used for both the initial notification period and these later notifications. However, this section does not relieve a transporter handling hazardous waste at the time of promulgation of 40 CFR Part 261 from the statutory obligation to file a Notification of Hazardous Waste activity within 90 days of that promulgation.

Some comments received on this section urged EPA to use existing carrier identification numbers, e.g., Interstate Commerce Commission numbers, and others suggested a uniform national identification code for all persons engaged in hazardous waste activities. For reasons discussed more fully in the Public Notice, "Preliminary Notification of Hazardous Waste Activity", contained elsewhere in today's **Federal Register**, EPA has chosen the Dun and Bradstreet Data Universal Numbering (DUN) system as a uniform national identification numbering system.

2. Coordination with the Department of Transportation

Section 3003 (a) of the Act directs EPA to develop regulations governing the transportation of hazardous waste after consultation with the Department of Transportation and the States. Furthermore, section 3003 (b) of the Act requires that regulations promulgated pusuant to section 3003 be consistent with the requirements of the Hazardous Materials Transportation Act and DOT's regulations implementing that statute.

In the proposed regulations for generators and transporters of hazardous waste, EPA proposed to single out certain of DOT's regulations and to incorporate by reference all of DOT's substantive requirements for the transportation of hazardous materials. The coordination of EPA and DOT regulations was the subject of numerous comments. Some commenters suggested that EPA should not promulgate transportation regulations at all, arguing that DOT regulations for the transportation of hazardous materials are sufficient for the transportation of hazardous waste. Other commenters were concerned that two sets of regulations would be a duplication of effort and would confuse the regulated community. It was also suggested that only one agency should enforce regulations concerning the transportation of hazardous waste.

In the final regulation, EPA decided to continue to single out certain DOT regulations and to delete the general incorporation by reference of all of DOT's regulations. The DOT regulations which EPA has expressly adopted concern among other things, labeling, marking, placarding, and using proper containers. See Part 262, Subpart C, Pre-Transport Requirements. Adoption of DOT's requirements ensures consistency with those requirements and avoids the establishment of duplicative or conflicting requirements with respect to these matters. These EPA regulations apply to both interstate and intrastate trasportation of hazardous waste and are enforceable by EPA.

DOT will revise its hazardous materials transportation regulations within the next 30 to 60 days to encompass the transportation of hazardous wastes and to regulate the intrastate, as well as interstate, transportation of hazardous waste. Transporters of hazardous waste will have to comply with these regulations. Because of DOT's adoption of these regulations, incorporation by reference of the entire body of DOT's regulations is unnecessary. In the final regulation, the incorporation by reference has been replaced by a note which explains the coordination of DOT and EPA regulations and which cautions transporters that both sets of regulations apply to their activity.

3. Placarding and Labeling

DOT regulations establish requirements designed to enhance safety in the transportation of hazardous materials. In addition to the use of shipping papers, such requirements include the placarding of vehicles, and the marking and labeling of containers. These requirements are designed to convey important information on the nature of the hazardous material transported, thus allowing prompt and appropriate response in the event of a discharge or accident involving hazardous materials.

DOT's labeling, marking, and placarding requirements have been in use for several years. They are widely understood by persons in the transportation industry and by State and local officials in charge of responding to discharges of hazardous materials. Therefore, in developing its regulatory system for transporters of hazardous waste, EPA decided to rely upon DOT's existing system to the fullest extent possible consistent with the Act's statutory mandate to protect human health and the environment during the transportation of hazardous waste. This effort to coordinate the transportation regulations was facilitated by DOT's proposal to extend the applicability of its hazardous materials regulations to transporters of hazardous waste. Upon adoption of DOT's regulations, these two sets of regulations will be fully interlocked, and a transporter of hazardous waste will be required to comply with both DOT and EPA's regulations. Because of the dual systems, EPA has chosen in this

regulation to rely upon DOT's regulation to the fullest extent possible.

a. *Placarding.*—The proposed regulation stated that transporters were prohibited from transporting hazardous waste which was not placarded in accordance with DOT's regulations. The proposal also set forth DOT's marking requirements for vehicles. In the preamble to the proposed regulation, EPA noted that there was one potential limitation in DOT's placarding system—the fact that there was no placard for hazardous materials presenting chronic, rather than acute, hazards—and solicited comments on whether EPA should develop a new placard for such substances.

In the final regulation, EPA has chosen to delete its regulation on placards for transporters, relying instead upon DOT's regulations. In so doing, EPA has adopted DOT's position that placards should convey simple, direct information on the immediate, acute hazards posed by a discharge of the hazardous waste to officials responding to an accident or discharge. EPA's willingness to accept this position has been strengthened by DOT's proposing, after the publication of EPA's proposed regulation, the adoption of a hazardous material identification system, 44 FR 32972 (June 7, 1979). Upon adoption, identification numbers will be displayed on the vehicle and will also appear on the shipping papers. When used with an accompanying response manual, these numbers will key emergency response personnel to the appropriate action to be taken in the event of a discharge. This numbering system will encompass hazardous wastes which present chronic hazards. These wastes will receive an identification number and the response manual will set forth responses to common situations.

EPA believes that the approach adopted today promises full protection to human health and the environment in the transportation of hazardous wastes. The placarding system, in connection with the other transportation requirements of EPA and DOT, provides clear and direct information relevant to the proper handling of hazardous wastes in emergencies. EPA intends to monitor the operation of the system and to assess further the need for developing specific placards for wastes that present chronic hazards.

b. *Labeling.*—The proposed regulation stated that transporters could not transport hazardous wastes which were not properly labeled or marked. If the labels were lost in transit, the proposed regulations would have required the transporter to replace the label, using information taken from the manifest. EPA has chosen to delete these provisions from the final rule as unnecessary. DOT's regulations require that the shipper label each package properly before offering the hazardous material for transportation 49 CFR 172.400. DOT's regulations further states that no person may accept a hazardous waste material for transportation within the United States "unless that material is properly classed, described, packaged, marked, labeled and in the condition for shipment as required by this subchapter." 49 CFR 171.2(a). This places upon the transporter the responsibility to make certain that the label on the package conforms with the information on the manifest.

4. Enforcement Policy

EPA and DOT plan to issue a Joint Memorandum of Understanding (MOU) concerning the enforcement of the hazardous waste transportation regulations. This MOU will delineate the responsibilities of the two agencies in those areas of joint authority. The purpose is to minimize duplication of compliance monitoring and enforcement activities by EPA and DOT. It will also clarify for the regulated community which agency is most likely to monitor their compliance with and, if necessary, enforce the hazardous waste transportation regulations. Although the MOU will provide DOT the responsibility for the enforcement of transportation standards, the MOU will not preclude EPA from taking appropriate enforcement actions against any person who violates the Resource Conservation and Recovery Act or these regulations. For example, EPA will not hesitate to take enforcement actions against a "midnight dumper." Similarly, DOT will not be precluded from taking action against a generator who is violating its regulations.

F. Subpart B

1. Acceptance of Hazardous Waste from Generators

The proposed regulation contained requirements that a transporter may accept and transport hazardous waste only when it is accompanied by a manifest and return a copy to the generator. The final regulation imposes similar requirements. The proposed regulation also contained a provision that transporters could not carry containers which were leaking or appeared to be damaged. Some commenters requested an interpretation of the phrase, "appear to be damaged." The intent of the proposed regulations was to prevent the release of hazardous wastes during transportation. The evaluation of when a container "appears to be damaged" is subjective, and this provision would prove difficult to regulate without specific criteria. In addition, it is clearly in the interest of the transporter to accept only packages which are neither damaged nor leaking, since those packages become his responsibility during transport. In the final regulations, therefore, these provisions have been deleted. However, the regulations still require that transporters clean up and, as appropriate, report discharges of hazardous waste.

2. The Manifest System

The manifest system, developed in Part 262, provides accountability during each step of the movement of hazardous waste from the generator to the designated disposal site. The proposed regulations would have required the transporter to sign the manifest acknowledging acceptance, to keep the manifest or the information on the manifest with the waste at all times, and to obtain a signature on the manifest upon delivery to another transporter or to the permitted facility. An exception was provided for transfer between rail transporters or between water transporters. If the manifest was not carried with the shipment, the transporter was to have produced a "delivery document" containing the essential manifest information, which would be used to certify delivery. In another section, the proposed regulations required delivery of the entire quantity of hazardous waste to the designated facility.

The major comments on these requirements concerned signature requirements placed on railroads and use of the "delivery document." The commenters suggested that it was unreasonable to require each railroad handling a carload of hazardous waste to sign the manifest or to obtain the signature of the designated facility upon delivery. Existing rail transportation procedures would, they said, provide the necessary accountability, and delivery could be certified by the designated facility.

These comments show that the proposed regulations were not clear. It was not intended that each rail transporter and each water transporter be required to sign the manifest or delivery document. In the proposal, only the initial rail or water transporter had to sign the manifest, and the final rail or water transporter had to obtain the signature of the next transporter or designated facility. This has been clarified in the final regulation.

The requirements for shipments by water have been changed in the final regulations. Non-bulk water transporters must obtain signatures at each transfer, and only bulk shipments by water when the shipment is delivered to the designated facility are exempted from that requirement. This change was made to assure that the non-bulk water transporter will accept responsibility for the number of packages or containers listed on the manifest, and to provide for the earliest possible discovery of the loss of any containers. Thus, the same requirements are imposed on non-bulk water transporters as on air and highway transporters.

The proposed regulation would have allowed a transporter to take up to five working days after delivery to obtain the signature of the owner, operator, or agent of the designated facility. That would provide an extremely weak link in the chain of custody which is the purpose of the manifest system. Therefore, this provision allowing delayed signing has been deleted, and the transporter must obtain the necessary signature upon delivery to the designated facility. Until a transporter obtains the signature of the subsequent transporter or designated facility, the hazardous waste is considered to be in the transporter's custody and its handling is the transporter's responsibility. Thus, a transporter who leaves hazardous waste unattended is responsible for that waste until the subsequent transporter or permitted facility signs for it. EPA believes this responsibility will help to ensure proper handling of the waste.

Thus, the final regulation on compliance with the manifest, although redrafted for greater clarity, imposes essentially the same requirements on transporters as did the proposed regulation.

3. International Shipments

In the proposed regulation a manifest was required for all shipments of hazardous waste, but the regulation was silent on the question of who should return the manifest to the generator in the case of an international shipment—the transporter or the foreign consignee. The final regulation clarifies this question. Since EPA does not have jurisdiction over foreign facilities, it is necessary, in order that the hazardous waste be tracked as fully as possible, to require that the transporter or exporter confirm that the hazardous waste left the United States and to return a signed copy of the manifest to the generator.

If the transporter carries the hazardous waste through the point of departure, he must sign the manifest and return a copy to the generator. If the transporter delivers the waste to an exporter, he must obtain the signature of the exporter on the transporter's copy and deliver the remaining copies to the exporter. The exporter, if he is acting as a transporter, must sign the manifest indicating that the hazardous waste has left the country, return one copy to the generator, and retain one copy for his records. However, if the exporter stores the waste, he is the owner or operator of a storage facility which requires a permit. With respect to the delivery of that shipment, the exporter's facility must be the designated facility on the manifest.

4. Recordkeeping

The proposed regulations required the transporter to keep a copy of each manifest or delivery document for a period of at least three years from the date of delivery of the hazardous waste to either another transporter or the designated facility. Comments were received which questioned the need for any hazardous waste recordkeeping by transporters, especially in light of similar requirements imposed by the Interstate Commerce Commission (ICC) and some States. EPA believes that there is a need to keep these records. In the event that manifests are not returned to the generator, the records of the transporter will be important in determining what happened to the waste. The manifest is the record required because it is the central tool of the cradle-to-grave hazardous waste tracking system, and because it can be used by EPA for enforcement purposes. This requirement is consistent with ICC and State recordkeeping requirements, and in many cases the same documents can serve to fulfill multiple recordkeeping requirements. Therefore, there is very little burden placed on transporters by this requirement.

Other commenters suggested that the retention period for these records should be reduced from three years to one year or that the retention period should be made consistent with that required by other Federal and State regulations. A one-year retention period would not, in some cases, allow EPA sufficient time to review the annual reports of generators and owners or operators of treatment, storage, or disposal facilities and conduct investigations where necessary. A three-year retention period is consistent with that required for generators and designated facilities and the ICC requirement for truckers. The beginning of the three-year period has been changed to the date on which the hazardous waste was accepted by the initial transporter to coincide with the time period for which generators are required to keep similar records.

All transporters who handle the manifest, except for those rail and water (bulk shipment) transporters, acting in accordance to § 263.20(e), are required to retain a copy of the manifest. Those rail and bulk water transporters may retain any document that contains all of the information required by the manifest except EPA identification numbers, signatures, and generator certification. This may take the form of the standard waybill or dangerous cargo manifest.

G. Subpart C—Hazardous Waste Discharges

1. Immediate Action

The proposed regulations included provisions for temporary suspension of some of the transporter regulations during emergencies, immediate reporting of spills by telephone, written reports of spills to DOT, and spill clean up. The term "spill" was defined as "any accidental discharge of a hazardous waste onto or into the land or water." A number of comments were received on the use of the term "spill." Some commenters suggested that the meaning of "spill" should be made consistent with the term "discharge" as used in section 311 of the Clean Water Act. EPA agrees and has revised its terminology and now uses the term "hazardous waste discharge" to mean the accidental or intentional spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a hazardous waste or a material listed in 40 CFR 261.33 which because it is discharged becomes a hazardous waste onto or into the land or water. Hazardous waste discharges do not include discharges permitted under the Clean Water Act, Safe Drinking Water Act, the Marine Protection, Research, and Sanctuaries Act, or RCRA.

The provisions of the final regulation are consistent with the regulations implementing section 311 of the Clean Water Act concerning discharges of hazardous substances into navigable waters. The RCRA authority extends to all discharges of hazardous wastes wherever they occur, not only in navigable waters. Some discharges may be subject to the reporting provisions of both RCRA and the Clean Water Act. In such a situation, a transporter need only make one report by telephone, which will satisfy both reporting requirements.

The proposed regulations required telephone reporting of any hazardous waste spill. Some commenters suggested that only releases which presented a hazard to human health or the environment should have to be reported. It was also suggested that spills of

quantities less than the "reportable quantities" of hazardous substances under the Clean Water Act should be exempted from the reporting requirement.

After considering these commments, EPA adopted the DOT regulations for reporting of discharges, which are specifically referenced in this regulation. The transportation industry is familiar with DOT's discharge reporting requirements, which will facilitate their implementation with respect to hazardous waste. EPA determined that DOT's reporting requirements were adequate to protect human health and the environment.

DOT lists the situations in which telephone reporting is required; these relate to the degree of injury caused by the discharge. If any of the listed events occur as a result of the discharge, it must be reported by telephone to the National Response Center. All discharges must be reported to DOT in writing, in accordance with DOT regulations. DOT will add the following to its incident report form: (1) the estimated quantity of waste removed, its disposition, and the name and address of the disposal facility used; and (2) the disposition and estimated quantity of unremoved material. In addition, DOT will require that a copy of the manifest be attached to the report.

EPA believes this additional information is necessary to assess potential long term effects of the discharge and to determine whether the discharged materials were properly disposed of. In the proposed regulation, EPA stated that the transporter be required to report the location of the discharge in relation to surface waters, public water supply, ground water, wildlife habitats, and agricultural production areas. However, EPA believes that this information cannot be provided in any meaningful way by transporters.

Some commenters questioned whether the reporting requirement would include hazardous waste discharges which occur during loading and unloading of hazardous waste, and whether any release of hazardous waste from a container or package constitutes a discharge. The transporter is reponsible for all discharges which occur while he is the last signer of the manifest. Discharges at the designated facility will require reporting in accordance with its contingency plans. Some generators will also have contingency plans.

Finally, the final regulation incorporates the proposed temporary suspension by authorities at the scene of the discharge of certain requirements while an emergency exists. These refer to EPA identification numbers and compliance with the manifest system. In some emergencies, circumstances may require removal of the discharged waste without taking time to comply with these regulations. However, after the immediate emergency is over, all regulations must be followed for the final disposition of the discharged waste.

IV. OMB Review

Under the Federal Reports Act of 1942, the Office of Management and Budget (OMB) reviews reporting requirements in proposed forms and regulations in order to minimize the reporting burden on respondents and the cost to the government. EPA submitted Form 8700–12 implementing section 3010 notification requirements to OMB on December 6, 1979. Reporting requirements implementing sections 3002 and 3003 were submitted on February 4, 1980.

In the course of OMB's preliminary review, OMB staff raised no objection to the form itself. OMB has, however, stated that it cannot complete its review of these requirements until the Administrator of EPA has made decisions regarding the coverage of the RCRA program under Subtitle C and OMB has had an opportunity to review the reporting burden of the entire regulatory program.

V. Regulatory Analysis

In accordance with Executive orders 12044 and 11821 as amended by Executive Order 11949, OMB Circular A–107, and EPA policy as stipulated in 39 FR 37419 (October 21, 1974), draft analyses of economic and environmental impacts have been prepared for all of Subtitle C, Hazardous Waste Management. The final Environmental Impact Statement will be available following promulgation of 40 CFR Part 261.

Dated: February 19, 1980.

Douglas M. Costle,

Administrator.

Title 40 CFR is amended by adding a new Part 263 to read as follows:

PART 263—STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE

Subpart A—General

Sec.

263.10 Scope.
263.11 EPA Identification Numbers.

Subpart B—Compliance with the Manifest System and Recordkeeping

263.20 The Manifest System.
263.21 Compliance with the Manifest.
263.22 Recordkeeping.

Subpart C—Hazardous Waste Discharges

263.30 Immediate Action.
263.31 Discharge Clean Up.

Authority.—Sections 2002(a), 3002, 3003, 3004, and 3005 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 (42 U.S.C. 6912, 6922, 6923, 6924, 6925).

Subpart A—General

§ 263.10 Scope.

(a) These regulations establish standards which apply to persons transporting hazardous waste within the United States if the transportation requires a manifest under 40 CFR Part 262.

Note.—The regulations set forth in Parts 262 and 263 establish the responsibilities of generators and transporters of hazardous waste in the handling, transportation, and management of that waste. In these regulations, EPA has expressly adopted certain regulations of the Department of Transportation (DOT) governing the transportation of hazardous materials. These regulations concern, among other things, labeling, marking, placarding, using proper containers, and reporting discharges. EPA has expressly adopted these regulations in order to satisfy its statutory obligation to promulgate regulations which are necessary to protect human health and the environment in the transportation of hazardous waste. EPA's adoption of these DOT regulations ensures consistency with the requirements of DOT and thus avoids the establishment of duplicative or conflicting requirements with respect to these matters. These EPA regulations which apply to both interstate and intrastate transportation of hazardous waste are enforceable by EPA. DOT has revised its hazardous materials transportation regulations in order to encompass the transportation of hazardous waste and to regulate intrastate, as well as interstate, transportation of hazardous waste. Transporters of hazardous waste are cautioned that DOT's regulations are fully applicable to their activities and enforceable by DOT. These DOT regulations are codified in Title 49, Code of Federal Regulations, Subchapter C. EPA and DOT worked together to develop standards for transporters of hazardous waste in order to avoid conflicting requirements. Except for transporters of bulk shipments of hazardous waste by water, a transporter who meets all applicable requirements of 49 CFR Parts 171 through 179 and the requirements of 40 CFR 263.11 and 263.31 will be deemed in compliance with this Part. Regardless of DOT's action, EPA retains its authority to enforce these regulations.

(b) These regulations do not apply to on-site transportation of hazardous waste by generators or by owners or operators of permitted hazardous waste management facilities.

(c) A transporter of hazardous waste must also comply with 40 CFR Part 262,

Standards Applicable to Generators of Hazardous Waste, if he:

(1) Transports hazardous waste into the United States from abroad; or

(2) Mixes hazardous wastes of different DOT shipping descriptions by placing them into a single container.

Note.—Transporters who store hazardous waste are required to comply with the storage standards in 40 CFR Parts 264 and 265 and the permit requirements of 40 CFR Part 122.

§ 263.11 EPA Identification Numbers.

(a) A transporter must not transport hazardous wastes without having received an EPA identification number from the Administrator.

(b) A transporter who has not received an EPA identification number may obtain one by applying to the Administrator using EPA Form 8700–12. Upon receiving the request, the Administrator will assign an EPA identification number to the transporter.

Subpart B—Compliance with the Manifest System and Recordkeeping

§ 263.20 The Manifest System.

(a) A transporter may not accept hazardous waste from a generator unless it is accompanied by a manifest, signed by the generator in accordance with the provisions of 40 CFR Part 262.

(b) Before transporting the hazardous waste, the transporter must sign and date the manifest acknowledging acceptance of the hazardous waste from the generator. The transporter must return a signed copy to the generator before leaving the generator's property.

(c) The transporter must ensure that the manifest accompanies the hazardous waste.

(d) A transporter who delivers a hazardous waste to another transporter or to the designated facility must:

(1) Obtain the date of delivery and the handwritten signature of that transporter or of the owner or operator of the designated facility on the manifest; and

(2) Retain one copy of the manifest in accordance with § 263.22; and

(3) Give the remaining copies of the manifest to the accepting transporter or designated facility.

(e) The requirements of paragraphs (c) and (d) of this section do not apply to rail or water (bulk shipment) transporters if:

(1) The hazardous waste is delivered by rail or water (bulk shipment) to the designated facility; and

(2) A shipping paper containing all the information required on the manifest (excluding the EPA identification numbers, generator certification, and signatures) accompanies the hazardous waste; and

(3) The delivering transporter obtains the date of delivery and handwritten signature of the owner or operator of the designated facility on either the manifest or the shipping paper; and

(4) The person delivering the hazardous waste to the initial rail or water (bulk shipment) transporter obtains the date of delivery and signature of the rail or water (bulk shipment) transporter on the manifest and forwards it to the designated facility; and

(5) A copy of the shipping paper or manifest is retained by each rail or water (bulk shipment) transporter in accordance with § 263.22.

(f) Transporters who transport hazardous waste out of the United States must:

(1) Indicate on the manifest the date the hazardous waste left the United States; and

(2) Sign the manifest and retain one copy in accordance with § 263.22(c); and

(3) Return a signed copy of the manifest to the generator.

§ 263.21 Compliance with the manifest.

(a) The transporter must deliver the entire quantity of hazardous waste which he has accepted from a generator or a transporter to:

(1) The designated facility listed on the manifest; or

(2) The alternate designated facility, if the hazardous waste cannot be delivered to the designated facility because an emergency prevents delivery; or

(3) The next designated transporter; or

(4) The place outside the United States designated by the generator.

(b) If the hazardous waste cannot be delivered in accordance with paragraph (a) of this section, the transporter must contact the generator for further directions and must revise the manifest according to the generator's instructions.

§ 263.22 Recordkeeping.

(a) A transporter of hazardous waste must keep a copy of the manifest signed by the generator, himself, and the next designated transporter or the owner or operator of the designated facility for a period of three years from the date the hazardous waste was accepted by the initial transporter.

(b) For shipments delivered to the designated facility by rail or water (bulk shipment), each rail or water (bulk shipment) transporter must retain a copy of a shipping paper containing all the information required in § 263.20(e)(2) for a period of three years.

(c) A transporter who transports hazardous waste out of the United States must keep a copy of the manifest indicating that the hazardous waste left the United States.

(d) The periods of retention referred to in this Section are extended automatically during the course of any unresolved enforcement action regarding the regulated activity or as requested by the Administrator.

Subpart C—Hazardous Waste Discharges

§ 263.30 Immediate action.

(a) In the event of a discharge of hazardous waste during transportation, the transporter must take appropriate immediate action to protect human health and the environment (e.g., notify local authorities, dike the discharge area).

(b) If a discharge of hazardous waste occurs during transportation, and an official (State or local government or a Federal Agency) acting within the scope of his official responsibilities determines that immediate removal of the waste is necessary to protect human health or the environment, that official may authorize the removal of the waste by transporters who do not have EPA identification numbers and without the preparation of a manifest.

(c) An air, rail, highway, or water transporter who has discharged hazardous waste must:

(1) Give notice, if required by 49 CFR 171.15, to the National Response Center (800–424–8802 or in the District of Columbia, 426–2675); and

(2) Report in writing as required by 49 CFR 171.16 to the Director, Office of Hazardous Materials Regulations, Materials Transportation Bureau, Department of Transportation, Washington, D.C. 20590.

(d) A water (bulk shipment) transporter who has discharged hazardous waste must give notice as required by 33 CFR 153.203 to the National Response Center (800–424–8802 or in the District of Columbia, 426–2675).

§ 263.31 Discharge clean up.

A transporter must clean up any hazardous waste discharge that occurs during transportation or take such action as may be required or approved by Federal, State, or local officials so that the hazardous waste discharge no longer presents a hazard to human health or the environment.

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Part IV

Environmental Protection Agency

Notification of Hazardous Waste Activity; Public Notice

ENVIRONMENTAL PROTECTION AGENCY

[Docket No. 3010; FRL 1419-4]

Preliminary Notification of Hazardous Waste Activity

AGENCY: Environmental Protection Agency.

ACTION: Publication of notification form.

SUMMARY: Section 3010 of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6930 requires any person who generates or transports hazardous waste or who owns or operates a facility for the treatment, storage, or disposal of hazardous waste to notify the Environmental Protection Agency (or States having authorized hazardous waste permit programs) of the hazardous waste activity within 90 days of the promulgation or revision of RCRA Section 3001 regulations. This notification will give EPA and the public a "snapshot" of the hazardous waste activity regulated under RCRA. In accordance with Section 6001 of RCRA, Federal Agencies must comply with the notification requirement of Section 3010. Section 3010 states that unless notification has been given, "no identified or listed hazardous waste subject to this subtitle may be transported, treated, stored, or disposed of." In addition, existing treatment, storage, and disposal facilities that do not provide notification pursuant to this section become ineligible for Interim Status under Section 3005(e). This notice sets forth procedures and a form which should be used when filing a notification of hazardous waste activity.

ADDRESS: The official docket for this notice is located in Room 2503, U.S. Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. and is available for viewing from 9:00 am to 4:00 pm, Monday through Friday, excluding holidays.

FOR FURTHER INFORMATION ON THIS NOTICE CONTACT: Mr. Terrence Kafara, State Programs and Resource Recovery Division, Office of Solid Waste, WH-563, U.S. Environmental Protection Agency, Washington, D.C. 20460 (202) 755-9150.

SUPPLEMENTARY INFORMATION:

I. Authority

This notice is issued under authority of Sections 2002(a) and 3010 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 and as amended by the Quiet Communities Act of 1978 ("RCRA" or "the Act"), 42 U.S.C. 6912(a) and 6930.

II. Background

The Resource Conservation and Recovery Act provides for the development and implementation of a comprehensive program to protect human health and the environment from the improper management of hazardous waste. A fundamental premise of the statute is that human health and the environment will best be protected by careful management of the transportation, treatment, storage, and disposal of hazardous waste, in accordance with standards developed under the Act.

Elsewhere in today's **Federal Register**, standards for generators (Section 3002) and transporters (Section 3003) of hazardous waste are published. Within the next several months, the Environmental Protection Agency ("EPA" or "the Agency") will promulgate regulations for determining which wastes are hazardous (Section 3001); requirements for the treatment, storage, and disposal of hazardous waste (Section 3004); procedures for obtaining a hazardous waste permit (Section 3005); and procedures for the delegation of program responsibility from EPA to the States (Section 3006). The publication of these regulations sets in motion a series of events which will culminate in full implementation of the hazardous waste control program. One of these events is the notification of hazardous waste activity required by Section 3010 of RCRA.

Section 3010 requires all persons engaging in hazardous waste management activities to notify EPA or States having authorized hazardous waste permit programs. In developing the Notification Form included in this notice, EPA considered two distinct approaches. The first was to expand the form to include the gathering of additional information which could be used in establishing enforcement priorities. The second approach consisted of a form whose requests were limited to that information necessary to fulfill the statutory requirement for notification.

EPA chose the latter approach for two reasons. First, the successful establishment of a computer data base depends upon extensive use of a Notification Form which is designed for direct key punching and entry into the computer. The inclusion of information beyond that amount, which is legally required by Section 3010, would likely result in decreased use of the form by persons filing notifications. Second, the information required for the establishment of surveillance and enforcement priorities can be obtained in other, more appropriate ways, such as annual reporting requirements.

III. Implementation

EPA has identified approximately 400,000 persons, businesses, and Federal Agencies which may be required to file notifications. EPA will mail to each of these persons a notification package including this Public Notice, an explanatory letter from the EPA Administrator, a copy of the EPA regulations on identification and listing of hazardous waste (Title 40, Code of Federal Regulations, Part 261), information from other EPA regulations which may be needed to assist persons in filing a notification, and a postcard which may be used by owners and operators of treatment, storage, and disposal facilities to request Part A of the permit application. The notification must be filed with EPA within 90 days of promulgation of 40 CFR Part 261. Part A of the permit application must be filed within six months of promulgation of the 40 CFR Part 261 for owners and operators of those facilities who wish to continue their operations under the Interim Status provisions of Section 3005(e) of the Act.

Receipt of a notification package from EPA does not mean that a person must file a notification, but rather that the person has been identified as a member of an industry or other activity likely to handle hazardous waste. For example, many persons in the wood and woodworking industry will receive notification packages. While many businesses in that industry generate hazardous waste, some will receive packages although they do not ordinarily produce hazardous waste.

Conversely, non-receipt of a notification package does not mean that a person is not required to file a notification. Each person must make a determination of whether he/she handles hazardous waste. EPA's mass mailing is intended to assist people in determining whether they are required to file a notification, and failure of the Agency to mail a notification package to any affected person will not relieve that person of the obligation to file a notification according to the requirements of the Act.

Each notification package will also include several pre-printed labels for use in filing the notification. The twelve-digit (12) number on the upper left hand corner of each label is that person's EPA Identification Number. It must be used on hazardous waste manifests and annual and other reports. Persons who do not receive notification packages will be assigned an EPA Identification

Number upon receipt by EPA of their notifications.

EPA will return to each notifier an acknowledgement of receipt of the notification, which will include the notifier's EPA Identification Number. Persons who received notification packages will already know their EPA Identification Numbers and may begin to use them as required, that is, six months after promulgation of 40 CFR Part 261, even if the EPA acknowledgement is delayed. This acknowledgement in no way constitutes an endorsement by EPA of the adequacy of the notification or of the notifier's business practices, rather, it serves as a confirmation that EPA received the notification.

IV. Who Must File

In order to transport, offer for transportation, treat, store, or dispose of hazardous waste, after the effective date of 40 CFR 261, a person must have filed a notification and received an EPA Identification Number. Regulations governing the notification process were proposed on July 11, 1978 (43 Fed. Reg. 29908 *et seq.*). The proposed regulations stated that persons conducting hazardous waste activities "at the time of promulgation or revision of Section 3001 regulations" were required to file a notification. Many commenters requested that the Agency clarify the question of who must file. EPA, accordingly, has been more specific in the instructions to the form.

It should be emphasized that the notification process applies in general to persons handling hazardous waste at the time of promulgation or amendment of the Section 3001 regulations. There are certain persons who do not have to file a notification though they handle hazardous waste, for example, persons generating small quantities of hazardous waste. The Section 3001 regulations define which persons who handle hazardous waste are exempt from notifying.

Hazardous waste management facilities which are no longer in operation are not required to notify because it is EPA's view that the intent of Congress was that the Notification process was to be a snapshot of current hazardous waste management practices for the benefit of EPA and the public. Further, it was not intended, nor is it an appropriate vehicle for finding abandoned hazardous waste disposal sites in part, because the RCRA Subtitle C Regulations do not cover those abandoned sites. New legislation to find and clean-up abandoned sites is being considered by EPA and the Congress. It is noted that a notification is required for a facility storing hazardous waste at the time of promulgation or amendment to the Section 3001 regulations even though no new wastes are being added. These facilities are, in effect, continuing to store hazardous waste and therefore they are considered to be in operation.

Generators of hazardous waste who begin operation after the initial notification period must, prior to shipping hazardous waste, apply for an EPA Identification Number using the Notification Form in accordance with the regulations published under Section 3002 (40 CFR Part 262). Similarly, new hazardous waste transporters must also apply for an EPA Identification Number on the Notification Form in accordance with the regulations published under Section 3003 (40 CFR Part 263) prior to moving any hazardous waste. The owners/operators of new treatement, storage, and disposal facilities and facilities which failed to meet the requirements for Interim Status (Notification within 90 days and submission of a Part A permit application within 180 days) may not operate until they receive a permit. This requirement includes generators who treat, store, or dispose of hazardous waste on-site.

Persons who have provided proper notification of hazardous waste activity may later begin to handle additional hazardous wastes not included in the original notification. In the administration of this program, EPA will not require these persons to file a new notification under Section 3010 with respect to those wastes. Such a requirement would be costly to both EPA and the regulated community with no corresponding benefit.

The Section 3010 notification will also provide information on the location of Class IV injection wells. Regulations promulgated under the Safe Drinking Water Act provide for EPA to conduct a survey of these wells. Under the Section 3010 notification, hazardous waste generators and owners and operators of facilities for treating, storing, or disposing of hazardous waste must indicate if an injection well is located at their installation. Requiring this information under the Notification process will greatly assist EPA in preparing for the survey under the Safe Drinking Water Act.

V. Information Required

Section 3010 requires a person who notifies EPA of his hazardous waste activity to state "the location and general description of such activity and the identified or listed hazardous wastes handled." The proposed regulations required submission of that information, with the optional addition of the amount of hazardous waste handled annually.

Several changes were made from the proposed regulations to the final Public Notice. The "amount" item was deleted, because it would be extremely difficult for many persons to make an accurate estimate of the amount of hazardous waste handled in the past. The information thus obtained might be inaccurate or misleading, and therefore useless for informational purposes. A number of commenters suggested deletion of this item.

The "description of activity" requirement has been simplified. The proposed rule required a designation of which type of hazardous waste activity was being conducted (generation, transportation, treatment, storage, or disposal) and a general description of the business activity which produced the waste, through use of SIC (Standard Industrial Classification) code numbers. The SIC code requirement was deleted because, in many cases, the code number would not reveal the information necessary for EPA to make use of the data. For instance, a manufacturer's SIC code would not necessarily reveal that the company produces electroplating wastes, because the SIC code is keyed to the product (e.g., automobiles) and not to the waste. More accurate information as to amount and type of waste will be obtained through annual and other reports, permit applications, and EPA access to records.

The proposed form listed six characteristics of non-listed hazardous waste to be checked by persons handling such waste: ignitable, reactive, infectious, radioactive, corrosive, and toxic. The Section 3001 regulations, however, will not include characteristics for identifying waste as infectious or radioavtive, but will use those properties as a basis for listing specific hazardous wastes. The form has been modified accordingly.

The proposal also allowed 180 days after promulgation of the Section 3001 regulations for a final notification with respect to toxic waste. Persons who had reason to believe they handled toxic waste were required to file a notification within 90 days of promulgation of the Section 3001 regulations, but were permitted to indicate that it was "undetermined" whether they handled toxic waste. Then, at the expiration of the 180-day period, such persons were to be considered as handling toxic waste unless they had submitted statements to the effect that the waste was not toxic. The reason for this variation in procedure was to allow for anticipated delays in obtaining a laboratory analysis establishing whether each

waste met the proposed standard for toxicity. The Agency decided, however, not to require notifiers to report on whether each waste is toxic. Rather, notifiers are simply required to determine whether at least one waste handled meets the standard for toxicity. This change greatly reduces the initial analytical burden on notifiers, and it is not unreasonable to expect completion of the notification within 90 days of promulgation of the Section 3001 regulations. Therefore the 180-day provision has been deleted. It should be noted that following the effective date of the hazardous waste regulatory program (6 months after promulgation of Section 3001) the determination as to toxicity must be completed by generators for each waste as required by 40 CFR Part 262, Standards Applicable to Generators of Hazardous Waste. Commenters stated that many transporters particularly those in the rail industry, would be unable to identify the waste they transport and therefore should be exempt from this notification provision. The Act requires all persons who handle hazardous waste to notify. The purpose of Section 3010 is to provide EPA information on the indentity and hazardous waste handled by persons involved in hazardous waste activities. This information is essential for EPA's implementation of the Act. If necessary, transporters will be able to obtain the information on hazardous wastes from the shippers.

Finally, the proposed regulations were silent on the question of determining which wastes should be included in the notification. The proposal required persons conducting hazardous waste activities to notify with respect to those wastes handled "at the time of promulgation or revision of Section 3001 regulations." The instructions in this final Public Notice are more specific regarding the time period to be used. Any hazardous wastes handled during the three-month period immediately prior to the date of filing the notification must be included. Notifiers may also include other wastes which they anticipate they will be handling. For example, manufacturers may, from time to time, need to dispose of some of the chemical substances listed in 40 CFR Part 261. Notifiers who did not handle these wastes during the previous three months may include them in their notifications.

The form included in this notice offers a standardized approach for persons required to file notifications to provide the necessary information. Use of the form will assist EPA in the orderly initiation of its data management system, which is designed to facilitate key punching for entry into the computer. Some commenters suggested that EPA accept data processing printouts in lieu of a Notification Form. EPA will accept printouts. However, EPA believes it will be simpler for persons to use the form rather than printouts when notifying. If a printout is used, the notifier will have to provide for each waste on the printout the appropriate EPA Hazardous Waste Number or, for non-listed hazardous wastes, the general characteristics of the wastes. Notifiers who do not use the form must include all required information, including the certification in Item X of the form, signed by the person notifying or his authorized representative.

VI. Claims of Confidentiality

In the proposed regulation, EPA requested public comment on two alternatives for handling claims of condifentiality. The first would have permitted unsubtantiated claims of confidentiality at the time of notification. If a request for the information under the Freedom of Information Act were to be received, or in anticipation of such a request, EPA would have required substantiation of the claim. The second would require the necessary substantiation to be submitted with the notification.

Although many comments received on the question favored the first option, EPA chose the second based on three primary consideration. First, if EPA obtains the substantiation of the claim of confidentiality with the notification, the Regional Counsel can determine the business confidentiality before the information is entered into the Agency's computer, thus simplifying the recordkeeping procedure. Second, since EPA expects to receive many requests for the information, it would place an unnecessary burden on the Agency to require it to make a separate request for substantiation of each claim of confidentiality. No additional burden will be placed on notifiers because EPA would request substantiation of the claim in any event. In fact, notifiers will have 90 days to prepare the substantiation, instead of the 15 business days permitted by EPA's Freedom of Information Act Regulations. Finally, EPA believes that, in light of the very general nature of the information requested, very few notifiers will be able to justify a claim that information in the notification is entitled to confidential treatment.

The final notice, therefore, requires that all claims of confidentiality be accompanied by a written substantiation of the claim, in accordance with 40 CFR Part 2, Subpart B. The substantiation must address such questions as measures taken to guard against undesired disclosure of the information, the extent to which the information has been disclosed to others, and the harm which will result to the claimant's competitive position if the information is disclosed. The specific questions to be answered are listed in the instructions to the Notification Form.

Failure to include substantiation of a claim of confidentiality at the time of submission of notification will constitute a waiver of the claim, and the information in the notification will be available to the public.

VII. EPA Identification Number

The proposed regulations listed several types of identification numbers already assigned to many businesses and Federal Agencies, and instructed the notifier to use an appropriate number as his EPA hazardous waste identification number. A number of comments on this matter were received, some suggesting still more types of numbers to be used and others suggesting that, in the interest of conformity with the identification numbers to be assigned to treatment, storage and disposal facilities, the same numbering system should be used. EPA selected the latter option, and will use the Dun and Bradstreet Data Universal Numbering (DUN) system. The DUN system is the most nearly complete listing of U.S. businesses. Federal Agencies, which are not included in the DUN system, will be assigned their General Service Administration Real Property Number.

VIII. Use of Public Notice in Lieu of Final Promulgation of Regulations

The proposed rule included requirements as to who must file notifications, where and when to file, and what information notifications should contain, as well as a sample form. Also included was a provision for the temporary authorization of States for the sole purpose of receiving notifications.

EPA's primary reason for proposing regulations rather than a Public Notice was to establish rules covering the authorization of States to receive the notification (Limited Interim Authorization). However, EPA decided, for the reasons discussed below, to abandon the concept of Limited Interim Authorization. EPA has therefore decided not to promulgate notification regulations, but to issue this Public Notice instead.

The effect of this notice is, first, to provide a mechanism for implementation of Section 3010; second, to establish a certification statement which must be signed by anyone submitting a notification, and third, to establish a procedure for submission of claims of confidentiality.

IX. Limited Interim Authorization of States

The proposed regulations included procedures for granting "Limited Interim Authorization" to States in order to enable them to conduct the notification program. This concept was developed because it is very unlikely that any State hazardous waste program will be authorized during the 90-day notification period. It was intended that "Limited Interim Authorization" be granted separate and apart from the interim and full authorizations granted under section 3006 of RCRA.

Some commenters supported "Limited Interim Authorization" as a means for involving States in hazardous waste management as early as possible, while others objected on the grounds that "Limited Interim Authorization" is illegal and potentially burdensome. While EPA recognizes the benefits of involving the States during the initial implementation stages of RCRA, it has concluded that the use of "Limited Interim Authorization" is not authorized by RCRA. Section 3010 is explicit in stating that only "the Administrator" or "States having authorized hazardous waste permit programs under Section 3006" may receive notifications. The creation of a nonstatutory class of State authorizations in light of such an express Congressional directive raises serious legal questions. Therefore, since procedures involved in authorizing State programs under section 3006 are not likely to be completed during the 90-day notification period, EPA will carry out the notification process in full.

X. OMB Review

Under the Federal Reports Act of 1942, the Office of Management and Budget (OMB) reviews reporting requirements in proposed forms and regulations in order to minimize the reporting burden on respondents and the cost to the government. EPA submitted Form 8700–12 implementing section 3010 notification requirements to OMB on December 6, 1979. Reporting requirements implementing sections 3002 and 3003 were submitted on February 4, 1980.

In the course of OMB's preliminary review, OMB staff raised no objection to the form itself. OMB has, however, stated that it cannot complete its review of these requirements until the Administrator of EPA has made decisions regarding the coverage of the RCRA program under Subtitle C and OMB has had an opportunity to review the reporting burden of the entire regulatory program.

XI. Regulatory Analysis

In accordance with Executive Orders 12044 and 11821 as amended by Executive Order 11949, OMB Circular A–107 and EPA policy as stipulated in 39 Fed. Reg. 37419 (October 21, 1974), draft analyses of economic and environmental impacts have been prepared for the proposed Subtitle C, Hazardous Waste Management Regulations. The final Environmental Impact Statement will be available following promulgation of 40 CFR Part 261.

Dated: February 19, 1980.

Douglas M. Costle,

Administrator.

BILLING CODE 6560-01-M

GSA No. 12345-XX
Form Approved OMB No. 158-R00XX

Please print or type with ELITE type (12 characters/inch) in the shaded area only.

EPA

U.S. ENVIRONMENTAL PROTECTION AGENCY

NOTIFICATION OF HAZARDOUS WASTE ACTIVITY

INSTALLATION'S EPA I.D. NO.

I. NAME OF INSTALLATION

II. INSTALLATION MAILING ADDRESS

III. LOCATION OF INSTALLATION

PLEASE PLACE LABEL IN THIS SPACE

INSTRUCTIONS: If you received a preprinted label, affix it in the space at left. If any of the information on the label is incorrect, draw a line through it and supply the correct information in the appropriate section below. If the label is complete and correct, leave Items I, II, and III below blank. If you did not receive a preprinted label, complete all items. "Installation" means a single site where hazardous waste is generated, treated, stored and/or disposed of, or a transporter's principal place of business. Please refer to the INSTRUCTIONS FOR FILING NOTIFICATION before completing this form. The information requested herein is required by law *(Section 3010 of the Resource Conservation and Recovery Act).*

FOR OFFICIAL USE ONLY

COMMENTS (C) (15-55)

INSTALLATION I.D. NUMBER (F) (1-13) | T/A (14) | C (15) = 1 | APPROVED (16) | DATE RECEIVED (mo., day, & yr.) (17-22)

I. NAME OF INSTALLATION

(30-67)

II. INSTALLATION MAILING ADDRESS

STREET OR P.O. BOX (3) (15-45)

CITY OR TOWN (4) (15-40) | ST. (41-42) | ZIP CODE (47-51)

III. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER (5) (15-45)

CITY OR TOWN (6) (15-40) | ST. (41-42) | ZIP CODE (47-51)

IV. INSTALLATION CONTACT

NAME AND TITLE *(last, first, & job title)* (2) (15-45) | PHONE NO. *(area code & no.)* (46-55)

V. OWNERSHIP

A. NAME OF INSTALLATION'S LEGAL OWNER (7) (15-55)

B. TYPE OF OWNERSHIP *(enter the appropriate letter into box)* (56)

F = FEDERAL M = NON-FEDERAL

VI. TYPE OF HAZARDOUS WASTE ACTIVITY

57 ☐ A. GENERATION 58 ☐ B. TRANSPORTATION *(complete item VII)*
59 ☐ C. TREAT/STORE/DISPOSE 60 ☐ D. UNDERGROUND INJECTION

VII. MODE OF TRANSPORTATION *(transporters only)*

☐ A. AIR (61) ☐ B. RAIL (62) ☐ C. HIGHWAY (63) ☐ D. WATER (64) ☐ E. OTHER *(specify)*: (65)

VIII. FIRST OR SUBSEQUENT NOTIFICATION

Mark 'X' in the appropriate box to indicate whether this is your installation's first notification of hazardous waste activity or a subsequent notification. If this is not your first notification, enter your installation's EPA I.D. number in the space provided below.

☐ A. FIRST NOTIFICATION ☐ B. SUBSEQUENT NOTIFICATION *(complete item C)*

C. INSTALLATION'S EPA I.D. NO.

IX. DESCRIPTION OF HAZARDOUS WASTES

Please go to the reverse of this form and provide the requested information.

EPA Form 8700-12 (2-80)

CONTINUE ON REVERSE

I.D. NO. — FOR OFFICIAL USE ONLY

S W | 1 2 | 13 14 15 | C 1

IX. DESCRIPTION OF HAZARDOUS WASTES *(continued from front)*

A. HAZARDOUS WASTES FROM NON-SPECIFIC SOURCES. Enter the four-digit number from 40 CFR Part 261.31 for each listed hazardous waste from non-specific sources your installation handles. Use additional sheets if necessary.

1	2	3	4	5	6
7	8	9	10	11	12

B. HAZARDOUS WASTES FROM SPECIFIC SOURCES. Enter the four-digit number from 40 CFR Part 261.32 for each listed hazardous waste from specific industrial sources your installation handles. Use additional sheets if necessary.

13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30

C. COMMERCIAL CHEMICAL PRODUCT HAZARDOUS WASTES. Enter the four-digit number from 40 CFR Part 261.33 for each chemical substance your installation handles which may be a hazardous waste. Use additional sheets if necessary.

31	32	33	34	35	36
37	38	39	40	41	42
43	44	45	46	47	48

D. LISTED INFECTIOUS WASTES. Enter the four-digit number from 40 CFR Part 261.34 for each listed hazardous waste from hospitals, veterinary hospitals, medical and research laboratories your installation handles. Use additional sheets if necessary.

49	50	51	52	53	54

E. CHARACTERISTICS OF NON-LISTED HAZARDOUS WASTES. Mark 'X' in the boxes corresponding to the characteristics of non-listed hazardous wastes your installation handles. *(See 40 CFR Parts 261.20 — 261.23.)*

☐ 1. IGNITABLE ☐ 2. CORROSIVE ☐ 3. REACTIVE ☐ 4. TOXIC

X. CERTIFICATION

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment.

SIGNATURE	OFFICIAL TITLE	DATE SIGNED

EPA Form 8700-12 (2-80) REVERSE

BILLING CODE 6560-01-C

Instructions for filing Notification of Hazardous Waste Activity—EPA Form 8700–12: General Instructions

Who Must File

The Resource Conservation and Recovery Act of 1976 (RCRA) requires anyone who generates or transports hazardous waste, or who owns or operates a facility for treating, storing, or disposing of hazardous waste to notify EPA of their activity. This includes individuals, trusts, firms, joint stock companies, corporations (including government corporations), partnerships, associations, States, municipalities, commissions, interstate bodies and Federal Agencies. If you transport, treat, store, or dispose of hazardous waste without filing a notification, you may be subject to civil and criminal penalties.

Generators, owners and operators of facilities for treating, storing, or disposing of hazardous waste who operate underground injection wells must notify EPA using the Notification Form under RCRA. You do not have to submit a separate Notification Form under the Safe Drinking Water Act, however, you are still required to fill out inventory and other forms required under the Safe Drinking Water Act. For further information, owners and operators of underground injection wells should consult the Chief, Water Supply Branch at the nearest EPA Regional Office.

What Information Should Be Filed

When filing a notification, you must identify the hazardous wastes that you handle and give a general description of your activity including its location. You can submit all this information by simple completing the enclosed EPA Form 8700–12,

Notification of Hazardous Waste Activity

How Many Forms Should be Filed: You need submit only one Notification Form per site or location, provided that you describe all the activities at that site or location. If you conduct hazardous waste activity at more than one site or location, you must submit a *separate* form for each site or location.

If you transport hazardous waste, and do not generate, treat, store, or dispose of hazardous waste, you may submit one form which covers all the transportation activities your company conducts. This form should be submitted to the EPA Regional Office that serves the area where your company has its headquarters or principal place of business. However, if you are a transporter who generates, treats, stores or disposes of hazardous waste, you will have to complete and submit separate Notification Forms to cover each installation.

When To File

1. *Within 90-days of Publication of Regulations Under Section 3001 of RCRA:* Anyone who conducts hazardous waste activity must file a notification within 90 days after EPA publishes regulations under Section 3001 of RCRA. These regulations define which solid wastes are hazardous wastes and are published under Title 40 of the Code of Federal Regulations, Part 261.

Owners or operators of facilities that treat, store or dispose of hazardous waste *must* submit a notification within 90 days after the 3001 regulations are published in order to qualify for "Interim Status"—that is, temporary authority to continue their operations until a final permit is issued.

2. *Within 90-days of Any Amendments to the Section 3001 Regulations:* From time to time, EPA may change its procedures for identifying hazardous waste, or may revise the list of hazardous waste which it has published. If you handle any wastes which are identified or listed as hazardous by an amendment to the Section 3001 regulations, you must file a notification covering these wastes within 90 days after the amendment is published.

3. *New Generators and Transporters:* If you begin to generate hazardous waste and have not previously filed a notification, you must comply with the regulations for obtaining an EPA Identification Number published under Section 3002 of RCRA (40 CFR Part 262) before you transport hazardous waste or offer your hazardous waste to a transporter.

Similarly, if you desire to transport hazardous waste and have not previously filed a notification, you must comply with the regulations for obtaining an EPA Identification Number published under section 3003 of RCRA (40 CFR Part 263) before you move any hazardous waste.

Persons applying for an EPA Identification Number under Section 3003 of RCRA need not complete the reverse side of the Notification Form as they may not know which wastes they will be handling.

4. *Treatment, Storage and Disposal Facilities:* If you own or operate a facility where hazardous waste is treated, stored, or disposed, and you do not file a notification during the 90-day period following the initial publication of the Section 3001 regulations, you will not be allowed to continued your hazardous waste activities until you obtain a hazardous waste permit. Similarly, if you plan to open a new hazardous waste treatment, storage, or disposal facility, you must obtain a hazardous waste permit before commencing operations. Owners or operaters of new facilities need not submit a notification, since your permit application will fulfill your notification requirments.

Where To File

Notification should be sent to the EPA Regional Office that serves the area where your hazardous waste activity is located. If you received a notification packet from EPA that contains envelopes and pre-addressed mailing labels, you should use one of the envelopes and one of the mailing labels to send your notification to EPA. If you do not have a pre-addressed mailing label, mail your notification to the EPA Regional Office that serves the area where your hazardous waste activity is located. The mailing addresses for the EPA Regional Offices are listed below:

Mailing-Address for Receiving

EPA Region	Area served	Notification
I	Connecticut, Maine, Massachusetts, Rhode Island, Vermont	EPA Region I Permits Branch P.O. Box 8748 Boston, MA 02114
II	New Jersey, New York, Virgin Islands, Puerto Rico	EPA Region II Information Service Center 26 Federal Plaza New York, NY 10007
III	Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia	EPA Region III P.O. Box 1460 Philadelphia, PA 19107
IV	Alabama, Florida, Georgia, Kentucky Mississippi, North Carolina, South Carolina, Tennessee	EPA Region IV RCRA Activities 345 Courtland, N.E. Atlanta, GA 30308
V	Illinois, Indiana, Michigan, Minnesota, Ohio, Wisconsin	U.S. EPA Region V RCRA Activities P.O. Box 7861 Chicago, IL 60680
VI	Arkansas, Louisiana, New Mexico, Oklahoma, Texas	EPA Region VI Attn: 6 AEG 1201 Elm Street First International Bldg. Dallas, TX 75270
VII	Iowa, Kansas, Missouri, Nebraska	EPA Region III P.O. Box 15606 Kansas City, MO 64106
VIII	Colorado, Montana, North Dakota, South Dakota, Utah, Wyoming	EPA Region VIII 8AH-WM 1860 Lincoln Street Denver, CO 80295
IX	Arizona, California, Hawaii, Nevada, Guam, American Samoa, Trust Territories	EPA Region IX Attn: A-3-2 215 Fremont Street San Francisco, CA 94105
X	Alaska, Idaho, Oregon, Washington	EPA Region X M/S 530-A 1200 Sixth Avenue Seattle, WA 98101

Confidential Information

All information you submit in a notification can be disclosed to the public, according to the Freedom of Information Act and EPA Freedom of Information Regulations. Because notification information is very general, EPA believes that it is unlikely that any information in your notification could qualify to be protected from disclosure.

However, if you wish, you may make a claim of confidentiality by printing the word "confidential" on both sides of the Notification Form and on any attachments. In addition, *at the time of notification,* you must submit written answers to each of the following questions:

1. Which portions of the information do you claim are entitled to confidential treatment?
2. How long do you want this information treated confidential?
3. What measures have you taken to guard against undesired disclosure of the information to others?
4. To what extent has the information been disclosed to others, and what precautions have you taken in connection with that disclosure?
5. Has EPA or any other Federal Agency made a pertinent confidentiality determination? (If so, include a copy of this determination of reference to it, if available).
6. Will disclosure of the information be likely to substantially harm your competitive position? If so, what would the harm be, and why should it be viewed as substantial? What is the relationship between disclosure and the harm?

Note.—If you fail to include substantiation of your claim of confidentiality at the time you submit your notification form, you waive your claim, and the information on the form will be available to the public.

Line-by-Line Instructions—EPA Form 8700–12

Type or print in ink all items except X(A), SIGNATURE, leaving a blank box between words. If you must use additional sheets, indicate clearly the number of the item on the form to which the information on the separate sheet applies.

Items I through III

Name, Mailing Address, and Location of Installation: If you received a preprinted label from EPA, attach it in the space provided and leave items I, II, and III blank. If there is an error or omission on the label, cross out the incorrect information and fill in the appropriate item(s). If you did not receive a preprinted label, complete items I, II, and III.

Example:

I. NAME OF INSTALLATION

Smith Manufacturing Company

II. INSTALLATION MAILING ADDRESS

STREET OR P.O. BOX

3 PO Box 8719

CITY OR TOWN | ST. | ZIP CODE

4 Urbana | IL | 61801

III. LOCATION OF INSTALLATION

STREET OR ROUTE NUMBER

5 1201 6th Street

CITY OR TOWN | ST. | ZIP CODE

6 Urbana | IL | 61801

Item IV.

Installation Contact: Enter the name, title, and business telephone number of the person who should be contacted regarding information submitted on this form.

Item V.

Ownership: (A) Enter the name of the legal owner of the installation. Use additional sheets if necessary to list more than one owner.

(B) Enter an F in the box if the installation is owned by a Federal Agency. Enter an M if the installation is not owned by a Federal Agency. An installation is Federally owned if the owner is the Federal Government, even if it is operated by a private contractor.

Item VI.

Type of Hazardous Waste Activity: Mark "X" in the appropriate box(es) to indicate the hazardous waste activity or activities at the installation. If you mark item C, you are reminded that you should mail the enclosed post card to request a RCRA Permit Application. Generators, owners and operators of facilities for treating, storing, or disposing of hazardous waste must mark item D if an injection well is located at their installation. An injection well is defined as any hole in the ground that is deeper than it is wide and that is used

for the subsurface placement of fluid, *including septic tanks.*

Item VII.

Mode of Transportation: Complete this item only if you are a transporter of hazardous waste to indicate the mode(s) of transportation you use.

Item VIII

First or Subsequent Notification: If you handle any hazardous waste that is identified in an amendment to Part 261 you will have to file a notification on that waste within 90 days after the amendment is published. Place an "X" in the appropriate box to indicate whether this is your first or a subsequent notification. If you have filed a previous notification, enter your EPA Identification Number in the boxes provided.

Note.—If you have filed a notification before, you only need enter the four-digit numbers of those wastes that were identified in the amendment to Part 261.

Item IX

Description of Hazardous Waste: You need to read Title 40, Code of Federal Regulations Part 261 in order to complete this item. Part 261 identifies those solid wastes that EPA defines to be hazardous wastes. Part 261 identifies hazardous wastes in two ways:

(1) A number of hazardous wastes are listed by name in various tables and appendices. EPA has assigned a four-digit number to each waste that is listed to make it easier to identify the wastes.

(2) Part 261 also lists the general characteristics of hazardous wastes. EPA has also assigned a four-digit number to these characteristics.

As you will note, Item IX on the form is divided into five sections. You should use Sections A through D to identify any listed hazardous wastes which you handle; use Section E to identify those characteristics of the non-listed hazardous wastes which you handle.

You should include in Sections A through E all hazardous wastes you handled during the three-month period preceding the date of notification. If you occasionally handle a hazardous waste but did not handle that waste during the three-month period preceding the date of notification, you may also include that waste (or wastes) in Section A through E.

If you are a new generator applying for an EPA Identification Number under the provisions of 40 CFR Part 262, you should describe the wastes which you believe you will be generating.

If you are a new transporter applying for an EPA Identification Number under the provisions of 40 CFR Part 263, you are not required to complete Item IX.

The specific instructions for Sections A through E are:

Section A

If you handle hazardous wastes from the non-specific sources listed in Part 261.31, enter the appropriate four-digit numbers in the boxes provided.

Section B

If you handle hazardous wastes from the specific industrial sources listed in Part 261.32, enter the appropriate four-digit numbers in the boxes provided.

Section C

If you handle any of the commercial chemical products or manufacturing intermediate or material listed in Part 261.33 as wastes, enter the appropriate four-digit numbers in the boxes provided. Manufacturers may include the products or raw materials that can be reasonably anticipated to require treatment, storage, or disposal as wastes from time to time even though you may not have handled them in the past three months.

Section D

If you handle any of the hazardous wastes from hospitals, veterinary hospitals, or medical and research laboratories listed in Part 261.34, enter the appropriate four-digit numbers in the boxes provided.

Section E

If you handle hazardous wastes which are not listed in Subpart D of Part 261, you should describe these wastes by the characteristics in Subpart C of Part 261. For purposes of notification, it is not necessary to use the four-digit numbers for each characteristic. Rather, you should place an "X" in the box next to the characteristic of those non-listed wastes which you handle.

Item X

Certification: This certification must be signed by the owner or operator or an authorized representative of your installation. An "authorized representative" is a person responsible for the overall operation of the facility—for example—a plant manager or superintendent, or a person of equivalent responsibilty.

[FR Doc. 80-5956 Filed 2-25-80; 8:45 am]
BILLING CODE 6560-01-M

federal register

Tuesday
February 26, 1980

Part V

Office of Management and Budget

Budget Rescission and Deferrals

OFFICE OF MANAGEMENT AND BUDGET

Budget Rescission and Deferrals

To the Congress of the United States:

In accordance with the Impoundment Control Act of 1974, I herewith report one revision to a previously transmitted rescission proposal decreasing the amount proposed by $6.4 million. In addition, I am reporting two new deferrals of budget authority totalling $20.0 million and two revisions to previously transmitted deferrals increasing the amount deferred by $13.9 million.

The revision to the rescission proposal affects the Health Resources Administration of the Department of Health, Education, and Welfare.

The new deferrals and revisions to existing deferrals involve programs in the Departments of Agriculture, Health, Education, and Welfare, and the Treasury.

The details of the revised rescission proposal and the deferrals are contained in the attached reports.

Jimmy Carter

THE WHITE HOUSE,
February 20, 1980.

BILLING CODE 3110-01-M

CONTENTS OF SPECIAL MESSAGE
(in thousands of dollars)

Rescission No.	Item	Budget Authority
	Department of Health, Education, and Welfare:	
	Health Resources Administration	
R80-2A	Health resources	97,768
Deferral No.		
	Department of Agriculture:	
	Farmers Home Administration	
D80-46	Mutual self-help housing	15,000
	Department of Health, Education, and Welfare:	
	Social Security Administration	
D80-47	Limitation on administrative expenses	5,000
	Human Development Services	
	White House Conferences on Aging, Families,	
D80-13A	and Children	3,899
	Department of the Treasury:	
	Office of Revenue Sharing	
D80-23A	State and local government fiscal assistance fund	16,585 1/
	Subtotal, deferrals	40,484
	Total, rescission proposal and deferrals	138,252

* *

SUMMARY OF SPECIAL MESSAGES
FOR FY 1980
(in thousands of dollars)

	Rescissions	Deferrals
Fifth special message:		
New items	---	20,000
Change to amounts previously submitted	-6,450	13,850
Effect of fifth special message	-6,450	33,850
Previous special messages	122,332	3,219,410
Total amount proposed in special messages	115,882	3,253,260 2/

1/ Outlays only.

2/ This amount represents budget authority except for $16,585 thousand in a general revenue sharing deferral of outlays only (D80-23A).

SUPPLEMENTARY REPORT

Report pursuant to Section 1014(c) of P.L. 94-344

This report revises Rescission No. R80-2 transmitted to the Congress on January 28, 1980, and printed as House Document No. 96-259.

This revision to a rescission for the Health Resources Administration's Health resources account decreases the amount previously proposed for rescission from $104,218,000 to $97,768,000. The decrease of $6,450,000 results from a decision to include capitation grants for public health schools in funds available for obligation in FY 1980.

Rescission Proposal No: R80-2A

PROPOSED RESCISSION OF BUDGET AUTHORITY

Report Pursuant to Section 1012 of P.L. 93-344

Agency: Department of Health, Education, and Welfare	New budget authority (P.L. 96-123): $ 688,202,000
Bureau: Health Resources Administration	Other budgetary resources: 7,284,526
Appropriation title & symbol: Health Resources 7500712[1/], 756/00712, 75X0712	Total budgetary resources: 695,486,526
	Amount proposed for rescission: $ 97,768,000*
OMB identification code: 75-0712-0-1-550	Legal authority (in addition to sec. 1012): ☐ Antideficiency Act
Grant program: ☒ Yes ☐ No	☐ Other
Type of account or fund: ☒ Annual ☒ Multiple-year September 30, 1980 (expiration date) ☒ No-year	Type of budget authority: ☒ Appropriation ☐ Contract authority ☐ Other

Justification:* During the 1960's and early 1970's, the supply of health professionals increased dramatically, primarily as a result of increased Federal subsidies to expanded numbers of health professions students and training programs. Since 1960, the Federal government has spent about $18 billion to help increase the supply of health professionals by 50%. Between 1960 and 1975, the number of physicians in active practice increased 46%. By 1990, the supply of active physicians is expected to reach nearly 600,000, or an increase of 58% between 1975 and 1990. Moreover, the physician to population ratio rose from 142:100,000 in 1960 to 174:100,000 in 1975, and is expected to reach 244:100,000 in 1990 or 40% greater than in 1975.

In recognition of these trends, the President's 1979 and 1980 Budgets proposed phasing down general institutional support and concentrating on alleviating the problems of geographic maldistribution through service commitment scholarships and of overspecialization of medical practice through support of primary care training programs. These policies are continued in the President's 1981 Budget. The current adequate supply and potential oversupply during the 1980's underscore the point that special Federal subsidies are no longer required to increase the supply of particular categories of health professionals.

1/ This account was the subject of a similar rescission proposal in FY 1979 (R79-4).

* Changed from previous report.

The $97,768,000 in health professions training funds proposed for rescission in 1980 includes $81,268,000 for capitation grants and $16,500,000 for health professions non-service student loans. These funds have been identified as unnecessary to program needs for meeting the goal of providing health services to the medically underserved. This is in keeping with the strategy articulated in the President's 1980 and 1981 Budgets to terminate capitation grants by 1981 and initiate phaseout of other institutional subsidies and student assistance programs that in the past have served to increase the supply of health professionals without regard to specialty or geographic shortages.

Capitation grants are not the most efficient means for correcting either specialty or geographic maldistribution problems. The Administration supports various training programs that are more effective in addressing the health services needs of the coming decade, including service commitment scholarships, family medicine and primary care residency training grants, and grants to develop family medicine departments and for the training of nurse practitioners and physician assistants. Health professions schools will be able to accommodate this loss of capitation subsidies -- which account for less than 5% of medical schools' total revenues -- through increased tuition, State appropriations, more efficient management, or by reducing the high faculty costs created by faculty to student ratios in medical schools currently at 10 faculty members for every 13 students. Average medical tuition is now only about $3,000 per year and as a percentage of total medical school revenues has remained at an average of 4%-5% over the last ten years. Moreover, even with the loss of these capitation subsidies, medical and other health professions schools will remain filled to capacity. The nation's 126 medical schools have 2.5 times as many qualified applicants as places and will be producing in excess of 16,000 new physicians anually during the 1980's.

The Budget proposes that the Health Professions Student Loan (HPSL) program be phased out in favor of service commitment programs, e.g., the National Health Service Corps (NHSC) scholarship program. While the HPSL program includes a partial Federal repayment provision (60% to 85%) for service in shortage areas, the Administration is proposing that the Health Education Assistance federally guaranteed loan program (HEAL) -- which has the same loan-repayment provision -- become the primary source of Federal loan support for graduate health professions training. The HEAL program will provide access to financial markets for health professions students who prefer not to make a service commitment. Health professions students are also eligible for

Department of Health, Education, and Welfare guaranteed student loans, which have an interest subsidy but are limited in annual amounts to $5,000 and aggregate amounts to $15,000. For the 1980-1981 academic year, it is estimated that the HEAL program will provide loan guarantees totaling $40 million among 5,000 students in over 300 eligible institutions. The HPSL program will continue to support health professions training through existing revolving fund resources which total $16 million in 1980.

Estimated Effects:* Federal support for HEW health professions training programs will continue at a level of $416.8 million in 1980, including $85.5 million for NHSC scholarships and $108.5 million for primary care and family medicine training, area health education centers, and grants for nurse practitioner and physician assistant training. The proposed rescission of $97.8 million will not affect the goal of providing improved health services to the medically underserved.

Outlay Effect:* (estimated in millions of dollars)

1. Budget outlay estimate for FY 1980 (anticipates congressional approval of this proposal).....	$566.4
2. Outlay estimate if this proposal is not approved..	578.1
3. 1980 outlay savings attributable to this proposal.	11.7
Outlay savings for FY 1981.....	34.4
Outlay savings for FY 1982.....	51.7

* Changed from previous report.

HEALTH RESOURCES ADMINISTRATION

Health Resources

Of the funds provided for "Health resources" for fiscal year 1980 in P.L. 96-123, making further continuing appropriations for the fiscal year 1980, $97,768,000 are rescinded.

Deferral No: D80-46

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Agriculture	New budget authority (P.L. 96-108) $ 5,000,000
Bureau Farmers Home Administration	Other budgetary resources 24,728,578
Appropriation title & symbol Mutual and Self-Help Housing 12X2006	Total budgetary resources 29,728,578
	Amount to be deferred: Part of year $ --- Entire year 15,000,000
OMB identification code: 12-2006-0-1-604	Legal authority (in addition to sec 1013): [X] Antideficiency Act [ ] Other
Grant program [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification:

This grant program was authorized by Public Law 90-448, approved August 1, 1968. It provides grants to local organizations to promote the development of mutual and self-help housing programs under which groups (usually six to ten families) build their own homes by mutually exchanging labor. Funds may be used to guide them in the construction of their homes and for administrative expenses of the organizations providing the self-help assistance.

The amount deferred will not be needed to meet program requirements during this fiscal year. Therefore, these funds are deferred for use in FY 1981. No new appropriations were requested in FY 1981 since the deferred funds will provide for an adequate program level.

Estimated Effects:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral action has no effect on outlays.

Deferral No: D80-47

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, and Welfare	New budget authority (P.L. 96-123) $ 27,792,000
Bureau Social Security Administration	Other budgetary resources 20,143,441
Appropriation title & symbol Limitation on Administrative Expenses 1/ 75X8704	Total budgetary resources 47,935,441
	Amount to be deferred: Part of year $ --- Entire year 5,000,000
OMB identification code: 75-8007-0-7-601	Legal authority (in addition to sec. 1013): [X] Antideficiency Act [ ] Other
Grant program [ ] Yes [X] No	
Type of account or fund: [ ] Annual [ ] Multiple-year (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other

Justification:

For fiscal year 1980, $27,792,000 was made available under the continuing resolution (P.L. 96-123) for the Limitation on Administrative Expenses (construction activities) of the Social Security Administration (SSA). These amounts remain available until expended in recognition of the long lead time between the provision of funds and their use in carrying out authorized construction projects.

Actual purchase contract billings for fiscal years 1978 and 1979, and currently estimated payments for FY 1980, are less than the amounts made available. In large part, this is caused by State and local property taxes that were lower than expected--a difficult-to-estimate component of the purchase contract payments. As a result, SSA does not expect to need $5,000,000 of the funds made available through FY 1980 for purchase contract payments on Program Service Centers in FY 1980. Thus, these funds are deferred until FY 1981. This deferral action is taken pursuant to the Antideficiency Act (31 U.S.C. 665).

Estimated Effects:

Sufficient funds are available to permit SSA to carry out its construction program in an orderly manner. No currently planned construction would be delayed by this deferral.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account was the subject of a similar deferral during FY 1979 (D79-12).

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 94-344

This report revises Deferral No. D80-13 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision to a deferral for Human Development Services in the Department of Health, Education, and Welfare reflects an increase of $1,603,720 and a change in justification to include the White House Conference on Children and Youth within the coverage of the deferral. In addition, the amount previously reported as deferred for the White House Conference on Aging and the White House Conference on Families has been reduced from $4,648,510 to $2,294,978.

Deferral No: D80-13A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of Health, Education, and Welfare	New budget authority (P.L. 96-123) $3,000,000*
Bureau	Other budgetary resources 7,219,396*
Appropriation title & symbol *	Total budgetary resources 10,219,396*
75X1636 Human Development Services 1/ (White House Conference on Aging, White House Conference on Families and White House Conference on Children and Youth)	Amount to be deferred: Part of year $ *
	Entire year 3,898,698*
OMB identification code: 75-1636-0-1-500	Legal authority (in addition to sec. 1013): [X] Antideficiency Act *
Grant program [ ] Yes [X] No	[ ] Other
Type of account or fund: [ ] Annual	Type of budget authority: [X] Appropriation
[ ] Multiple-year (expiration date)	[ ] Contract authority
[X] No-year	[ ] Other

Justification:*

P.L. 96-38 provided a $3,000,000 appropriation for a White House Conference on Aging to be held in December 1981 for the purpose of developing recommendations for a comprehensive national policy on aging. These funds are to remain available until expended and are intended to cover the entire costs of planning and carrying out this conference.

P.L. 95-205 provided a $3,000,000 appropriation for a White House Conference on Families for the purpose of addressing the role and responsibility of the public and private sectors of society and that of the Federal government in addressing national issues relating to families, and to make recommendations regarding these issues. These funds are available until expended.

P.L. 96-123 provided a $3,000,000 appropriation for a White House Conference on Children & Youth to be held to explore the problems of the American family and examine the impact of our institutions, public policies and laws, employment, media, and voluntary organizations on the capability of families to meet basic needs and respond to changes and increased pressures produced by our society. These funds are also to remain available until expended and are intended to cover the entire costs of planning and carrying out this conference through fiscal year 1981.

This deferral action is based on approved operating budgets for FY 1980 which provide funds for all FY 1980 anticipated obligations and commitments. Amounts being deferred will be required to support the costs of conducting the conferences in subsequent years.

1/ This account was the subject of two similar deferrals during FY 1980 (D79-60 and D79-63).
* Changed from previous report.

D80-13A

Estimated Effects:

This deferral has no programmatic or budgetary effect because the funds would not be obligated if made available.

Outlay Effect:

This deferral has no effect on outlays.

D80-23A

SUPPLEMENTARY REPORT

Report Pursuant to Section 1014(c) of Public Law 93-344

This report updates Deferral No. D80-23 transmitted to the Congress on October 1, 1979, and printed as House Document No. 96-198.

This revision of a deferral for the State and Local Government Fiscal Assistance Trust Fund in the Office of Revenue Sharing increases the previously reported deferral from $2,734,554 to $16,584,842. This increase of $13,850,288 results from witholding payments from various governments for reasons of noncompliance with the technical requirements of the State and Local Fiscal Assistance Act, as amended.

Deferral No: D80-23A

DEFERRAL OF BUDGET AUTHORITY

Report Pursuant to Section 1013 of P.L. 93-344

Agency Department of the Treasury	New budget authority (P.L. 96-103) $6,854,924,000*
Bureau Office of Revenue Sharing	Other budgetary resources 79,543,660*
Appropriation title & symbol State and Local Government Fiscal Assistance Trust Fund 1/ 20X8111	Total budgetary resources 6,934,467,660* Amount to be deferred: Part of year $ 16,584,842 2/* Entire year ---
OMB identification code: 20-8111-0-7-851	Legal authority (in addition to sec. 1013): [X] Antideficiency Act P.L. 92-512, Sect. 121 & 123 [X] Other P.L. 94-488
Grant program [X] Yes [ ] No	
Type of account or fund: [ ] Annual [ ] Multiple-year _____ (expiration date) [X] No-year	Type of budget authority: [X] Appropriation [ ] Contract authority [ ] Other _____

Justification:

The State and Local Government Fiscal Assistance Trust Fund is the vehicle for disbursement of general revenue sharing funds. This deferral represents payments withheld from various governments involved in annexations or disincorporations and for reasons of noncompliance with the requirements of the State and Local Fiscal Assistance Act, as amended.

Estimated Effect:

The release of these funds is contingent upon adherence by the various governments to the compliance regulations, and determinations as to which higher level of government is eligible to receive those funds withheld because of annexations and disincorporations.

Outlay Effect:

This deferral action has no effect on outlays.

1/ This account is currently the subject of another deferral (D80-22) and was the subject of two similar deferrals during FY 1979 (D79-25A and D79-24A).

2/ Deferral of outlays only.

* Revised from previous report.

[FR Doc. 80-6025 Filed 2-25-80; 8:45 am]

BILLING CODE 3110-01-C

federal register

Tuesday
February 26, 1980

Part VI

Department of Agriculture

Food and Nutrition Service

Food Stamp Program; Handling Payments From Federal Energy Assistance Programs

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 273

[Amdt. No. 142]

Food Stamp Program; Handling Payments From Federal Energy Assistance Programs

AGENCY: Food and Nutrition Service, USDA.

ACTION: Emergency final rule.

SUMMARY: This amendment expands on the types of payments that are excluded from income and resources for purposes of determining eligibility and benefit levels for the Food Stamp Program. The amendment adds to the list of exclusions, payments received in accordance with Pub. L. 96–126 for energy assistance to low-income households to meet high heating costs this winter.

EFFECTIVE DATES: October 1, 1979 for payments under the Energy Crisis Assistance Program (ECAP) administered by the Community Service Administration (CSA), November 27, 1979 for payments under the Energy Allowance Program (EAP) administered by HEW, and January 20, 1980 for the one-time only direct cash payment to Supplemental Security Income (SSI) recipients.

FOR FURTHER INFORMATION CONTACT: Larry R. Carnes, Chief, Policy and Regulations Section, Program Standards Branch, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, Washington, D.C. 20250. 202–447–9075.

SUPPLEMENTARY INFORMATION: On November 27, 1979, Pub. L. 96–126 was signed by President Carter. Among the provisions of this statute was a supplemental appropriation for energy assistance. The statute provided that energy assistance payments shall not be considered as income or resources under any public or publicly assisted income tested program. This appropriation together with appropriations approved earlier under Section 222(a)(5) of the Economic Opportunity Act of 1964, provides a total of $400,000,000 to the Community Services Administration (CSA) for energy assistance programs for fiscal year 1980. The Public Law directed CSA to distribute the funds to States as block grants to carry out the Energy Crisis Assistance Program (ECAP). The law further directed CSA to transfer some of the funds to the Department of Health, Education, and Welfare (DHEW). DHEW in turn was to use a portion of the funds for one-time payments to Supplemental Security Income (SSI) recipients (except those persons who receive title XIX funds and are in institutions). These one-time payments were issued on January 20, 1980. The remainder of DHEW's allocation is to be distributed to States as block grants. States were given four options under DHEW's Energy Allowance Program (EAP) by which their grants could be distributed for energy assistance. The available options are: (1) provide flat grants to Aid to Families with Dependent Children (AFDC) households; (2) provide flat grants to households other than AFDC such as general assistance or food stamp households; (3) return all or a portion of the funds to CSA for ECAP; and (4) develop unique State methods for disbursing the funds. At this time, we are unaware of how individual States will be disbursing block grants. State food stamp officials will need to identify the option chosen to disburse these funds and inform their project areas. Regardless of the method of payment, however, these benefits are to be excluded from income and resources for purposes of determining eligibility and level of benefits for food stamps.

Effective Dates of Disregard

On September 4, 1979, CSA issued emergency final regulations (45 CFR Part 160) subject to public comment, which implemented the ECAP as of October 4, 1979 under funds appropriated prior to Pub. L. 96–126. On October 11, 1979, CSA issued revised final regulations for ECAP pursuant to comments received. Pub. L. 96–126 appropriated additional funds for CSA for energy assistance programs, including ECAP. Pub. L. 96–126 specified that energy assistance payments shall not be considered as income and resources under any other public or publicly assisted income tested program. It is the Department's belief that the disregard was intended to cover the earlier appropriations for ECAP as well as the additional monies being approved under Pub. L. 96–126. On November 30, 1979, DHEW issued procedural instructions effective 11/27/79 for the disbursement of funds they received from CSA in accordance with Pub. L. 96–126 for energy allowances.

We have been informed that States were permitted to disburse benefits from their own funds prior to approval of the States' allocation plans by CSA and DHEW for the respective energy assistance programs and later reimburse their funds from the Federal allocations. States could not, however, reimburse State funds used prior to October 1, 1979 for ECAP, nor November 27, 1979, for EAP.

Thus the effective date of the income/resource disregard for payments received under the ECAP program is October 1, 1979; for EAP, November 27, 1979; and for those SSI households who received the one-time only payment, January 20, 1980.

Restoration of Lost Benefits

Those SSI households who received the one-time-only direct cash payment and other households who received benefits from the ECAP or the EAP, and had these payments subsequently counted as income or resources which adversely affected eligibility or benefit levels, are entitled to restoration of lost benefits to the time of receipt of the payments, but not prior to October 1, 1979 for ECAP, November 27, 1979 for EAP, and January 20, 1980 for SSI households who received the one-time-only direct cash payment.

If the State agency can readily identify households adversely affected because such payments had been included as resources or income, appropriate steps for restoring and providing lost benefits must be taken. States that cannot readily identify these households must issue a one-time-only press release notifying households which have participated since October 1, 1979 of possible entitlement to lost benefits. States may, at their option, use additional means of notification such as posters. FNS will be providing standard language that States may use in this notification effort.

Crisis Intervention Program (CIP)

Payments received under CSA's Crisis Intervention Program are excluded as income and resources under current FSP regulations. Payments under this program are specifically listed as an income disregard under 273.8(c)(1), but are not a specific line-item under resource disregards. Therefore, as a matter of clarity, we are amending Section 273.8(e)(11) to add these payments as a specific line-item disregard.

State and Local Energy Assistance Programs

The Food Stamp Act of 1977, as amended, limits the types of income and resources that are excluded from the eligibility determination. While benefits excluded by law can be added to the regulations, we cannot, without an amendment to the Food Stamp Act, expand the exclusion to incorporate all types of State and local energy assistance program benefits. We

understand that the vast majority of these payments are, however, made in the form of vendor payments, nonrecurring lump sumps or tax credits and, therefore, are exempt from income under current FSP regulations. State and local cash payments made directly to the household on other than a lump sum basis are considered income. Lump sum payments, on the other hand, are considered a resource. Legislation amending the Food Stamp Act is pending, however, which would permit the exclusion of all State and local energy assistance benefits from income and resources for Food Stamp Program purposes. As presently drafted this legislation would make the exclusion retroactive to November 1, 1979 and would require restoration of lost benefits to households which had such assistance counted as income or resources for food stamp purposes. To prevent a case-by-case review of entitlement to restoration of lost benefits should this legislation become law, States providing energy assistance which are countable as income or resources for food stamp purposes are encouraged to maintain easily retrievable records of households currently receiving those benefits. At this time, the Department is aware of only a few States which would need to maintain such records.

Deductions

Several questions have been raised in regard to the handling of deductions for food stamp households receiving energy assistance payments. P.L. 96–126 exempts these payments for purposes of determining income and resources. This legislation does not, however, specify how to handle expenses met with these funds as deductions. Therefore, current regulations will be used to determine the method of deducting expenses met with these funds.

Section 273.10(d)(1)(i) disallows shelter expenses or any portion thereof met by vendor payments or reimbursements. Households receiving energy assistance in the form of a vendor payment will, therefore, not be allowed a deduction. However, the household will be entitled to a deduction for expenses which are intended to be met by either one-time or continuous direct cash payments under § 273.9(d)(4)(iii).

When applying these rules to household expenses, however, State agencies should take into consideration other sections of current regulations which affect the determination of net income. In many cases, vendor payments to eligible households will be made as a credit to their future utility bills in an amount which will depend on the total unadjusted bill at that time. The amount of vendor payment offsetting normal utility expenses of households applying for the food Stamp Program may be difficult to reasonably anticipate. If the amount of the vendor payment cannot be reasonably anticipated, the household should be allowed the full deduction. Similarly, for ongoing cases, it should be noted that the households are not required to report the receipt of vendor payments or a change in shelter costs which were not the result of a change in residence. These households will not experience any change in deductions for the month in which the energy assistance is received.

Parts 272 and 273 are amended as follows:

1. In 272.1(g), a new subparagraph (14) is added as follows:

§ 272.1 General terms and conditions.

* * * * *

(g) *Implementation.* * * *

* * * * *

(14) *Amendment 142.* (1) State agencies shall restore lost benefits to households who had their eligibility or benefit levels adversely affected because Federal energy assistance payments were counted as income and/or resources. Entitlement to restoration of lost benefits shall be retroactive to October 1, 1979 for payments received under CSA's ECAP; to November 27, 1979 for payments received under DHEW's EAP; and to January 20, 1980 for the one-time-only energy assistance payments to SSI households in accordance with Pub. L. 96–126.

(2) State agencies shall use the following procedures for notifying households of entitlement to restoration of benefits under Amendment 142:

(i) State agencies which can readily identify those SSI households who received the one-time payment and those households who received payments under the Energy Crisis Assistance or Energy Allowance Programs which lost benefits because their energy assistance payment was counted as income and/or resources must notify such households of entitlement to restoration of lost benefits.

(ii) State agencies which cannot readily identify households entitled to restoration of lost benefits due to the circumstances described in § 272.1(g)(14)(i) must issue a one-time-only press release to notify households which have participated since October 1, 1979 of possible entitlement to restoration of lost benefits. State agencies may, at their option, use additional means of notification such as posters.

* * * * *

2. In § 273.8(e)(11), new subparagraphs (viii), (ix) and (x) are added as follows:

§ 273.8 Resource eligibility standards.

* * * * *

(e) *Exclusions from resources.* * * *

* * * * *

(11) * * *

* * * * *

(viii) Payments from the crisis intervention program (CIP) and energy assistance program (ECAP) administered by the Community Service Administration (CSA).

(ix) Payments from States allocations approved under DHEW's energy allowance program (EAP) in accordance with Pub. L. 96–126.

(x) Direct one-time energy assistance payments received by certain Supplemental Security Income (SSI) recipients in accordance with Pub. L. 96–126.

* * * * *

3. In § 273.9(c)(10), subparagraph (v) is amended, and new subparagraphs (ix) and (x) are added as follows:

§ 273.9 (Amended).

* * * * *

(c) *Income exclusions.* * * *

* * * * *

(10) * * *

* * * * *

(v) Payments from the crisis intervention program (CIP) and the energy crisis assistance program (ECAP) administered by the Community Service Administration (CSA).

* * * * *

(ix) Payments from States allocations approved under DHEW's energy allowance program (EAP) in accordance with Pub. L. 96–126.

(x) Direct one-time energy assistance payments received by certain Supplemental Security Income (SSI) recipients in accordance with Pub. L. 96–126.

* * * * *

(91 Stat. 958 (7 U.S.C. 2011–2027))

(Catalog of Federal Domestic Assistance Program No. 10.551, Food Stamps)

This final rule is proposed as an emergency final rule without opportunity for public comment to implement the provisions of Pub. L. 96–126 and to correct any adverse effect that the delay of this rulemaking has already caused on the eligibility or benefit levels of Food Stamp Programs participants.

Therefore, pursuant to the administrative procedure provisions in 5 U.S.C. 553, it is found upon good cause that notice and other public procedure with respect to this final rule are impracticable and contrary to the public interest and good cause is found for making this final rule effective less than 30 days after publication of this document in the **Federal Register.**

Further, this final rule has been designated as "nonsignificant," and is being published in accordance with the emergency procedures in Executive Order 12044 and Secretary's Memorandum 1955. It has been determined by Carol Foreman that the emergency nature of this final rule warrants publication without opportunity for prior public comment at this time. An impact analysis statement has been prepared and is available from Claire Lipsman, Director, Program Development Division, Family Nutrition Programs, Food and Nutrition Service, USDA, Washington, D.C. 20250.

This final rule will be scheduled for review under provisions of Executive Order 12044 and Secretary's Memorandum 1955.

Dated: February 21, 1980.

Carol Tucker Foreman,

Assistant Secretary.

[FR Doc. 80-6074 Filed 2-25-80; 8:45 am]

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Federal Register

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Rules Going Into Effect Today

Note: There were no items eligible for inclusion in the list of Rules Going Into Effect Today.

List of Public Laws

Last Listing February 22, 1980

This is a continuing listing of public bills from the current session of Congress which have become Federal laws. The text of laws is not published in the Federal Register but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402 (telephone 202–275–3030).

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